

TRANS MOUNTAIN PIPELINE

**FIRM SERVICE
TRANSPORTATION SERVICE AGREEMENT**

BETWEEN

TRANS MOUNTAIN PIPELINE L.P. (as Carrier)

and

(as Shipper)

Effective:

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**FIRM SERVICE
TRANSPORTATION SERVICE AGREEMENT**

THIS TRANSPORTATION SERVICE AGREEMENT is made as of _____, 2010,

BETWEEN:

TRANS MOUNTAIN PIPELINE L.P., a limited partnership
organized under the laws of Alberta (the "**Carrier**"),

- and -

_____, a _____
(the "**Shipper**").

WHEREAS the Carrier operates the Mainline System;

AND WHEREAS the Carrier desires to enter into a firm transportation service agreement with Shipper for Firm Service for the Contract Volume;

AND WHEREAS the Shipper desires to commit for Firm Service for the Contract Volumes, on the terms and conditions set forth in this Agreement;

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements of the Parties herein contained, the Parties agree as follows:

**ARTICLE 1
INTERPRETATION**

1.1 Definitions

In this Agreement the following words and terms shall have the following meanings:

"Acceleration Payment" means the present value (using a discount rate equal to the then current Prime Rate) of the obligation of the Shipper to pay 100% of the Firm Service Toll for delivery from the Receipt Point to the Designated Delivery Point in respect of the Contract Volume during the remainder of the applicable Contract Term;

"Actual Monthly Volume" means the actual physical volume of Petroleum Delivered by the Shipper in a Month;

"Affiliate" means any Person (i) that controls a Party, (ii) that is controlled by a Party, or (iii) that is controlled by the same Person that controls a Party; it being understood and agreed that for purposes of this definition the terms "**controls**" and "**controlled by**" shall mean the power to direct or cause the direction of the management and policies of another Person whether through the ownership of shares or partnership interest, a contract, trust arrangement or any other means, either directly or indirectly, that results

in control in fact and without restricting the generality of the foregoing includes, with respect to the control of or by a corporation or a partnership, the ownership of shares or partnership interest carrying not less than fifty (50%) percent of the voting rights regardless of whether such ownership occurs directly or indirectly, as contemplated above;

"Agreement" means this Firm Service Transportation Service Agreement together with the recitals and schedules hereto, and includes all written instruments hereafter supplementing, amending or confirming this Firm Service Transportation Service Agreement;

"Alternate Delivery Point" means deliveries of Petroleum to destinations other than the Designated Delivery Point;

"Alternate Delivery Point Fee" means a delivery fee of \$0.25 per barrel of Petroleum delivered to an Alternate Delivery Point;

"Burnaby Tank Metered Light Toll" has the meaning set forth in the Tariff;

"Business Day" means any day other than a Saturday, Sunday, or statutory holiday in the Province of Alberta;

"Carrier" means Trans Mountain Pipeline L.P.;

"Commencement Date" shall be the first day of the Month immediately following the date upon which the Notice of Commencement has been delivered by the Carrier to the Shipper;

"Contract Term" means that period of time which is either five (5) years or ten (10) years as indicated in Schedule A attached hereto, commencing on the Commencement Date;

"Contract Volume" means the daily volume of Petroleum as set forth in Schedule A attached hereto;

"Cubic Metre" or "M³" means the volume of petroleum which occupies one (1) cubic metre and equals 6.2898108 barrels;

"Deliver" and any derivative thereof, means delivered by the Carrier to the Shipper at the Delivery Point;

"Delivery Point" means either a Designated Delivery Point or an Alternate Delivery Point, as the circumstances dictate;

"Designated Delivery Point" means the Westridge Marine Terminal;

"Expansion" and **"Expansions"** has the meaning set forth in Section 7.2 of this Agreement;

“Expansion NOP” means a notice of proposal setting out the rules and procedures for an Open Season related to an Expansion;

“Firm Service” means the firm transportation service to be provided by the Carrier in accordance with this Agreement and other firm transportation service agreements respecting the Mainline System;

“Firm Service Fee” means the fee set forth in Schedule A attached hereto;

