

**ENBRIDGE PIPELINES INC.**

**EASEMENT OPTION AGREEMENT**

**PROVINCE OF ONTARIO**

**THIS EASEMENT OPTION AGREEMENT** (the “**Agreement**”) is made as of the \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_ (hereinafter referred to as the “**Effective Date**”) by and between **ENBRIDGE PIPELINES INC.**, a corporation incorporated under the laws of Canada, and having its head office in the City of Edmonton, in the Province of Alberta (hereinafter, referred to as “**Enbridge**”) and \_\_\_\_\_ (hereinafter, referred to as “**Owner**”), who are sometimes individually referred to herein as a “**Party**” and collectively, as “**Parties**”.

**WHEREAS**, Owner is the registered and beneficial owner of the lands and premises legally described in **Schedule A** attached hereto (the “**Property**”);

**AND WHEREAS**, Enbridge and Owner have agreed to enter into this Agreement for the purpose of granting to Enbridge for itself, its employees, agents, contractors, subcontractors, successors and assigns, an easement (the “**Easement**” and also referred to herein as the “**right-of-way**”) across, over, under, in, through or on a part of the Property to survey, construct, operate, maintain, inspect, patrol (including aerial patrol), alter, remove, replace, reconstruct and/or repair of one or more pipelines (subject to Section 2.19 herein) and other facilities appurtenant, affixed or incidental thereto (collectively, the “**Pipeline**”), for the transportation, storage and handling of oil, other liquid and gaseous hydrocarbons and products thereof, together with the right of ingress and egress over the remainder of the Property, to and from the right-of-way for Enbridge, its personnel, equipment, contractors and agents for all purposes necessary or incidental to the exercise and enjoyment of the Easement;

**AND WHEREAS**, Enbridge and Owner have further agreed to enter into this Agreement for the purposes of Owner entering into an agreement with Enbridge for temporary working space (the “**TWS Agreement**”) for construction of the Pipeline and a release agreement (the “**Release of Damages Agreement**”) with respect to certain damages relating to the Pipeline, as provided for herein.

**NOW, THEREFORE, THIS AGREEMENT WITNESSES** that in consideration of the mutual covenants and obligations contained herein and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the Parties covenant and agree as follows:

**1. Option**

1.1 Subject to the terms and conditions set out herein, Owner hereby grants Enbridge the exclusive option (“**Option**”) to acquire the Easement in respect of a portion of the Property (the “**Optioned Property**”) the approximate location of which is set out in the sketch attached as **Schedule B** to this Agreement, which right-of-way shall be across, over, under, in, through or a strip of land within the Optioned Property, substantially in the location as shown on the property sketch attached hereto. The Option shall be exercised by Enbridge by providing written notice to Owner (the “**Exercise Notice**”) at any time prior to the expiry of the Option Term (as herewith below). Accompanying the Exercise Notice shall be a draft or final reference plan of survey identifying the portion of the Optioned Property that will be the subject of the Easement (the “**Easement Land**”). Owner hereby irrevocably authorizes Enbridge to deposit such reference plan on title to the Property.

1.2 If, at the time Enbridge exercises the Option, the owner of the Property is the Owner as first named above, then such Owner does hereby concurrently upon entering into this Agreement sign and deliver to Enbridge the grant of easement attached hereto as **Schedule C**, including the acknowledgement and direction regarding electronic registration of the Easement to which such transmission easement is attached and form of transfer of easement prepared in Teraview (hereinafter collectively referred to as the “**Transfer Easement**”), which Transfer Easement is not intended to have legal force and effect until such time as Enbridge exercises its Option. Upon exercising the Option, Enbridge is further irrevocably authorized and directed by the Owner to finalize the Transfer Easement, by completing any missing information such as the date of the document (to be the same date as the Exercise Notice) and the description of the Easement Land (including, without limitation, the reference plan number and the parts identified thereon), and

thereafter, Enbridge shall execute the Transfer Easement, register the Transfer Easement on title and provide a copy of the completed, fully executed and registered Transfer Easement to Owner that is in full force and effect. Without limiting the foregoing irrevocable authorization and direction hereby given by such Owner to Enbridge, as a further assurance Owner irrevocably constitutes and appoints Enbridge the true and lawful attorney of such Owner to execute the Transfer Easement and register the Transfer Easement on title, and to execute and deliver all other instruments, approvals and documents as provided for in the Transfer Easement.

