

# Transactional Electronic Communication Mechanism Agreement

Fax or mail the completed form to: **Transwestern Pipeline Company, LLC**  
Commercial Group  
1300 Main St.  
Houston, Texas 77002-6803  
Fax: (713) 989-1203

This Agreement is made and entered into by and between **Transwestern Pipeline Company, LLC** ("Company") and \_\_\_\_\_ ("Customer") (individually referred to as "Party" and collectively referred to as "Parties").

WHEREAS Customer desires to access Company's Electronic Customer Interface system (hereafter referred to as TWTransfer system for the purpose of (i) accessing Company's Transportation Management System (TMS) to submit nominations of gas to Company; (ii) accessing Company's capacity release application to post or bid for released transportation capacity; (iii) accessing Company's contract application to request service and to execute service agreements, amendments and other contracts and (iv) accessing any other available application, current or future, deemed necessary and made available by the Company through the TWTransfer system or any successor Transactional Electronic Communication Mechanism (TECM).

WHEREAS, Company is willing to allow Customer such access in accordance with the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the premises set forth herein, the parties agree as follows:

1. Security, Software and Equipment. Company shall provide Customer with a separate log-on identification code ("ID Codes") and Password for each of Customer's employees designated by Customer. In addition, Company shall provide customer communication software for access to the TWTransfer system Customer interface system (the ID Codes, Passwords, communication software and the TWTransfer system network are cumulatively referred to herein as the "System". Customer agrees that only those employees it authorizes to conduct business shall be allowed to apply for ID Codes, Passwords and access to the System. In order to receive the ID Codes, Passwords and communication software and to access the TWTransfer system network, each of Customer's qualifying employees who will utilize the System must first complete and return to Company the currently effective TWTransfer system access form(s). Customer shall maintain the ID Codes and Passwords in the utmost confidence and shall not use the System except as authorized herein and shall not disclose ID Codes or Passwords to others. If any employee of Customer leaves the employment of Customer or his/her scope of employment does not require access to the TWTransfer system, Customer will immediately so notify Company. Customer agrees to take all necessary precautions to ensure that no other party, except its authorized employees, shall utilize the ID Codes and/or Passwords. Customer shall be solely responsible for obtaining and maintaining the proper equipment for, and for all third party costs associated with, accessing the TWTransfer system.
2. Except for the restricted right to utilize the System provided herein, Customer is granted no rights under the System. Customer shall not copy the System or use the System to prepare derivative works. Customer shall properly utilize the System in accordance with Company's instructions, shall make no effort to improperly access the TWTransfer system network or the computers on which the System is operating, and shall make no effort to reverse-engineer the system.
3. Nominations: TMS Portion of TWTransfer Customer Interface. It is Customer's responsibility to check the daily schedule, which shall be available prior to gas flowing, to assure that Customer's nominations have been correctly transmitted and received by Company. Any discrepancy discovered or which would have been discovered by Customer review of the daily schedule shall be the reporting responsibility of Customer prior to gas flow. It is Customer's responsibility to check any data input by Customer. Any discrepancy discovered or which would have been discovered by Customer review shall be the responsibility of Customer. Customer acknowledges that Company continues to maintain alternative methods of communicating gas nominations and is aware of those methods; in the event the System is not accessible for any reason, Customer agrees to utilize one of the alternative methods of communicating with Company.
4. Electronic Execution of Documents: The contracting and capacity release applications of the TWTransfer system Customer Activities. This Agreement has been executed by the Parties to evidence their mutual intent to create binding obligations by means of electronic execution of documents utilizing the contracting and capacity release applications of the TWTransfer system. Reference to the word "Documents" herein shall mean service agreements, amendments to service agreements, reimbursement agreements, and any other agreements that Company may make available either on or through contracting and capacity release applications of the TWTransfer system from time to time. All Documents properly electronically executed by means of a "click" on the designated space, pursuant to the specified procedures set forth in this Agreement shall be considered, in connection with any transaction or this Agreement, to be a "writing" or "in writing", and any such Document shall be deemed for all purposes (a) to have been "signed" ("Signed Document") and (b) to constitute an "original" when printed from electronic files or records established and maintained in the normal course of business. The parties agree not to contest the validity or enforceability of such Signed Documents under the provisions of any applicable law relating to (i) the authority of any employee to enter into the contract or (ii) whether certain agreements are to be in writing or signed by the party to be bound thereby. Signed Documents, if introduced as evidence on paper in any judicial, arbitration, mediation or administrative proceeding, will be admissible as between the Parties to the same extent and under the same conditions as other business

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records originated and maintained in documentary form. Neither Party shall contest the admissibility of copies of Signed Documents on the basis that the Signed Documents were not originated or maintained in documentary form. Customer has reviewed and understands the procedures established in this Agreement, Company's FERC Gas Tariff and as explained by Company with respect to the execution of Documents, and agrees to comply with such procedures (and with any changes or amendments to procedures as made in the FERC Gas Tariff of Company or as published on the TWTransfer system) in connection with such Documents and transactions.