“Firm Service Toll” means the toll payable by the Shipper, which toll is the sum of the Firm Service Fee plus the Toll applicable in accordance with the Tariff, as set forth in Article 3.1;

“Force Majeure” has the meaning set forth in the Rules and Regulations;

“Mainline System” has the meaning set forth in the Rules and Regulations;

“Make-up Term” shall have the meaning set forth in Section 7.1;

“Make-up Volume” shall have the meaning contemplated in Section 6.10 of the Rules and Regulations;

“Month” means the period beginning at 7:00 a.m. Mountain Time on the first day of any calendar month and ending at 7:00 a.m. Mountain Time on the first day of the next calendar month;

“Monthly Charges” means collectively the applicable Firm Service Toll, Toll Surcharges, Nominee Fee, Alternate Delivery Point Fee payable in a particular Month;

“Monthly Volume” means, for a Month, the Contract Volume for that Month, multiplied by the number of days in that Month;

“NEB” means the National Energy Board of Canada, as constituted pursuant to the *National Energy Board Act* (Canada), or any successor thereof;

“NOP” means a notice of proposal setting out the rules and procedures for an Open Season;

“Nomination” and any derivative thereof, means the volume of Petroleum, the Receipt Point, the Designated Delivery Point and the type(s) of Petroleum, all as specified in the Notice of Shipment in respect of a Month;

“Nominee” means a third party that ships the Monthly Volume in place of the Shipper in a given Month;

“Notice of Commencement” has the meaning set forth in Section 5.2 of this Agreement;

“Notice of Shipment” means the form(s) (including electronic forms) prescribed by the Carrier to be used by the Shipper in notifying the Carrier of proposed Tenders;

“Open Season” means a process open and equal to all Persons whereby the Carrier procures expressions of interest or otherwise for firm Contract Volume and, based on the level of interest expressed by those Persons, determines whether or not to contract with any or all of those Persons for firm Contract Volume;

“Parties” means the Carrier and the Shipper collectively, and **“Party”** means either one of them;

“Person” means a natural person, corporation, partnership, limited partnership, joint venture, association, trust, limited liability company, unlimited liability corporation, or any other entity or organization, including a Regulatory Body;

“Petroleum” has the meaning set forth in the Rules and Regulations;

“Prime Rate” means the annual rate of interest announced from time to time by the Toronto-Dominion Bank (or any successor thereof) as its reference rate then in effect for determining interest rates it will charge on Canadian dollar commercial loans made by the Toronto-Dominion Bank (or any successor thereof) in Canada;

“Receipt Point” has the meaning set forth in the Rules and Regulations;

“Regulatory Approval” has the meaning set forth in Section 4.1;

“Rules and Regulations” means the Rules and Regulations Governing the Transportation of Petroleum applicable to the Carrier, as approved by the NEB from time to time;

“Shipper” means the Party indicated as such on page 1 hereof;

“Shipper Default” has the meaning set forth in Section 8.1;

“Ship or Pay Obligation” has the meaning set forth in Section 3.5;

“Tariff” means both the Rules and Regulations and the Toll applicable for service between the receipt and delivery locations offered by the Carrier, as each may be amended from time to time;

“Tender” has the meaning set forth in the Rules and Regulations;

“Term Shipper” has the meaning set forth in the Rules and Regulations;

“Toll” means the tolls for the transportation of Petroleum on the Mainline System, comprised of transmission, applicable charges for receipt and delivery, tankage and terminalling and applicable surcharges/credits for Petroleum, all as referenced in the applicable Tariff;

“Westridge Marine Terminal” has the meaning set forth in the Rules and Regulations.

1.2 Rules and Regulations

Except as otherwise provided in the Rules and Regulations, the Rules and Regulations are subject to the approval of the NEB in accordance with the *National Energy Board Act* (Canada). At any time during the Contract Term, the Carrier may file with the NEB proposed amendments to the Rules and Regulations which are not inconsistent with the terms of this Agreement, and shall provide the Shipper with a copy of such proposed amendments. Any amendments to the Rules and Regulations shall be effective on approval by the NEB. The Rules and Regulations shall be applicable to the provision and receipt of service by the Carrier and the Shipper pursuant to this Agreement, except to the extent that they are in conflict with the terms of this Agreement.

