

**SOUTHERN LIGHTS DILUENT PIPELINE
TRANSPORTATION SERVICES AGREEMENT**

This **TRANSPORTATION SERVICES AGREEMENT** (this “**Agreement**”), is made as of _____, 2012 (the “**Effective Date**”), between **ENBRIDGE SOUTHERN LIGHTS LP** (“**Carrier**”), and _____, a _____ (“**Shipper**”). Carrier and Shipper may be collectively referred to in this Agreement as the “**Parties**” or individually referred to as a “**Party**”.

WHEREAS, Carrier owns and operates the Diluent Pipeline;

WHEREAS, Shipper desires to commit to transport on the Diluent Pipeline (in addition to its committed volume under its 2006 TSA) the Committed Volume of Diluent for the term provided for herein on a committed toll basis, subject to and upon the terms and conditions of this Agreement;

WHEREAS, Carrier is willing to provide Shipper a committed toll to transport the Committed Volume of Diluent on the Diluent Pipeline, subject to and upon the terms and conditions of this Agreement; and

WHEREAS, Enbridge Pipelines (Southern Lights) LLC (“**Southern Lights U.S.**”) owns and operates pipeline facilities that transport Diluent from Chicago, Illinois to the Canada/U.S. border near Neche, North Dakota (the “**Southern Lights U.S. Diluent Pipeline**”), and the Diluent Pipeline and the Southern Lights U.S. Diluent Pipeline collectively provide continuous pipeline facilities for the transportation of Diluent from Chicago, Illinois to Edmonton, Alberta;

NOW THEREFORE, in consideration of the premises and of the mutual covenants and agreements hereinafter set forth in this Agreement, and other good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, the Parties agree as follows:

**ARTICLE 1
DEFINITIONS**

1.01 Capitalized terms used in this Agreement are defined as follows:

“**2006 TSA**” means a TSA executed by a Committed Shipper with Carrier pursuant to the open season in relation to the Diluent Pipeline that commenced on May 30, 2006.

“**Actual Shipments**” means volumes of Diluent that originate and are physically tendered at a Regular Receiving Point and are ultimately delivered at a Regular Delivery Point;

“**Affiliate**” means, with respect to a Party, any other Person directly or indirectly controlling, controlled by, or under common control with such Party. For the purposes of this definition, the term “control” means the possession, directly or indirectly, of the power to direct or cause the

direction of the management and policies of any Person whether through the ownership of voting securities or by contract or otherwise;

“**Agreement**” means this Transportation Services Agreement made between Carrier and Shipper, including the Schedules hereto and includes Carrier’s Toll Schedules and Rules Tariff;

“**Applicable Law**” means all applicable laws, statutes, directives, codes, ordinances, rules, regulations, municipal by-laws, judicial, arbitral, administrative, ministerial, departmental or regulatory judgments, orders, decisions, rulings or awards, consent orders, consent decrees and policies of any Governmental Authority;

“**Arbitration Act**” means the *Arbitration Act* (Alberta) c. A-43, R.S.A. 2000, as amended;

“**Business Day**” has the meaning given to it in the Rules Tariff;

“**Capital Costs**” has the meaning given to it in Section 3 of the Toll Principles;

“**Carrier**” has the meaning given to it in the preamble to this Agreement;

“**Carrier Default**” has the meaning given to it in Section 10.04 of this Agreement;

“**Carrier Default Notice**” has the meaning given to it in Section 10.05 of this Agreement;

“**Carrier Force Majeure**” means, with respect to Carrier, an event that is unforeseen and beyond the control of Carrier that prevents Carrier from providing Services hereunder, including: (i) compliance with acts, orders, regulations, or requests of any Governmental Authority or any Person purporting to act therefor; (ii) insurrections, wars, rebellion, riots, strikes, lockouts or labour difficulties, civil disturbances, sabotage, the acts of public enemies, blockades or epidemics; (iii) unanticipated weather conditions and actions of the elements not reasonably preventable by Carrier, including earthquakes, floods, or landslides; (iv) accidental disruption or breakdown of Carrier’s transportation facilities that is not reasonably preventable, including the inability to obtain electric power, water or fuel; fires; explosions; breakdowns or failure of pipe, plant, machinery or equipment; and contamination or poisoning of catalyst and/or solvent or biological treatment facilities; and (v) any other cause, whether or not of the same class or kind, that is reasonably beyond the control of Carrier. It is understood and agreed that the settlement of strikes or differences with workers will be entirely within the discretion of Carrier;

“**Committed Toll**” means the toll payable by Committed Shippers for Services relating to Committed Volumes of Diluent transported on the Diluent Pipeline pursuant to the Toll Schedules (but excluding the toll for committed expansion capacity described in Section 8.03 hereof);

“**Committed Shipper**” means any shipper who has executed or hereafter executes a TSA;

“**Committed Volume**” means the minimum daily volume of Diluent to be received by Carrier set out in Schedule A to this Agreement, which shall not be less than 5,000 barrels per day, as such Committed Volume may be increased or decreased in accordance with this Agreement;

“**Cost of Debt**” has the meaning given to it in Section 10 of the Toll Principles;

“**Delivery Point**” has the meaning given to it in the Rules Tariff;

“**Depreciation**” has the meaning given to it in Section 11 of the Toll Principles;

“**Diluent**” has the meaning given to it in the Rules Tariff;

“**Diluent Pipeline**” means a diluent pipeline system to transport Diluent from the Canada/U.S. border near Neche, North Dakota to Edmonton, Alberta;

“**Dispute Resolution**” has the meaning given to it in Section 13.01 of this Agreement;

“**Effective Date**” has the meaning given to it in the preamble to this Agreement;

“**Enbridge**” means Enbridge Pipelines Inc.;

“**Expansion Committed Toll**” has the meaning given to it in Section 8.02 of this Agreement;

“**Financial Assurances**” has the meaning given to it in Section 14.02 of this Agreement;

“**Financing Parties**” has the meaning given to it in Section 24.04 of this Agreement;

“**Governmental Authority**” means any government, any governmental, administrative or regulatory entity, authority, commission, board, agency, instrumentality, bureau or political subdivision and any court, tribunal or judicial or arbitral body (whether U.S. or Canadian and whether national, federal, state, provincial or local or, in the case of an arbitral body, whether governmental, public or private);

“**Guarantee**” has the meaning set forth in Section 14.02 of this Agreement;

“**Initial Term**” has the meaning set forth in Section 4.01 of this Agreement;

“**Mainline Expansion**” means the facilities that replaced and expanded the capacity of the Enbridge mainline light crude oil pipeline systems, initially known as “Line 2 Expansion,” from Edmonton, Alberta to the Canada/U.S. border near Gretna, Manitoba and “New Light Sour Cromer to Clearbrook Pipeline” from Cromer, Manitoba to the Canada/U.S. border near Gretna, Manitoba and all pipeline facilities and other components that comprise the Mainline Expansion, including all initial Receiving Points, Delivery Points and tankage;

“**Month**” means the period commencing on the Shipper Commencement Date and ending on the last day of the calendar month in which the Shipper Commencement Date occurs and each successive calendar month thereafter;

“**Monthly Deficiency Payment**” has the meaning given to it in Section 6.01 of this Agreement;

“**Monthly Deficiency Quantity**” has the meaning given to it in Section 6.02 of this Agreement;

“**NEB**” means the National Energy Board and any lawful successor agency thereto;

“**Party**” or “**Parties**” has the meaning given to such terms in the preamble to this Agreement;

“**Person**” means an individual, partnership, limited liability company, corporation, trust, estate, unincorporated association, nominee, joint venture, or other entity;

“**Project Debt Interest Rate**” has the meaning given to it in Section 10 of the Toll Principles;

“**Regular Delivery Point**” has the meaning given to it in the Rules Tariff;

“**Regular Receiving Point**” has the meaning given to it in the Rules Tariff;

“**Receiving Point**” has the meaning given to it in the Rules Tariff;

“**Retention Stock**” has the meaning given to it in the Rules Tariff;

“**Rules Tariff**” means Carrier’s rules and regulations tariff for the Diluent Pipeline on file with the NEB and in effect from time to time, as such rules and regulations tariff may be amended or supplemented by Carrier from time to time in accordance with Part IV of the *National Energy Board Act*;

“**Services**” has the meaning given to it in the Rules Tariff;

“**Shipper**” has the meaning given to it in the preamble to this Agreement;

“**Shipper Commencement Date**” has the meaning given to it in Section 4.01 of this Agreement;

