

# Appendix 4

**TRANS MOUNTAIN PIPELINE EXPANSION PROJECT**

**FACILITY SUPPORT AGREEMENT**

**BETWEEN**

**TRANS MOUNTAIN PIPELINE L.P. (as Carrier)**

**and**

\_\_\_\_\_

**(as Shipper)**

**Effective: \_\_\_\_\_, 2011**

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## FACILITY SUPPORT AGREEMENT

**THIS FACILITY SUPPORT AGREEMENT** is made as of \_\_\_\_\_, 2011,

**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 a 300,000 barrels per day Petroleum pipeline system which provides transportation service from Edmonton, Alberta to delivery points in British Columbia, as more particularly defined in the Rules and Regulations (the “**Mainline System**”);

**AND WHEREAS** the Carrier is proposing to offer Firm Service in conjunction with an expansion of the Mainline System through the staged construction of pipeline loops, pumps, receipt and delivery tankage, and other facilities (the “**Expansion**”) in order to increase the capacity of the Mainline System (the Mainline System as expanded by the Expansion, the “**Expanded System**”);

**AND WHEREAS** the Carrier requires commercial support from shippers for the Expansion pursuant to facility support agreements in order for the Carrier to proceed and obtain Regulatory Approvals;

**AND WHEREAS** the Shipper wishes to commit to Firm Service on the Expanded System as set out in the Schedule A;

**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, including the recitals, the following words and terms shall have the following meanings:

“**AACE International**” means the Association for the Advancement of Cost Engineering International, as more particularly described at [www.aacei.org](http://www.aacei.org);

“**Accuracy**” means, in respect of a cost estimate Probability Distribution, the cost range within which 90% of the cost outcomes fall, expressed as +X%/-Y%, where X equals the difference between the P95 Cost and the P50 Cost, divided by the P50 Cost and

expressed as a percentage, and where Y equals the difference between the P50 Cost and the P5 Cost, divided by the P50 Cost and expressed as a percentage;

“**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 percent (50%) of the voting rights regardless of whether such ownership occurs directly or indirectly, as contemplated above;

“**Agreement**” means this Facility Support Agreement together with the recitals and schedules hereto, and includes all written instruments hereafter supplementing, amending or confirming this Facility Support Agreement;

“**As-Built Costs and Expenses**” has the meaning set forth in Section 3.2(d);

“**Base Estimate**” means the sum of the cost of all of the items in an estimate, excluding contingency;

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

“**Capped Costs**” means all Costs and Expenses that are not Uncapped Costs;

“**Capped Costs Toll Limit**” means the amount of the Fixed Toll component calculated for each Service Option using the CPCN Cost Estimate exclusive of Uncapped Costs;

“**Carrier**” means Trans Mountain Pipeline L.P.;

“**Carrier Pro Rata Share**” means a pro rata share calculated as one hundred percent (100%) minus a percentage that is determined by dividing the Firm Capacity by the Deemed Available Capacity;

“**Commencement Date**” has the meaning set forth in the Transportation Service Agreement;

“**Commencement Date Cost Estimate**” means the Carrier’s P95 Cost estimate of Costs and Expenses as of the Commencement Date;

“**Commencement Date Toll**” has the meaning set forth in Section 3.2(c);

“**Contract Term**” means either a period of fifteen (15) years or twenty (20) years from the Commencement Date as indicated in Schedule “A”;

“**Contract Volume**” means, for each Service Option, the daily volume of Petroleum as set forth in Schedule A;

“**Costs and Expenses**” shall have the meaning set forth in Section 6.1(a);

“**CPCN**” means a Certificate of Public Convenience and Necessity made pursuant to section 52 of the *National Energy Board Act* (Canada), and which includes all necessary Governor in Council approvals;

“**CPCN Cost Estimate**” means Carrier’s P95 Cost estimate of Costs and Expenses as of the issuance date of the CPCN and which estimate shall show the Capped Cost Toll Limit and the Uncapped Cost Toll Estimate;

“**Credit Rating**” means, with respect to a Person, on any date of determination, the ratings of its senior unsecured, unsubordinated long-term debt (not supported by third party credit enhancement) issued by S&P, Moody’s or DBRS, or if the Person does not have a rating for its senior unsecured, unsubordinated long-term debt (not supported by third party credit enhancement), then the ratings assigned to the Person’s corporate or issuer rating by S&P, the issuer rating by Moody’s or the corporate rating by DBRS;

“**Credit Support Provider**” means a Person who has provided a guarantee of the Shipper’s obligations in respect of the provision of service to the Shipper by the Carrier, such guarantee in form and substance acceptable to the Carrier acting reasonably;

“**Cubic Metre**” or “**m<sup>3</sup>**” means the volume of petroleum which occupies one (1) cubic metre and equals 6.2898108 barrels;

“**Cubic Metre-kilometres**” means the amount calculated by multiplying the total Cubic Metres of Petroleum shipped by the total distance, in kilometres, between the applicable Designated Receipt Point and Designated Delivery Point.