1.3 References

References to “hereunder”, “herein” and “hereof” refer to the provisions of this Agreement, and references to Articles, Sections and Schedules herein refer to Articles, Sections and Schedules of this Agreement.

1.4 Headings

The headings of the Articles and Sections and any other headings, captions or indices herein are inserted for convenience of reference only and shall not be used in any way in construing or interpreting any provision hereof.

1.5 Extended Meanings

In this Agreement, words importing the singular shall include the plural and *vice versa*, and words importing gender shall include the masculine, feminine and neuter genders, all as may be applicable by the context in which they are used.

1.6 Derivatives

Where a term is defined herein, a capitalized derivative of such term shall have a corresponding meaning unless the context otherwise requires.

1.7 Statutory References

Any reference to a statute shall include and shall be deemed to be a reference to such statute and to the regulations made pursuant thereto, and all amendments made thereto and in force from time to time, and to any statute or regulation that may be passed which has the effect of supplementing the statute so referred to or the regulations made pursuant thereto.

1.8 Invalidity of Provisions

If any of the provisions of this Agreement should be determined to be invalid, illegal or unenforceable in any respect, the validity, legality or enforceability of the remaining provisions herein shall not in any way be affected or impaired thereby.

1.9 Conflicts

If there is any conflict or inconsistency between a provision of the body of this Agreement and that of the schedule hereto the provisions of the schedule hereto shall prevail.

1.10 Industry Usage

Words, phrases or expressions which are not defined in this Agreement and which, in the usage or custom of the business of the transportation and distribution or sale of crude petroleum and refined petroleum have an accepted meaning, shall have that meaning.

1.11 Currency

All amounts payable under this Agreement are payable in Canadian dollars and references in this Agreement to monetary amounts are references to lawful currency of Canada.

1.12 Units

The Parties have agreed that, for purposes of this Agreement, Petroleum will be measured in barrels and not in Cubic Metres. Notwithstanding the use of such units in this Agreement, the Parties acknowledge that the Rules and Regulations and any tariffs required to be filed with the NEB or pursuant to the *National Energy Board Act* (Canada) will be prepared on the basis of the measurement of Petroleum in Cubic Metres.

1.13 Schedules

The following schedule is attached hereto, incorporated in and made part of this Agreement:

- (a) Schedule A - Terms of Service

ARTICLE 2 SERVICE

2.1 Carrier's Obligations

During the Contract Term, the Carrier shall provide Firm Service to the Shipper, or to a Nominee as contemplated in Section 2.2(b), and otherwise in accordance with the provisions of this Agreement. Firm Service shall, on a Monthly basis, consist of receipt at one or more Receipt Points of a volume of Petroleum equal to the Monthly Volume for transportation and delivery to the Shipper's account at one or more Delivery Points of a volume of Petroleum equal to the Monthly Volume, all in accordance with this Agreement and the Rules and Regulations.

2.2 Shipper's Obligations

- (a) Subject to Section 2.2(b), the Shipper shall Nominate and Tender, on a Monthly basis during the Contract Term a volume of Petroleum equal to the Monthly Volume, at the Receipt Point, and shall receive a volume of Petroleum which is equivalent to such Monthly Volume at the Delivery Point, and shall make all necessary arrangements with transporters upstream of the Receipt Point and downstream of the Delivery Point for such purposes, all in accordance with this Agreement and the Rules and Regulations.
- (b) For any Month of the Contract Term, the Shipper may cause a Nominee to Nominate and Tender the Shipper's Monthly Volume at a Receipt Point, and shall receive a volume of Petroleum which is equivalent to such Monthly Volume at a Delivery Point, and shall make all necessary arrangements with transporters

upstream of the Receipt Point and downstream of the Delivery Point for such purposes, all in accordance with this Agreement and the Rules and Regulations. Such Nomination and Tender by the Nominee shall satisfy the Shipper's obligation to Nominate and Tender its Monthly Volume for such Month, but shall not otherwise diminish or act as a waiver of the Shipper's obligations under this Agreement. The Shipper or the Nominee shall provide written notice to the Carrier that the Nominee is Nominating and Tendering Petroleum on behalf of the Shipper no later than the time that the Nomination is made.

