



**Kinder Morgan Gas Natural de México, S. de R.L. de C.V.**

**Open Season Procedure**  
**Natural Gas Transportation**

**Mexico City, June 12, 2020**

## **Open Season Procedure**

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## Open Season Procedure

### 1. Definitions

Unless otherwise defined in this Procedure, capitalized terms used herein shall have the meanings given below:

**“Anchor Shipper(s)”** means the Shipper(s) that signed a Firm Gas Transportation Agreement before the publication of the Announcement to support the development of the Project, who are directly awarded Capacity with no need to submit a Bid.

**“Announcement”** means the announcement described in Section 2 of this Procedure.

**“Bidding Shipper”** means any party who is interested to bid for Capacity (as defined below) pursuant to this Procedure.

**“Central Standard Time”** or **“CST”** means the local time in Mexico City.

**“CRE”** means the Energy Regulatory Commission.

**“Creditworthy”** means an entity that (a) has a long-term senior unsecured debt rating of Baa3 or better from Moody’s Investor Service (“Moody’s”) or BBB- or better from Standard & Poor’s Corporation (“S&P”), or (b) has an issuer rating of Baa3 or better from Moody’s or BBB- or better from S&P, provided, however, if Bidding Shipper’s rating is at Baa3 or BBB- and the short-term or long-term outlook is “Negative”, then Transporter may request additional analysis.

**“DACGs”** means the General Administrative Provisions with regard to Open Access and the rendering of Pipeline Transport and Storage of Natural Gas

Services, approved by CRE, or any other superseding or amending administrative provision.

**“Firm Gas Transportation Agreement”** means the form attached as **Exhibit D** to this Procedure.

**“Mier-Monterrey Pipeline”** means the facilities owned and operated by KMGNM to provide transportation service under the Natural Gas Transportation Permit No. G/003/TRA/96, granted by CRE.

**“Open Season”** or **“Procedure”** means this procedure to award Capacity conducted by Transporter, which commences with the publication of the Announcement and ends when all the Firm Gas Transportation Agreements related to the Project have been executed.

**“Request to Participate”** or **“Bid”** means the form that Bidding Shippers shall submit to participate in the Open Season, using **Exhibit “C”** herein.

**“Shipper”** means a person who signs a Firm Gas Transportation Agreement with Transporter.

**“Transporter”** or **“KMGNM”** means Kinder Morgan Gas Natural de México, S. de R.L. de C.V., who will conduct the Open Season, or any successor or assignee.

**“Terms and Conditions”** means the General Terms and Conditions for Transportation Service that CRE approves.

**“Working Day”** means Monday through Friday, excluding United States federal holidays and Mexico federal holidays.

## **2. Announcement**

To be published by Transporter, in the form attached as **Exhibit “G”** to this Procedure, on June 12, 2020 in a newspaper with national circulation, in one

local newspaper and at the EBB, provided that the term between the date the Announcement is published and the start date of the Period to Receive Bids (as such term is defined below) may not be less than twenty (20) Working Days.

The Procedure shall be carried out according to the following schedule:

Event	Date
Announcement	June 12, 2020
Start date of this Procedure	July 13, 2020
Start date of the Questions and Answers Period	July 17, 2020
End date of the Questions and Answers Period	July 31, 2020
Start date of the Period to Receive Requests to Participate	July 13, 2020
End date of the Period to Receive Requests to Participate	August 7, 2020
Evaluation Period	August 8, 2020 to September 4, 2020
Award Notice	No later than September 11, 2020
Delivery of the draft TSA	No later than September 25, 2020
Execution of the TSA(s) / End date of this Procedure	No later than October 9, 2020

### **3. Period to Receive Bids**

The period to receive Bids shall begin at 8:00 a.m. Central Standard Time on July 13, 2020 and end at 8:00 a.m. Central Standard Time on August 7, 2020 (the “Period to Receive Bids”). This period shall commence after the occurrence of the 20 Working Days following the Announcement.

### **4. Description of the Facilities**

#### **a. Description of the existing transportation system**

The Mier-Monterrey Pipeline is located in the states of Tamaulipas and Nuevo León, México. The route of the pipeline starts at the Mexico-US border, 7.5 kilometers from Ciudad Mier, Tamaulipas, coordinates longitude 99°06'52.8213"W and latitude 26°30'41.3497"N, where the pipeline connects to the transportation system owned by Kinder Morgan Texas Pipeline LLC, a 450 meters lateral is installed at coordinates longitude 100°3'34.36"W and latitude 25°44'59.04"N and ends at the municipality of Apodaca, Nuevo León, where it has connections with the M1 Header owned by KMGNM, coordinates longitude

100°4'7.40"W and latitude 25°45'9.24"N, and also to the National Pipeline System at the delivery point known as SISTRANGAS/M2/KMMTYINY-037.

**b. Description of the proposed new facilities**

KMGNM plans to install new available capacity up to 35,000 MMBtu/d (the "Capacity") by means of a compression facility (hereinafter the "Project"). The Capacity will be delivered into a new meter station ("M11"), any mutually agreeable point along the Mier-Monterrey Pipeline, or to any other mutually agreeable point proposed by Bidding Shipper. The M11 meter station will be constructed near KMGNM's existing M1 meter station, which is located at latitude 25°45'8.73"N, longitude 100° 4'7.63"W. The M11 meter station will be connected to KMGNM's existing M1 Header, which is located adjacent to the M1 meter station, and also to the delivery point known as SISTRANGAS/M2/KMMTYINY-037. Please see attached a map of the proposed new facilities (**Exhibit "A"** to this Procedure).

KMGNM's commitment to develop the Project will be subject to the authorization to be granted by CRE. KMGNM shall require CRE to authorize the amendment of the existing transportation permit No. G/003/TRA/96 on terms acceptable to KMGNM. If CRE does not grant the authorization above mentioned, KMGNM shall not develop the Project and will be released of any liability before the Bidding Shippers.

**5. Capacity**

For this Project, KMGNM plans to install new available capacity up to 35,000 MMBtu/d, without exceeding this capacity; provided that the Capacity that is installed shall depend on the aggregate of the capacity contracted with Anchor Shippers and the capacity awarded in this Open Season, subject to KMGNM's determination that such capacity is technically and economically feasible.

Before the publication of the Announcement, KMGNM shall have signed firm gas transportation agreements with one or more Anchor Shippers who shall have been directly awarded Capacity of no more than 31,000 MMBtu/d (which will be published at KMGNM's EBB), therefore, the available Capacity offered in this Open Season shall be 4,000 MMBtu/d, which means, that the total Capacity is up to 35,000 MMBtu/d, notwithstanding the Provisions 16.2 and 16.3 of the DACGs, when it is technically and economically feasible. Anchor Shippers shall contribute to the funding of the Project by signing firm gas transportation agreements on negotiated terms, including the Capacity Charge. The Capacity directly awarded to Anchor Shippers and the terms of the firm gas transportation agreements signed with Anchor Shippers, including negotiated rates, shall be reserved in the Open Season, which means that Anchor Shippers will be allocated Capacity with no need to submit a Bid. The firm gas transportation agreements that are signed with Anchor Shippers shall be subject to the applicable Terms and Conditions, except for the special conditions expressly agreed under those agreements, which shall be protected according to Provision 16.2 of the DACGs.

The rate conditions agreed with Anchor Shippers shall be informed to the Bidding Shippers and published at KMGNM's EBB.

## **6. Delivery Conditions**

KMGNM shall deliver the awarded Capacity at a minimum pressure of 650 psig, on the understanding that any feasible pressure increase shall be paid by the requesting Bidding Shippers. Bidding Shippers that require new interconnects, other than M11, compression for higher-pressure uses, or any other facilities, should bid on the assumption that they will fund one hundred percent of any associated costs and will acquire all necessary rights-of-way, if applicable, or, may sign an investment agreement according to Provision 11.2 of the DACGs, in which case the Delivery Point shall be the interconnection between the Mier-Monterrey Pipeline and the facilities owned by the Bidding Shipper.

The Capacity is currently anticipated to be available by July 1, 2021<sup>1</sup>. Bidding Shippers may include in their Bids commencement dates as early as July 1, 2021 and as late as December 31, 2021.

## **7. Non-binding indicative rate**

The indicative rate for firm service consists of a Capacity Charge equal to \$0.14 per MMBtu per day (3.1269 pesos/Gj)<sup>2</sup>, and has been calculated based on the cost of service plus a reasonable return.