“**DBRS**” means Dominion Bond Rating Service Limited, or any successor thereof;

“**Deemed Available Capacity**” means the capacity of the Expanded System as determined by the Carrier from time to time, and which initially shall be deemed to be 600,000 bpd;

“**Deliver**” and any derivative thereof, means delivered by the Carrier to the Shipper at a Designated Delivery Point;

“**Designated Delivery Point**” has the meaning set forth in the Rules and Regulations;

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

“**Expanded System**” has the meaning set forth in the recitals to this Agreement;

“**Expansion**” has the meaning set forth in the recitals to this Agreement;



**“Firm Capacity”** means that total volume of Petroleum which shippers have committed to ship pursuant to firm service facility support agreements and Transportation Service Agreements with the Carrier (including, for greater certainty, the Shipper’s total Contract Volume);

**“Firm Service”** means the firm transportation service to be provided in accordance with this Agreement, the Transportation Service Agreement and the Rules and Regulations;

**“Firm Service Open Season”** means the Open Season for Firm Service conducted pursuant to the Open Season Procedure;

**“Firm Service Pro Rata Share”** means the Shipper’s pro rata share calculated by taking the Shipper’s total Contract Volumes as a percentage of Firm Capacity;

**“Firm Service Toll”** means collectively the Fixed Toll and the Variable Toll, as adjusted in accordance with this Agreement, including without limitation, Schedule C;

**“Fixed Toll”** means the fixed portion of the Firm Service Toll;

**“Initial Cost Estimate”** means the Carrier’s P65 Cost estimate of Costs and Expenses as shown in Schedule B;

**“Indicative Toll”** means the initial estimated Firm Service Toll shown in Schedule B;

**“Leave to Open”** means the approval or approvals issued by the NEB pursuant to section 47 of the *National Energy Board Act* (Canada) that permits the initial operation of the Expansion;

**“Light Crude Equivalent”** means the amount calculated by dividing the total Power Costs plus the period by the total of the light Petroleum Cubic Metre-kilometres for the period plus 1.2 times the heavy Petroleum Cubic Metre-kilometres for the period.

**“Mainline System”** has the meaning set forth in the recitals to this Agreement;

**“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;

**“Moody’s”** means Moody’s Investors Service, Inc., or any successor thereof;

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

**“Notice of Firm Service Toll”** has the meaning set forth in Section 3.2(e)(iii);

**“Open Season”** means a process open and equal to all Persons whereby the Carrier requests binding expressions of interest or otherwise in respect of a proposal for the shipment of Petroleum;

**“Open Season Procedure”** means the notice of open season procedure describing the Firm Service Open Season process issued by the Carrier dated October 20, 2011;

**“Open Season Toll Limit”** means the amount shown in Schedule B;

**“Parties”** means, collectively, the Carrier and the Shipper, 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;

**“Power Costs”** means the cost of energy utilized to move Petroleum through the Expanded System, which, for greater certainty, includes all amounts invoiced by the utility service provider including, but not limited to, demand charges, transmission charges, riders and taxes;

**“Prime Rate”** means the annual rate of interest announced from time to time by Royal Bank of Canada (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 Royal Bank of Canada (or any successor thereof) in Canada;

**“Probability Distribution”** means the relationship between all project cost outcomes and the probabilities that these outcomes will not be exceeded;

**“PX Cost”** means, in respect of a cost estimate Probability Distribution, the cost at which X% of the project cost outcomes are lower;

**“Regulatory Approvals”** means all approvals, permits and similar authorizations from governmental, administrative and regulatory (including aboriginal if applicable) authorities having jurisdiction in Canada, including any necessary amendments or supplements thereto that Carrier in its sole discretion determines are necessary for, and on terms satisfactory to, Carrier to construct, acquire, own and operate the Expanded System and to provide transportation service as contemplated hereunder;

**“Regulatory Bodies”** means the NEB and any other governmental, administrative or regulatory authority having jurisdiction or control over any matter related hereto;

**“Revised Toll”** has the meaning set forth in Section 3.2(b);

**“Rules and Regulations”** means the Rules and Regulations Governing the Transportation of Petroleum applicable to the Carrier, as filed with the NEB from time to time, and the initial Rules and Regulations are set forth in Schedule E;

**“S&P”** means Standard & Poor’s, a division of The McGraw-Hill Companies, Inc., or any successor thereof;

**“Service Option”** means, for the Shipper, each service option as designated in Schedule A setting out the Contract Volume, Contract Term, Petroleum, Designated Receipt Point, Designated Delivery Point for Firm Service pursuant to the terms and conditions of this Agreement, the Transportation Service Agreement and the Rules and Regulations;

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

**“Shipper Default”** has the meaning set forth in Section 7.1;

**“Shipper Pro Rata Share”** means the Shipper’s pro rata share calculated by taking the Shipper’s total Contract Volumes as a percentage of the Deemed Available Capacity;

**“Successful Open Season Notice”** has the meaning set forth in Section 4.1(a);

**“Terminated TSAs”** has the meaning set forth in Section 5.4(e);

**“Toll Principles”** means all tolling principles reflected in the calculation of Firm Service Toll, the provision of Firm Service and the principles described in Schedule C;

**“Transportation Service Agreement”** means the agreement between the Carrier and the Shipper in the form of Schedule D;

**“Uncapped Costs”** means the Costs and Expenses resulting from or relating to: (a) consultation and accommodation costs, (b) price of steel for pipe, (c) acquisition of property rights, and (d) pipeline construction and inspection as such Costs and Expenses are shown in Schedule B;

**“Uncapped Costs Toll Estimate”** means the amount of the Fixed Toll component, calculated for each Service Option, using the CPCN Cost Estimate exclusive of Capped Costs.

**“Uncommitted Toll”** has the meaning set forth in the Transportation Service Agreement; and

**“Variable Toll”** means the variable portion of the Firm Service Toll.

## **1.2 References**

References to “hereunder”, “herein”, “hereto” 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.

## **1.3 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.

#### **1.4 Extended Meanings**

In this Agreement, unless indicated otherwise, 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.

#### **1.5 Derivatives**

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

#### **1.6 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.

#### **1.7 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.

#### **1.8 Conflicts**

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

#### **1.9 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 a generally accepted meaning, shall have that meaning.

#### **1.10 Currency**

Unless otherwise noted in this Agreement, 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.

