

AGREEMENT

THIS AGREEMENT is made and entered into this the 1st day of April, 2002, by and between DELTA NATURAL GAS COMPANY, INC. (Delta), a Kentucky corporation, and ALCAN ALUMINUM CORPORATION (Alcan), an Ohio Corporation.

W I T N E S S E T H:

THAT WHEREAS, Alcan intends to purchase certain quantities of natural gas from a supplier to be designated (Supplier); and

WHEREAS, Alcan desires to have said quantities of natural gas purchased from Supplier transported and delivered to Alcan in Berea, Kentucky, by Delta; and

WHEREAS, Delta, subject to the terms and conditions set forth herein, desires to transport and deliver to Alcan that quantity of natural gas purchased by Alcan from Supplier and delivered by Supplier to Delta at a certain designated point;

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE 1. DEFINITIONS.

Unless this Agreement provides otherwise, the following definitions shall apply:

1.1. "Natural Gas" or "Gas" shall mean any mixture of hydrocarbons or hydrocarbons and non-combustible gases in a gaseous state, consisting essentially of methane.

1.2. "Delivery Point" shall mean the point of interconnection between the pipeline facilities of Delta and the metering facilities of Tennessee Gas Pipeline Company

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(TGP) at or near Kirksville, Madison County, Kentucky and/or Columbia Gulf Transmission Company (CGT) at or near Speedwell, Madison County, Kentucky or other points which may be agreed to through mutual written agreement of the parties hereto.

1.3. "Redelivery Point" shall mean the point of interconnection between the pipeline facilities of Delta and the metering facilities of Delta for Alcan.

1.4. "Supplier Contract Gas" shall mean the volumetric quantity of natural gas delivered at the Delivery Point to Delta by Supplier for the account of Alcan.

1.5. "Excess Gas" shall mean the amount or quantity of natural gas delivered by Delta to Alcan at the Redelivery Point in excess of or in addition to the Supplier Contract Gas (after adjustment for Delta's retainage for losses [1%]). Excess Gas shall not include Supplier Contract Gas delivered to correct an imbalance by mutual agreement of the parties.

1.6 "Distributor" shall mean that entity which provides the service of either transporting natural gas or selling Excess Gas from an interstate or intrastate pipeline facility to Alcan.

1.7. "Mcf" shall mean the quantity of gas occupying a volume of one thousand (1,000) cubic feet at a pressure base of 14.73 pounds per square inch absolute (14.73 psia) and a temperature base of 60 degrees Fahrenheit (60° F).  
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ARTICLE 2. TERM.

2.1. Subject to the terms and conditions herein, the term of this Agreement shall commence on \_\_\_\_\_ and shall continue in full force and effect for a term of \_\_\_\_\_

ARTICLE 3. TRANSPORTATION AND DELIVERY OF GAS.

3.1. Subject to the terms and conditions herein, to the extent that Delta is able to deliver, Delta shall be the exclusive Distributor of natural gas to Alcan while the Agreement is in effect.

3.2. Subject to the provisions of Article 6 hereof and subject to available capacity and the daily needs of Alcan, Delta shall accept from Supplier on behalf of Alcan all daily Supplier Contract Gas which is delivered by Supplier to the Delivery Point, up to a daily maximum of \_\_\_\_\_

3.3. Delta shall transport and deliver to Alcan in Berea, Kentucky, natural gas in quantities which are equivalent to the amount of Supplier Contract Gas less one percent (1%) by volume for line loss.

3.4. Volumes of Supplier Contract Gas nominated by Alcan and transported and delivered by Delta as provided in Article 3.2 herein shall be as closely balanced on a daily basis as is reasonable and practical. Should an imbalance

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exist at any time during the term of this Agreement or upon the termination of this Agreement, such imbalance will be corrected within thirty (30) days unless an extension is mutually agreed upon by the parties herein. If, at any time during the term hereof, Excess Gas (as defined in paragraph 1.5 hereof) is delivered to Alcan, then Delta will notify Alcan to correct such imbalance. If Alcan fails to promptly take action to correct such imbalance, then Delta, upon providing reasonable notice to Alcan, may adjust deliveries to Alcan until Supplier has delivered a quantity of gas to Delta sufficient to balance deliveries from Supplier with redeliveries to Alcan. Alcan shall purchase any Excess Gas delivered by Delta to Alcan in accordance with Articles 4 and 5 of this Agreement.