ARTICLE 3 TOLLS AND FEES

3.1 Firm Service Toll

Subject to Section 3.5, the Shipper shall pay in respect of a Month the Firm Service Toll multiplied by the Actual Monthly Volume Delivered.

3.2 Change in Law

If the adoption of any applicable law, regulation, treaty or official directive (whether or not having the force of law) or any change therein or in the interpretation or application thereof by any court, the NEB, or any other governmental authority or entity charged with the interpretation or administration thereof hereafter results in additional costs to the Carrier in the performance of its obligations hereunder, such costs shall be for the account of the Shipper and shall be recoverable by the Carrier in the Toll.

3.3 Alternate Delivery Point Fee

The Shipper shall pay to the Carrier the Alternate Delivery Point Fee for all Contract Volumes shipped to a Delivery Point other than the Designated Delivery Point.

3.4 Shipper's Ship or Pay Obligations

In the event that the Actual Monthly Volume is less than the Monthly Volume, the Shipper shall pay to the Carrier the sum of (a) an amount equal to the Burnaby Tank Metered Light Toll, and (b) the Firm Service Fee, payable in respect of the difference between the Actual Monthly Volume and the Monthly Volume (collectively the "**Ship or Pay Obligation**"). The Burnaby Tank Metered Light Toll payments made pursuant to this Section 3.5 shall be booked as a cash credit to the account of the Shipper, to be applied against Tolls payable by the Shipper in respect of Make-up Volumes of Petroleum Delivered by the Carrier to the Shipper.

3.5 Taxes

Notwithstanding any other terms and conditions of this Agreement, the Shipper shall be liable for and shall pay any and all duties, taxes and other assessments (other than income tax) payable in respect of the Carrier's performance of its obligations under this Agreement or payable by the Carrier as a result of this Agreement, including, without limitation, goods and services tax, harmonized sales tax, social services taxes, sales taxes and any other value-added taxes.

3.6 Invoicing and Payments

The Carrier shall invoice the Shipper for all payments due by the Shipper pursuant to this Agreement, and the Shipper shall make such payments to the Carrier, all in accordance with the Rules and Regulations.

ARTICLE 4 REGULATORY APPROVAL

4.1 Carrier's Approval

Subject to the terms and conditions of this Agreement, the Carrier shall use commercially reasonable efforts to apply for and obtain all authorizations from the NEB, and any necessary amendments or supplements thereto, to allow the Carrier to provide the Firm Service to the Shipper on the terms contemplated herein (the "Regulatory Approval") and to permit the Parties to perform their respective obligations pursuant to this Agreement. The Carrier reserves the right to file and prosecute, or otherwise deal with, any and all applications in respect of such Regulatory Approval (including the right, at any time, to withdraw any such application and to reject any Regulatory Approval received) and, if necessary, to file and prosecute any court review in respect of such applications or Regulatory Approval, in such manner as it deems to be in its best interest.

4.2 Support in Proceedings

The Shipper shall provide support to and cooperate with the Carrier, and not oppose the Carrier in its efforts to obtain the Regulatory Approval contemplated in Section 4.1 above, including in respect of a market-based fee for Firm Service on the Mainline System to the Designated Delivery Point set through an Open Season as contemplated in the NOP, and the application of revenues received by the Carrier as Firm Service Fees collected, net of taxes, to any prudently incurred costs, including carrying costs, related to the preliminary activities in support of expansion of the Mainline System, whether or not such expansion is ever undertaken or placed in service, including such costs incurred prior to and after the Commencement Date, and to the advancement of incremental capital projects on the Mainline System during the term of this Agreement.