5. **Contracts Application.** It is the Customer's responsibility to check the contracting application on TWTransfer for any Document to be initiated or electronically signed. By "clicking" on the designated space provided on the Document, customer is deemed to execute the Service Agreement, amendment or other contract that is made available on the contracting application. Customer's "click" shall be deemed to be the subsequent execution by Company as well.
6. **Capacity Release Application.** It is the Customer's responsibility to go to the capacity release application on the TWTransfer system either to post or to bid upon transportation capacity. A Capacity Release transaction is initiated by the posting of capacity by any Customer. **(i) Releasing Customer.** Any Customer posting capacity for capacity release ("Releasing Customer") hereby agrees that by a "click" on the space designated as "Execute", which will electronically post capacity, such Releasing Customer is submitting an executed amendment to Releasing Customer's underlying contract, which will effectuate the capacity release transaction and which will take effect only either by the confirmation by the customer acquiring the capacity in a prearranged transaction or by the award of part or all of the capacity to one or more customer(s) submitting bids on the posted capacity (collectively referred to as "Acquiring Customer"). **(ii) Acquiring Customer.** Any Acquiring Customer who confirms a prearranged transaction agrees that such confirmation is an electronic execution, pursuant to the terms of this Agreement, of a service agreement for the service as described in the posting. Any Acquiring Customer who submits a bid for posted capacity hereby agrees that submission of such bid electronically is an execution of a service agreement for the service set out in the bid and is effective upon award of the bid.
7. Customer's use of the System is "AS IS, WHERE IS," and with all faults. Customer agrees there are no representations or warranties, express or implied, that might arise in connection with this Agreement or Customer's use of the System. Additionally, COMPANY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. **CUSTOMER AGREES COMPANY SHALL HAVE NO LIABILITY WHATSOEVER, WHETHER IN CONTRACT OR TORT, FOR ANY LOSSES SUSTAINED AS A RESULT OF FAILURES OR DEFICIENCIES IN THE SYSTEM. IN NO EVENT SHALL COMPANY BE LIABLE FOR ANY FAILURES OR DEFICIENCIES IN THE SYSTEM. IN NO EVENT SHALL COMPANY BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE DELIVERY, USE OR PERFORMANCE OF THE SYSTEM. CUSTOMER ASSUMES ALL RISKS OF LOSS OR LIABILITY ARISING OUT OF ITS USE OF THE SYSTEM AND HEREBY AGREES TO HOLD HARMLESS AND INDEMNIFY COMPANY FROM AND AGAINST ALL CLAIMS, DEMANDS AND CAUSES OF ACTION (AS WELL AS ALL LIABILITIES, COSTS, JUDGMENTS OR EXPENSES INCURRED BY COMPANY) BROUGHT BY THIRD PARTIES BASED UPON, ARISING OUT OF OR RESULTING FROM CUSTOMER'S USE OF THE SYSTEM, EXCEPT THAT COMPANY WILL REMAIN LIABLE FOR ITS OWN GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.**
8. Both Customer and Company shall have the right to terminate this Agreement at any time for any reason whatsoever, with or without cause. Company shall have the right to modify or terminate its TWTransfer system Telecommunications Network and/or Customer's right to use the System at any time. Company also reserves the right to invalidate ID Codes and Passwords for cause and shall provide reasonable notice of such invalidation. Upon termination of this Agreement or upon request by Company, Customer shall thereafter immediately cease all use of the System.
9. This Agreement is personal to Customer and may not be assigned, licensed or transferred (except as part of the sale of the assets of Customer's business to which this Agreement relates) by Customer without the express written consent of Company.
10. All Documents and transactions entered into using the TWTransfer system are subject to the FERC Gas Tariff of **Transwestern Pipeline Company, LLC**, as amended from time to time, and any applicable laws and regulation.
11. To the extent that there are other written agreements in place between the Parties, this Agreement shall not cancel or supersede those other agreements except to the extent inconsistent with the specific terms and conditions hereof pertaining to the System. However, the terms and provisions of this Agreement do supersede any oral representations between the Parties or any conflicting terms and conditions in any other agreement with regard to the subject matter of this Agreement. This Agreement contains the entire agreement between the parties with respect to the subject matter hereof and shall not be modified except by written instrument duly executed by both parties. **THIS AGREEMENT SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, EXCLUDING ANY CONFLICTS OF LAW, RULE OR PRINCIPLE THAT MIGHT REFER SAME TO THE LAWS OF ANOTHER JURISDICTION**
12. Any notice provided for in this Agreement shall be in writing and shall be considered as having been given if sent by facsimile, delivered personally or if mailed by United States mail postage prepaid to the following addressees, respectively.

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**Transwestern Pipeline Company, LLC**  
1300 Main St.  
Houston, TX 77002-6803  
Attn: Commercial Group  
Fax: (713) 989-1203

Customer

\_\_\_\_\_  
Attn: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_

IN WITNESS WHEREOF, Company and Customer have executed this Agreement to be effective the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Accepted and agreed to this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**Transwestern Pipeline Company, LLC**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Accepted and agreed to this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

CUSTOMER

By: \_\_\_\_\_

Title: \_\_\_\_\_