#### **1.11 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.

## **1.12 Rules and Regulations**

At any time during the term of this Agreement and 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 the Transportation Service Agreement, and shall provide the Shipper with a copy of such proposed amendments. Any amendments to the Rules and Regulations shall be effective on filing with, or as otherwise directed 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 the Transportation Service Agreement, except to the extent that they are in conflict with the terms of this Agreement.

## **1.13 Schedules**

The following schedules are attached hereto, incorporated in and made part of this Agreement:

- (a) Schedule A - Service Options
- (b) Schedule B - Indicative Tolls
- (c) Schedule C - Toll Principles
- (d) Schedule D - Form of Transportation Service Agreement
- (e) Schedule E - Rules and Regulations

## **ARTICLE 2 REGULATORY APPROVALS**

### **2.1 Carrier's Approvals**

Subject to the terms and conditions of this Agreement, the Carrier shall use commercially reasonable efforts to apply for and obtain all Regulatory Approvals. The Carrier reserves the right to file and prosecute any and all applications for the Regulatory Approvals (including the right at any time to withdraw any such application and or to reject any Regulatory Approval) and, if necessary, any court review, in such manner as it deems to be in its best interest.

### **2.2 Support in Proceedings**

The Shipper agrees to provide support to and cooperate with the Carrier in obtaining Regulatory Approvals contemplated in Sections 4.1(b)(i) and 4.1(b)(ii), and to not oppose the efforts of the Carrier, to obtain the Regulatory Approvals.

The Shipper's support will include:

- (a) the timely filing by the Shipper of an intervention in support of the Carrier's applications to the NEB for the Regulatory Approvals contemplated in Sections 4.1(b)(i) and 4.1(b)(ii);

- (b) the provision of any information reasonably requested by the Carrier in preparing and prosecuting applications for the Regulatory Approvals (including the right to disclose the Shipper as a Party to this Agreement, 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 by the NEB or any other Regulatory Body to be submitted during review of such applications; and
- (c) the Shipper will not oppose, intervene against, or seek to delay, whether directly or indirectly, the applications for the Regulatory Approvals, including without limitation, the provision of Firm Service and the levying of Firm Service Tolls and Uncommitted Tolls on the basis of the Toll Principles as contemplated individually or through any industry or producer groups to which the Shipper may belong.

**ARTICLE 3**  
**SERVICE OPTIONS AND FIRM SERVICE TOLL DETERMINATION**

**3.1 Service Options**

The Shipper commits to ship or pay for all Firm Service Tolls and the Carrier agrees to provide Firm Service in relation to the Service Options.

**3.2 Firm Service Toll Determination**

- (a) The Carrier's initial estimate of the Firm Service Toll is the Indicative Toll for Firm Service shown in Schedule B. The Open Season Toll Limit and Initial Cost Estimate are also shown in Schedule B.
- (b) Within sixty (60) days of the issuance of the CPCN, the Carrier will deliver the CPCN Cost Estimate, together with a revised toll (the "**Revised Toll**"). The Carrier will use all reasonable technical and commercial efforts during the Expansion to achieve a Class II/III CPCN Cost Estimate, in general accordance with AACE International recommended practices, which shall have a deemed Accuracy of +15%/-10%, with the Base Estimate assumed to be the P20 Cost. The Revised Toll shall be determined as the amount of the Fixed Toll component of the Indicative Toll for the applicable Service Option plus or minus:

\$0.07 per barrel for every one hundred million dollar (\$100,000,000) increase or decrease, respectively, in the CPCN Cost Estimate from the Initial Cost Estimate.

If the Revised Toll exceeds the Open Season Toll Limit, the Shipper shall have the right to terminate this Agreement pursuant to Section 5.4(d);

- (c) Within 30 days of the Commencement Date, the Carrier will deliver the Commencement Date Cost Estimate together with a commencement date toll (the

**“Commencement Date Toll”**). The Commencement Date Toll shall be determined as the amount of the Revised Toll plus or minus:

\$0.07 per barrel for every additional one hundred million dollar (\$100,000,000) increase or decrease, respectively, in the Commencement Date Cost Estimate from the CPCN Cost Estimate, provided that in no event shall the Fixed Toll include any amount in respect of Capped Costs in excess of the Capped Costs Toll Limit.

- (d) The Firm Service Toll will be set and adjusted at that date which is twelve (12) months after the Commencement Date to reflect the actual as-built costs and expenses (the **“As-Built Costs and Expenses”**). The Fixed Toll shall be determined as the amount of the Revised Toll plus or minus:

\$0.07 per barrel for every one hundred million dollar (\$100,000,000) increase or decrease, respectively, in the As-Built Costs and Expenses from the CPCN Cost Estimate, provided that in no event shall the Fixed Toll include any amount in respect of Capped Costs in excess of the Capped Costs Toll Limit.

Further adjustment to the Fixed Toll may be made by the Carrier, as provided in the Transportation Service Agreement, in the event that the final Costs and Expenses are incurred or determined after the Firm Service Toll is set pursuant to this Section 3.2(d).

- (e) The Carrier shall give the Shipper notice of any toll, cap or estimate adjustment contemplated in this Section 3.2, together with a revised Schedule B, in the following manner:
- (i) a notice of adjustment pursuant to Section 3.2(b) shall be delivered by the Carrier to the Shipper within thirty (30) days of the issuance of the CPCN, together with the CPCN Cost Estimate containing a breakdown of the Capped Costs and Uncapped Costs;
  - (ii) a notice of adjustment pursuant to Section 3.2(c) shall be delivered by the Carrier to the Shipper within thirty (30) days of the Commencement Date, together with the Commencement Date Cost Estimate containing a breakdown of the Capped Costs and Uncapped Costs; and
  - (iii) a notice of adjustment pursuant to Section 3.2(d) shall be delivered by the Carrier to the Shipper within twelve (12) months of the Commencement Date (the **“Notice of Firm Service Toll”**), together with a statement of As-Built Costs and Expenses containing a breakdown of the Capped Costs

and Uncapped Costs, provided however a further adjustment to such Firm Service Toll may be required as contemplated in Section 3.2(d).