1.3 If, at the time Enbridge exercises the Option, the owner of the Property is not the Owner as first named above, then such Owner agrees that it shall duly execute and deliver to Enbridge on such date as is specified by Enbridge to Owner, the Easement substantially in the form attached hereto as **Schedule C** upon the terms and conditions provided therein. In the event such Owner fails to execute and deliver to Enbridge the Transfer Easement by the date specified by Enbridge to Owner, then such Owner hereby irrevocably constitutes and appoints Enbridge the true and lawful attorney of such Owner to execute the Transfer Easement and register the Transfer Easement on title, and to execute and deliver all other instruments, approvals and documents as provided for in the Transfer Easement.

1.4 The Option shall be exercisable by Enbridge at any time from the Effective Date up to and including the date which is the third anniversary of the Effective Date (the "**Option Term**"). Notwithstanding anything to the contrary herein, however, if Enbridge shall give written notice to the Owner prior to the expiry of the Option Term that Enbridge has submitted, or is in the process of submitting, an application to the National Energy Board (or equivalent government or public authority) in respect of the Pipeline and such application references this Option and/or the Optioned Property, then Enbridge may, in its sole discretion, elect to extend the Option Term for an additional period of one year ("**Extended Option Term**") on the same terms, conditions and privileges as set forth hereunder, at the payment then being paid as herein provided, by providing written notice to Owner of such extension, which shall accompany payment pursuant to **Schedule D**, no less than sixty (60) days prior to the expiration of the Option Term. The Option Term and the Extended Option Term may sometimes be collectively referred to herein as the "**Term**".

1.5 Enbridge shall pay Owner the amounts set forth in **Schedule D** as the consideration for the granting of the Option and the Easement and entering into the TWS Agreement and Release of Damages Agreement (the "**compensation**") within sixty (60) days after the Effective Date. The Parties acknowledge and agree that if Enbridge is requested to produce a copy of this Agreement by virtue of notice registered on title to the Property, the copy of this Agreement so produced will not contain the payment provisions set forth in **Schedule D**, and it is understood and agreed that the deletion of such payment provisions from the copy so produced does not and will not in any way affect the validity or enforceability of this Agreement. The Owner confirms having the option of requiring the compensation to be made by one lump sum payment or by annual or periodic payments of equal or different amounts over a period of time and that the Owner has selected the method of compensation set out in **Schedule D**. The Owner further confirms that if the Owner has selected annual or other periodic payments, the amount of such compensation payable by Enbridge shall be reviewed every five (5) years if the period of compensation extends beyond five (5) years.

1.6 The Owner further agrees:

(a) that, if and when Enbridge exercises the Option, the Owner will promptly upon request by Enbridge enter into the TWS Agreement in the form attached hereto as **Schedule F**, for purposes of granting "Temporary Working Rights" and/or "Extra Temporary Working Rights", as defined in the TWS Agreement in respect of those areas of the Property on, near and/or adjacent to the Optioned Property, that are marked accordingly as being for purposes of such Temporary Working Rights and/or Extra Temporary Working Rights on the sketch attached as **Schedule B**, all as more particularly set out in **Schedule F**;

(b) that, if and when Enbridge exercises the Option, the Owner will promptly upon request by Enbridge enter into the Release of Damages Agreement in the form attached hereto as **Schedule G**, for purposes of providing for a full and final release by Owner of Enbridge in consideration of payment by Enbridge to Owner of an up-front, lump sum payment to compensate Owner for damages related to the Pipeline, all as more particularly set out in **Schedule G**; and