“**Shipper Default**” has the meaning given to it in Section 10.01 of this Agreement;

“**Shipper Default Notice**” has the meaning given to it in Section 10.02 of this Agreement;

“**Shipper Force Majeure**” means, with respect to Shipper, an event that is unforeseen and beyond the control of Shipper that prevents Shipper from performing any of its obligations hereunder, including: (i) compliance with acts, orders, regulations, or requests of any Governmental Authority or any Person purporting to act therefor; (ii) insurrections, wars, rebellion, riots, strikes, lockouts or labor difficulties, civil disturbances, sabotage, the acts of public enemies, blockades or epidemics; (iii) unanticipated weather conditions and actions of the elements not reasonably preventable by Shipper, including earthquakes, floods, landslides; (iv) accidental disruption or breakdown of Shipper's facilities that is not reasonably preventable, including the inability to obtain electric power, water or fuel; fires; explosions; breakdowns or failure of pipe, plant, machinery or equipment; and contamination or poisoning of catalyst and/or solvent or biological treatment facilities; and (v) any other cause, whether or not of the same class or kind, that is reasonably beyond the control of Shipper. It is understood and agreed that the settlement of strikes or differences with workers will be entirely within the discretion of Shipper;

“**Shipper Permits**” means any and all authorizations, permits and approvals necessary for the import of a daily volume of Diluent equal to the Committed Volume to Manitoba, Saskatchewan, Alberta and Canada;

“**Southern Lights U.S.**” has the meaning given to it in the recitals to this Agreement;

“**Southern Lights U.S. Agreement**” means a transportation services agreement, dated on or around the date of this Agreement, whereby Shipper or its Affiliate has committed to transport a volume of Diluent equal to the Committed Volume on the Southern Lights U.S. Diluent Pipeline, and Southern Lights U.S. has agreed to provide certain services to transport such volume of Diluent on the Southern Lights U.S. Diluent Pipeline, subject to and upon the terms and conditions of the Southern Lights U.S. Agreement;

“**Southern Lights 2006 U.S. Agreement**” means a transportation services agreement whereby Shipper or its Affiliate committed to transport a volume of Diluent on the Southern Lights U.S. Diluent Pipeline pursuant to the open season for the Southern Lights U.S. Diluent Pipeline that commenced on May 30, 2006.

“**Southern Lights U.S. Diluent Pipeline**” has the meaning given to it in the recitals to this Agreement;

“**Term**” has the meaning given to it in Section 4.02 of this Agreement;

“**Toll Revision Proceeding**” has the meaning given to it in Section 29.03 of this Agreement;

“**Toll Principles**” means those principles used to calculate the tolls for the Diluent Pipeline as set out in Schedule B to this Agreement;

“**Toll Schedules**” means Carrier’s toll schedules for the Diluent Pipeline, on file with the NEB and in effect from time to time, as such toll schedule may be amended or supplemented by Carrier from time to time in accordance with Part IV of the *National Energy Board Act*;

“**TSA**” means a transportation services agreement executed by a Committed Shipper with Carrier whereby the Committed Shipper has agreed to ship on the Diluent Pipeline, or pay a deficiency payment for failure to ship, a specified minimum volume of Diluent;

“**Uncommitted Toll**” means the toll payable for Services relating to Uncommitted Volumes pursuant to the Toll Schedules;

“**Uncommitted Volumes**” means (i) volumes of Diluent received by Carrier for transportation on the Diluent Pipeline for any shipper that is not a Committed Shipper, (ii) volumes of Diluent received by Carrier for transportation for a Committed Shipper in a Month that are in excess of the product of such Committed Shipper’s committed volume and the number of days in the Month, and (iii) volumes of Diluent received by Carrier for transportation on the Diluent Pipeline for any Committed Shipper prior to the shipper commencement date provided for in the TSA between Carrier and such Committed Shipper;

“**Year**” means, as the context requires:

- (a) a calendar year;

- (b) the period beginning on the Shipper Commencement Date and ending on the December 31 that next follows the Shipper Commencement Date; or
- (c) the period beginning on January 1 of the calendar year in which the Term ends and ending on the last day of the Term.

ARTICLE 2

CARRIER OBLIGATIONS

- 2.01 Provision of Services. Subject to the provisions of this Agreement, Carrier shall provide Services for the Committed Volume in accordance with, and subject to, the Toll Schedules and the Rules Tariff, which are incorporated herein by reference and constitute part of this Agreement.
- 2.02 Amendments to Rules Tariff. Carrier may amend or supplement the Rules Tariff at any time, provided that prior to filing with the NEB a proposal to amend or supplement the Rules Tariff, Carrier will review such proposal with the Committed Shippers and will include with its filing a summary of the views of the Committed Shippers with respect to such proposal.

ARTICLE 3

SHIPPER OBLIGATIONS AND REPRESENTATIONS

- 3.01 Take or Pay Obligation. Subject to Section 6.06 hereof, Shipper agrees that each day from the Shipper Commencement Date through the end of the Term, it shall ship on the Diluent Pipeline, or otherwise pay for the shipment of, at least the Committed Volume. Shipper is not permitted to reduce the Committed Volume, except as otherwise expressly permitted by this Agreement.
- 3.02 Allocation of Shipments between TSAs. Notwithstanding anything in this Agreement or a 2006 TSA to the contrary, if Shipper is a party (including as successor or assign) to a 2006 TSA (and has not assigned its rights and obligations under either this Agreement or such 2006 TSA), then, for all purposes of this Agreement and Shipper's 2006 TSA, including Section 3.01, Article 6, Article 11 and the Toll Principles, (a) Shipper's Actual Shipments shall be deemed shipped under the 2006 TSA until Shipper shall have satisfied its volume commitment under the 2006 TSA, and (b) any Actual Shipments in excess of the volume described in clause (a) shall be deemed shipped under this Agreement.
- 3.03 Rules Tariff. Shipper shall comply with the Rules Tariff.
- 3.04 Retention Stock. Regardless of whether or not Shipper makes Actual Shipments on the Diluent Pipeline, Shipper shall provide its share of Retention Stock as required by the Rules Tariff. If Shipper fails to comply with its obligations under this Section 3.04, in addition to Carrier's other rights and remedies in connection with such failure, Carrier shall be entitled to supply such Retention Stock and Shipper shall reimburse Carrier for the cost thereof on demand.

- 3.05 Shipper Representations and Warranties. Shipper hereby represents and warrants to Carrier as follows, and acknowledges that Carrier is relying upon these representations and warranties in connection with entering into this Agreement:
- (a) **Existence and Power:** Shipper is a corporation, limited liability company or partnership incorporated or formed in accordance with, and is subsisting under, the laws of the jurisdiction of its incorporation or formation, and has all requisite corporate, limited liability company or partnership power and capacity to enter into and deliver this Agreement and to perform all of its obligations hereunder;
 - (b) **Authorization:** Shipper has taken all corporate, limited liability company or partnership action necessary to authorize the execution and delivery of this Agreement and the performance of its obligations hereunder. This Agreement has been duly executed and delivered by Shipper; and
 - (c) **Enforceability:** This Agreement constitutes a legal, valid and binding obligation of Shipper enforceable against it in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization and other laws of general application relating to or affecting creditors' rights generally and to general principles of equity.