The main components of such Capacity Charge are the following:

- a) Compression station;
- b) Land;
- c) O&M associated costs, and
- d) Ancillary equipment.

Once that the Bids have been evaluated, KMGNM may update, only one time, its proposed rate or estimated rate and submit it to the awarded Bidding Shippers, considering the maximum rates to be approved by CRE, according to the applicable provisions regarding rates, so that the interested parties may reevaluate its decision to sign an agreement.

## **8. Questions and Answers**

No later than 11:00am CST of July 17, 2020 questions concerning the Open Season and this Procedure should be directed via email to: Becky Mack at the following address: Rebecca\_mack@kindermorgan.com. Transporter shall, on August 3, 2020, no later than 4:00pm CST, email all questions, answers and clarifications to all Bidding Shippers who have signed the Confidentiality Agreement.

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<sup>1</sup> The dates along this document may change in accordance to the approval date of this Procedure.

<sup>2</sup> The applicable exchange rate will be 22.3347, as published by the Bank of Mexico on the date the Open Season Announcement is published .



## **9. Confidentiality Agreement**

The Announcement and this Procedure have been disclosed to the public, however, any Bidding Shipper desiring to participate in the questions and answers process and to have access to additional information shall have to execute and return a confidentiality agreement in the form attached as **Exhibit “B”** to this Procedure (the “Confidentiality Agreement”), in order to protect confidential information proprietary of Bidding Shippers and Transporter.

Bidding Shippers shall deliver to Transporter such Confidentiality Agreement duly executed, at any moment after the publication of the Announcement.

## **10. Request to Participate**

Each Bidding Shipper shall complete the Request to Participate form as follows:

Capacity Charge: The proposed Capacity Charge must be presented as rate per MMBtu/day.

If awarded, the Capacity Charge proposed by the Bidding Shipper will be valid through the entire term of the Firm Gas Transportation Agreement, shall be considered as a negotiated rate, and shall prevail over regulated rates or charges, in consistency with Article 36.3, paragraph II of the existing Price Directive.

MDQ: Bidding Shipper shall indicate the requested Maximum Daily Quantity (“MDQ”) on a firm basis, exclusive of Transporter’s Use (as this term is defined under the Firm Gas Transportation Agreement), as well as Bidding Shipper’s minimum acceptable MDQ, if any.

Receipt Point: It is the point at the Mexico-US border where the transportation system owned by Kinder Morgan Texas Pipeline LLC connects to the Mier-Monterrey Pipeline, 7.5 kilometers from Ciudad Mier, Tamaulipas (the “Receipt Point”).

Delivery Point: The meter station M11, any mutually agreeable point along the Mier-Monterrey Pipeline, or any other mutually agreeable point proposed by Bidding Shipper, subject to Bidding Shipper funding any new interconnection facilities (the “Delivery Point”).

Term of Service: Initial term of 7 years, automatically renewed for an additional period of [8-13] years, subject to renewal of Transporter’s transportation permit in accordance with Article 11 of the Regulation of the Third Title of the Hydrocarbons Law (*Reglamento de las Actividades a que se refiere el Título Tercero de la Ley de Hidrocarburos*), with the start date as early as July 1, 2021 but not later than December 31, 2021.

Bidding Shipper must specify the requested Delivery Point and the requested Capacity.

## **11. Submission of Requests to Participate**

During the Period to Receive Bids, each Bidding Shipper must deliver the following documents in compliance with this Procedure:

- a) Executed Request to Participate in the form attached as **Exhibit “C”** to this Procedure; and
- b) A guaranty for the amount of \$10,000.00 USD (Ten thousand dollars US Cy) in the form of:
  - i. A letter of credit in the format contained under **Exhibit “E”** to this Procedure (the “Seriousness Letter”), or

- ii. A letter in the format contained under **Exhibit “F”** to this Procedure executed by a Creditworthy entity (the “Seriousness Guarantee”).

A scanned version of such documents must be submitted via email, before the close of the Period to Receive Bids, at the following address: Becky Mack at the following address: Rebecca\_mack@kindermorgan.com.

Any Bidding Shipper may replace its Bid or correct any deficiency before the close of the Period to Receive Bids, provided that the new Bid shall replace in its entirety the effects and validity of the Bid that was originally submitted, and provided further that a Bidding Shipper may not have more than one Request to Participate under this Procedure.

## **12. Evaluation Period**

The evaluation period shall conclude no later than twenty (20) Working Days after the close of the Period to Receive Bids.

KMGNM shall respond to all received Bids, even to those that fall under the assumptions of Section 14 Non-conforming Requests to Participate, referring the cause of rejection.

## **13. Evaluation Criteria**

Bids received in the Open Season will be assigned a Net Present Value (“NPV”) based on volume, rate, term, and contractual commencement date. NPV will be calculated based on the anticipated in-service date of the facilities, determined using the formula set out on **Exhibit “H”** to this Procedure. For all purposes under this Procedure, terms shall not exceed twenty (20) years from the date this Open Season is published. Bidding Shippers should keep in mind that

a later contractual commencement date could reduce the NPV associated with the Bid.

KMGNM will award the Capacity based on the NPV of Bids. If two or more Bids have an equal NPV and there is insufficient Capacity to meet all the Requests to Participate, KMGNM shall allocate the Capacity to the Bid that was received first, according to the principle “first come, first served”. If Capacity remains, the process shall be repeated for each subsequent Bid. If two or more Bids have an equal NPV and were received at the same time, KMGNM shall proportionally allocate the Capacity among such Bidding Shippers.

If two or more Bidding Shippers have proposed the same term and volume, but different rates, and there is sufficient Capacity to meet all the Requests to Participate, then those Bidding Shippers shall be considered to be similarly situated and therefore will pay the lowest Capacity Charge proposed among them.

KMGNM will decide, based on Requests to Participate that are received, whether to decrease the size of the Project, in case of receiving acceptable Bids that do not cover the Capacity, provided that the awarded Bidding Shippers will not be affected. A decrease of the size of the Project, if applicable, shall be notified to the Bidding Shippers together with the notification of the award.

#### **14. Non-conforming Requests to Participate**

The following Bids are non-conforming Requests to Participate:

- a. Requests to Participate that propose a Capacity Charge below the indicative rate, and
- b. Requests to Participate that do not meet the terms of the submission of Requests to Participate provision of this Procedure.

**15. Notification of Awarded Capacity**

If Transporter determines that it has sufficient support to go forward with the Project, Bidding Shippers will be notified of their awarded Capacity.

The awarded Bidding Shippers will be notified no later than twenty-five (25) Working Days after the close of the Period to Receive Bids. As well, the results of the Open Season shall be published at the EBB once all of the Firm Gas Transportation Agreements related to the Project have been executed.

The Seriousness Letter or Seriousness Guarantee, as the case may be, shall be returned to those Bidding Shippers that are not awarded within a five (5) Working Days period following the date of the notice of the award.

**16. Execution of the Firm Gas Transportation Agreement**

Awarded Bidding Shippers shall execute a Firm Gas Transportation Agreement no later than twenty (20) Working Days after the date of the award notice, which execution version will be provided by Transporter no later than ten (10) Working Days following the date that the award is notified, pursuant to the form included as **Exhibit “D”** to this Procedure and the terms of the award.

The Seriousness Letter or Seriousness Guarantee, as the case may be, shall be returned on the date of execution of the Firm Gas Transportation Agreement to those awarded Bidding Shippers.

If any awarded Bidding Shipper fails to execute the Firm Gas Transportation Agreement, Transporter reserves the right to allocate the Capacity to the Bidding Shipper or Shippers with the next highest NPV that had not been awarded or otherwise in a manner consistent with that described in the “Evaluation Criteria” provision of this Procedure.

The Seriousness Letter or the Seriousness Guarantee, as the case may be, shall be enforced if an awarded Bidding Shipper declines to sign the Firm Gas Transportation Agreement by the deadline specified in this Procedure.

**17. Execution of the Interconnection Agreement**

If applicable, an awarded Bidding Shipper shall execute an Interconnection Agreement, which will provide for interconnection facilities that comply with all applicable requirements of Mexican laws and regulations, as well as Transporter's measurement and operational standards, and will reflect Bidding Shipper's obligation to bear the entire cost of acquiring and constructing the interconnection facilities between the Mier-Monterrey Pipeline and the facilities owned by the corresponding Bidding Shipper. Any facility installed after the Delivery Point shall be at Bidding Shipper's sole responsibility.