(c) that Enbridge may elect to have the TWS Agreement and Release of Damages Agreement signed and delivered by the Owner concurrently upon entering into this Agreement,

without such agreements having legal force or effect unless and until Enbridge exercises the Option, and upon Enbridge exercising the Option, Enbridge is irrevocably authorized and directed by the Owner to finalize each of the TWS Agreement and Release of Damages Agreement by completing any missing information, and thereafter, Enbridge shall execute each of the TWS Agreement and Release of Damages Agreement and provide a copy thereof completed, in full force and effect, and fully executed to Owner; provided, however, that if, at the time Enbridge exercises the Option, the owner of the Property is not the Owner as first named above, then such Owner agrees that it shall duly execute and deliver to Enbridge on such date as is specified by Enbridge to Owner, the TWS Agreement substantially in the form attached hereto as **Schedule F** and the Release of Damages Agreement substantially in the form attached hereto as **Schedule G**, in both cases upon the terms and conditions provided therein, and if such Owner fails to execute and deliver to Enbridge each of the TWS Agreement and Release of Damages Agreement by the date specified by Enbridge to Owner, then such Owner hereby irrevocably constitutes and appoints Enbridge the true and lawful attorney of such Owner to execute such agreements as agent and attorney for and on behalf of such Owner.

1.7 Owner hereby grants to Enbridge, during the Term, the right to enter upon the Optioned Property, at such times as are agreed to by the Parties, acting reasonably, to allow Enbridge to undertake studies and tests on, above and below the Optioned Property, to prepare surveys and to construct and install scientific equipment and any other equipment necessary to perform required studies, surveys and tests (collectively "**Scientific Equipment**"). In the event any Scientific Equipment is located within a cultivated portion of the Optioned Property of Owner, and in the event any of the above materially interferes with Owner's farming practices, Enbridge shall pay Owner a one-time payment for crop damage resulting therefrom. Owner shall provide written notice to Enbridge outlining the basis for Owner's assertion of damage to the Optioned Property, the exact nature of damage, the source of the assertion that the alleged damage is the result of the exercise by Enbridge of the rights, privileges and license granted by this Agreement and satisfactory evidence of the damage including documentation showing the extent of the damage and the financial impact of such damage. In the event that the Parties cannot agree at any time on the amount of damage payable to Owner for such crop damage, the compensation paid by Enbridge to Owner for that use shall be the damages for the crops lost or destroyed in the area damaged as calculated below; in consideration of this payment, no additional damages shall be paid in future years for that episode of damage. Damages will be calculated by the following formula:  $\text{Unit Price} \times \text{Unit Yield Per Acre} \times \text{Acres Damaged} = \text{Damages}$ . Prices for damaged or destroyed crops will be based on the average of the previous March 1st and September 1st using the prices for the crop provided by the local grain elevator. Yield will be the average of the previous three (3) years' yields according to Owner's records for the smallest parcel of land that includes the damaged area. If Owner does not have yield records available, the Parties will use commonly used yield information available for the area. The Parties shall try in good faith to agree to the extent of damage and acreage affected. If they cannot agree, they shall have the area measured and extent of damage assessed by an impartial party such as a crop insurance adjuster or extension agent. Any costs for such assessment shall be paid by Enbridge. Payment shall be made within sixty (60) days after determining the extent of the damage. In the event that Enbridge requests that Owner move livestock located on the Optioned Property, Owner shall promptly move the livestock to a mutually acceptable location and Enbridge shall reimburse Owner for the reasonable cost of moving the livestock.

1.8 Notwithstanding the registration of the Transfer Easement, Enbridge shall continue to be entitled to enjoy the rights of ingress and egress to and from the Easement Land across the remainder of the Property as set out in the description of the Easement in the second recital of this Agreement above and as set out in the form of Transfer Easement.

1.9 The Owner acknowledges receipt of a notice given pursuant to Section 87(1) of the *National Energy Board Act* (Canada) and given prior to the entering into of this Agreement, setting out or accompanied by:

- (a) a description of the Optioned Property of the Owner required by Enbridge for a section or part of the Pipeline;
- (b) details of the compensation offered by Enbridge for the Optioned Property required;
- (c) a detailed statement made by Enbridge of the value of such Optioned Property required in respect of which compensation was offered;
- (d) a description of the procedure for approval of the detailed route of the Pipeline; and

(e) a description of the procedure available for negotiation and arbitration under Part V of the *National Energy Board Act* (Canada) in the event that the Owner and Enbridge are unable to agree on any matter respecting the compensation payable.