ARTICLE 4 TERM

- 4.01 Initial Term; Shipper Commencement Date. This Agreement will take effect and become binding on the Parties as of the Effective Date. All of Shipper's obligations and liabilities under this Agreement shall apply and be effective as of the Effective Date, except that Shipper's obligations under Section 3.01 and Article 6 hereof shall not commence until the date for commencement selected by Shipper from the available dates set forth in Schedule A (which date shall not be earlier than January 1, 2013 or later than the July 1, 2014) (such date, the "**Shipper Commencement Date**"). All of Shipper's obligations and liabilities under this Agreement shall continue until June 30, 2025 (the "**Initial Term**").
- 4.02 Extension Right. Provided Shipper is not in default of its obligations under this Agreement as of the date of giving notice of extension or as of the last day of the Initial Term, then Shipper shall have a single right to extend the Initial Term of this Agreement for an additional fifteen (15) year term and, at the option of Shipper, to reduce its Committed Volume. Shipper shall exercise such right and option solely by giving to Carrier written notice of such exercise by no later than July 1, 2020, such notice to specify the reduction in Committed Volume. In the event that Shipper is eligible to extend and timely exercises its extension right pursuant to this Section 4.02, then:
- (a) Carrier shall notify Shipper in writing of the aggregate committed volumes, including the Committed Volume, of all Committed Shippers that have timely exercised extension rights under Section 4.02 (or any equivalent provision) of their TSAs, net of any reductions pursuant to Section 4.02 (or any equivalent provision) of their TSAs;

- (b) Shipper may (i) withdraw its notice of extension by written notice to Carrier given within ten (10) days after receipt of the notification described in Section 4.02(a) hereof, in which event the Term shall expire at the end of the Initial Term, (ii) do nothing, in which event the Initial Term shall be extended on the same terms and conditions as set forth in this Agreement, including the Committed Volume (subject to any reduction pursuant to this Section 4.02), or (iii) request an increase of its Committed Volume for the extension term to a number of barrels per day specified in a written notice to Carrier given within ten (10) days after receipt of the notification described in Section 4.02(a) hereof. If Shipper makes the request in clause (iii), the Initial Term shall be extended on the same terms and conditions as set forth in this Agreement, except that Shipper's Committed Volume for the extension term shall be the increased Committed Volume set forth in Shipper's notice, unless Carrier shall have received notices or requests from Committed Shippers for increased committed volumes that, in the aggregate, exceed the capacity of the Diluent Pipeline available for transportation of committed volumes, in which event any unused capacity that is available for committed volumes will first be allocated to any Committed Shippers under the 2006 TSAs that requested increased committed volumes until they receive their requested increases. Any unused capacity thereafter remaining that is available for transportation of committed volumes will be allocated among all other Committed Shippers that requested increase committed volumes (based on the ratio that the increase in volume commitment requested by Shipper bears to the increases in volume commitments requested by all such other Committed Shippers) and Shipper's Committed Volume shall instead be increased by the unused available capacity allocated to Shipper;
- (c) If the Initial Term shall be extended pursuant to this Section 4.02, at Carrier's request, Shipper and Carrier shall promptly execute and deliver an amendment to this Agreement providing, if applicable, for any increase or decrease in Shipper's Committed Volume pursuant to the foregoing provisions of this Section 4.02 and promptly provide any Financial Assurances required from Shipper in connection with the extension term in accordance with Article 14 hereof and the Rules Tariff;
- (d) The "**Term**" shall mean, collectively, the Initial Term and any extended term pursuant to this Section 4.02; and
- (e) Time shall be of the essence of this Article 4.

4.03 Termination Right. Notwithstanding anything in this Agreement to the contrary, if the first right set forth in Section 6.06 of Shipper's 2006 TSA is found by any Governmental Authority having jurisdiction to be invalid, illegal or unenforceable in any respect, each Party shall have the right to terminate this Agreement by written notice to the other Party given within thirty (30) days after the issuance of the finding, and Carrier shall be entitled to offer the Committed Volume to all potential shippers.

ARTICLE 5 TOLLS

- 5.01 Tolls. Shipper shall pay tolls for all volumes of Diluent transported by Shipper on the Diluent Pipeline, in accordance with the Toll Schedules and the Rules Tariff, which shall, to the extent permitted by Applicable Law, conform to the Toll Principles set forth in Schedule B and this Article 5.
- 5.02 Committed Toll. Subject to the provisions of this Article 5, the toll payable for Actual Shipments by Shipper that are equal to or less than Shipper's Committed Volume shall be the Committed Toll set forth in the Toll Schedules, and such Committed Toll shall apply in accordance with the terms of the Toll Schedules regardless of whether Shipper transports Committed Volumes of Diluent to Edmonton, Alberta from the Canada/U.S. border or to any Regular Delivery Point other than Edmonton, Alberta.
- 5.03 Uncommitted Toll. Subject to the provisions of this Article 5, the toll payable for Actual Shipments by Shipper of Uncommitted Volumes shall be the Uncommitted Toll set forth in the Toll Schedules, and such Uncommitted Toll shall apply in accordance with the terms of the Toll Schedules regardless of whether Shipper transports Uncommitted Volumes of Diluent to Edmonton, Alberta from the Canada/U.S. border or from any Regular Receiving Point between the Canada/U.S. border and Edmonton, Alberta. To the extent permitted by Applicable Law and subject to adjustment pursuant to Section 14 of Schedule B, Carrier agrees to file an Uncommitted Toll that is the product of the Committed Toll and 2.0.
- 5.04 Annual Adjustment. To the extent permitted by Applicable Law, Carrier's Toll Schedules shall provide for the annual adjustment set forth in Sections 14(b) and (c) of Schedule B. As soon as reasonably practicable, after the end of each Year, Carrier shall notify Shipper in writing of the amount of the Total Adjusted Differential applicable to Shipper as determined pursuant to Schedule B. Within thirty (30) days after the date of such notification, (i) if, for such prior Year, the Shipper's Total Adjusted Differential is a positive number, Carrier shall pay to Shipper an amount equal to the Total Adjusted Differential, or (ii) if, for such prior Year, Shipper's Total Adjusted Differential is a negative number, Shipper shall pay to Carrier an amount equal to Shipper's Total Adjusted Differential. Examples of the calculation of the Total Adjusted Differential are shown in Schedule E.
- 5.05 Governmental Modifications. Notwithstanding any other provision of this Agreement to the contrary, the Parties acknowledge that the tolls payable for all Services are subject to the approval of and modification by the NEB or any other Governmental Authority having jurisdiction.

ARTICLE 6 DEFICIENCY PAYMENTS

- 6.01 Monthly Deficiency Payment. Commencing on the Shipper Commencement Date, if the applicable Actual Shipments of Shipper through the Diluent Pipeline in any Month total less than one hundred percent (100%) of the product of (a) the Committed Volume, multiplied by (b) the number of days in that Month, Shipper will make a payment to Carrier equal to the

Monthly Deficiency Quantity multiplied by the Committed Toll (“**Monthly Deficiency Payment**”), determined in accordance with this Article 6. An example of the Monthly Deficiency Payment calculation is shown in Schedule E.

- 6.02 Monthly Deficiency Quantity. For the purposes of this Article 6, the term “**Monthly Deficiency Quantity**” shall mean the amount by which the product of (a) the Committed Volume, multiplied by (b) the number of days in any given Month, exceeds the applicable Actual Shipments by Shipper on the Diluent Pipeline during the same Month.
- 6.03 Statement of Monthly Deficiency Payment. At the end of any Month when a Monthly Deficiency Payment is owed by Shipper to Carrier pursuant to this Article 6, such Monthly Deficiency Payment will be included as an additional statement to standard transportation charges billed by Carrier, with payment to be made pursuant to the Rules Tariff. Carrier shall include information with the billing statement sufficient to calculate the Monthly Deficiency Payment described above.
- 6.04 Adjustment of Monthly Deficiency Payments. As soon as reasonably practicable after the end of each Year during the Term of this Agreement Carrier shall determine whether any adjustments to the Monthly Deficiency Payments made by Shipper for the prior Year are required to be made so that such Monthly Deficiency Payments reflect any negative or positive per barrel adjustments provided for in Section 5.04 and shall notify Shipper of the total amount payable by or to Shipper as a result of such adjustment. Within thirty (30) days after the date of such notification, (a) if, as a result of such adjustment, any amount is payable to Shipper, Carrier shall pay such amount to Shipper, or (b) if, as a result of such adjustment, any amount is payable by Shipper, Shipper shall pay such amount to Carrier. Examples of such adjustment are shown in Schedule E.
- 6.05 Payment during Shipper Defaults. Shipper acknowledges and agrees that it shall be obligated to pay the Monthly Deficiency Payment during any period when Carrier does not provide Services because of a Shipper Default.
- 6.06 Reduction in Monthly Deficiency Payments. The obligation of Shipper to make Monthly Deficiency Payments under this Agreement shall be proportionately reduced to the extent that any event of Carrier Force Majeure or Carrier Default prevents all or a portion of the Services to Shipper or to the extent any event of force majeure or breach or default by Southern Lights U.S. prevents all or a portion of the services on the Southern Lights U.S. Diluent Pipeline to Shipper or its Affiliate.

ARTICLE 7 PRIORITY SERVICE AND APPORTIONMENT

- 7.01 Priority Service and Apportionment. Notwithstanding any other provision of this Agreement, the terms of the Rules Tariff governing priority of service and apportionment shall apply to Shipper’s Committed Volume under this Agreement and any other transportation service provided to Shipper.