All adjustments made pursuant to Sections 3.2(c) and 3.2(d) shall be made as of the Commencement Date.

## **ARTICLE 4 CONDITIONS PRECEDENT**

### **4.1 Carrier's Conditions Precedent**

The Carrier's obligations under this Agreement (save and except for those set forth in Article 5, Article 6 and Section 12.3) are subject to the following conditions precedent:

- (a) Successful Open Season: The Carrier shall have issued a notice to the Shipper that the Carrier is satisfied with results of the Firm Service Open Season (the "**Successful Open Season Notice**");
- (b) Regulatory Approvals: The Carrier shall have received and accepted:
  - (i) approval by the NEB of Firm Service and Firm Service Tolls and the tolling principles described in Schedule C;
  - (ii) a CPCN;
  - (iii) all other Regulatory Approvals (in addition to the CPCN) required to commence construction of the Expansion;
  - (iv) Leave to Open; and
  - (v) all other Regulatory Approvals (in addition to the Leave to Open from the NEB) required to place the Expansion in service,issued in accordance with the requirements of Section 4.3, in form and substance satisfactory to the Carrier, in its sole discretion;
- (c) Minimum Commitment: The Carrier, in its sole discretion, shall have determined that it has received a minimum level of commitment from Shippers; and
- (d) Financing: Financing arrangements in respect of the Expansion are or will be available on terms and conditions satisfactory to the Carrier in its sole discretion.

Waiver: The conditions precedent in this Section 4.1 are for the sole benefit of the Carrier and may be waived by the Carrier, in whole or in part.

### **4.2 Construction**

Upon satisfaction or waiver of all conditions precedent in Sections 4.1(b)(i), 4.1(b)(ii), 4.1(b)(iii), 4.1(c) and 4.1(d), and provided there has been no early termination pursuant to Section 5.4, the Carrier will proceed, using commercially reasonable efforts, to



construct the Expansion and perform any other actions as are reasonably necessary to enable the Carrier to provide the Firm Service.

#### **4.3 Binding Regulatory Approvals**

All Regulatory Approvals must be duly granted by the Regulatory Bodies and must be final and no longer subject to rehearing or appeal; provided, however, that the Carrier may waive the requirement that any such Regulatory Approval be final and no longer subject to rehearing or appeal.

#### **4.4 Satisfaction or Waiver of Conditions**

The Carrier shall give the Shipper written notice of the satisfaction or waiver of the conditions set forth in Sections 4.1(b), 4.1(c) and 4.1(d) within thirty (30) days of such satisfaction or waiver.

#### **4.5 Shipper's Conditions Precedent**

The Shipper's obligations under this Agreement (save and except those contained in Article 5, Article 6 and Section 12.3) are subject to the following conditions precedent:

- (a) the receipt by Shipper of all corporate, partnership or similar approvals required in respect of this Agreement;
- (b) the approval by the NEB of Firm Service on terms and conditions which do not apportion the Shipper's access to Contract Volumes in a material and adverse manner to the Shipper, but subject always to the Mainline Allocation, Assignment and Apportionment provisions in the Rules and Regulations; and
- (c) the Carrier shall have received and accepted a CPCN.

Waiver: The conditions precedent in this Section 4.5 are for the sole benefit of the Shipper and may be waived by the Shipper, in whole or in part.

### **ARTICLE 5 TERM**

#### **5.1 Term of the Agreement**

This Agreement shall become effective on the date hereof and shall continue in full force and effect until the earlier of either: (i) the Commencement Date, provided that Sections 3.2, 5.6 and 12.2 and Article 6 shall continue until any Firm Service Toll adjustment and audit are completed; or (ii) this Agreement is terminated pursuant to Articles 5 or 7.

#### **5.2 Execution of the Transportation Service Agreement**

Within thirty (30) days of delivery to the Shipper of the Successful Open Season Notice, unless the Shipper has given notice to terminate this Agreement pursuant to Section 5.4(c)(i)(A), the Shipper shall execute and unconditionally deliver to the Carrier the

Transportation Service Agreement, and the Carrier shall promptly execute and deliver to the Shipper a fully executed copy of the Transportation Service Agreement. Upon execution of the Transportation Service Agreement by the Shipper, the Carrier shall be entitled to publicly disclose and issue a press release stating the Shipper's identity and commercial support for the Expansion, including the Firm Capacity.

### 5.3 Notices

The Carrier shall provide the Shipper with periodic updates as to the status of the construction of the Expansion, including updates as to the anticipated Commencement Date.