If the lateral that interconnects the existing facilities of the Mier-Monterrey Pipeline and the Delivery Point is no longer than 150 meters, then such lateral shall be considered as an interconnection in terms of Provision 29.2 of the DACGs.

If such lateral is longer than 150 meters, then it shall be considered as an extension to the transportation system, subject to open access for any interested party in the transportation service; therefore, Transporter shall include it into the corresponding request to amend the transportation permit.

**18. Language**

The Open Season shall be conducted in Spanish.

**19. Cancellation or Suspension of the Procedure**

Transporter may cancel or suspend this Procedure, due to force majeure causes or in such cases where KMGNM determines that it is not feasible to continue with the Project, with no liability for Transporter, and shall inform of such action through the EBB.

In case of suspension, Transporter shall inform through the EBB the date to restore this Procedure and, if applicable, the corresponding changes made to this Procedure.

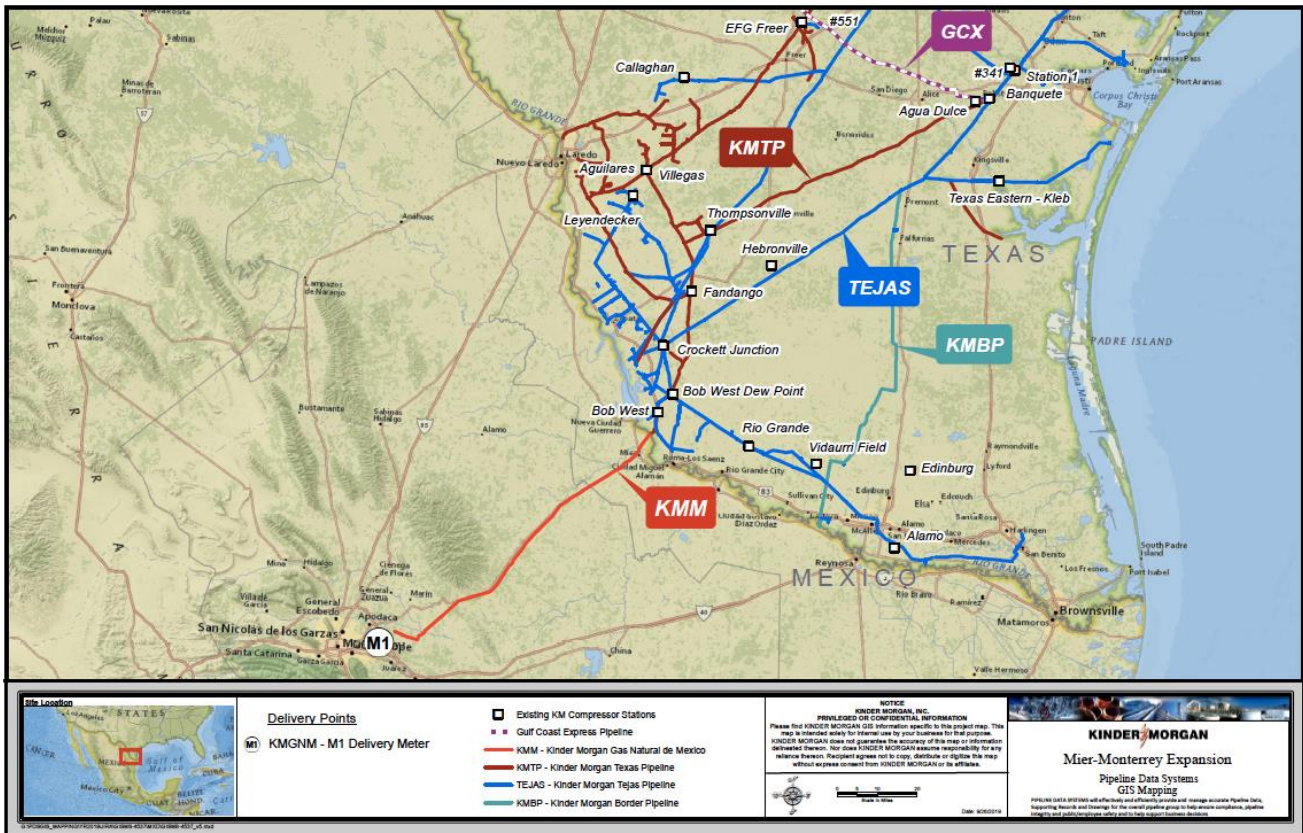
If this Procedure is suspended or cancelled when the Bidding Shippers have already submitted Bids, Transporter shall give back to the Bidding Shippers the Seriousness Letters and the Seriousness Guarantees, as the case may be, within the three (3) Working Days period following the date of the suspension or cancellation notice.

\* \* \*

# Exhibit "A"

## Open Season Procedure – Natural Gas Transportation

### Map of the Project





## **Exhibit “B”**

### **Open Season Procedure – Natural Gas Transportation**

#### **Form of Confidentiality Agreement**

This Confidentiality Agreement (“Agreement”) is made as of \_\_\_\_\_, 201[●] (“Effective Date”) by and between Kinder Morgan Gas Natural de México, S. de R.L. de C.V. (the “Transporter”) and \_\_\_\_\_ (the “Bidding Shipper”), (each hereinafter a “Party” or collectively the “Parties”).

In consideration for and as a condition to each Party’s furnishing to the other Party access to its confidential and proprietary information as contemplated hereunder, each Party agrees as follows:

1.- Definitions. Unless otherwise defined in this Agreement, capitalized terms used herein shall have the meanings given on the Open Season Procedure.

2.- General Confidentiality Obligation. This Agreement is entered to facilitate the implementation of the Open Season announced by Transporter as of [●] de [●] de 20[●], so that the Bidding Shipper is provided with information to prepare a Request to Participate and Transporter is able to evaluate it (the “Purpose”). In the course of effectuating the Purpose, each Party may disclose to the other Party certain of its proprietary information that such disclosing Party considers to be its Confidential Information (as defined below). Any Confidential Information disclosed hereunder shall be subject to the terms of this Agreement. Under no circumstances shall this Agreement be construed to require any Party to furnish the other Party with any Confidential Information.

3.- Scope of Confidentiality. “Confidential Information” shall mean any non-public information of a Party or its Affiliates (as defined below) that, by (a) the nature of the information, (b) its markings or legends, or (c) the circumstances of its disclosure, the receiving Party should reasonably have understood to be confidential to the disclosing Party, including all the documents and information disclosed to the Bidding Shipper during the Open Season Procedure. Confidential Information may be disclosed between the Parties in written or other tangible form (including on magnetic media) or by oral, visual or other means. Such Confidential Information shall include, but not be limited to, offers or descriptions of terms of service, historical financial information, financial projections and budgets, historical and projected sales, the names and backgrounds of key personnel, trade secrets, proprietary information, and other non-public data, know-how, inventions, ideas, or discoveries of a Party, which non-public data may further include but not be limited to development, technical, marketing, sales, operating, performance, cost, manufacturing, business or process information of the disclosing Party.

4.- Use of Confidential Information; Term; Termination.

(a) Each Party agrees not to use the Confidential Information of the other Party except for the Purpose, as permitted by this Agreement. It is

understood that Confidential Information may be disclosed only to those employees, agents, independent contractors, consultants and professionals (including lawyers and accountants) employed by a Party or its Affiliates who (i) legitimately require knowledge thereof for the Purpose, and (ii) are informed as to the confidential nature of the Confidential Information and the obligations of this Agreement and agree to abide by same. Such agreement, for any person who is not an employee of a Party or its Affiliates, shall be in writing where no duty of confidentiality exists by operation of law or privilege.