## **2. Covenants, Representations & Warranties.**

2.1 Owner represents and warrants that, as of the Effective Date, Owner is:

(a) if an individual, at least eighteen (18) years of age; and

(b) not a spouse within the meaning of the *Family Law Act*, R.S.O. 1990, c.F.3, as amended (in this Agreement, a “**Spouse**”); or

(c) a Spouse and all or some portion of the Optioned Property has been occupied as a family residence or matrimonial home within the meaning of the *Family Law Act*, R.S.O. 1990, c.F.3, as amended (in this Agreement, a “**Matrimonial Home**”), in which case this Agreement has been executed by both Spouses together comprising Owner or consented to in writing by Owner’s Spouse as is evidenced by the signature of such Spouse on the Consent attached hereto as **Schedule E**; or

(d) a Spouse, but no portion of the Optioned Property has been occupied as a Matrimonial Home; or

(e) a corporation, and all or some portion of the Optioned Property has been occupied by an officer, director or shareholder of such corporation or by any of their Spouses as a Matrimonial Home, in which case this Agreement has been executed by both Spouses together as is evidenced by the signature of such Spouse on the Consent attached hereto as **Schedule E**; or

(f) a corporation, but no portion of the Optioned Property has been occupied by any officer, director or shareholder of the corporation or by any of their Spouses as a Matrimonial Home.

2.2 Owner acknowledges that Owner has had the full opportunity to obtain independent legal representation or advice in connection with this Agreement.

2.3 Owner hereby agrees and covenants:

(a) that subsequent to the execution and delivery of this Agreement and without any additional consideration made or cost to Owner, Owner will execute and deliver or cause to be executed and delivered any further legal instruments, including, without limitation, any required consents or acknowledgements and perform any acts which are or may become necessary to effectuate the purposes of this Agreement and to complete the transactions contemplated hereunder;

(b) that Owner will appoint Enbridge to act as Owner’s agent for the purpose of executing such consents or authorizations as may be necessary for Enbridge to make any application for re-zoning or site plan approval pursuant to this Agreement, and agrees to cooperate in any such applications; and

(c) that any information which Owner has access to or which comes into Owner’s possession relating to Enbridge’s activities (including the terms of this Agreement) (collectively, the “**Confidential Information**”) shall be held in the strictest confidence by Owner, and Owner shall not disclose any Confidential Information to any third party except as may be required by law, or on the same confidential basis as provided herein and then only to Owner’s prospective purchasers or legal and financial advisors who have a *bona fide* and actual need to know same (“**Authorized Agents**”); (ii) Owner or the Authorized Agents will not use any such Confidential Information, other than as may be required or permitted to perform any of its obligations under this Agreement; and (iii) Owner or its Authorized Agents will not exploit (whether for commercial or other purposes) or otherwise use any such Confidential Information. Owner acknowledges that a breach of any of the provisions contained herein would cause Enbridge to suffer loss which could not be adequately compensated for by damages and Enbridge may, in addition to any other remedy or relief, enforce the performance of the provisions of this Section by injunction or specific performance upon application to a court of competent jurisdiction without proof of actual damage. Upon the expiration or earlier termination of this Agreement, all Confidential Information will continue to be kept confidential by Owner.

2.4 Enbridge hereby covenants that should it elect to exercise the Option, it shall, at its sole cost and expense and prior to accessing the Optioned Property for any purpose related to the assessment, surveying or construction of the Pipeline contemplated to be erected by Enbridge herein, provide and maintain in full force and effect with financially responsible insurance carriers, insurance with commercially reasonable coverages, which shall continue in effect during the existence of the Easement:

(a) automobile liability insurance covering owned, non-owned, hired, leased and rented automobiles and automotive equipment providing coverage for injury, death, or property damage;

(b) commercial general liability insurance covering bodily injury, death, personal injury and damage to property; and

(c) workers compensation as required by the Ontario *Workplace Safety and Insurance Act* (Ontario) or similar legislation covering all persons employed by Enbridge or subcontractors for work performed under this Agreement.