Shipper's support and cooperation will include:

- (a) the timely filing by the Shipper of a Letter of Comment supporting the Carrier's application for approval by the NEB of Firm Service and the Firm Service Fee as contemplated in Article 3.1 and elsewhere in this Agreement and in the Rules and Regulations;
- (b) the provision of any information reasonably requested by the Carrier in preparing applications for Regulatory Approval (including the disclosure of the Shipper as a party to a firm transportation service agreement with the Carrier, but excluding any other information that is confidential to the Shipper unless adequate protections can be put in place to safeguard its confidentiality), and any information required or requested by the NEB or any other Regulatory Body to be submitted during review of such applications;

Without limiting the generality of the foregoing:

- (c) the Shipper will not oppose, intervene against, or seek to delay, whether directly or indirectly, the provision of Firm Service, individually or through any industry or producer groups to which the Shipper may belong, including, if applicable, the Canadian Association of Petroleum Producers.

The Shipper's obligations under this Section 4.2 shall not preclude the Shipper from advancing a position before the NEB opposing a position advanced by the Carrier with respect to the Rules and Regulations, except as they apply to Firm Service.

ARTICLE 5 CONDITIONS PRECEDENT

5.1 Conditions Precedent to Performance

The Parties' obligations under this Agreement (except as contemplated in Section 12.10) are subject to satisfaction or waiver of the following:

- (a) the Carrier's receipt and acceptance of Regulatory Approval, as contemplated in Section 4.1, in form and substance satisfactory to the Carrier in the Carrier's sole discretion, not later than that day which is fifteen months from the date on which the application has been filed with the NEB to obtain Regulatory Approval; and
- (b) the receipt by the Shipper of all necessary corporate, partnership or similar approvals.

5.2 Satisfaction or Waiver of Condition

- (a) The Carrier shall give the Shipper written notice of the satisfaction or waiver of the condition set out in Section 5.1(a) within thirty (30) days of such condition being satisfied or waived (the "**Notice of Commencement**").
- (b) The Shipper shall give the Carrier written notice of the satisfaction or waiver of the condition set out in Section 5.1(b) within thirty (30) days of the Close of the Open Season.

ARTICLE 6 TERM AND COMMENCEMENT

6.1 Term of the Agreement

This Agreement shall become effective on the Commencement Date and shall continue in full force and effect for the Contract Term unless otherwise terminated in accordance with the provisions herein.

ARTICLE 7 EXTENSION, EXPANSION AND EXIT RIGHTS

7.1 Extension for Make-Up Volumes

If, on the final day of the Contract Term, the Shipper has an outstanding right to transport Make-up Volumes, then upon the expiry of the Contract Term, the Shipper shall continue to have the right to ship such Make-up Volumes for a period of up to one (1) year after the expiry of the Contract Term (the **"Make-up Term"**). The Shipper's sole right under this Agreement during the Make-up Term shall be to ship such Make-up Volumes.

7.2 Expansions

The Carrier may undertake expansions of the Mainline System (any one referred to as an **"Expansion"** and collectively referred to as **"Expansions"**), if and when the Carrier receives sufficient commercial support and regulatory approval (all as determined in the Carrier's sole discretion). If and when an Expansion is undertaken, but subject to Section 7.5, this Agreement shall be terminated effective upon the Expansion being placed in service and Shipper shall enter into a revised transportation service arrangement that contemplates new terms and tolls that will be applicable upon completion of such Expansion.

7.3 Shipper Expansion Rights

If the Carrier undertakes an Expansion pursuant to which firm service contract volumes are made available, the Carrier will make the Contract Volume available to the Shipper prior to offering any such capacity to any other shippers or third parties in the Expansion Open Season.

7.4 Shipper Step-up Rights

If the Carrier undertakes an Expansion pursuant to which firm service contract volumes are made available, the Carrier will offer an additional firm service contract volume to a maximum of 100% of the initial Contract Volume prior to offering any such additional volume to any other shippers or third parties in an Expansion Open Season.

7.5 Shipper's Exit Rights

The Shipper shall have the right to terminate this Agreement in the following circumstances:

- (a) if, (i) during an Expansion Open Season the Shipper shall have delivered to the Carrier written notice of its intention not to participate in the Expansion Open Season; and (ii) the Carrier has delivered written notice to the Shipper that it has received sufficient commercial support and all required regulatory approvals for such Expansion (all as determined in Carrier's sole discretion); or
- (b) if, (i) at any time during the Contract Term the **Burnaby Tank Metered Light Toll** exceeds five dollars (\$5) per barrel; and (ii) the Shipper pays to the Carrier the equivalent of the Firm Service Fee payable for the remainder of the Term.