- (b) At no time shall a Party use the Confidential Information of the other Party in a way that might reasonably be considered detrimental to the other Party, including using that information to (1) solicit customers of the other Party, (2) develop a competitive strategy against the other Party, or (3) to enter into a contract, venture, or affiliation with any other person for any reason that relates to the Purpose.
- (c) Any materials, documents, notes, memoranda, drawings, sketches and other tangible items containing or relating to the Confidential Information of a Party which are furnished to the other Party in connection with this Agreement, or are in the possession of the other Party, and all copies thereof, remain the property of the Party to which the Confidential Information is proprietary. Upon the request of the disclosing Party, the receiving Party shall either, at the choice of the receiving Party, promptly return the Confidential Information to the Party supplying the same or destroy the Confidential Information, as certified in writing by the receiving Party.
- (d) Either Party may terminate this Agreement upon thirty (30) Days written notice to the other Party; however, the nondisclosure and nonuse obligations of the Parties under this Agreement shall survive one (1) Year from the date of such termination.
- (e) Each Party agrees that it shall protect the confidentiality of, and take reasonable steps to prevent disclosure or unauthorized use of, the Confidential Information in order to prevent it from falling into the public domain or the possession of Persons not legally bound to maintain its confidentiality, and in no event shall a Party treat the Confidential Information of another Party with any lower standard of care than that exercised in protecting its own Confidential Information. Each Party shall promptly advise a disclosing Party in writing of any unprotected disclosure or misuse of that disclosing Party's Confidential Information and shall provide assistance in taking remedial action.

5.- Exceptions. The Parties' nondisclosure and nonuse obligations under this Agreement shall not apply to information that:

- (a) is in the public domain;
- (b) hereafter becomes part of the public domain or is generally known or

available through no violation of this Agreement;

- (c) was, and can be shown by the receiving Party via dated documentation to be, known to or in the possession of the receiving Party prior to a disclosure hereunder;
- (d) is lawfully acquired by the receiving Party from any third party not bound by an obligation of confidence to the disclosing Party;
- (e) is, and can be shown by dated documentation to be, independently developed by or for the receiving Party without using any Confidential Information of the disclosing Party; or
- (f) is disclosed or required to be disclosed without restriction pursuant to judicial action or governmental regulations or other requirements by the receiving Party provided the receiving Party has notified the disclosing Party in writing prior to such disclosure, to the extent permitted by law, and cooperates with the disclosing Party in the event that the disclosing Party elects (at the disclosing Party's sole cost and expense) to contest and avoid such disclosure (or to request in camera disclosure thereof).

6.- No License Created. Nothing in this Agreement shall be construed as granting a receiving Party expressly, or by implication, estoppel or otherwise, any license under or any right to use any patent, trademark, trade secret, copyright or know-how embodied in the disclosing Party's Confidential Information, or currently or hereafter owned or controlled by the disclosing Party.

7.- No Warranties Regarding Confidential Information. Each Party warrants that it has the right to disclose the Confidential Information provided by it hereunder, but expressly disclaims all other warranties regarding Confidential Information it may disclose hereunder, including (without limitation) any express or implied warranty of accuracy, completeness, efficacy, or right of use. Each Party shall further hold the other Party harmless against the claims of third parties that a Party wrongfully disclosed Confidential Information hereunder.

8.- Parties as Independent Business Entities; Media.

- (a) The Parties expressly agree that the relationship created by and arising out of this Agreement is that of independent business entities entering into an arms-length transaction. No partnership, agency, joint venture, or fiduciary relationship among the Parties shall be created by this Agreement. Nothing in this Agreement shall grant to any Party hereto the right to make commitments of any kind for or on behalf of any other Party without the prior written consent of that Party. Nothing in this Agreement will obligate either Party to enter into a transaction with regard to the Purpose of this Agreement and both Parties remain free to terminate discussions regarding such a transaction at any time.

- (b) No Party may use any other Party's name in any type of media, advertising, promotions, representations to customers, and the like, without the prior written consent of that Party.

**9. NO CONSEQUENTIAL DAMAGES. IN NO EVENT SHALL ANY PARTY BE LIABLE TO ANOTHER PARTY FOR ANY CONSEQUENTIAL, INDIRECT OR PUNITIVE DAMAGES BASED UPON LIABILITY TO THE OTHER PARTY FOR BREACH OF WARRANTY, BREACH OF CONTRACT, NEGLIGENCE, STRICT LIABILITY, TORT OR ANY LIABILITY UNDER ANY OTHER LEGAL THEORY. SUCH EXCLUDED DAMAGES INCLUDE, BUT ARE NOT LIMITED TO, LOST PROFITS, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.**

10. Governing Law and Solution of Controversies

This Agreement will be interpreted, construed and governed by the laws of Mexico, excluding any conflict of law rules that would refer to the laws of another jurisdiction.

Any dispute, controversy, or claim arising out of, relating to, or in connection with this Agreement, including with respect to the formation, applicability, breach, termination, validity or enforceability thereof, that the Parties cannot settle amicably, shall be finally resolved under the then-current International Institute for Conflict Prevention and Resolution Rules for Non-Administered Arbitration by one or more arbitrators appointed in accordance with said Rules (the "**Arbitral Tribunal**"). The arbitration shall be conducted in English. The seat of arbitration shall be México City, and absent a contrary agreement by all Parties to the arbitration, all hearings shall take place in México City. The arbitral decision shall be final and binding upon the Parties, who waive any appeal or challenge of such decision. The losing Party shall bear all costs, fees and expenses of the arbitration. The Arbitral Tribunal and any court enforcing the decision of the Arbitral Tribunal shall have no right or authority to award lost profits or special, indirect, incidental, or consequential damages arising out of a breach of the Agreement or out of warranty, contract or otherwise to Shipper and Shipper expressly waives recovery of each of these kinds of damages. The Arbitral Tribunal may award reasonable attorneys' fees and costs to the Prevailing Party in connection with any action taken to enforce its rights under the Agreement or these Terms and Conditions.

"Prevailing Party" means the Party (if any) obtaining substantially all of the relief it seeks in such arbitration. If both Parties are, or neither Party is, deemed a Prevailing Party by the Arbitral Tribunal, then neither shall be entitled to recover its reasonable attorneys' fees and costs. The provisions of this Section will survive the termination or expiration of the Agreement.

Nothing in this Agreement shall preclude a Party from seeking temporary or preliminary injunctive relief from a court of competent jurisdiction to prevent irreparable damage or injury before the matter can be heard in arbitration.

11.- Amendments. This Agreement may not be modified in any manner, except by written amendment duly executed by all Parties.

12.- Subsidiaries and Affiliates; Assignment. The obligations and benefits of this Agreement shall apply to and be binding on the Parties and their respective subsidiaries, Affiliates, successors, assigns and representatives. No Party shall assign or transfer any of its rights or obligations hereunder without the prior written consent of the other Party.

13.- Remedies. Each Party acknowledges that in the event of a breach or threatened breach of this Agreement, the non-breaching Party may have no adequate remedy in money or damages, and, accordingly, shall be entitled to seek injunctive relief in respect of such breach. However, no specification in this Agreement of a specific legal or equitable remedy shall be construed as a waiver of or a prohibition against any other legal or equitable remedies in the event of a breach of a provision of this Agreement.

14.- Notices. All notices and other communications between the Parties under this Agreement must be in writing and delivered: (a) personally, (b) by prepaid overnight courier, or (c) by electronic mail, and must be addressed as follows:

Transporter:

Kinder Morgan Gas Natural de México, S. de R.L. de C.V.  
Torre General Motors, Avenida Ejército Nacional 843-B, Antara B-1, Piso 7,  
Colonia Granada, Delegación Miguel Hidalgo, C.P. 11520  
Attn: Contract Administration  
Email: contractadministration@kindermorgan.com

Bidding Shipper :

[•]

[•]

Phone Number:

Email:

15.- Severability. If one or more of the provisions of this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement; provided that the Parties shall attempt in good faith to negotiate an amendment to this Agreement to place the Parties in as nearly as possible in a similar economic position that they were in before the finding of such invalidity, illegality, or unenforceability.

16.- Waiver. If either Party waives its rights set forth in case of the other Party's breach of any provision of this Agreement, then such waiver shall not operate as a waiver of any continuing or future default, whether of a like or different character.

17.- Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an originally executed original.

18.- Captions. Any paragraph, title or caption contained in this Agreement is for convenience only, and shall not in any way be construed to define, describe or limit the terms hereof.

**Bidding Shipper:**

**By:**

**Title:**

**Date:**

**Transporter:**

**Kinder Morgan Gas Natural de México, S. de R.L. de C.V.**

**By:**

**Title:**

**Date:**

**Exhibit “C”**

**Open Season Procedure – Natural Gas Transportation**

**Request to Participate**

We make reference to the Open Season carried out by Transporter.

Bidding Shipper’s complete legal name: \_\_\_\_\_

Date: \_\_\_\_\_

1. Maximum Daily Quantity (“MDQ”) / Firm Basis:
  - a. *Requested MDQ:* \_\_\_\_\_ MMBtu per day (exclusive of Transporter’s Use)
  - b. If Requested MDQ is not available, will Bidding Shipper accept less Capacity?  
  