### 5.4 Early Termination

- (a) (i) Carrier's Right to Terminate:  
In the event that:
  - (A) the Successful Open Season Notice condition set forth in Section 4.1(a) has not been satisfied on or before a date which is forty-five (45) days following the close of the Firm Service Open Season, this Agreement shall automatically terminate; or
  - (B) any of the Regulatory Approvals conditions set forth in Section 4.1(b) have been satisfied, the Carrier may, notwithstanding such satisfaction, by written notice to the Shipper effective as of the date of such notice, terminate this Agreement in its sole discretion, within sixty (60) days of the date that such Regulatory Approval has been obtained.
- (ii) Result: If this Agreement is terminated by the Carrier pursuant to Section 5.4(a)(i), the Carrier shall bear one hundred percent (100%) of all Costs and Expenses.
- (b) (i) Carrier's Right to Terminate For Failure to Satisfy Conditions Precedent:  
In the event that:
  - (A) the Regulatory Approvals conditions set forth in Sections 4.1(b)(i), 4.1(b)(ii) or 4.1(b)(iii) have not been satisfied or waived by the Carrier on or before a date which is fifty-four (54) months following the Successful Open Season Notice;
  - (B) the Regulatory Approvals conditions set forth in Sections 4.1(b)(iv) or 4.1(b)(v) have not been satisfied or waived by the Carrier on or before a date which is fifty-four (54) months following the issuance of the CPCN; or
  - (C) the minimum commitment and financing conditions set forth in Sections 4.1(c) and 4.1(d) have not been satisfied or waived by the Carrier on or before a date which is one hundred eighty (180) days

following satisfaction of each of the Regulatory Approvals conditions set forth in Sections 4.1(b)(i) and 4.1(b)(ii),

the Carrier may at any time thereafter by written notice to the Shipper terminate this Agreement effective as of the date of such notice.

(ii) Result: If this Agreement is terminated by the Carrier pursuant to Section 5.4(b)(i)(A), the Shipper shall pay its Firm Service Pro Rata Share of all Costs and Expenses. If this Agreement is terminated by the Carrier pursuant to Sections 5.4(b)(i)(B) or 5.4(b)(i)(C), the Carrier shall bear its Carrier Pro Rata Share of all Costs and Expenses and the Shipper shall pay its Shipper Pro Rata Share of all Costs and Expenses.

(c) (i) Shipper's Right to Terminate for Failure to Satisfy Conditions Precedent:  
In the event that:

(A) the Shipper approval condition set forth in Section 4.5(a) has not been satisfied or waived by the Shipper on or before a date which is thirty (30) days following delivery of the Successful Open Season Notice;

(B) the Regulatory Approvals condition set forth in Section 4.5(b) has not been satisfied or waived by the Shipper on or before a date which is thirty (30) days following the issuance of approval of Firm Service by the NEB; or

(C) the CPCN approval condition set forth in Section 4.5(c) is not satisfied or waived by the Carrier on or before a date which is fifty-four (54) months following delivery of the Successful Open Season Notice,

the Shipper may, within thirty (30) days of such event, by written notice to the Carrier terminate this Agreement effective as of the date of such notice.

(ii) Result: If this Agreement is terminated by the Shipper pursuant to Section 5.4(c)(i)(A) or 5.4(c)(i)(B), the Shipper shall pay its Firm Service Pro Rata Share of all Costs and Expenses. If this Agreement is terminated by the Shipper pursuant to Section 5.4(b)(i)(C), the Carrier shall bear its Carrier Pro Rata Share of all Costs and Expenses and the Shipper shall pay its Shipper Pro Rata Share of all Costs and Expenses.

(d) (i) Shipper's Right to Terminate Following Toll Adjustment: In the event that the Firm Service Toll increases in excess of the Open Season Toll Limit as contemplated in Section 3.2(b), the Shipper may terminate this Agreement on written notice to the Carrier, within thirty (30) days, following receipt of notice of such increase in the Firm Service Toll, and this Agreement shall terminate effective as of the date of such notice.

- (ii) Result: If this Agreement is terminated by the Shipper pursuant to Section 5.4(d)(i), the Shipper shall pay its Firm Service Pro Rata Share of all Costs and Expenses.
- (e) (i) Carrier's Right to Terminate Following Shipper Terminations:  
In the event that:
  - (A) one (1) or more shippers that have entered into Firm Service facility support or transportation service agreements terminate such agreement(s) pursuant to the equivalent of Section 5.4(c) or 5.4(d) contained in such agreements; or
  - (B) the Carrier terminates one (1) or more such agreements pursuant to the equivalent of Section 7.3 in such agreements prior to the Commencement Date,(the "**Terminated TSAs**"), the Carrier may conduct an additional Open Season in respect of the Expanded System in order to contract with new and existing shippers to make up for Terminated TSA volumes. In the event that the Carrier is not able through such additional Open Season to contract for adequate volumes in respect of the Terminated TSAs, the Carrier may at any time within thirty (30) days following completion of such additional Open Season terminate this Agreement on sixty (60) days written notice to the Shipper.
- (ii) Result: If this Agreement is terminated pursuant to Section 5.4(e)(i), Carrier shall bear its Carrier Pro Rata Share of all Costs and Expenses and the Shipper shall pay its Shipper Pro Rata Share of all Costs and Expenses.

## **5.5 Concurrent Termination of Agreements**

In the event the Carrier terminates this Agreement pursuant to Section 5.4(a), 5.4(b) or 5.4(e), the Carrier shall concurrently terminate all agreements for Firm Service. If this Agreement is terminated pursuant to the early termination provisions in Section 5.4, the Transportation Service Agreement shall terminate concurrently with this Agreement.

## **5.6 Effect of Termination**

Upon termination of this Agreement, this Agreement shall cease to have any force or effect, save as to any unsatisfied obligations or liabilities of either Party arising prior to the date of such termination, or arising as a result of such termination, including the obligations and liabilities of the Parties pursuant to Article 6.

**ARTICLE 6**  
**EXPANSION COSTS AND EXPENSES**

**6.1 Cost and Expense Calculation**

- (a) **“Costs and Expenses”** shall mean all costs and expenses reasonably and necessarily incurred by or on behalf of the Carrier related to work required to be undertaken by or on behalf of the Carrier in connection with the development and construction of the Expansion including:
- (i) pre-development expenses related to the initial development of the Expansion incurred prior to and during the Open Season;
  - (ii) all engineering design, environmental studies, stakeholder consultation and accommodation, and commercial and regulatory activities;
  - (iii) any capital expenditures, including expenditures related to material and labour supply and any cancellation charges related thereto; and
  - (iv) financing costs, accumulated funds incurred during construction and all applicable taxes on all of the foregoing,

in each case, accrued up to the date of termination pursuant to this Article 6.