**ARTICLE 8
EXPANSION**

- 8.01 Expansion Rights. Carrier shall have the right, in its sole discretion, to expand the capacity of the Diluent Pipeline at any time or from time to time.
- 8.02 Expansion Committed Toll no Higher than Committed Toll. In the event that Carrier proposes to expand the initial capacity of the Diluent Pipeline and to offer committed capacity on such expansion capacity and if the Expansion Committed Toll is reasonably expected to be no higher than the expected Committed Toll in effect for the remaining portion of the Initial Term, then, if Carrier determines in its sole discretion to proceed with such expansion, subject to Applicable Law, the following terms shall apply:
- (a) Carrier will maintain a Committed Toll for the Services on the expanded Diluent Pipeline (the “**Expansion Committed Toll**”) that is equal to the cost of service on a rolled-in basis. Such cost of service shall be determined in accordance with the Toll Principles;
 - (b) Subject to adjustment pursuant to Section 14 of Schedule B, and to the extent permitted by Applicable Law, Carrier will file an Uncommitted Toll for the Services on the expanded Diluent Pipeline that is not less than the product of the Expansion Committed Toll and 2.0;
 - (c) As of the effective date of the Expansion Committed Toll, the Expansion Committed Toll will constitute the Committed Toll for all committed volumes of Diluent transported on the expanded Diluent Pipeline;
 - (d) All revenues and costs of the expanded pipeline shall be included in the revenues and costs provided for in Sections 14(b) and (c) of Schedule B.
- 8.03 Expansion Committed Toll Higher than Committed Toll. In the event that Carrier proposes to expand the initial capacity of the Diluent Pipeline and to offer committed capacity on such expansion capacity and if the Expansion Committed Toll is reasonably expected to be higher than the Committed Toll in effect immediately prior to the effective date of the Expansion Committed Toll, then, Carrier may elect to proceed with the expansion of the Diluent Pipeline on terms and conditions specified by Carrier, but the Committed Toll provided for in Section 5.02 hereof will not be increased in connection with such expansion. In such event, all incremental revenues and operating and capital costs relating to the expansion of the Diluent Pipeline shall be excluded from the total revenues and costs described in Sections 14(b) and (c) of Schedule B.

**ARTICLE 9
LIMITATIONS ON LIABILITY**

- 9.01 NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, NEITHER PARTY WILL BE LIABLE OR RESPONSIBLE TO THE OTHER PARTY HERETO OR SUCH OTHER PARTY'S AFFILIATES FOR ANY CONSEQUENTIAL, INCIDENTAL, OR PUNITIVE DAMAGES, OR FOR LOSS OF PROFITS OR

REVENUES INCURRED BY SUCH PARTY OR ITS AFFILIATES THAT ARISE OUT OF OR RELATE TO THIS AGREEMENT, REGARDLESS OF WHETHER SUCH CLAIM ARISES UNDER OR RESULTS FROM CONTRACT, TORT OR STRICT LIABILITY.

**ARTICLE 10
DEFAULT; REMEDIES**

10.01 Shipper Defaults. Any of the following events shall be a “**Shipper Default**” in respect of Shipper:

- (a) the occurrence and continuation of a default by Shipper of any of its payment obligations under this Agreement or Shipper's 2006 TSA, unless such default occurs as a result of a breach or default by Carrier of its obligations under this Agreement or Shipper's 2006 TSA, as applicable; or
- (b) the occurrence and continuation of a default by Shipper or its Affiliate of any of its payment obligations under the Southern Lights U.S. Agreement or the termination of the Southern Lights U.S. Agreement by Southern Lights U.S. as a result of such default, unless such default occurs as a result of a breach or default by Southern Lights U.S. of its obligations under the Southern Lights U.S. Agreement; or
- (c) the occurrence and continuation of a default by Shipper or its Affiliate of any of its payment obligations under the Southern Lights 2006 U.S. Agreement or the termination of the Southern Lights 2006 U.S. Agreement by Southern Lights U.S. as a result of such default, unless such default occurs as a result of a breach or default by Southern Lights U.S. of its obligations under the Southern Lights 2006 U.S. Agreement; or
- (d) the failure by Shipper or any guarantor or provider of a Financial Assurance described in Article 14 hereof to provide or maintain the Financial Assurances.

10.02 Notice of Shipper Default. Upon the occurrence of a Shipper Default, in addition to Carrier's other rights and remedies, Carrier may provide written notice to Shipper, describing the Shipper Default in reasonable detail and requiring Shipper to remedy the Shipper Default (the “**Shipper Default Notice**”). If (a) a Shipper Default comprising Shipper's failure to make any payment due hereunder, under Shipper's 2006 TSA or under the Rules Tariff or Toll Schedules has not been remedied within ten (10) days following receipt by Shipper of a Shipper Default Notice, (b) a Shipper Default comprising the failure of Shipper or its Affiliate to make any payment due under the Southern Lights U.S. Agreement or the Southern Lights 2006 U.S. Agreement or under the rules tariff or toll schedule applicable to the Southern Lights U.S. Diluent Pipeline has not been remedied within ten (10) days following receipt by Shipper or its Affiliate, as applicable, of a default notice, (c) a Shipper Default comprising Shipper's failure to comply with Article 14 hereof has not been remedied within ten (10) days following receipt by Shipper of a Shipper Default Notice, or (d) the Shipper Default comprises the termination of the Southern Lights U.S. Agreement or the Southern Lights 2006 U.S. Agreement by reason of a default by Shipper or its Affiliate of the

payment obligations thereunder, then in any such case, Carrier may, by written notice to Shipper, suspend provision of Services to Shipper under this Agreement and, if any such Shipper Default has not been remedied within a further period of ten (10) days following such suspension (except that no additional period of notice shall be required in the case of a Shipper Default described in clause (d)), Carrier may, by written notice to Shipper, terminate this Agreement and Shipper's 2006 TSA, any such suspension or termination to be effective upon receipt of the applicable notice by Shipper. Upon termination of the Southern Lights U.S. Agreement and the Southern Lights 2006 U.S. Agreement by Southern Lights U.S. as a result of a default by Shipper or its Affiliate of any of its payment obligations under the Southern Lights U.S. Agreement, Carrier will terminate this Agreement and Shipper's 2006 TSA pursuant to this Section 10.02.

10.03 Bankruptcy and Insolvency. Carrier will have the right to terminate this Agreement by giving written notice to Shipper, if Shipper or any guarantor or provider of a Financial Assurance described in the Rules Tariff, as the case may be:

- (a) files a voluntary application in or for liquidation, receivership or bankruptcy;
- (b) is finally and validly declared and adjudged to be liquidated, bankrupt or insolvent;
- (c) is subject to a resolution passed by its members for the purposes of placing it in voluntary administration;
- (d) is subject to an order by any court of competent jurisdiction for its winding up;
- (e) is the subject of an appointment of a receiver or receiver and manager or like officer of the whole or any material part of its assets;
- (f) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on it or against all or substantially all its assets; and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within fifteen (15) Business Days thereafter;
- (g) is the subject of an appointment of an administrator, official manager or like officer in circumstances where Shipper or any guarantor or provider of a Financial Assurance described in the Rules Tariff, as the case may be, is or is likely to become insolvent; or
- (h) enters into a scheme of arrangement with its creditors or any of them, provided that the foregoing shall not include any voluntary proceeding for the purpose of amalgamation, reconstruction or reorganization not taken at the request of or to meet the requirements of the creditors of Shipper or any guarantor or provider of a Financial Assurance described in the Rules Tariff.

Such termination will be effective upon the expiry of a ten (10) day period from the date of delivery of such written notice unless, within such period, Shipper has provided a Financial Assurance to Carrier.

10.04 Carrier Defaults. Any of the following events shall be a “**Carrier Default**” in respect of Carrier:

- (a) the occurrence and continuation of a material breach or default by Carrier of any of its obligations under this Agreement or Shipper's 2006 TSA, unless such material breach or default occurs as a result of a breach or default by Shipper of its obligations under this Agreement;
- (b) the occurrence and continuation of a material breach or default by Southern Lights U.S. of any of its obligations under the Southern Lights U.S. Agreement or the termination of the Southern Lights U.S. Agreement by Shipper or its Affiliate as a result of such material breach or default, unless such material breach or default occurs as a result of a breach or default by Shipper or its Affiliate of its obligations under the Southern Lights U.S. Agreement; or
- (c) the occurrence and continuation of a material breach or default by Southern Lights U.S. of any of its obligations under the Southern Lights 2006 U.S. Agreement or the termination of the Southern Lights 2006 U.S. Agreement by Shipper or its Affiliate as a result of such material breach or default, unless such material breach or default occurs as a result of a breach or default by Shipper or its Affiliate of its obligations under the Southern Lights 2006 U.S. Agreement.