Yes: \_\_\_\_\_ No: \_\_\_\_\_  
  
If “Yes”, *Bidding Shipper’s Minimum Acceptable MDQ:*  
\_\_\_\_\_ MMBtu per day (exclusive of Transporter’s Use).
2. Capacity Charge (proposed by Bidding Shipper): US \$ \_\_\_\_\_ per MMBtu per day.
3. Other charges: According to Article III “Fees and Reimbursement” of the Firm Gas Transportation Agreement, Shipper shall pay the regulated Use Charge to be approved by CRE and other charges that are contingent upon the occurrence of certain events.
4. Term of Service (minimum 15 years, maximum 20 years years, subject to renewal of Transporter’s transportation permit):  
start date (as early as July 1, 2021 but not later than December 31, 2021): \_\_\_\_\_ End Date: \_\_\_\_\_
5. Receipt Point: The Receipt Point is the point at the Mexico-US border where the Mier-Monterrey Pipeline connects to the transportation system owned by Kinder Morgan Texas Pipeline LLC, 7.5 kilometers from Ciudad Mier, Tamaulipas.
6. Pressure: The gas delivered by Transporter to Shipper will have a minimum pressure of 650 pounds per square inch gauge, on the

understanding that any feasible pressure increase shall be paid by Shipper.

7. Delivery Point(s):

Point Location Description	Point MDQ
Meter Station M11 connected to the M1 Header	
Other, subject to mutual agreement	

8. Payments: Invoices and payments shall be made in US dollars and bear applicable VAT.

9. Other/Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

If awarded, the proposed Capacity Charge will be valid and enforceable through the proposed entire term of the Firm Gas Transportation Agreement, shall be considered as a negotiated rate, and shall prevail over regulated rates approved by CRE.

Bidding Shipper represents that the person executing this Request to Participate has been duly authorized by Bidding Shipper to submit this request on Bidding Shipper's behalf.

The information required in this Request to Participate shall be considered as Confidential Information according to the terms of the Confidentiality Agreement executed by the company that I represent with Transporter, as of [●] [●], 20[●].

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_



## **Exhibit “D”**

### **Open Season Procedure – Natural Gas Transportation**

#### **Format of the Firm Gas Transportation Agreement**

Transporter shall execute with the awarded Bidding Shipper(s) a transportation agreement according to the Format of the Firm Gas Transportation Agreement attached here.

#### **FIRM GAS TRANSPORTATION AGREEMENT**

This FIRM GAS TRANSPORTATION AGREEMENT (this “Agreement”) is made and entered into as of [●], 20 [●] (the “Effective Date”), by and between KINDER MORGAN GAS NATURAL DE MEXICO, S. de R.L. de C.V. (“Transporter”), and [●] (“Shipper”). Transporter and Shipper are sometimes referred to singularly as “Party” and collectively as “Parties.”

#### **WITNESSETH:**

WHEREAS, Transporter conducted an open season in order to award new available capacity, which announcement was published in the newspapers as of [●] (the “Open Season”). As a result of the Open Season, Transporter awarded to Shipper the reservation of capacity on a Firm Basis (as this term is defined below) for the transportation service of natural gas to be provided under the terms of this Agreement (the “Transportation Service”);

WHEREAS, Transporter owns and operates the Mier-Monterrey Pipeline in the states of Tamaulipas and Nuevo León, México for the transportation of Gas, according to the transportation permit number G/003/TRA/1996 granted by the Energy Regulatory Commission of Mexico (the “CRE”);

WHEREAS, Transporter shall apply to the CRE to obtain an amendment of the transportation permit number G/003/TRA/1996 (the “Transporter’s Permit”);

WHEREAS, Shipper desires Transporter to receive and transport certain quantities of Gas (as this term is defined below) on Transporter’s System (as this term is defined below) from and to the Receipt Point and Delivery Point specified on Exhibit “A” of this Agreement;

WHEREAS, Transporter is willing to transport such quantities of Gas for Shipper in accordance with the terms and conditions set forth in this Agreement;

WHEREAS, Transporter’s affiliates, Kinder Morgan Texas Pipeline LLC and Kinder Morgan Tejas Pipeline LLC (collectively, “KM”), and Shipper and/or Shipper’s affiliates will execute contemporaneously with this Agreement that certain Intrastate Firm Gas Transportation Agreement of even date with this Agreement (the “Intrastate FTA”) under which KM will receive and transport Shipper’s Gas on a Texas intrastate natural gas transportation pipeline to the Receipt Point;

WHEREAS, Transporter is a company incorporated under the laws of Mexico, as established under public deed number 65,075 dated as of January 23, 1996, before the Notary Public Number 92 in Mexico D.F., Mr. José Visoso del Valle, and public deed number 732 dated as of December 19, 2001, before the Notary Public Number 50 in Mexico City, Mr. Gerardo Francisco Saavedra Silva, by which its corporate name was changed from Midcon Gas Natural de Mexico, S.A. de C.V. to Kinder Morgan Gas Natural de Mexico, S. de R.L. de C.V.;

WHEREAS, Shipper is a company incorporated under the laws of [●], as established under public deed number [●] dated as of [●] before the Notary Public Number [●] in Mexico City, Mr. [●];

WHEREAS, Transporter's legal representative proves its authority with public deed number [●] dated as of [●,] before the Notary Public Number [●] in Mexico City, Mr. [●];

WHEREAS, Shipper's legal representative proves its authority with public deed number [●] dated as of [●,] before the Notary Public Number [●] in Mexico City, Mr. [●];

WHEREAS, Transporter's Federal Taxpayer Number is KMG960123BN5; and

WHEREAS, Shipper's Federal Taxpayer Number is [●].

NOW, THEREFORE, in consideration of the premises and mutual covenants set forth in this Agreement, the Parties agree as follows:

## **ARTICLE I DEFINITIONS**

Unless otherwise defined in this Agreement, capitalized terms used herein shall have the meanings given below:

**“Adequate Assurance of Performance”** means security in the form, amount, and term reasonably acceptable to Transporter, including any of the following mechanisms (i) cash prepayment with an accelerated due date or a more frequent basis than a monthly billing cycle, (ii) a standby irrevocable letter of credit, (iii) prepayment, or (iv) a guaranty, in each case enforceable for at least three (3) months following the termination of the Agreement.

**“Administrative Provisions”** means the General Administrative Provisions with regard to Open Access and the rendering of Pipeline Transport and Storage of Natural Gas Services, approved by CRE, or any other superseding or amending administrative provision.

**“Applicable Law”** means the Administrative Provisions, and any law, standard, decree, resolution, permit, ruling, regulation, or any legislative or administrative action carried out by a Governmental Authority having jurisdiction, including a judicial decision, award or order from a Mexican tribunal that is related to the execution of rights and

obligations stated in this Agreement and/or the Terms and Conditions, or to the interpretation or application of such documents, in effect from time to time.

**“Central Standard Time” or “CST”** means the local time in Houston, Texas.

**“CRE”** means the Energy Regulatory Commission.

**“Creditworthy”** means an entity that (a) has a long-term senior unsecured debt rating of Baa3 or better from Moody’s Investor Service (“Moody’s”) or BBB- or better from Standard & Poor’s Corporation (“S&P”), or (b) has an issuer rating of Baa3 or better from Moody’s or BBB- or better from S&P, provided, however, if Shipper’s rating is at Baa3 or BBB- and the short-term or long-term outlook is “Negative”, then Transporter may request additional analysis.

**“Equivalent Quantity”** means that quantity of Gas which is thermally equivalent to the quantity of Gas delivered by Shipper to Transporter on any one Gas Day, less Transporter’s Use, if it is collected in kind, as approved by CRE or negotiated between the Parties.

**“Firm Basis” and “Firm Transportation Service”** means that, with respect to any Transportation Service, Shipper shall deliver such Gas to Transporter and Transporter shall receive at the Receipt Point and transport an Equivalent Quantity to the Delivery Point without interruption, suspension or curtailment, in quantities up to the MDQ, except as provided under the Terms and Conditions.