## 2.5 Title Search

(a) If, after the Effective Date, Enbridge conducts a title search and such search reveals that Owner is not the legal and beneficial owner of the Optioned Property or does not have the legal right and authority to grant to Enbridge, its employees, servants, agents, consultants, contractors and sub-contractors, the rights under this Agreement or has granted an easement, right-of-way, lease, financial encumbrance or other property right(s) related to the Optioned Property (“**Prior Encumbrance**”) to any other person that would interfere with the rights granted to Enbridge hereunder, Enbridge may, in its sole discretion, terminate this Agreement effective immediately. If Enbridge elects not to terminate this Agreement, Owner agrees to cooperate with Enbridge to obtain from the holder of such Prior Encumbrance any non-disturbance agreement, postponement, mutual co-existence agreement or related agreements, that Enbridge may reasonably require. Without limiting the generality of the foregoing, Owner covenants and agrees to use its best efforts to obtain from any prior mortgagee of the Property, either a postponement of such mortgage to this Agreement and any Easement or a non-disturbance agreement in favour of Enbridge.

(b) If the title search reveals a Prior Encumbrance, Enbridge, in its sole and absolute discretion, may decide to consult with the holder of such Prior Encumbrance and Owner shall cooperate with Enbridge to resolve any issues that may arise out of the exercise of the Option vis-à-vis the Prior Encumbrance with the goal of determining whether the Prior Encumbrance and the Easement can co-exist over the Optioned Property.

(c) Notwithstanding Section 2.5(b), Enbridge may choose to terminate this Agreement at any time pursuant to Section 2.5(a).

2.6 Owner hereby represents and warrants that it is the legal and beneficial owner[s] in fee simple of the Property and has the legal right and authority to grant to Enbridge, its servants, employees, agents, consultants, contractors and sub-contractors the rights under this Agreements on the terms and conditions set out herein and has not and will not grant an option, easement, lease or any other property rights related to the Optioned Property to any other person that would interfere with the rights granted to Enbridge hereunder, save and except for any easements, rights-of-way, restrictions, or any other property rights granted by the Owner prior to the Effective Date.

2.7 Owner covenants and agrees to execute all applications, consents, permissions, agreements, postponements, partial discharges and any other documents which Enbridge may require in connection with obtaining any and all approvals including, but not limited to, rezoning, governmental approvals, consents, permits or variances (collectively, “**Approvals**”) and in connection with entering into by Enbridge of any agreements with such governmental and public authorities as may be necessary to give due force and effect to and in furtherance of Enbridge’s applications, and the Owner shall produce all other documents and information which may be required in connection with such applications. All applications for Approvals shall be made by Enbridge, at its sole cost and expense and any costs associated with such Approvals shall be borne by Enbridge. Enbridge agrees that the obligation of the Owner pursuant to this paragraph shall be restricted to execution of documents and production of documents and information and shall not impose upon the Owner any financial obligation whatsoever.

## 2.8 Mutual Indemnities

(a) Enbridge shall indemnify and hold harmless the Owner against all actions, suits, claims, demands and expenses made or suffered by any person or persons, in respect of loss, injury, damage or obligation to compensate, arising out of or in connection with or as a result of:

- (i) the negligence or wilful misconduct of Enbridge; or
- (ii) any breach by Enbridge of the terms and conditions of this Agreement;

provided that Enbridge shall not be liable under this Section to the extent to which such loss, damage or injury is caused or contributed to by the negligence or default of Owner, its servants or agents. For greater certainty, Enbridge shall not be liable to Owner for the actions of Owner, its agents, employees, invitees or representatives who enter upon the Optioned Property.

(b) Owner shall indemnify and hold harmless Enbridge against all actions, suits, claims, demands and expenses made or suffered by any person or persons, in respect of loss, injury, damage or obligation to compensate, arising out of or in connection with, or as a result of the negligence or wilful misconduct of Owner, as well as, in respect of any loss, injury or damage arising out of or in connection with, any breach by Owner of the terms and conditions of this Agreement; provided that Owner shall not be liable under this Section to the extent to which such loss, damage or injury is caused or contributed to, by the negligence or default of Enbridge, its servants or agents. For greater certainty, Owner shall not be liable to Enbridge for the actions of: (i) Enbridge, its agents, employees, or representatives who enter upon the Optioned Property, or (ii) any trespasser or unauthorized person who enters upon the Optioned Property.

(c) Notwithstanding the foregoing, the Parties hereto shall only be liable for reasonably anticipated and foreseeable damages.