3.5. Delta's transportation obligation hereunder shall be to provide interruptible service to Alcan. Supplier Contract Gas transported hereunder for Alcan will be subject to interruption in accordance with normal interruption procedures applicable to the Interruptible Rate schedule of Delta on file with the Kentucky Public Service Commission, as same may be changed from time to time. Without limiting the generality of the foregoing, Delta shall have the right at any time to curtail or interrupt the receipt, transportation or delivery of gas hereunder when, in its judgment, such curtailment or interruption is necessary to enable Delta to maintain delivery to customers of higher priority, to respond to any emergency or to

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eliminate excessive imbalance of deliveries under this Agreement. Upon notification by Delta of the necessity to interrupt or curtail the use of gas, Alcan shall reduce or curtail its gas usage in accordance with Delta's notification and cause deliveries of Supplier Contract Gas to Delta's facilities to reduce accordingly. Delta shall promptly advise Alcan as soon as conditions indicate curtailment or interruption of service to Alcan is imminent and also promptly notify Alcan as soon as full usage can resume. In this respect, Delta shall use its best efforts to notify Alcan of pending interruption four (4) hours prior to interruption.

3.6. Delta shall not be responsible for any TGP and/or CGT transportation or storage costs, including related line loss, compressor fuel, any penalties, transition costs or any other costs associated with the transportation of Alcan's Supplier Contract Gas.

ARTICLE 4. PRICE.

4.1. Subject to the terms and conditions herein, Alcan shall pay Delta the following rates per Mcf for the gas transported by Delta and received by Alcan under the terms of this Agreement:

MONTHLY  
BILLING PERIOD MCF TRANSPORTED

RATES PER MCF TRANSPORTED  
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MONTHLY  
BILLING PERIOD MCF TRANSPORTED                      RATES PER MCF TRANSPORTED

If Delta does not receive and transport a total volume of \_\_\_\_\_ Mcf of gas during any billing month after any twelve consecutive billing periods during which Delta has not transported or delivered for Alcan a total of \_\_\_\_\_ Mcf of gas, then Alcan, if Delta so requests, shall pay Delta for transportation during such billing month at Delta's then effective transportation rates for On-System Transportation as set forth in Delta's tariffs on file with the Kentucky Public Service Commission, as same may be changed from time to time.

4.2. For any Excess Gas delivered or sold by Delta to Alcan, Alcan shall pay Delta the applicable Interruptible Service Rate of Delta (Base Rate plus Gas Cost Recovery Rate and any other charges), as set forth in Delta's tariffs on file with the Kentucky Public Service Commission, as same may be changed from time to time.

4.3. Notwithstanding the terms and conditions herein, at any time during the term of this Agreement Alcan may, at its option, elect to obtain the service(s) provided hereunder pursuant to Delta's then effective transportation rate(s) for such service(s) on file with the Kentucky Public Service Commission, as same may be changed from time to time.

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Service Commission. In the event Alcan elects to obtain the service(s) provided hereunder pursuant to Delta's then effective transportation rate(s) for such service(s) and provided that such rate(s) are lower than those set forth in Article 4.1 hereof, Alcan and Delta agree to renegotiate in good faith the terms or conditions of this Agreement, it being expressly understood that neither party to such renegotiation has any obligation to revise any terms or conditions of this Agreement, but only to engage in such negotiations in good faith.

4.4. Subject to the terms and conditions herein, during the term of this Agreement, either party may request renegotiation of any terms or conditions of this Agreement if performance of this Agreement results in significant adverse economic impact upon the party requesting renegotiation. In the event a request for renegotiation is made, the parties hereto agree to negotiate in good faith the terms or conditions of this Agreement in an effort to ameliorate such significant adverse economic impact, it being expressly understood that neither party to such renegotiation has any obligation to revise any terms or conditions of this Agreement, but only to engage in such negotiations in good faith.

ARTICLE 5. STATEMENTS AND PAYMENTS.

5.1. Statements shall be rendered by the Public Service Commission of Kentucky effective appropriate to Alcan each month showing the amounts due to

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Delta for services rendered by Delta for Alcan during the preceding billing month.

5.2. Each statement required to be furnished shall be mailed to the address set forth in this Agreement. Payment by check payable to the order of Delta Natural Gas Company, Inc. shall be made by Alcan by mailing same within fifteen (15) days after receipt of the bill. Alcan agrees to pay interest at the rate of one and one-half percent (1 1/2%) per month on any outstanding balance which is due Delta under the terms of this Agreement and which is not paid within the time period previously set forth.

ARTICLE 6. QUALITY.

6.1. All gas delivered hereunder shall at all times be in compliance with the gas quality specifications set forth in TGP's and/or CGT's Federal Energy Regulation Commission approved gas tariff, as same may be changed from time to time.