10.05 Notice of Carrier Default. Upon the occurrence of a Carrier Default, Shipper may provide written notice to Carrier, describing the Carrier Default in reasonable detail and requiring Carrier to remedy the Shipper Default (the “**Carrier Default Notice**”). If (a) a Carrier Default comprising Carrier’s failure to make any payment due hereunder has not been remedied within ten (10) days following receipt by Carrier Shipper of a Carrier Default Notice, (b) a Carrier Default comprising Carrier’s failure to comply with any obligation under this Agreement, other than a payment obligation, has not been remedied within thirty (30) days after receipt by Carrier of written notice specifying the failure, or, if such failure is not reasonably capable of being cured within a thirty (30) day period, but Carrier expeditiously commences to cure same following its receipt of notice from Shipper and diligently proceeds with such cure, within such longer period of time as shall be reasonably necessary to cure such failure, or (c) the Carrier Default comprises the termination of the Southern Lights U.S. Agreement by reason of a material breach or default by Southern Lights U.S. of its obligations thereunder, then in any such case, Shipper may, by written notice to Carrier, inform Carrier of its intention to terminate this Agreement if such Carrier Default is not cured within a further ten (10) day period, and if any such Carrier Default has not been remedied within such further period of ten (10) days, Shipper may, by written notice to Carrier, terminate this Agreement, any such termination to be effective upon receipt of such termination notice by Carrier. Upon termination of the Southern Lights U.S. Agreement by Shipper or its Affiliate as a result of a material breach or default by Southern Lights U.S. under the Southern Lights U.S. Agreement, Shipper will terminate this Agreement pursuant to this Section 10.05.

ARTICLE 11 FORCE MAJEURE

- 11.01 Carrier Force Majeure. If Carrier is unable to perform any obligations due to an event of Carrier Force Majeure, such failure will be deemed not to be a breach of such obligations, insofar as they are affected by such Carrier Force Majeure, for the duration of the event of Carrier Force Majeure. Carrier will make reasonable attempts to remedy such event, provided that the terms of the settlement of any strike, lockout, or other industrial disturbance will be wholly in the discretion of Carrier. Carrier will promptly notify Shipper in writing of any Carrier Force Majeure event and will provide a non-binding, written estimate of the anticipated duration of the Carrier Force Majeure event.
- 11.02 Termination Based on Force Majeure. If an event of Carrier Force Majeure prevents all Services to Shipper, or an event of force majeure prevents all services by Southern Lights U.S. to Shipper or its Affiliate under the Southern Lights U.S. Agreement, for a continuous period of at least twenty-four (24) months, then Shipper may, at its option, elect to terminate this Agreement by written notice to Carrier given at any time after the expiration of such twenty-four (24) month period, but prior to the cessation of the Carrier Force Majeure event or, if applicable, the force majeure event affecting Southern Lights U.S. If Shipper so terminates this Agreement, in addition to the reduction of Monthly Deficiency Payments provided for in Section 6.06 hereof, Shipper shall not incur any further Monthly Deficiency Payment obligations on or after the effective date of the termination.
- 11.03 Shipper Force Majeure. Except as set forth in Section 11.04 hereof, if Shipper is unable to perform any obligations due to an event of Shipper Force Majeure, such failure will be deemed not to be a breach of such obligations, insofar as they are affected by such Shipper Force Majeure, for the duration of the event of Shipper Force Majeure. Shipper will make reasonable attempts to remedy such event, provided that the terms of the settlement of any strike, lockout, or other industrial disturbance will be wholly in the discretion of Shipper. Shipper will promptly notify Carrier in writing of any Shipper Force Majeure event and will provide a non-binding, written estimate of the anticipated duration of the Shipper Force Majeure event.
- 11.04 Continuing Obligations during Shipper Force Majeure. It is expressly agreed that any cause or event whatsoever, including a Shipper Force Majeure, that renders Shipper unable to ship, deliver Diluent to the Diluent Pipeline or the Southern Lights U.S. Diluent Pipeline, or accept delivery of Diluent from the Diluent Pipeline will not excuse or suspend Shipper's obligation to make any payment provided for in this Agreement or provide any Financial Assurances required in accordance with Article 14 hereof or comply with the Rules Tariff with respect to any Diluent that has been delivered by Shipper to Carrier.

ARTICLE 12 COMMON CARRIER AND COMPLIANCE WITH APPLICABLE LAWS

- 12.01 The Diluent Pipeline will be operated as a common carrier pipeline and Shipper's rights hereunder will be subject to all Applicable Laws related to common carrier pipelines. The

terms and provisions of the Rules Tariff and the Toll Schedules shall apply to the Services provided hereunder.

- 12.02 Both Parties will, in carrying out the terms and conditions hereof, abide by all present and future Applicable Laws.
- 12.03 Except where Section 4.03 applies, if any part of this Agreement is found invalid by a court of competent jurisdiction or an arbitrator, or is found by a regulator or other Governmental Authority to be in conflict with any valid Applicable Law, the Parties will expeditiously negotiate in good faith to amend this Agreement so that the revised Agreement validly provides terms and conditions that are as close to the same effect as possible to the terms and conditions that existed under this Agreement upon the date of execution or most recent amendment. Failing a negotiated agreement of the required amendment, the Parties will refer the dispute to Dispute Resolution pursuant to Article 13.

ARTICLE 13 DISPUTE RESOLUTION

- 13.01 The Parties agree to attempt to resolve any disputes arising under this Agreement through consultation and negotiation in good faith. If the Parties are not, in respect of any dispute arising under this Agreement, able to reach a negotiated resolution of such dispute within ninety (90) days, any dispute that is subject to the jurisdiction of the NEB will be referred to the NEB with a request that such dispute be dealt with on an expedited basis. Where a disagreement arises concerning whether a dispute is subject to the jurisdiction of the NEB, such matter will be referred to the NEB for resolution. Either Party may refer all disputes arising under this Agreement that are not subject to the jurisdiction of the NEB to dispute resolution by providing written notice to the other Party of its intention to refer the dispute to arbitration ("**Dispute Resolution**"). Except for (a) any dispute that is subject to the jurisdiction of the NEB, and (b) as provided in Section 13.07 hereof, arbitration pursuant to this Article 13 shall be the exclusive remedy for all disputes arising under this Agreement.
- 13.02 All arbitrations conducted hereunder will take place before an arbitrator in Calgary, Alberta. Arbitration will be conducted in accordance with the Arbitration Act except to the extent that the Arbitration Act is inconsistent with or in conflict with any terms of this Article 13. Any other statute that applies to the Dispute Resolution will apply only to the extent that it is not inconsistent with this Article 13. The decision of the arbitrator will be final and binding.
- 13.03 There will be one arbitrator appointed by mutual agreement of the Parties to the dispute. The arbitrator will sign a declaration attesting as to his or her impartiality with respect to the Parties to the dispute and to the dispute. If, after twenty (20) days following the receipt of the notice, the Parties to the dispute have not agreed on the appointment of the arbitrator, the Court will, on application by either Party, appoint the arbitrator. Any person serving as an arbitrator will have training or experience in serving as an arbitrator, and will have legal training if the dispute involves substantive legal issues and will, in any event, be qualified by education and experience to rule on the matters raised by the dispute. Where the mandate of an arbitrator terminates for any reason, a substitute arbitrator will be mutually appointed in accordance with this Section 13.03.