2.9 Enbridge will compensate the Owner for all damages suffered as a result of Enbridge's operations.

2.10 As soon as weather and soil conditions permit and insofar as it is practicable so to do, Enbridge will bury and maintain the Pipeline in a manner that will not interfere with the surface drainage or ordinary cultivation of the Easement Land, and will restore all surface drains damaged or disturbed by the operation, according to good drainage practice.

2.11 Notwithstanding that in constructing, maintaining and operating its Pipeline, Enbridge may install pipe and other equipment and appurtenances in, on, over, under, across or through the right-of-way in such a manner that it or they become affixed to the Easement Land, the title to such pipe and other equipment and appurtenances shall until surrendered remain in Enbridge. Enbridge may at any time remove the whole or any part of the Pipeline.

2.12 Upon the discontinuance of the use of the right-of-way and of the exercise of the rights hereby granted, Enbridge shall and will restore the Easement Land to the same condition, so far as it is practicable so to do, as the same was in prior to the entry thereon and the use thereof by Enbridge. Enbridge agrees to delete and/or release any registrations at the land registry office pertaining to this Agreement and the Transfer Easement upon the abandonment of the right-of-way.

2.13 In performing and observing the covenants and conditions contained in this Agreement and under the Transfer Easement, TWS Agreement and Release of Damages Agreement, Enbridge shall peaceably hold and enjoy the rights thereby granted without hindrance, molestation or interruption on the part of the Owner or of any person, firm or corporation claiming by, through, under or in trust for the Owner.

2.14 This Agreement shall not affect or prejudice Enbridge's statutory rights to acquire an easement on any portion of the Property under the provisions of the *National Energy Board Act* (Canada), or any other laws, which rights may be exercised at Enbridge's discretion in the event of the Owner being unable or unwilling for any reason to perform this Agreement or to give to Enbridge a clear and unencumbered title to the right-of-way and Easement to be granted.

2.15 Nothing contained herein or in the Transfer Easement, TWS Agreement or Release of Damages Agreement, shall vest in Enbridge any title to mines or minerals in or under the Easement

Land, except only the parts thereof that are necessary to be excavated, carried away or used in the construction of the Pipeline.

2.16 Enbridge will not object to any application made by the Owner under Section 112 of the *National Energy Board Act* (Canada) so long as the proposed crossing is made in accordance with good engineering practice and does not interfere with the operation of the Pipeline.

2.17 This Agreement is a covenant running with the Property and the provisions of this Agreement shall extend to, be binding upon, and enure to the benefit of the heirs, executors, administrators, successors and assigns of the Owner and Enbridge, respectively.

2.18 The Owner agrees that Enbridge may, at its option, at any time and from time to time in the course of constructing and operating the Pipeline enter upon the right-of-way with workers and equipment and remove all shrubs and trees from the Easement Land.

2.19 Enbridge intends to install one (1) pipeline in the right-of-way. Enbridge will only install an additional pipeline or pipelines in the right-of-way with the consent and agreement of the Owner, or, in the absence of such consent and agreement, in accordance with all authorizations and determinations, including with respect to any additional compensation payable, made under the *National Energy Board Act* (Canada).

### **3. Termination**

3.1 Except as otherwise stipulated herein, this Agreement shall terminate at the earlier of:

- (a) failure by Enbridge to pay the requisite payments provided for hereunder, after written demand by the Owner, unless otherwise agreed to by the Parties;
- (b) receipt by the Owner of notice from Enbridge of Enbridge's desire to terminate the Agreement at any time during the Term;
- (c) termination by Enbridge pursuant to Section 2.5; or
- (d) the expiry of the Option Term as set out in Section 1.4.

3.2 The representations, warranties, covenants and agreements contained in Section 2 hereof shall survive the termination of this Agreement and remain in full force and effect.

3.3 In the event that this Agreement is terminated on the date stipulated in Section 3.1(b) (the "**Early Termination Date**"), Enbridge shall be released from having to pay any further Option Payment under this Agreement.