**“Force Majeure”** means and includes any act that (a) renders Transporter or Shipper unable to provide or utilize the Transportation Service, (b) is beyond the affected Party’s reasonable control, (c) is not due to the affected Party’s fault or negligence, and (d) is unforeseeable or even when foreseeable, could not have been avoided by the exercise of reasonable due diligence, including the expenditure of reasonable sums of money as determined by prudent pipeline operator standards in light of the scope of the Transportation Service being provided.

**“Fuel Charge”** means Gas reimbursed by Shipper, either in kind or otherwise, to compensate Transporter for fuel associated with the operational aspects of providing Transportation Service, including compression and metering, as negotiated between the Parties or as authorized by CRE, as the case may be.

**“Gas”** means the mix of gases that are obtained through extraction or industrial processing and is composed primarily of methane. Usually, this mix contains ethane, propane, butanes and pentanes. Unless otherwise required by the context, Gas means that tendered by Shipper to Transporter or redelivered by Transporter to Shipper.

**“Gas Day”** means a period of twenty-four (24) consecutive hours beginning at 9:00 a.m. Central Clock Time.

**“GLU”** means Gas reimbursed by Shipper, either in kind or otherwise, to compensate Transporter for gas lost, if any, in providing Transportation Service, including operating

losses or shrinkage (unaccounted) of the product being transported or stored in the course of operating the System, as negotiated between the Parties or as authorized by CRE, as the case may be.

**“Governmental Authority”** means any legislature, court, tribunal, authority, agency, commission, or other instrumentality of México, or any domestic state, municipal, city or other political subdivision, governmental department or similar governing entity, and including any governmental or quasi-governmental body exercising similar powers of authority.

**“Maximum Daily Quantity”** or **“MDQ”** means the maximum quantity of Gas which Transporter is obligated to receive from Shipper for transport during one Gas Day as specified in this Agreement.

**“Mier-Monterrey Pipeline”** means the facilities owned and operated by KMGNM to provide transportation service under the Natural Gas Transportation Permit No. G/003/TRA/96, granted by CRE.

**“Month”** means a period beginning on the first (1st) day of a calendar month and extending until the last day of that calendar month.

**“Price Directive”** means the Directive issued by the CRE for the determination of rates and transfer of prices for regulated natural gas activities DIR-GAS-001-2007, or any other superseding or amending directive or administrative provision.

**“Project”** means the installation of new available capacity up to 35,000 MMBtu/d by means of a compression facility.

**“Successor”** means any person, corporation or any other entity which at any time, whether by purchase, merger or otherwise, directly or indirectly acquires all or substantially all of the assets, interests or business of any of the Parties.

**“System”** means the set of components owned and used by Transporter to provide the Transportation Service, including pipelines, compressors, regulators, meters, and other equipment and facilities.

**“Terms and Conditions”** means the applicable General Terms and Conditions for Transportation Service, subject to CRE’s approval, which shall constitute an integral part of Transporter’s Permit.

**“Transporter’s Use”** means the sum of the Fuel Charge and the GLU; on the understanding that Transporter may recover Transporter’s Use from Shippers by means of (i) an in-kind reimbursement by Shipper, (ii) a rate adjustment, and/or (iii) adding a new charge, as the case may be.

**“VAT”** means value added tax.

**“Working Day”** means Monday through Friday, excluding México federal holidays, United States federal holidays, and any holidays Transporter publishes on its Electronic Bulletin Board.

**ARTICLE II**  
**PERFORMANCE OF TRANSPORTATION SERVICE**

2.1 The purpose of this Agreement is the provision of Firm Transportation Service pursuant to the Terms and Conditions, as amended from time to time, with previous authorization by CRE.

2.2 The Terms and Conditions shall be published at the CRE's webpage and Transporter's Electronic Bulletin Board ("EBB"). Notwithstanding anything contained in this Agreement to the contrary, the Transportation Service performed under this Agreement will be subject to the Terms and Conditions, which are incorporated by reference into this Agreement. If any term or provision in the body of this Agreement or its exhibits is inconsistent with the Terms and Conditions, then the provision of the Terms and Conditions shall prevail. If any term or provision in an exhibit to this Agreement is inconsistent with the body of this Agreement, then the provision of the exhibit will control and the body of this Agreement will be deemed modified accordingly.

2.3 Subject to the terms and conditions of this Agreement, Transporter will receive at the Receipt Point(s) and deliver an Equivalent Quantity at the Delivery Point(s) on a Firm Basis, in consistency with the affirmation by the delivering operator at the Receipt Point(s), and by the receiving operator at the Delivery Point(s), such quantities of Gas as may be nominated and delivered by Shipper from time to time and for periods of time as nominated by Shipper, up to a Maximum Daily Quantity of [●] MMBtu per Day, which corresponds to the capacity that is reserved by Shipper at the System.

**ARTICLE III**  
**FEES AND REIMBURSEMENT**

3.1 Shipper agrees to pay Transporter the capacity charge specified in Exhibit "B" of this Agreement for the Transportation Service to be rendered under this Agreement (the "Capacity Charge").

The Capacity Charge is a contractual rate and excludes the application of regulated rates.

- 3.2 In addition to the Capacity Charge, Shipper shall pay the following fees:
- a. A use charge equal to the then-current regulated usage fee, as published in the Daily Official Gazette ("DOF" for its abbreviation in Spanish), which will be charged for quantities delivered by Transporter for Shipper's account at the Delivery Point for the applicable Month (the "Use Charge").
  - b. If Shipper incurs an authorized overrun, Shipper will pay to Transporter the then-current regulated authorized overrun rate, as published in the DOF (the "Authorized Overrun Rate").
  - c. If Shipper incurs an unauthorized overrun, Shipper will pay to Transporter a penalty equal to the Capacity Charge multiplied by three (3), multiplied

by the unauthorized overrun quantities (the “Unauthorized Overrun Rate”).

- d. The Use Charge, Authorized Overrun Rate or Unauthorized Overrun Rate shall not be considered as additional services in terms of section 10.1 of the Price Directive. In case that Transporter desires to offer additional services related to transport, those will have to be reviewed and authorized by CRE, in consistency with section 10.1 of the Price Directive.
- e. Shipper shall pay in-kind for Transporter’s Use the percentage specified in Exhibit “B” of this Agreement for quantities delivered by Transporter for Shipper’s account at the Receipt Point for the applicable Month.

The charges and payments agreed as a result of an Open Season, as well as those agreed between the Parties, shall be valid and enforceable through the entire term of this Agreement, and thus shall prevail over regulated rates that are approved by CRE.

3.3 Subject to the negotiations between the Parties or CRE’s approval, as the case may be, irrespective of Shipper’s payment of a contractual Capacity Charge, Shipper shall pay Transporter other charges either incremental or to be applied to all Shippers on a general basis.

3.4 The rates and other fees, charges and reimbursements provided for in this Agreement are exclusive of VAT. All payments under this Agreement shall bear applicable VAT.

#### **ARTICLE IV RECEIPT AND DELIVERY POINTS**

4.1 The Receipt Point for all Gas delivered by Shipper to Transporter for the Transportation Service under this Agreement will be at the point designated in Exhibit “A” of this Agreement.

4.2 The Delivery Point for all Gas delivered by Transporter to Shipper under this Agreement will be at the point designated in Exhibit “A” of this Agreement.

#### **ARTICLE V TERM**

5.1 This Agreement will be effective as of the Effective Date with its term commencing on the later of (a) [Shipper’s negotiated start date], (b) the first day of the Month next following the Month in which Transporter notifies Shipper that the System has been placed in commercial service, or (c) the date on which Transporter obtains the Transporter’s Permit on terms acceptable to Transporter (“Service Commencement Date”) and ending on the [fifteenth to twentieth] (15<sup>th</sup>-20<sup>th</sup>) anniversary of the Service Commencement Date; in the understanding that the term of the Agreement shall be for an initial term of 7 years, automatically renewed for an additional period of [8-13] years,

subject to Transporter's renewal of the Transportation Permit for an additional period of 15 years. If the CRE does not authorize the renewal of the Transportation Permit, and the Transporter has exhausted all the legal resources to obtain such renewal, this Agreement and all its effects shall terminate.

5.2 Notwithstanding anything contained in this Agreement to the contrary, Transporter shall have the right to terminate this Agreement with no liability if the Service Commencement Date is expected to occur after [December 31, 2021].