- 13.04 The Parties to the dispute will agree in advance as to the manner in which the arbitrator will hear witnesses and arguments, review documents and otherwise conduct the arbitration procedure. Failing agreement between the Parties to the dispute and within five (5) days from the date of selection of the arbitrator, the arbitrator will set the procedure and promptly commence and expeditiously conduct the arbitration proceedings.
- 13.05 Subject only to the express agreement by the Parties to the dispute to amend the date for decision, the arbitrator will issue a written decision within forty-five (45) days from the date of his or her appointment. The decision of the arbitrator will be final and binding on the Parties, will not be subject to any appeal and will deal with the question of the costs of the arbitration and all other related matters.
- 13.06 If a judgment forms a part of the decision of the arbitrator then any award rendered may be entered in any court having jurisdiction, or application may be made to such court for judicial recognition of the award or an order of enforcement thereof, as the case may be.
- 13.07 Nothing in this Article 13 will prevent a Party to the dispute from applying to a court of competent jurisdiction for equitable relief pending the decision.
- 13.08 Each Party to the dispute will bear its respective costs incurred in connection with the negotiation and arbitration procedures set out in this Article 13. The fees and expenses of the arbitrator and the costs of the facilities required for the arbitration will be awarded at the discretion of the arbitrator.
- 13.09 All information disclosed by a Party in the course of negotiation or arbitration will be treated as confidential and neither the delivery nor disclosure thereof will represent any waiver of privilege by a Party disclosing the same. Each Party agrees to not disclose information provided by the other Party for purposes of this Article 13 to any other Person for any other purpose, and such information cannot be used in any subsequent proceedings without the consent of the Party who has made disclosure of the same hereunder. The Parties agree that any arbitrator appointed hereunder will not be subpoenaed or otherwise compelled as a witness in any proceedings for any purpose whatsoever in relation to any matter that is a subject of the Agreement. Nothing in this Section 13.09 will cause or require a Party to disclose information that is subject to a confidentiality obligation to any third party. Notwithstanding anything in the foregoing to the contrary: (a) a Party shall be permitted to disclose confidential information disclosed to it as aforesaid (i) as required by Applicable Law, (ii) on a confidential basis, to its counsel, professional advisors, directors, officers and employees, and (iii) to the extent required by an arbitrator or as reasonably required for enforcement or interpretation of any provision of this Agreement by the NEB to the extent any dispute under this Agreement is brought to the NEB; and (b) the following shall not be subject to the restrictions provided for in this Section 13.09: (i) any information which is within the public domain at the time of its disclosure to the recipient or which thereafter enters the public domain through no fault of the recipient, but only after such information becomes part of the public domain; (ii) any information (other than the provisions of this Agreement) which the recipient can show was in its possession prior to receipt or acquisition thereof from the other Party and which is not subject to an obligation of confidence; and (iii) any information (other than the provisions of this Agreement) which, following its disclosure

by the other Party to the recipient is received by the recipient without obligation of confidence from a third party who the recipient had no reason to believe was not properly or lawfully in possession of such information free from any obligation of confidence.

**ARTICLE 14
FINANCIAL ASSURANCES**

14.01 At all times when this Agreement is in force, Shipper shall maintain any Financial Assurances required in accordance with the Rules Tariff.

14.02 To the extent permitted by Applicable Law, the Financial Assurances provisions in the Rules Tariff shall be consistent with the following terms:

14.02.1 At all times Shipper shall either:

- (a) maintain a credit rating or ratings for senior unsecured long term debt that are no lower than any of the minimum credit ratings set forth below; or
- (b) if Shipper has at least one credit rating for senior unsecured long term debt that is lower than one of the minimum credit ratings set out below or does not maintain a credit rating for senior unsecured long term debt, Shipper shall have and maintain a guarantee in favor of Carrier, in an amount sufficient to ensure payment of all costs and charges that could reasonably accrue due to Carrier and substantially in the form attached hereto as Schedule F or otherwise in form and substance acceptable to Carrier in its sole discretion, from a guarantor that is credit rated and has no credit ratings that are lower than any of the minimum credit ratings set out below and that either is a direct or indirect parent of Shipper at the time such guarantee is delivered to Carrier or provides a legal opinion to Carrier confirming the enforceability of such guarantee, from an issuer and in form and substance acceptable to Carrier (the “**Guarantee**”):

<u>Agency</u>	<u>Minimum Credit Rating</u>
Moody’s Investor Services	Baa3
Standard & Poor’s	BBB-
Dominion Bond Rating Service	BBB (low)

14.02.2 If Carrier reasonably determines that:

- (a) Shipper’s credit rating has fallen below one or more of the minimum credit ratings set forth above, or has otherwise become impaired or unsatisfactory; or
- (b) if the Guarantee required in accordance with Section 14.02.1(b) hereof no longer provides adequate security for the performance of Shipper’s obligations arising from the transportation of Diluent under this Agreement or the Rules Tariff or the credit

rating of the guarantor falls below one or more of the minimum credit ratings set forth in Section 14.02.1(b),

then Shipper shall, within ten (10) Business Days after written notice from Carrier, deliver to Carrier one or more of the following Financial Assurances, as selected by Carrier, for payment of all charges and costs as provided for in this tariff, or otherwise lawfully due to Carrier:

- (i) prepayment of an amount equal to the product of (i) the Committed Volume, multiplied by (ii) 365, multiplied by (iii) the Committed Toll;
- (ii) a letter of credit in favor of Carrier in an amount equal to the product of (i) the Committed Volume, multiplied by (ii) 365, multiplied by (iii) the Committed Toll, such letter of credit to allow Carrier to demand full or partial payment thereunder in the event of a Shipper Default; and/or
- (iii) another Guarantee in an amount sufficient to ensure payment of all costs and charges that could reasonably accrue due to Carrier, in a form and from a third party acceptable to Carrier

(the “**Financial Assurances**”).

Carrier shall not be obligated to accept Diluent for transportation from Shipper if Shipper fails to deliver the Financial Assurances to Carrier within ten (10) Business Days of Shipper’s receipt of Carrier’s written request for such Financial Assurances.

For so long as Shipper or the guarantor maintains at least a credit rating for senior unsecured long term debt from at least one of the rating agencies set forth above and no such credit rating has fallen below one or more of the minimum credit ratings set forth above, then Carrier shall not be entitled to require any prepayment, posting of a letter of credit or another Guarantee if and for so long as Shipper or the guarantor has a credit rating no lower than Baal (Moody’s), BBB+ (Standard & Poors) or BBB (high) (Dominion) from any of the above rating agencies.

14.02.3 If Section 14.02.1 hereof is not satisfied or if required Financial Assurances are not provided in accordance with Section 14.02.2 hereof, upon the request of Carrier, Shipper (if not a publicly held company) shall provide information to Carrier that will allow Carrier to determine Shipper’s capacity to perform any financial obligations that could arise from the transportation of Shipper’s Diluent under the terms of this Agreement and the Rules Tariff, including the payment of transportation charges, equalization obligations and the value of the negative Shipper’s balance positions. If Shipper is not a publicly traded company, Carrier shall not be obligated to accept Diluent for transportation from Shipper if Shipper fails to provide the requested information to Carrier within ten (10) Business Days of Carrier’s written request, or if Carrier’s review of the requested information

reveals that Shipper does not have the capacity to perform any financial obligations that could arise from the transportation of Shipper's Diluent under the terms of this Agreement and the Rules Tariff, including the payment of transportation charges, equalization obligations and negative Shipper's balance positions.

ARTICLE 15
RESTRICTIONS ON PUBLICITY; CONFIDENTIALITY

- 15.01 Except as required by Applicable Law, Shipper shall not release or cause or permit to be released to the public any press notices, publicity (oral or written) or advertising promotion relating to, or otherwise publicly announce or disclose or cause or permit to be publicly announced or disclosed, in any manner whatsoever, the terms, conditions or substance of this Agreement or the transactions contemplated herein.
- 15.02 Carrier hereby agrees that, except as required by Applicable Law, it shall not disclose or cause or permit to be disclosed to third parties (other than Carrier's counsel, directors, officers, employees and/or consultants on a need to know basis) the specific Committed Volume of Shipper; provided that nothing in the foregoing shall restrict disclosure of the total committed volumes of all Committed Shippers or the individual Committed Volume of Shipper on an unattributed basis.
- 15.03 The provisions of this Article 15 shall survive any termination of this Agreement.

ARTICLE 16
EFFECT OF AGREEMENT

- 16.01 This Agreement shall inure to the benefit of and be binding upon each of the Parties and their permitted successors and assigns. This Agreement and its Schedules constitute the entire agreement and understanding between the Parties with respect to the subject matter hereof and thereof, supersede all prior agreements and understandings with respect thereto, and may be amended, restated or supplemented only by written agreement of the Parties. Notwithstanding the foregoing, the Toll Schedules and Rules Tariff are subject to amendment by Carrier from time to time subject to Section 14.02 hereof and Applicable Law.

ARTICLE 17
FURTHER ASSURANCES

- 17.01 From time to time, as and when reasonably requested by either Party, the other Party will execute and deliver or cause to be executed and delivered all such documents and instruments and will take or cause to be taken further or other actions to implement or give effect to this Agreement, provided such documents, instruments or actions are consistent with the provisions of this Agreement and accepted industry practice. All such further documents, instruments or actions will be delivered or taken at no additional consideration other than reimbursement of any expenses reasonably incurred by the Party providing such further documents or instruments or performing such further acts, by the Party at whose request such documents or instruments were delivered or acts performed.