- (b) Where the Shipper is required to pay its Shipper Pro Rata Share or Firm Service Pro Rata Share of the Costs and Expenses on a termination of this Agreement, payment shall be made to the Carrier within thirty (30) days of receipt of written notice from the Carrier together with any interest as provided in the Rules and Regulations;
- (c) Audits of the Costs and Expenses shall, if desired by the Shipper, be conducted as follows:
- (i) upon reasonable notice to the Carrier, given no later than twelve (12) months following Commencement Date, the Shipper may elect to have an audit performed to confirm the Carrier’s calculation of any increase in the Fixed Toll made by the Carrier pursuant to Sections 3.2(c) and 3.2(d) as a result of increased Costs and Expenses as compared to the Costs and Expenses contained in the CPCN Cost Estimate, such audit to be carried out in accordance with CICA Handbook Section 5805.
  - (ii) the auditors shall be selected by the Shipper with the consent of the Carrier, not to be unreasonably withheld, and such auditors must be a firm of chartered accountants of recognized national standing. The audit must be conducted during normal business hours on such days as may be agreed to by the Carrier.

- (iii) the Carrier shall provide the auditors with reasonable access to the Carrier's source data necessary for the conduct of the audit and to the Carrier's audit files.
- (iv) where an audit has been requested by the Shipper and by one or more other shippers, all such Persons requesting an audit shall, together with the Carrier, coordinate the audit requests with the intention that only one audit be performed, with the results of that audit to be provided to all Persons requesting such audit.
- (v) the auditors will either confirm the increase in the Fixed Toll made by Carrier or will provide the amount of the increase which is in the auditors' reasonable opinion is justified in accordance with the formula set out in Section 3.2 and the calculation of Costs and Expenses in this Article 6 but shall keep the details of Costs and Expenses and source data confidential and shall not disclose same to the Shipper. The results of audit shall be final and binding on the Parties.
- (vi) each Party will be responsible for its own costs in respect of any audits undertaken pursuant to this Section 6.1(c). Shippers requesting the audit shall pay the cost of the auditors.

## **ARTICLE 7 DEFAULT AND TERMINATION**

### **7.1 Shipper Default**

The occurrence and continuation of any of the following events, unless any such event occurs as a result of a breach by the Carrier of its obligations under this Agreement, shall constitute a "**Shipper Default**":

- (a) a breach by the Shipper of any of its material obligations under this Agreement (including, without limitation, Article 8); or
- (b) the Shipper disaffirms, disclaims, repudiates or rejects, in whole or in part, this Agreement or evidences in any manner its intention not to perform its obligations under, or be bound by, this Agreement.

### **7.2 Remedies**

Upon the occurrence and continuation of a Shipper Default under Section 7.1, the Carrier shall, at its option, have the right to (i) receive damages as would be available under law by giving notice to the Shipper; and/or (ii) terminate this Agreement in accordance with Section 7.3.

### **7.3 Termination and Cure Period**

In the event of a Shipper Default that is then continuing, the Carrier shall have the right to terminate this Agreement by giving thirty (30) days prior written notice of its intent to

terminate to the Shipper; but if the Shipper Default is cured within such notice period, then termination will not be effective.

#### **7.4 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, equity or as provided for herein, including without limitation the right of the Carrier to receive the Shipper's proportionate share of Costs and Expenses as contemplated in this Agreement.

### **ARTICLE 8 FINANCIAL ASSURANCES**

#### **8.1 Financial Assurances**

If, at any time from the date this Agreement is executed by the Carrier until the end of the Contract Term, the Credit Rating for the Shipper or, if applicable, its Credit Support Provider, is below BBB by S&P, Baa3 by Moody's or BBB(low) by DBRS or the Carrier otherwise has reasonable grounds for insecurity regarding the payment or performance of any obligation of the Shipper pursuant to this Agreement, the Carrier may request and the Shipper shall provide to the Carrier, within seven (7) Business Days of the Carrier's request such security as is acceptable to the Carrier.

#### **8.2 Financial Information**

The Shipper shall furnish to the Carrier, as soon as available, and, in any event, within one hundred twenty (120) days after the end of each fiscal year of the Shipper, its audited consolidated financial statements (or, if applicable, the audited consolidated financial statements of its Credit Support Provider, or, if the Shipper is a partnership, the audited consolidated financial statements of the general partners of such partnership as are required, in the Shipper's opinion, acting reasonably, to demonstrate to the Carrier the creditworthiness of the Shipper) setting forth in comparative form the corresponding figures of the preceding fiscal year together with an auditor's report thereon. In addition, the Shipper shall, at the Carrier's request, furnish to the Carrier, as soon as available, and, in any event, within sixty (60) days after the end of each of the first three fiscal quarters of each fiscal year of the Shipper, or its Credit Support Provider, as applicable, the unaudited consolidated financial statements of the Shipper or its Credit Support Provider, as applicable, prepared on a basis consistent with the corresponding period of the preceding fiscal year. Notwithstanding the foregoing, where the applicable financial statements are made available on an internet site available to the public (such as [www.sedar.com](http://www.sedar.com)), the Shipper shall be deemed to have provided those financial statements to the Carrier when such statements are posted to that internet site. The Shipper shall furnish to the Carrier any other information regarding the business affairs, operations, assets and financial condition of the Shipper or its Credit Support Provider, as applicable, as the Carrier may reasonably request from time to time.