ARTICLE 7. MEASUREMENT

7.1. Meters and other related equipment installed and maintained by or on behalf of Delta shall be the exclusive method and means of determining the quantity of gas redelivered to Alcan or delivered to Delta by Supplier for the account of Alcan. Reading, calibration and adjustment of Delta's meters and related measurement equipment shall be performed solely by Delta using generally accepted procedures. Delta shall read said meters at regular intervals and the cost of reading, calibrating, adjusting

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and otherwise maintaining said meters, excluding repair of damage due to the negligence or willful misconduct of Alcan, shall be borne by Delta. Delta shall test the accuracy of any Delta-owned meter in use under this Agreement in accordance with its standard practices.

7.2. If Alcan challenges the accuracy of any meters maintained by Delta and requests to have the meters tested, Delta shall test the meters in the presence of Alcan or its representatives, if Alcan exercises the right to be present or represented at such test. If the test shall prove the meter to be accurate within plus or minus two percent ( $\pm 2\%$ ), the cost of testing the same shall be borne by the party requesting the test, but if the test proves the meter to be in error by more than plus or minus two percent ( $\pm 2\%$ ), then the cost of testing and repairing the same shall be borne by Delta. Meter measurements found to be in error more than plus or minus two percent ( $\pm 2\%$ ) shall be corrected and the accounts for the period during which the meter error existed shall be adjusted accordingly. In the event the period during which the meter error existed is unknown, then the accounts shall be adjusted for one-half of the elapsed time since the last previous test but in no event for a period of more than sixty (60) days.

ARTICLE 8. DELIVERY POINTS AND TITLE.

8.1. Supplier Contract Gas. The point of delivery from Supplier to Delta for the account of Alcan that Delivery Point herein described in Paragraph 1-2.

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While Delta is in control and possession of the Supplier Contract Gas, it shall be responsible for any damage, claim, liability or injury caused by the gas.

8.2. Excess Gas. The title to the Excess Gas sold by Delta to Alcan hereunder shall pass to Alcan at the Redelivery Point. Before the Excess Gas passes the Redelivery Point, Delta shall be in control and possession thereof.

8.3. After delivery at the Redelivery Point of the Supplier Contract Gas and the Excess Gas sold by Delta to Alcan hereunder, Alcan shall be deemed in control and possession thereof and shall be responsible for any damage, claim, liability or injury caused by the gas.

ARTICLE 9. TAXES AND FRANCHISE FEES.

Delta may collect from Alcan any taxes and franchise fees, including, but not limited to, sales tax, school tax and gross receipts tax, which, by its tariff or by law, may be collected from Alcan and is being collected from other similarly situated Delta customers and which are not otherwise paid by Alcan, whether such tax is now in existence or hereinafter promulgated or applied. The obligation to pay such taxes shall be in addition to the obligation to pay the appropriate rate set forth in Article 4 of this Agreement.

ARTICLE 10. FORCE MAJEURE.

10.1. Suspension of Obligations. If by ~~reason~~ of force majeure any party hereto is rendered unable wholly or

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in part, to carry out its obligations under this Agreement, and if such party gives notice and reasonably full particulars of such force majeure, by an express means of written communication, to the other party within a reasonable time after the occurrence of the force majeure relied on, the party giving such notice, to the extent that it is affected by such force majeure, shall not be in default of its obligations hereunder or liable in damages during the continuation of any inability so caused. The party claiming suspension due to force majeure shall use due diligence to put itself again in position to carry out all of the obligations which it assumes in this Agreement.

10.2. Force Majeure. The term "force majeure" as used herein means any cause not reasonably in the control of the party claiming suspension, including but not limited to, acts of God or a public enemy, strikes, riots, injunctions or other interference through legal proceedings, breakage or accident to machinery, equipment or pipelines not due to negligence or willful misconduct of the party invoking force majeure, wash-outs, earthquakes, storms, freezing of lines or wells, blowouts, shutdowns to make emergency or unexpected repairs to machines, equipment or pipelines, and compliance with any statute or regulation, either State or Federal, or with any order of the Federal government of any branch thereof, or of the government of the Commonwealth of Kentucky.

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10.3. Obligation to Pay. Notwithstanding the foregoing provisions of this Article, Alcan may not claim suspension, by reason of force majeure, of its obligations under Articles 4 and 9 of this Agreement to pay Delta for transportation service previously rendered [including applicable taxes and franchise fees] which Delta may collect from Alcan.

ARTICLE 11. GOVERNMENTAL REGULATION.