5.3 Notwithstanding anything contained in this Agreement to the contrary, Transporter's obligations under this Agreement do not commence unless and until:

- (a) Shipper has delivered to Transporter Adequate Assurance for Performance in form and substance acceptable to Transporter, if Shipper is not Creditworthy on the Effective Date.
- (b) Shipper has executed and delivered to Transporter an interconnection agreement, if applicable, as provided in Article VI.
- (c) The Parties have signed the Intrastate FTA.
- (d) Transporter determines by the close of the Open Season that sufficient capacity has been reserved on a Firm Basis to go forward with the Project.
- (e) All appropriate and final governmental approvals and other applicable authorizations for the Project, including any cross-border authorization by U.S. authorities, must be obtained by [March 31, 2021] and maintained on terms acceptable to Transporter in its sole discretion.
- (f) All rights-of-way and other surface rights required to site and maintain the System must be obtained by [March 31, 2021] and maintained on terms and conditions acceptable to Transporter in its sole discretion.
- (g) Transporter shall have received all approvals from its board of directors necessary for the construction or acquisition of the Project and for the execution of this Agreement.

5.4 Notwithstanding anything in this Agreement to the contrary, if the conditions precedent set out in subsections (d), (e), and (f) are not satisfied by the dates specified or if the conditions precedent set out in subsections (a), (b) and (c) are not satisfied within thirty (30) Working Days following the Effective Date, or if the condition precedent set out in subsection (g) is not satisfied within [\*]([\*]) Working Days following the Effective Date, then Transporter shall have the right to terminate this Agreement with no liability.

## **ARTICLE VI INTERCONNECTION FACILITIES AND PRESSURE**

Shipper shall execute an interconnection agreement, substantially in the form attached to the Terms and Conditions, and that (i) describes the actual Delivery Point(s), which will comprise a tap, meter and related measurement facilities and be located at a mutually agreeable site on the System, (ii) provides that such facilities will be designed, constructed, and installed to Transporter's specifications at Shipper's sole expense, and (iii) provides such facilities will be owned and operated by Transporter.

Transporter shall deliver the MDQ at a minimum pressure of 650 psig, on the understanding that any feasible pressure increase shall be paid by Shipper. In case Shipper requires new interconnects, other than M11, compression for higher-pressure uses, or any other facilities, Shipper shall fund one hundred percent (100%) of any associated costs and will acquire all necessary rights-of-way, if applicable.

**ARTICLE VII  
NO PARTNERSHIP**

Nothing contained in this Agreement will be deemed to create between the Parties a partnership, joint venture or an association and each will be deemed to act herein and in connection with the performance of this Agreement for itself, and not for the other, and neither Party will be liable or responsible for any acts of the other by virtue of the relationship created under this Agreement.

**ARTICLE VIII  
NOTICES**

If the EBB is out of service, all notices required to be served under this Agreement, including invoices, must be in writing and served by (a) personal or overnight delivery service, (b) certified or registered mail, or (c) electronic mail, addressed as follows:

**IF TO TRANSPORTER:**

<u>Notices &amp; Correspondence:</u>	Torre General Motors, Avenida Ejército Nacional 843-B, Antara B-1, Piso 7, Colonia Granada, Delegación Miguel Hidalgo, C.P. 11520 Attn: Contract Administration contractadministration@kindermorgan.com
<u>Dispatching Matters:</u>	Torre General Motors, Avenida Ejército Nacional 843-B, Antara B-1, Piso 7, Colonia Granada, Delegación Miguel Hidalgo, C.P. 11520 Attn: Gas Control Department #gc-kmtpl@kindermorgan.com
<u>Accounting Matters:</u>	Torre General Motors, Avenida Ejército Nacional 843-B, Antara B-1, Piso 7, Colonia Granada, Delegación Miguel Hidalgo, C.P. 11520 Attn: Gas Accounting
<u>Payment by Wire:</u>	Scotiabank Inverlat, S.A. ABA # N/A A/C# 11002001802



For Credit to Kinder Morgan Gas  
Natural de México, S. de R.L. de C.V.

**IF TO SHIPPER:**

Notices & Correspondence:

[●]

[●]

Attn: Contract Administration

Telephone: [●]

Email: [●]

Billing:

[●]

[●]

Telephone: [●]

Email: [●]

Payment

[●]

ABA No.: [●]

Account No.: [●]

or at such other address as the Parties may from time to time designate to one another in writing. Notices sent by certified mail or courier will be deemed provided upon delivery as evidenced by the receipt of delivery. Notices sent by electronic mail will be deemed to have been provided upon the sending Party's receipt of a non-automated response from the recipient or automatic read receipt generated from the recipient's electronic mail provider. Electronic mail copies of all notices and correspondence under this Agreement, including signatures, will constitute original copies of the notice(s) and correspondence and will be as binding on the Parties as the original, as long as there is verification of receipt of the copy.

**ARTICLE IX  
MISCELLANEOUS**

9.1 The Parties stipulate and agree that this Agreement shall be deemed and considered for all purposes as prepared through the joint effort of the Parties and shall not be construed against one Party or the other as a result of the preparation, submittal or other event of negotiation, drafting or execution of this Agreement.

9.2 This Agreement is binding upon and will inure to the benefit of the Parties and their respective Successors and assigns. The provisions of this Agreement and the Terms and Conditions shall not impart rights enforceable by any person, firm, or organization not a Party or not a Successor or permitted assignee of a Party.

9.3 This Agreement, including attached exhibits and the Terms and Conditions, constitutes the entire agreement between the Parties covering the subject matter of this Agreement. Thus, there are no agreements, modifications, conditions or understandings, written or oral, expressed or implied, pertaining to the subject matter of this Agreement that are not contained in this Agreement.

9.4 Shipper shall not be considered or deemed by interpretation of this Agreement to have any rights in, to or through the System.

9.5 Shipper's breach of the Intrastate FTA during the term of this Agreement will be considered as a Shipper's event of default.

9.6 Force Majeure shall include events declared as force majeure upstream and/or downstream of the System.

9.7 If Transporter or Shipper waives its rights set forth in the event of the other Party's breach of any provision of this Agreement, then such waiver shall not operate as a waiver of any continuing or future default, whether of a like or different character.

9.8 If any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement and Conditions; *provided that*, the Parties shall attempt in good faith to negotiate an amendment to this Agreement consistent with Applicable Law to place the Parties as nearly as possible in a similar economic position that they were in before the finding of such invalidity, illegality or unenforceability.

*Signature Page to Follow*

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed in duplicate original by their respective duly authorized legal representatives as of the Effective Date.

**SHIPPER:**

**TRANSPORTER:**

**Kinder Morgan Gas**

**Natural de México, S. de R.L. de C.V.**

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

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

Name: \_\_\_\_\_

Name: \_\_\_\_\_

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

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

**EXHIBITS**

A – Receipt Point and Delivery Point

B – Fees

[Signature page to FIRM GAS TRANSPORTATION AGREEMENT made and entered into as of [●], by and between KINDER MORGAN GAS NATURAL DE MEXICO, S. de R.L. de C.V., and [●].]

EXHIBIT "A"  
 TO  
 FIRM GAS TRANSPORTATION AGREEMENT  
 DATED [●]  
 BETWEEN  
 KINDER MORGAN GAS NATURAL DE MEXICO, S. de R.L. de C.V.  
 AND  
 [●]

**RECEIPT POINT AND DELIVERY POINT**

**Receipt Point:**

Point Name:	PIN #	MDQ	Transporter's Use
The point at which the Mier-Monterrey Pipeline connects to Kinder Morgan Texas Pipeline LLC's ("KMTP") pipeline at or near the international border between the United States and Mexico.	Measurement shall occur at KMTP's meter station located at KMMX/KMTP Monterrey Star [Bob West] – PIN #40564	[*]	1.6%

**Delivery Point:**

Point Name:	PIN #	MDQ

END OF EXHIBIT "A"

EXHIBIT "B"  
FIRM GAS TRANSPORTATION AGREEMENT  
DATED [•]  
BETWEEN  
KINDER MORGAN GAS NATURAL DE MEXICO, S. de R.L. de C.V.  
AND  
[•]

**FEES**

**Monthly Capacity Charge** = [MDQ] MMBtu x US\$[*Capacity Charge*] x number of Days in Month

**Transporter's Use:** As specified on Exhibit "A".

END OF EXHIBIT "B"

**Exhibit “E”**

**Open Season Procedure – Natural Gas Transportation**

**Seriousness Letter**

Letterhead of the Issuing Bank

Irrevocable Standby Letter of Credit No. [●]

Date: [●] [●], 20[●]

Kinder Morgan Gas Natural de México, S. de R.L. de C.V.  
Attn: Contract Administration  
Torre General Motors, Avenida Ejército Nacional 843-B, Antara B-1, Piso 7,  
Colonia Granada, Delegación Miguel Hidalgo, C.P. 11520

Dear Sirs,

At the request of our client, [●] (the “Company”), and following its instructions, the credit institution that I represent, known as [●] (the “Issuing Bank”) issues this Irrevocable Standby Letter of Credit (this “Letter of Credit”), in favor of Kinder Morgan Gas Natural de México, S. de R.L. de C.V. (“Transporter”), for the amount of \$10,000 USD (the “Guaranteed Amount”), to guarantee the seriousness of the proposal submitted by the Company and the consequent signature, on a timely basis, of the Firm Gas Transportation Agreement (the “Transportation Agreement”), resulting from the award issued in favor of the Company as of [●], regarding the Open Season Procedure published by Transporter on [●].