**ARTICLE 18
WAIVER**

18.01 The waiver by any Party of a breach or violation of any provision of this Agreement will not operate as or be construed as a waiver of any subsequent breach or violation hereof.

**ARTICLE 19
ESTIMATES**

19.01 Any estimates given in the Schedules to this Agreement are not binding on Carrier and Carrier will not be liable to Shipper for any inaccuracy of any estimate in such Schedules.

**ARTICLE 20
GOVERNING LAW**

20.01 This Agreement is intended by the Parties to be interpreted and implemented in accordance with the laws of the Province of Alberta without giving effect to the conflict of law rules thereof.

**ARTICLE 21
NO DRAFTING PRESUMPTION**

21.01 No presumption will operate in favour of or against any Party as a result of any responsibility that any Party may have had for drafting this Agreement.

**ARTICLE 22
SEVERABILITY**

22.01 If any of the provisions of this Agreement are found to be invalid, illegal or unenforceable in any respect, the validity, legality or enforceability of the remaining provisions contained herein will not be affected or impaired in any way.

**ARTICLE 23
COUNTERPARTS**

23.01 This Agreement may be executed in multiple counterparts, each of which will be deemed an original and all of which will constitute one and the same instrument.

**ARTICLE 24
ASSIGNMENT**

24.01 No assignment or transfer by Shipper of any or all of its rights and obligations under this Agreement will be made without the prior written consent of Carrier, which consent will not be unreasonably withheld. No such consent will be required if the assignee is an Affiliate of Shipper, provided Shipper continues to be bound by all of its rights and obligations under this Agreement and such Affiliate agrees to be bound by all of the restrictions in this Agreement, including the restrictions in this Section 24.01. Shipper shall not be entitled to assign, and Carrier shall have no obligation to consent to an assignment of, (a) any or all of

Shipper's rights and obligations for a period that is or may be less than the full remaining Term, or (b) Shipper's rights and obligations with respect to a portion of the Committed Volume (that is less than the entire Committed Volume) if either the portion of the Committed Volume to be assigned to the assignee, or the portion of the Committed Volume to be retained by Shipper, is less than 5,000 barrels per day. Further, Carrier shall, without limitation, be deemed reasonable in refusing its consent to assignment if the assignee or transferee fails to satisfy Section 14.02.1 hereof.

- 24.02 Carrier agrees to release Shipper from all of its rights and obligations under this Agreement if: (a) such obligations have been assumed by the assignee and (b) the assignee demonstrates to the satisfaction of Carrier, in Carrier's sole discretion, that it is capable of performing the obligations of Shipper under this Agreement, including meeting and maintaining the Financial Assurances requirements of Carrier.
- 24.03 Carrier will be entitled to assign this Agreement or any or all of its rights and obligations hereunder without restriction to any Person, including a subsidiary or other Affiliate of Carrier; provided that no such assignment will release Carrier from any of its rights and obligations under this Agreement unless Shipper consents to such release, such consent not to be unreasonably withheld.
- 24.04 Without limiting the generality of Section 24.03 hereof, Carrier will be entitled, without restriction, to make one or more assignments of this Agreement and/or any or all of its rights and benefits hereunder to or for the benefit of any and all lenders, indenture trustees or agents or trustees for any such lenders, trustees or holders of bonds, debentures, notes or other evidences of indebtedness (collectively, the "**Financing Parties**"), or grant to any and all Financing Parties a lien on or security interest in any right, title or interest in all or any part of Carrier's rights hereunder for the purpose of the financing or successive refinancing of the Diluent Pipeline; provided, however, that such assignment shall recognize Shipper's rights under this Agreement so long as Shipper is not in default under this Agreement. In order to facilitate the obtaining of financing or successive refinancing of the Diluent Pipeline, Shipper shall cooperate with Carrier and shall execute and deliver such consents, acknowledgements, agreements or similar documents as may be reasonably requested by any Financing Party with respect thereto, including agreeing to provide copies of any Default Notice given by Shipper hereunder to the Financing Party and according to the Financing Party a reasonable opportunity to cure any default by Carrier including time to obtain possession or control of the Diluent Pipeline, if necessary to effect a cure, and in the case of the bankruptcy or insolvency of Carrier, a reasonable opportunity to make alternative arrangements such that Shipper will continue to receive Services on the Diluent Pipeline substantially in accordance with the terms hereof notwithstanding such bankruptcy or insolvency.

ARTICLE 25
INDEPENDENT CONTRACTOR STATUS; NO THIRD
PARTY BENEFICIARIES

- 25.01 Should either Party perform work for the other pursuant to this Agreement, it will perform such work as an independent contractor and will not be deemed to be an agent of the other.

25.02 It is expressly understood that the provisions of this Agreement do not impart enforceable rights in anyone who is not a Party or a successor or permitted assign of a Party hereto.

ARTICLE 26
NOTICES

26.01 All notices provided for in this Agreement will be sent by personal service, prepaid registered post, prepaid courier service or by facsimile and will be deemed received when delivery or reception of the transmission is complete except that, if such delivery or transmission is on any day other than a Business Day, or on or after 4:00 pm Calgary local time, such notice will be deemed to be received on the next Business Day:

If to Carrier:

Enbridge Southern Lights LP
c/o Enbridge Pipelines Inc.
3000, 425 – 1st Street SW
Calgary, AB T2P 3L8
Attention: President
Telephone: (403) 231-5915
Fax No.: (403) 266-7963

If to Shipper:

As set forth in Schedule A

A Party may, from time to time, change its address for notices or its fax number by giving written notice of such change to the other Party.

ARTICLE 27
SURVIVAL OF ACCRUED LIABILITIES

27.01 Notwithstanding the termination of this Agreement for any reason, each Party will be liable for all of its accrued obligations hereunder up to and including the date on which the termination becomes effective.

ARTICLE 28
INTERPRETATION

28.01 Unless otherwise expressly specified herein, (i) defined terms in the singular will also include the plural and vice versa, (ii) the words “hereof”, “herein”, “hereunder” and other similar words refer to this Agreement as a whole, (iii) Article, Section and Schedule references in this Agreement are to Articles and Sections of or Schedules to this Agreement, and (iv) words of any gender (masculine, feminine, neuter) mean and include correlative words of the other genders.

28.02 The captions in this Agreement are for convenience only and will not in any way affect the meaning or construction of any provision of this Agreement.

28.03 Unless the context otherwise requires, “including” means “including without limitation”.

ARTICLE 29
SUPPORT FOR TOLLS

29.01 Each of the Parties acknowledges and agrees that this Agreement, including the Toll Principles, are the result of good faith, arm’s length negotiations which have resulted in an agreement that is fair and equitable to Carrier and all shippers.

- 29.02 Shipper hereby agrees at its own cost: (a) to support Carrier's applications for necessary certificates, approvals, authorizations, and permits of the NEB and other Governmental Authorities in relation to the Diluent Pipeline and/or the Toll Principles; and (b) to support the Rules Tariff in the form attached as Schedule C in any and all regulatory proceedings relating thereto. Carrier hereby agrees to support all of the foregoing applications and, without limiting Carrier's right to amend the Rules Tariff from time to time subject to Section 14.02 hereof and Applicable Law, the Rules Tariff.
- 29.03 Each of the Parties further acknowledges that the setting of tolls for the Diluent Pipeline is subject to the approval of, and potential modification by, the NEB, from time to time, and each of the Parties hereby agrees not to, directly or indirectly, commence or support any application, motion or other proceeding (a "**Toll Revision Proceeding**") before the NEB for the purpose of requesting the NEB to set tolls for the Diluent Pipeline which are inconsistent with the tolls contemplated by the Toll Principles and this Agreement.
- 29.04 In the event of any Toll Revision Proceeding being commenced by a third party or by the NEB itself, and in the event of any other proceedings pursuant to which the tolls for the Diluent Pipeline may be reviewed by the NEB or other Governmental Authority having jurisdiction, each of the Parties agrees to support the setting of tolls for the Diluent Pipeline that are consistent with the Toll Principles and this Agreement.