**ARTICLE 9  
REPRESENTATIONS AND WARRANTIES**

**9.1 Carrier's Representations and Warranties**

The Carrier represents and warrants that:

- (a) it is duly organized and validly existing under the federal laws of Canada 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; and
- (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.

**9.2 Shipper's Representations and Warranties**

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) the Shipper has taken 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 and warranties 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 will be able to satisfy the requirements of the Carrier with respect to credit requirements in the manner provided in this Agreement and 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 to the address and facsimile number 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.: \_\_\_\_\_

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 Assignment By Shipper**

The Shipper shall have the right to assign its rights and obligations, or any part thereof, under this Agreement subject to the prior written consent of the Carrier, which 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 Section 8.1.

## **11.2 Assignment By Carrier**

The Carrier shall have the right to assign its rights and obligations, or any part 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 Expanded System by a reputable Person experienced in the operation of oil pipelines, as determined by the Carrier acting reasonably.

## **11.3 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 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 for financial assurances as set forth in Section 8.1, that the Shipper waives notice of any extensions, modifications or amendments to this Agreement, that no such extension, modification or amendment shall release the Shipper and that the Shipper shall not be released by any waiver of any obligation of the Transferee or by any indulgence or concession granted to it.

## **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 by 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 such Affiliate. Any non-Affiliate partial assignee of this Agreement may exercise any elections or termination rights under this Agreement in respect of its share of the aggregate Contract Volumes 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 Regulatory Bodies. 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 Amendment**

Except as provided below, this Agreement may be amended only by executed written instrument of the Parties:

- (a) if transportation service on a pipeline immediately upstream of a Designated Receipt Point is permanently discontinued, and the Shipper was using that pipeline to transport Petroleum to the Designated Receipt Point, the Shipper shall designate to the Carrier in writing an alternative Designated Receipt Point(s) for each Service Option applicable to that Designated Receipt Point. The Carrier will then prepare a revised Schedule A to reflect the amended Designated Receipt Point(s) and upon delivery by the Carrier to the Shipper of Schedule A as so revised, this Agreement shall be deemed to be amended by the replacement of the Schedule A then in effect with the revised Schedule A; and
- (b) at each time that the Carrier adjusts the Firm Service Toll pursuant to Section 3.2, including an audit pursuant to Section 6.1(c), the Carrier will prepare a revised Schedule B to this Agreement to reflect the revised Firm Service Toll, and upon delivery by the Carrier to the Shipper of Schedule B to this Agreement as so revised, this Agreement will be deemed to be amended.

### **12.3 Confidentiality**

Except as set forth herein, 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 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 Party 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 approval 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 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.

#### **12.9 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.

#### **12.10 Counterpart Execution**

This Agreement may be executed in separate counterparts and all executed counterparts together shall constitute one agreement.

**12.11 Entire Agreement**

This Agreement, including the recitals and schedules hereto, constitutes the entire agreement between the Parties as to the subject matter hereof and supersede all prior agreements, arrangements, negotiations, representations, warranties or understandings by, or between them (including without limitation the Open Season Procedure, other than those portions of the Open Season Procedure referenced herein) 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:

**SHIPPER:** \_\_\_\_\_

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

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

**SCHEDULE A  
SERVICE OPTIONS**

<b>Service Option</b>	<b>Contract Term<sup>1</sup></b>	<b>Designated Receipt Point<sup>2</sup></b>	<b>Designated Delivery Point<sup>3</sup></b>	<b>Petroleum<sup>4</sup></b>	<b>Contract Volume (in barrels per day)</b>
1					
2					
3					
4					
5					
	<b>Total</b>				

Note 1: Contract Term to be 15 or 20 years.

Note 2: Designated Receipt Points are Edmonton, Alberta (for delivery to Sumas, Burnaby and Westridge Marine Terminal only) and Kamloops, British Columbia.

Note 3: Designated Delivery Points are Kamloops, British Columbia, Sumas, British Columbia, Burnaby, British Columbia, and Westridge Marine Terminal, British Columbia.

Note 4: Petroleum types are:

<b>Type</b>	<b>Density</b>	<b>Viscosity</b>
Light (inclusive of refined products)	$\geq 600 \text{ kg/m}^3$ and $< 876 \text{ kg/m}^3$	$\geq 0.4 \text{ cSt}$ and $< 20 \text{ cSt}$
Heavy	$\geq 876 \text{ kg/m}^3$ and $< 940 \text{ kg/m}^3$	$\geq 20 \text{ cSt}$ and $< 350 \text{ cSt}$

**SCHEDULE B**  
**INDICATIVE TOLLS**

**Indicative Toll Estimates**

Receipt Point <sup>1</sup>	Delivery Point	Petroleum Type and Contract Term		Indicative Firm Service Toll Components (\$CDN/bbl)			Open Season Toll Limit (Fixed component of Firm Service Toll) (\$CDN/bbl)
				Fixed	Variable	Total	
Edmonton	Kamloops	Light	15yr	3.16	0.22	3.37	3.90
			20yr	2.84	0.22	3.05	3.51
Edmonton	Burnaby	Light	15yr	4.43	0.31	4.74	5.47
			20yr	3.99	0.31	4.30	4.93
Edmonton	Westridge	Light	15yr	4.98	0.31	5.29	6.02
			20yr	4.48	0.31	4.79	5.42
		Heavy	15yr	4.98	0.37	5.35	6.02
			20yr	4.48	0.37	4.85	5.42
Edmonton	Sumas	Light	15yr	4.23	0.30	4.53	5.22
			20yr	3.80	0.30	4.10	4.70
		Heavy	15yr	4.23	0.36	4.59	5.22
			20yr	3.80	0.36	4.16	4.70
Kamloops	Burnaby	Light	15yr	1.18	0.09	1.27	1.45
			20yr	0.94	0.09	1.03	1.16
Kamloops	Sumas	Light	15yr	0.98	0.07	1.05	1.21
			20yr	0.79	0.07	0.86	0.97

Note 1: Volumes coming through the Edmonton, Alberta Designated Receipt Point and not going through tankage will receive a direct inject credit applicable to the Fixed Toll component, which direct inject credit is estimated to be \$0.13 per barrel in 2017.