ARTICLE 8 DEFAULT AND TERMINATION

8.1 Shipper Default

The occurrence and continuation of a breach by the Shipper of any of its material obligations under this Agreement including, without limitation, the obligations contained in the Rules and Regulations, unless any such event occurs as a direct result of a breach by the Carrier of its obligations under this Agreement, shall constitute a “**Shipper Default**”.

8.2 Remedies

Without limiting the Carrier’s rights under the Rules and Regulations, upon the occurrence and continuation of a Shipper Default, the Carrier shall, at its option, have the right to (i) receive damages as would be available by law; and (ii) terminate this Agreement in accordance with Section 8.3.

8.3 Termination and Cure Period

In the event of a Shipper Default that has occurred and is continuing, the Carrier shall have the right to terminate this Agreement by giving thirty (30) days prior written notice to the Shipper of its intent to terminate; provided however, if the Shipper Default is cured within such notice period, such termination shall not be effective unless there has been more than two (2) Shipper Defaults, whether or not such Shipper Defaults have been cured, within any twelve (12) month period, in which case the termination shall be effective unless waived by the Carrier.

8.4 Acceleration Right

If this Agreement is terminated by the Carrier pursuant to Section 8.3, the Carrier shall, in good faith and in a commercially reasonable manner, determine the Acceleration Payment. The Carrier shall give the Shipper written notice of the amount of the Acceleration Payment stating in reasonable detail how the amount was calculated. The Acceleration Payment is not subject to deduction or abatement for any reason. The Shipper shall pay the Acceleration Payment owed by it to the Carrier within thirty (30) days of receipt of written notice from the Carrier. The Acceleration Payment is a reasonable pre-estimate of the loss suffered by the Carrier in the event of termination of this Agreement, and is not a penalty.

8.5 Accrued Rights Unaffected

No termination of this Agreement, however effected, shall affect or extinguish any rights or obligations of the Parties which accrued prior to the date of termination, or extinguish any remedies available to any Party at law, in equity or as provided for herein.

ARTICLE 9 REPRESENTATIONS, WARRANTIES AND COVENANTS

9.1 Carrier’s Representations and Warranties

The Carrier represents and warrants that:

- (a) it is duly organized and validly existing under the laws of Alberta and has all requisite legal power and authority to execute this Agreement and carry out the terms, conditions and provisions hereof;
- (b) this Agreement constitutes a valid, legal and binding obligation of the Carrier, enforceable in accordance with the terms hereof;
- (c) there are no actions, suits or proceedings pending or, to the Carrier's knowledge, threatened against or affecting the Carrier before any court or administrative body that might materially adversely affect the ability of the Carrier to meet and carry out its obligations under this Agreement; and
- (d) except for any lien or encumbrance the Carrier may have at the time of delivery of the Petroleum at the applicable Delivery Point, such Petroleum will be free and clear of all liens and encumbrances arising under or by virtue of the Carrier.

9.2 Shipper's Representations, Warranties and Covenants

The Shipper represents and warrants that:

- (a) it is duly organized and validly existing under the laws of the jurisdiction of its organization or incorporation and has all requisite legal power and authority to execute this Agreement and carry out the terms, conditions and provisions hereof;
- (b) this Agreement constitutes a valid, legal and binding obligation of the Shipper, enforceable in accordance with the terms hereof;
- (c) there are no actions, suits or proceedings pending or, to the Shipper's knowledge, threatened against or affecting the Shipper before any court or administrative body that might materially adversely affect the ability of the Shipper to meet and carry out its obligations under this Agreement; and
- (d) at the time of Tendering at the applicable Receipt Point until Petroleum is delivered to the Shipper at the applicable Delivery Point, the Shipper will have title to or the right to Tender all Petroleum Tended by it or on its behalf to the Carrier for transportation free and clear of liens and encumbrances and adverse claims of every kind.

The Shipper covenants that the Shipper will take all corporate or other necessary action to authorize the execution and delivery by the Shipper of this Agreement.