### **4. Notices**

4.1 Any notice or other writing required or permitted to be given under this Agreement or for the purposes of this Agreement (referred to in this Section as a "**Notice**") to the other Party shall be sufficiently given if delivered personally, or if sent by prepaid registered mail, or if transmitted by fax:

In the case of Notice to Enbridge, to:

Enbridge Pipelines Inc.  
P.O Box 398  
10201 Jasper Avenue  
Edmonton AB T5J 2J9  
Attention: Land Services Canadian Operations  
Facsimile: 780-392-4120

In the case of the Owner, to:

[Landowner]  
[Landowner Address]  
Telephone:  
Facsimile:

or at such other address as the Party to whom such writing is to be given shall have last notified to the Party giving the same in the manner provided in this Section. Any notice personally delivered to the Party to whom it is addressed as provided in this Section shall be deemed to have been given and received on the day it is so delivered at such address, provided that if such day is not a Business Day then the notice shall be deemed to have been given and received on the Business Day next following such day. Any notice mailed to the address and in the manner provided for in this Section shall be deemed to have been given and received on the fifth Business Day next following the date of its mailing in Ontario. Any notice transmitted by fax shall be deemed to have been given and received on the first Business Day after its transmission.

4.2 For the purposes of this Section, the term “**Business Day**” means every day except Saturdays, Sundays and statutory holidays in the Provinces of Ontario and Alberta.

## 5. General Provisions

5.1 This Agreement shall be governed by the laws of the Province of Ontario and the federal laws of Canada applicable therein.

5.2 All matters in dispute between the Parties pursuant to this Agreement shall be resolved by good-faith negotiation. If the Parties are unable to resolve amicably any dispute arising out of or in connection with this Agreement, each shall have all remedies available at law or in equity.

### 5.3 Assignment

(a) Subject to Subsection 5.3(c) below, this Agreement may be assignable by Owner to a successor in title.

(b) Subject to Subsection 5.3(c) below, Enbridge shall be able to assign this Agreement or any portion of its interest in the Optioned Property and all of the rights and benefits derived under and from this Agreement, the Transfer Easement and the Easement to be granted thereunder, the TWS Agreement and the Release of Damages Agreement, to one or more persons or entities without the prior consent of Owner to any persons, including to its lender(s), as security for Enbridge's obligations to such lender(s). Owner shall execute and deliver any consent and acknowledgement reasonably requested by such lender.

(c) No assignment by Owner shall be effective unless and until the assignee executes an assumption agreement (“**Assumption Agreement**”) with respect to this Agreement agreeing to be bound by the terms hereof to the same extent as if it had been an original party hereto. For greater certainty, Owner covenants and agrees that if the Owner transfers or conveys the Property or any portion that comprises the Optioned Property, the Owner will obtain from any such transferee or purchaser an Assumption Agreement in favour of Enbridge.

5.4 This Agreement shall be binding upon and inure to the benefit of the Parties hereto, their respective heirs, executors, administrators and other legal representatives and, to the extent permitted hereunder, their respective successors and permitted assigns.

5.5 If any provision of this Agreement is determined to be invalid or unenforceable in whole or in part, such invalidity or unenforceability shall attach only to such provision (or part thereof) and everything else in this Agreement shall continue in full force and effect.

5.6 No change or modification of this Agreement shall be valid unless it is in writing and signed by each Party hereto.

5.7 This Agreement constitutes the entire agreement between the Parties hereto with respect to the subject matter of this Agreement. The Parties hereto acknowledge that there is no representation, warranty, and agreement or understanding between them, whether express or implied, which has induced any of the Parties hereto to enter into this Agreement except as expressly stated herein.

5.8 No failure on the part of any Party to exercise, and no delay by any Party in exercising, any right under this Agreement shall operate as a waiver of such right, unless the Party gives written notice to the other Party of its intention to waive such right.



5.9 This Agreement shall commence on the Effective Date.

5.10 Time shall be of the essence of this Agreement.

5.11 The section headings herein have been inserted for ease of reference only and shall not affect the construction or the interpretation of this Agreement.

5.12 This Agreement may be executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument.

5.13 Delivery of executed counterparts of this Agreement by facsimile transmission or other form of electronic communication shall constitute valid and effective delivery.

5.14 Any monies to be paid pursuant to this Agreement shall be in Canadian funds.

5.15 This Agreement shall be effective to create an interest in the Optioned Property for the Term.

5.16 Enbridge shall be entitled, at its cost and expense, to register this Agreement or a notice in respect thereof and any required reference plans in the Land Registry Office for the area in which the Property is situated and Owner agrees to execute, at no cost to Enbridge, all necessary instruments, plans and documentation for that purpose.