## Initial Cost Estimate<sup>1</sup>

<b>Item</b>	<b>Initial Cost Estimate (M\$)</b>	<b>Capped Costs (M\$)</b>	<b>Uncapped Costs (M\$)</b>	<b>Uncapped Cost Items</b>
Project Management (incl. Regulatory)	172.3	172.3	0.0	None
Engineering (incl. Survey & Environment)	211.6	211.6	0.0	None
Pipeline Materials	458.5	122.9	335.5	100% of Bare Pipe at Mill
Land (ROW)	382.7	202.9	179.8	100% of ROW Fort Langley Westridge (34km)
Pipeline Construction & Inspection	1790.2	1517.1	273.1	100% of Coquihalla Summit Wahleach (74km) 100% of Fort Langley Westridge (34km)
Facilities (incl. Terminals & Stations)	629.1	629.1	0.0	None
Commissioning (incl. Loop Reactivation)	76.6	76.6	0.0	None
Other	76.5	1.9	74.5	100% of Consultation and Accommodation costs
<b>TOTAL</b>	<b>3797.4</b>	<b>2934.4</b>	<b>863.0</b>	

Note 1: The Initial Cost Estimate Probability Distribution is deemed to be Class IV, in general accordance with AACE International recommended practices and has a deemed Accuracy of +35%/-22.5%.



## SCHEDULE C

### TOLL PRINCIPLES

#### **Firm Service Toll Composition**

The Firm Service Toll for any Service Option shall consist of the Fixed Toll component and the Variable Toll component.

#### **Fixed Toll Component**

For each Service Option, the initial Fixed Toll component shall be based on the Initial Cost Estimate and prorated between Designated Delivery Point locations on a Cubic Metre-kilometre basis, with the exception of Westridge tolls which shall also include 100% of the Costs and Expenses for the Westridge dock.

As the Expansion proceeds through construction and Expanded System service commences, the Fixed Toll component shall be adjusted for changes in Costs and Expenses in accordance with Section 3.2. In all circumstances when a Fixed Toll component is adjusted upwards or downwards by Carrier pursuant to Section 3.2, such adjustment shall be made first to the 15 year Transportation Service Agreement Fixed Toll component. The 20 year Transportation Service Agreement Fixed Toll Component shall then be determined by applying a ten percent (10%) discount to the adjusted the 15 year Transportation Service Agreement Fixed Toll component.

Starting on the first anniversary of the Commencement Date and each year thereafter, the Fixed Toll component will be increased by three percent (3%).

The Fixed Toll component for 20 year term Transportation Service Agreements will be calculated at a 10 percent discount to the Fixed Toll component for 15 year Transportation Service Agreements.

The Fixed Toll component for Uncommitted Tolls (as defined in the Transportation Service Agreement) shall be set at a minimum ten percent (10%) premium to the Fixed Toll component for 15 year Transportation Service Contracts.

#### **Variable Toll Component**

The Variable Toll component for Firm Service Tolls and Uncommitted Tolls includes Power Costs which will be calculated on the following basis:

1. Power Costs will be forecast for each calendar year and converted to a Light Crude Equivalent based on a forecast of the light and heavy Petroleum to be shipped on the Expanded System.
2. Each shipper transporting light Petroleum on the Expanded System during the calendar year shall initially pay, on a monthly basis, the Variable Toll component, being the amount calculated by multiplying the forecast Light Crude Equivalent times the Cubic Metre-kilometres shipped on the Expanded System in any particular month. Heavy

Petroleum shipments will be charged on the same basis as light Petroleum shipments except that the forecast Light Crude Equivalent will be multiplied by 1.2.

3. At the end of each calendar year, the actual Light Crude Equivalent will be calculated utilizing the actual Power Costs incurred and the actual light and heavy Petroleum shipped on the Expanded System.
4. Within ninety (90) days of the end of each calendar year, a reconciliation of the difference between the forecast Light Crude Equivalent and the actual Light Crude Equivalent will be calculated (the “**LCE Adjustment**”).
5. Each Shipper that transported light Petroleum during the calendar year will either be invoiced or credited the amount that is equal to the LCE Adjustment multiplied by actual Cubic Metre-kilometres shipped on the Expanded System by such Shipper. Each Shipper that transported heavy Petroleum during the calendar year will either be invoiced or credited on the same basis, except that the LCE Adjustment will be multiplied by 1.2.
6. For greater certainty, the collection of the Variable Toll component, including the reconciliation to actual Power Costs and actual throughput, shall result in the Carrier receiving amounts that, in total, equal the actual Power Costs incurred in any calendar year.

The Variable Toll component shall also include the recovery of uncontrollable costs, whether operating or capital, including but not limited to: increases in costs resulting from changes in legislation, regulations, orders or directions from any government or Regulatory Body (including the NEB), which result in changes to safety, integrity or environmental practices or procedures, and pipeline abandonment costs; increases in costs resulting from any programs or facilities requested by shippers and agreed to by the Carrier that are consistent with the Trans Mountain Investment Policy as may be amended from time to time; and costs resulting from terrorism or sabotage.

**SCHEDULE D**  
**FORM OF TRANSPORTATION SERVICE AGREEMENT**

**SCHEDULE E**  
**RULES AND REGULATIONS**