9.3 Financial Capacity of Shipper

In addition to the representations, warranties and covenants made by the Shipper in Section 9.2, the Shipper represents and warrants that it currently has the financial capacity to satisfy its obligations under this Agreement and covenants that it will be able to satisfy the requirements of the Carrier with respect to credit requirements in the manner provided in the Rules and Regulations.

**ARTICLE 10
NOTICES**

10.1 Methods of Notices

All notices and other communications under this Agreement shall be in writing and shall be sent by personal delivery, or facsimile or other electronic transmission to the address, facsimile number or electronic transmission address designated below:

Carrier: Trans Mountain Pipeline LP
c/o Kinder Morgan Canada Inc. (as Operator)
Suite 2700, 300 - 5th Avenue S.W.
Calgary, Alberta T2P 5J2

Attention: Legal Services
Fax No.: (403) 514-6622
Email Address: legal_kmc@kindermorgan.com

Shipper: _____

Attention: _____
Fax No.: _____
Email Address: _____

Notices given hereunder shall be deemed to be received when delivered by hand or courier if delivered by personal delivery or, if delivered by facsimile, on the Business Day immediately following the day on which the facsimile was delivered (with transmission confirmed).

10.2 Change of Address

Either Party may change its address by written notice to that effect in the manner prescribed herein to the other Party.

**ARTICLE 11
ASSIGNMENT**

11.1 By Shipper

The Shipper shall have the right to assign its rights and obligations, or parts thereof, under this Agreement subject to the prior written consent of the Carrier, which consent shall not be unreasonably withheld; provided that it shall be reasonable for the Carrier to withhold consent to assignment if the Carrier is not satisfied with the creditworthiness of the proposed assignee, having regard to the criteria for the provision of financial assurances set forth in the Rules and Regulations.

11.2 By Carrier

The Carrier shall have the right to assign its rights and obligations, or parts thereof, under this Agreement without the consent of, but with notice to, the Shipper, provided that the Carrier has

made provision for the continued operation of the Mainline System and any Expansions thereto by a Person who has the necessary experience in the operation of oil pipelines.

11.3 Purchase or Merger

Any Person which shall succeed by purchase of all or substantially all of the assets and assumption of all or substantially all of the liabilities of, or merger or consolidation with, either the Carrier or the Shipper, as the case may be, shall be entitled to the rights and shall be subject to the obligations of its predecessor in title under this Agreement.

11.4 Affiliates

Section 11.1 shall not apply to a disposition by the Shipper of all or part of its interest in this Agreement to an Affiliate of the Shipper (in this clause called the "Transferee"); provided that the Shipper executes and delivers to the Carrier a continuing guarantee of the Transferee's obligations hereunder in form and substance satisfactory to the Carrier, acting reasonably, which guarantee shall provide that the guarantor waives notice of any extensions, modifications or amendments to this Agreement, that no such extension, modification or amendment shall release the guarantor and that the guarantor shall not be released by any waiver of any obligation of the Transferee or by any indulgence or concession granted to it by the Carrier.

11.5 Pledging

It is agreed that the restrictions on assignment contained in this Article 11 shall not in any way prevent the Carrier from pledging or mortgaging its rights hereunder or its rights in respect of any letter of credit or other security given to the Carrier by the Shipper. The Shipper will execute all consents to assignment and acknowledgments in favour of such lenders as requested by such lenders or the Carrier.

11.6 Partial Assignment

If the Shipper partially assigns its rights under this Agreement to an Affiliate, its rights hereunder must be exercised collectively by the Shipper and its Affiliate. Any non-Affiliate partial assignee of this Agreement may exercise any elections or termination rights under this Agreement in respect of the share of the aggregate Contract Volume that has been assigned to it independently of the assignor or any other assigns.

ARTICLE 12 MISCELLANEOUS

12.1 Authorities

Performance of this Agreement shall be subject to all valid laws, orders, decisions, rules and regulations of duly constituted governmental authorities having jurisdiction or control of any matter related hereto, including the NEB. Should either of the Parties, by force of any such law, order, decision, rule or regulation, at any time during the Contract Term be ordered or required to do any act inconsistent with the provisions hereof, then for the period during which the requirements of such law, order, decision, rule or regulation are applicable, this Agreement shall be deemed modified to conform with the requirement of such law, order, decision, rule or regulation.