*[Remainder of page intentionally left blank, signature page follows]*

**IN WITNESS WHEREOF** the Parties hereto have executed this Agreement on the date first above written.

**Owner:**

Witness:

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

Address: \_\_\_\_\_

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

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

Witness:

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

Address: \_\_\_\_\_

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

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

**ENBRIDGE PIPELINES INC.:**

Per: \_\_\_\_\_

Name:

Office:

I have the authority to bind the corporation

**SCHEDULE A**

**TO EASEMENT OPTION AGREEMENT**

**LEGAL DESCRIPTION OF PROPERTY**

**BEING THE WHOLE OF PIN NO (LT)**

**SCHEDULE B**

**TO EASEMENT OPTION AGREEMENT**

**DEPICTION OF OPTIONED PROPERTY**

**[see attached sketch]**

**SCHEDULE C**

**TO EASEMENT OPTION AGREEMENT**

**FORM OF GRANT OF EASEMENT**

**SCHEDULE D**  
**TO EASEMENT OPTION AGREEMENT**  
**Compensation**

Payment terms available upon request by a person who has an interest in the subject lands.

In consideration for granting the Option to Enbridge upon entering into this Agreement, Enbridge shall pay to the Owner the sum of \$1,000 (the “**Consideration Payment**”) and the sum of \$6,500 as an initial signing bonus (the “**Initial Signing Bonus**”).

If Enbridge elects to extend the Option Term in accordance with Section 1.4 of this Agreement, then, upon making such election, Enbridge shall pay to the Owner the sum of \$1,000 (the “**Extension Payment**”) as consideration for the Extended Option Term.

Upon the Exercise Notice having been duly given by Enbridge to the Owner, the Owner shall receive the following compensation for granting of the Easement:

Delete (a) or (b):

- (a) one lump sum payment of \$\_\_\_\_\_;
- (b) by annual or periodic payments of equal or different amounts over a period of time as set forth in Exhibit 1 attached hereto and forming part hereof;

[option (a)], such payment shall be made on or before the date that the construction of the Pipeline is commenced on the Easement Land [or option (b)] the first of such payments shall be made and the payments shall commence on or before the date that the construction of the Pipeline is commenced on the Easement Land.

Notwithstanding anything contained in this Agreement, it is expressly acknowledged and agreed between the Owner and Enbridge that the consideration payable for the rights and easement do not include any amounts payable in respect of the federal Harmonized Sales Tax (“**HST**”), as applicable. Enbridge hereby represents that it is duly registered for the purposes of the HST legislation. Enbridge’s HST registration number is 10250 5641 RT. As this Agreement is for the acquisition of the rights and easement by way of sale, Enbridge, as required by the *Excise Tax Act*, shall self-assess and remit all HST, as applicable and payable by it in connection with the payments made for the grant of the rights and easement directly to the Canada Revenue Agency.

If Enbridge determines, in its sole and absolute discretion, prior to the date that the first payment is to be made that it does not require the right-of-way then it may give notice of such determination to the Owner and this Agreement shall then terminate and be at an end and Enbridge shall execute and register such documents as may be necessary to delete notice of this Agreement from title to the Property and shall notify the Owner of the registration thereof. For further certainty, if this Agreement so terminates then Enbridge shall not be liable to make any payment to the Owner.

EXECUTED by the Owner as of the date of this Agreement first set out above.

**Owner:**

Witness:

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

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

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

Witness:

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

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

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

**SCHEDULE E**  
**TO EASEMENT OPTION AGREEMENT**  
**CONSENT OF SPOUSE**

I, \_\_\_\_\_, being the spouse of \_\_\_\_\_,  
do hereby give my consent to the grant of the Option made in the Agreement and to the grant of the  
Easement pursuant to the Transfer Easement should the Option be exercised by Enbridge:

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**WITNESS:**

**SPOUSE OF OWNER**

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

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



**SCHEDULE F**  
**TO EASEMENT OPTION AGREEMENT**  
**FORM OF TWS AGREEMENT**

**SCHEDULE G**  
**TO EASEMENT OPTION AGREEMENT**  
**FORM OF RELEASE OF DAMAGES AGREEMENT**