This Letter of Credit shall expire thirty (30) calendar days after the deadline to sign Transportation Agreement (the “Expiration Date”).

Subject to the other obligations stated in this Letter of Credit, on or before the Expiration Date, Transporter may request to the Issuing Bank the total payment of the Guaranteed Amount, by means of the submittal of a written request, pursuant to the form attached as Appendix “A” of this Letter of Credit (the “Request for Payment”).

The Issuing Bank shall honor the Request for Payment submitted by Transporter and commits to pay the total Guaranteed Amount, with its own funds, at the sight of such requirement; provided that it is submitted in working days and hours, as established by the Mexican Securities and Exchange Commission; on the understanding that the funds of the Guaranteed Amount shall be available within 48 (forty-eight) hours following to the submittal of the corresponding Request for Payment.

If the Request for Payment does not comply with the requirements established in this Letter of Credit, the Issuing Bank shall notify immediately and in writing to Transporter, at the address mentioned at the beginning of this Letter of Credit, or at any other address that Transporter may indicate, previously and in writing, for that purpose. Such notice shall contain the reason why the Issuing Bank has rejected the Request for Payment and shall return to Transporter the documents attached to such request. In this case, Transporter may submit a new Request for Payment that complies with the terms of this Letter of Credit, either after the first rejection or after subsequent rejections.

The payment to be made by the Issuing Bank to Transporter pursuant to this Letter of Credit shall be performed by means of a wire transfer to the bank account that Transporter indicates in the Request for Payment.

The term of this Letter of Credit shall conclude on the Expiration Date, or on the date that the Issuing Bank has paid to Transporter the total Guaranteed Amount.

The term of this Letter of Credit may be extended for additional and consecutive periods of thirty (30) Working Days counted from the Expiration Date, provided that the Issuing Bank notifies to Transporter the Company's desire to extend the Letter of Credit with at least five (5) Working Days prior to the Expiration Date.

Once the Letter of Credit has expired, Transporter may not submit to the Issuing Bank a Request for Payment, nor shall the Issuing Bank be obliged to make any payment, except as allowed under the International Standby Practices ISP989 (the "ISP989 Rules") issued by the International Chamber of Commerce, Publication No. 590.

All the costs incurred by the Issuing Bank related to the issuance or compliance with this Letter of Credit (including without limitation, the negotiation, payment or extension of the term) shall be paid by the Company, and in no event shall be charged by the Issuing Bank to Transporter.

For all issues not addressed in this Letter of Credit, is shall be governed and interpreted according to the ISP98 Rules and, on a complementary basis, according to federal laws of México. Any controversy arising from this Letter of Credit shall be resolved exclusively before the Mexican federal courts, based in México City.

Sincerely,

[Issuing Bank]  
[Name of the legal representative]  
[Address]

Appendix "A"  
Format of the Request for Payment

México City, as of [●]

[Name of the Issuing Bank]  
[Address of the Issuing Bank]

We make reference to the Letter of Credit No. [●] dated as of [●], issued by the credit institution known as [●], in order to guarantee the seriousness of the proposal submitted by the company [●] in the Open Season procedure for contracting natural gas transportation services, published by Kinder Morgan Gas Natural de México, S. de R.L. de C.V. (“Transporter”) on [●].

In that regard, as legal representative of Transporter, by means of this Request for Payment we represent that the company known as [●] has not kept the seriousness of its proposal as it has failed to comply with its obligation to sign, on a timely basis, the corresponding Transportation Agreement.

Therefore, we respectfully request, in compliance with the Letter of Credit above described, the transfer to Transporter of the total Guaranteed Amount, equal to \$10,000 USD, to the following bank account:

[●][●][●]

Sincerely



**Exhibit “F”**

**Open Season Procedure – Natural Gas Transportation**

**Seriousness Guarantee**

[Letterhead of the Creditworthy Third Party]

**Seriousness Guarantee**

Date: [●] [●], 20[●]

Kinder Morgan Gas Natural de México, S. de R.L. de C.V.  
Attn: Contract Administration  
Torre General Motors, Avenida Ejército Nacional 843-B, Antara B-1, Piso 7,  
Colonia Granada, Delegación Miguel Hidalgo, C.P. 11520

Dear Sirs,

We make reference to the Open Season Procedure for contracting natural gas transportation services, published by Kinder Morgan Gas Natural de México, S. de R.L. de C.V. (“Transporter”) on [●]. In that regard, we express hereby under oath that the company that I represent, known as [●] [(the “Company”)] [(the “Joint Debtor”)], meets the Creditworthy condition as this term is defined in the Open Season Procedure and shall maintain such condition for the term of this payment commitment.

If the Company fails to sign, on a timely basis, the Firm Gas Transportation Agreement (the “Transportation Agreement”) resulting from the award issued in favor of the Company as a result of the Open Season Procedure, [(the “Company”)] [(the “Joint Debtor”)] commits to pay to Transporter a penalty equivalent to \$10,000 USD within 5 (five) working days after it receives a request for payment from Transporter.

The term of the payment commitment expressed herein shall expire thirty (30) calendar days after the deadline specified in the Open Season Procedure to sign the Transportation Agreement.

Respectfully,

[Name of the Company]  
[Name of the legal representative]  
[Address]

**Exhibit “G”**

**Open Season Procedure – Natural Gas Transportation**

**Announcement**

Kinder Morgan Gas Natural de México, S. de R.L. de C.V. (“KMGNM”), announces that it will conduct a binding Open Season to contract the transportation service of natural gas in the Northeast of Mexico.

The new available capacity that KMGNM is planning to install shall be 35,000 MMBtu/d (the “Capacity”). The Capacity is currently anticipated to be available by July 1, 2021. Bidding Shippers may include in their Bids commencement dates as early as July 1, 2021 and as late as December 31, 2021.

The Capacity will be delivered into a new meter station (“M11”) to be constructed near KMGNM’s existing M1 meter station or any mutually agreeable point proposed by Bidding Shipper, subject to Bidding Shipper funding any new interconnection facilities. The M11 meter station will be connected to KMGNM’s existing M1 Header and also to the delivery point known as SISTRANGAS/M2/KMMTYINY-037.

KMGNM shall receive Requests to Participate from July 13 to August 7, 2020, which must be sent via email to Becky Mack at the following address: Rebecca\_mack. KMGNM will award the Capacity in accordance with the Open Season Procedure.

Interested Parties may send a copy of their Requests to Participate to CRE to the following email address: permisos\_gasnatural@cre.gob.mx.

The Procedure to participate in this Open Season may be accessed at the webpage <https://pipeportal.kindermorgan.com/PortalUI/DefaultKMMX.aspx?TSP=KMMX>.

Sincerely,

Anaid Arlet López Uribe  
Legal Representative

## Exhibit "H"

### Open Season Procedure – Natural Gas Transportation

#### NPV Formula

$$NPV = \frac{A}{(1+i/365)^{md0}} + \frac{MR1}{(1+i/365)^{md1}} + \frac{MR2}{(1+i/365)^{md2}} + \dots + \frac{MRn}{(1+i/365)^{mdn}}$$

Where:

- NPV = net present value of bid
- MR1, MR2, = guaranteed revenue for each month in the bid term
- md0, md1, md2 = cumulative number of days in the bid term for specific month evaluated
- mdn = cumulative number of days in the bid term
- i = effective Discount Rate of 10%
- A = guaranteed revenue from any advance payment (to the extent applicable)