11.1. This Agreement shall be subject to all applicable and valid statues, rules, orders and regulations of any federal, state or local governmental authority or agency having jurisdiction over the parties, their facilities or gas supply, this Agreement or any provision thereof. The parties agree that should any state, federal or local governmental authority or agency with jurisdiction over the parties to this Agreement or transactions herein require approval for the sale or transportation of gas hereunder, then each party shall make all necessary applications or filings and shall submit any records or data required by such governmental authority or agency.

11.2. Neither party shall be liable for failure to perform hereunder if such failure is due to compliance with rules, regulations, laws, orders or directives of any state, federal or local governmental regulatory authority or agency.

11.3. If at any time during the term of this Agreement, the Kentucky Public Service Commission, the

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Federal Energy Regulatory Commission or their successor agencies shall take action [a] whereby Delta will be prohibited or prevented from receiving in full all amounts and monies which Alcan has agreed to pay Delta for service rendered, or, [b] which action in the reasonable judgment of either party, would cause performance of this Agreement to be unduly burdensome, the effected party may cancel and terminate this Agreement as of the date on which such action would so prevent, prohibit or unduly burden that party. Notification, in writing, of such cancellation and termination and the reason therefor shall be as soon as is practicable. The non-terminating party shall have seven (7) business days to assist in alleviating, to the other's satisfaction, such prevention, prohibition or burden, after which time such cancellation and termination shall be effective at the terminating party's discretion.

11.4. Nothing in this Agreement shall prevent any party from contesting the validity of any law, order, rule, regulation or directive of any state, federal or other governmental regulatory authority or agency, nor shall anything in this Agreement be construed to require any party to waive its right to assert the lack of jurisdiction of such regulatory body, governmental entity, or agency over this Agreement or any party thereto.

11.5. This Agreement shall not be effective in whole or in part until and unless all necessary <sup>PUBLIC SERVICE COMMISSION</sup> <sup>OF KENTUCKY</sup> <sup>EFFECTIVE</sup> approvals or authorizations shall have been obtained to the

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satisfaction of each of the parties hereto. In the event any such approval or authorization is withdrawn or expires (and any renewal is refused by the appropriate regulatory authority), this Agreement may be canceled at the option of any party hereto.

11.6. Except as otherwise provided herein, this Agreement is subject to the terms and conditions of Delta's Rates, Rules and Regulations, as set forth in Delta's tariffs on file with the Kentucky Public Service Commission, as same may be changed from time to time.

ARTICLE 12. CONFIDENTIALITY.

Except as otherwise provided herein, Delta and Alcan shall maintain the confidentiality of the terms and conditions of this Agreement, and Delta and Alcan agree not to divulge same to any third party except to the extent required for Alcan to purchase Supplier Contract Gas or as may be required by law, court order or the order or regulation of any administrative agency having jurisdiction over either party.

ARTICLE 13. GOVERNING LAW.

This Agreement was entered into under and, to the extent permitted by law, shall be construed in accordance with the laws of the Commonwealth of Kentucky.

ARTICLE 14. NOTICES.

Any notice, request, demand, statement, or other communication from any party to any other shall be in writing and shall be delivered to the addresses listed

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EXECUTIVE DIRECTOR

below or at such other address as the receiving party may designate in writing:

To DELTA: Delta Natural Gas Company, Inc.  
3617 Lexington Road  
Winchester, KY 40391  
Attention: George S. Billings

To ALCAN: Alcan Aluminum Corporation  
302 Mayde Road  
Berea, KY 40403  
Attention: Daniel Duclos

ARTICLE 15. ASSIGNMENT.

Either party may assign this Agreement or any of its rights or obligations hereunder provided the assigned party has the ability to perform.

ARTICLE 16. SUCCESSORS.

Subject to the terms and conditions of this Agreement, this Agreement shall extend to and be binding upon the successors and assigns of the parties hereto.

ARTICLE 17. WAIVER.

A waiver by any party of any one or more defaults by any other party in the performance of any provision of this Agreement, shall not operate as a waiver of any future default.

ARTICLE 18. SEVERABILITY.

Except as otherwise provided herein, any provision of this Agreement declared or rendered unlawful by a statute, court of law or regulatory agency with jurisdiction over the parties or either of them, shall not otherwise affect the other obligations of the parties under this Agreement.

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ARTICLE 19. HEADINGS.

The headings of the provisions of this Agreement are used for convenience only and shall not be deemed to affect the meaning or construction of such provisions.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands this the day and year first above written.

DELTA NATURAL GAS COMPANY, INC.

By Glenn R. Jennings  
Title President & CEO

ALCAN ALUMINUM CORPORATION

By J. Nichols  
Title Plant Manager

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BY Charles E. [Signature]  
EXECUTIVE DIRECTOR