12.2 Damages

Except as otherwise provided in the Rules and Regulations, the liability of the Parties hereunder is limited to direct damages only and all other damages are waived.

12.3 Confidentiality

The contents of this Agreement and all other documents relating to this Agreement, and any information made available by one Party to the other Party with respect to this Agreement, are confidential and shall not be disclosed to any third party (nor shall any public announcement relating to the contents of this Agreement be made by either Party), except for (i) such information as may become generally available to the public; (ii) such information as may be required or appropriate in response to any summons, subpoena or otherwise in connection with any litigation or to comply with any applicable law, order, regulation, ruling or accounting disclosure rule or standard; (iii) such information as may be obtained from a non-confidential source that disclosed such information in a manner that did not violate its obligations to the other Party in making such disclosure; (iv) such information as may be furnished to that Party's auditors, attorneys, advisors, lenders or potential assignees which are required to keep the information that is disclosed in confidence; or (v) disclosure by the Carrier of data in an aggregate form such that individual shipper information is not reasonably identifiable from such disclosure.

12.4 Further Assurances

The Parties shall from time to time and at all times do all such further acts and execute and deliver all such further documents and instruments as shall be reasonably required in order to fully perform and carry out the terms of this Agreement.

12.5 Waiver

No waiver of any default by the other under this Agreement shall operate as a waiver of a future default whether of a like or different character. No waiver shall be effective unless in writing.

12.6 Governing Law and Attornment

- (a) This Agreement shall be governed by, construed and interpreted in accordance with the laws of the Province of Alberta and the federal laws of Canada applicable therein. Except as provided in Section 12.6(b), each Party attorns to the jurisdiction of the courts of the Province of Alberta and all courts of appeal therefrom.
- (b) All matters relating to the determination of tolls shall be referred to the NEB for determination pursuant to the provisions of the *National Energy Board Act* (Canada), and the Parties hereby attorn to the NEB's jurisdiction to hear all such matters.

12.7 Time

Time shall be of the essence in this Agreement.

12.8 Amendment

This Agreement may be amended only by written instrument executed by the Parties.

12.9 Enforceability of Section 4.2

Notwithstanding that this Agreement may not have been executed and delivered by KMCI to the Shipper, and provided that the Shipper has been notified of their successful bid for allocation of Firm Service Capacity, Section 4.2 shall be binding and enforceable upon the Shipper at the point of execution and delivery of this Agreement by the Shipper to KMCI.

12.10 Survival of Section 7.1

Section 7.1 shall survive the expiry of the Contract Term and the Carrier shall provide the Shipper with the right to ship Make-Up Volumes as contemplated in Section 7.1 and the Rules and Regulations.

12.11 Enurement

Subject to the provisions of Article 11, this Agreement shall be binding upon and enure to the benefit of the Parties and their respective successors and permitted assigns.

12.12 No Partnership

Nothing in this Agreement shall be read or construed as creating a partnership, or imposing upon any Party any partnership duty, obligation or liability of any kind.

12.13 Counterpart Execution

This Agreement may be executed in separate counterparts and delivered by facsimile and all such executed counterparts and facsimiles shall, when taken together constitute one agreement.

12.14 Entire Agreement

This Agreement, including the recitals and schedules hereto, constitutes the entire agreement between the Parties as to the subject matter hereof and supersedes all prior agreements, arrangements, negotiations, representations, warranties or understandings by, or between them relating thereto whether written or otherwise.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed by their proper officers duly authorized as of the date first above written.

Trans Mountain Pipeline L.P., by its General Partner

Trans Mountain Pipeline ULC

By: _____

Name:

Title:

By: _____

Name:

Title:

By: _____

Name:

Title:

By: _____

Name:

Title:

SCHEDULE A
TERMS OF SERVICE

Shipper	Contract Term	Contract Volume (bpd)	Firm Service Fee (\$/bbl)
	5 years		
	10 years		