ARTICLE 30 REVERSAL

- 30.01 Carrier hereby agrees to use commercially reasonable efforts to comply with a request by all of the Committed Shippers for a reversal of the Diluent Pipeline (including the transportation of crude oil instead of Diluent), provided that all of the following conditions are satisfied or Carrier reasonably believes will be satisfied:
- (a) Such request for a reversal of the Diluent Pipeline shall be the unanimous, unambiguous, unconditional and irrevocable request by all of the Committed Shippers;
 - (b) All certificates, approvals, authorizations and permits of the NEB and all other Governmental Authorities in relation to the reversal of the Diluent Pipeline and the Southern Lights U.S. Diluent Pipeline and any change in the product to be transported, shall be issued and shall be in form and substance acceptable to Carrier and Southern Lights U.S., in their respective sole discretion;
 - (c) All of the Committed Shippers shall hold Carrier harmless for all of the costs and expenses of the reversal of the Diluent Pipeline and any change in product to be transported, and shall provide such security for such costs and expenses as Carrier shall consider acceptable in its sole discretion;
 - (d) The Toll Principles shall remain in effect, with such changes as shall be required to hold Carrier harmless from the impact of the reversal of the Diluent Pipeline and any change in product to be transported;

- (e) Carrier and all of the Committed Shippers shall have agreed, in their respective discretion, on all other terms and conditions of such requested reversal of the Diluent Pipeline and any change in product to be transported; and
- (f) Southern Lights U.S. and all of the committed shippers with respect to the Southern Lights U.S. Diluent Pipeline shall have agreed, in their respective discretion, on all other terms and conditions of such requested reversal of the Southern Lights U.S. Diluent Pipeline and any change in product to be transported.

IN WITNESS WHEREOF, this Agreement is executed on the dates set forth below the respective execution lines, but effective as of the Effective Date.

By: _____
Name:
Title:

ENBRIDGE SOUTHERN LIGHTS LP, by its general partner ENBRIDGE SOUTHERN LIGHTS GP INC.

By: _____
Name:
Title:

By: _____
Name:
Title:

Schedule "A"

Shipper's Commencement Date and Committed Volume

1. Shipper's Name:
2. Shipper's Shipper Commencement Date and Committed Volume is:

<u>Available Shipper Commencement Dates/Increase Dates</u>	<u>Total Committed Volume in bpd*</u>
N January 1, 2013	
April 1, 2013	
July 1, 2013	
October 1, 2013	
January 1, 2014	
April 1, 2014	
July 1, 2014	

* Shipper may select a fixed Committed Volume by inserting that fixed Committed Volume (which must be at least 5,000 bpd) beside its selected Shipper Commencement Date above.

Alternatively, Shipper may select a Committed Volume that is at least 5,000 bpd initially and increases in increments of not less than 5,000 bpd effective as of one or more of Increase Dates (after the Shipper Commencement Date) set forth above, by inserting its initial Committed Volume beside a Shipper Commencement Date above and each increased total Committed Volume beside the relevant Increase Date above.

3. Shipper's Contact Information:

Address: _____

Contact: _____
Telephone: _____
Fax: _____
Email Address: _____

Schedule “B”

Toll Principles for the Southern Lights Diluent Pipeline

1. Tolls

- (a) The tolls payable for Committed Volumes will be the Committed Tolls and the tolls payable for Uncommitted Volumes will be the Uncommitted Tolls.
- (b) The Committed Tolls and the Uncommitted Tolls will be determined as provided for in these Toll Principles for the Term. The tolls are designed and intended to recover all capital and operating costs prudently incurred by Carrier and Enbridge in order to enable Carrier to provide the Services, including:
 - (i) costs incurred with respect to the transfer of Enbridge’s Line 13 crude oil pipeline (“**Line 13**”) to Carrier and the costs of modifications to Line 13 in order to convert same for use as the Diluent Pipeline;
 - (ii) the ongoing costs of ownership and operation of the Diluent Pipeline;
 - (iii) the costs of construction of the Mainline Expansion; and
 - (iv) incremental power and drag reducing agent costs incurred by Enbridge on its mainline crude oil system as a result of transferring Line 13 to Carrier and replacing the capacity of Line 13 with the Mainline Expansion.
- (c) For purposes of determining tolls hereunder, certain costs and expenses shall be deemed to have been incurred by Carrier irrespective of whether such costs are actually incurred by Carrier or by Enbridge, as hereinafter provided.

2. Rate Base

For the purposes of these Toll Principles, the term “**Rate Base**” shall mean, collectively, all Capital Costs, AFUDC, Miscellaneous Capital Costs, Allowance for Working Capital and Other Recoverables, less the cumulative amount of Depreciation, to which the capital structure will be applied for calculation of the Equity Return and Cost of Debt.

3. Capital Costs

All costs incurred by Carrier and Enbridge in seeking and obtaining regulatory approval for and in the development, design, procurement, installation, construction and commissioning of the Diluent Pipeline and the Mainline Expansion (the “**Capital Costs**”) have been capitalized and included in the Rate Base, including without limitation:

- (a) development costs incurred by Carrier and Enbridge to secure commercial support for the Diluent Pipeline and the Mainline Expansion and for design work,

engineering, environmental assessments, stakeholder consultation and regulatory filings and proceedings with respect thereto;

- (b) all costs incurred by Carrier and Enbridge with respect to the transfer of Line 13 to Carrier;
- (c) all costs incurred by Carrier with respect to the modifications to Line 13 to convert same for use as the Diluent Pipeline;
- (d) all costs incurred by Carrier and Enbridge with respect to the construction of the Mainline Expansion; and
- (e) all standby, commitment and credit facility fees incurred by Carrier in connection with debt financing of the costs of the Diluent Pipeline and the Mainline Expansion.

4. Allowance for Funds Used During Construction

An allowance for funds used during construction (“**AFUDC**”) has been calculated by multiplying the Capital Costs and the Miscellaneous Capital Costs, as applicable, by a rate equal to Carrier’s weighted average cost of capital based on Carrier’s capital structure (determined in accordance with Section 8 of this Schedule B), the base annual rate of return on equity of 12% and the Project Debt Interest Rate (as defined in Section 10 of this Schedule B), and such allowance has been capitalized and included in the Rate Base.

5. Miscellaneous Capital Costs

All additional capital costs incurred by Carrier in respect of the Diluent Pipeline on an ongoing basis in addition to the Capital Costs will be capitalized and included in the Rate Base (the “**Miscellaneous Capital Costs**”), including without limitation, those maintenance and repair expenditures that are attributable to and capitalized as the replacement of equipment or plant, as allowed under the Oil Pipeline Uniform Accounting Regulations under the National Energy Board Act.

6. Allowance for Working Capital

An amount equal to one twelfth (1/12) of the annual Operating Expenses as an allowance for working capital (“**Allowance for Working Capital**”) will be included in the Rate Base.

7. Other Recoverables

All other costs and amounts (“**Other Recoverables**”) that are in addition to the Capital Costs, the recovery of which is approved or required by the NEB will be included in the Rate Base.

8. Capital Structure

The capital structure will be a deemed capital structure consisting of 30% equity and 70% debt.

9. Equity Return

The fixed annual rate of return on 30% of the Rate Base will be 10% (the “**Equity Return**”).

10. Cost of Debt

The annual interest rate on 70% of the Rate Base (the “**Project Debt Interest Rate**”) will be the weighted average of the market based interest rates borne by Carrier in connection with debt financing of the Capital Costs, taking into account applicable transaction costs and the impact of any interest rate hedging costs or related settlement amounts, if applicable (such annual cost rate on debt multiplied by 70% of the Rate Base being the “**Cost of Debt**”).

11. Depreciation

In calculating annual depreciation expense (“**Depreciation**”) Carrier will use, in each Year of the Term, the depreciation rates set out in the schedule that is attached to the TSA as Schedule “D”, and such depreciation rates shall be applied to all costs included in the Rate Base except for the Allowance for Working Capital.

12. Income Tax Allowance

An allowance for federal and provincial income taxes (the “**Income Tax Allowance**”) will be based on the applicable earnings amount, statutory tax rates, large corporations tax, the flow through methodology for accounting for income taxes and the applicable permanent and timing differences, appropriately adjusted to a before tax amount, on an actual or forecast basis, as applicable. The Income Tax Allowance will be based on the following assumptions and provisions:

- (a) Carrier is deemed to be a standalone taxable corporation that is liable for all applicable federal and provincial income taxes;
- (b) the ownership and operation of the Diluent Pipeline is the sole business and undertaking of Carrier carrying on business in Alberta, Saskatchewan and Manitoba;
- (c) all income tax deductions and credits associated with Capital Costs and Miscellaneous Capital Costs will be deemed to be calculated at the maximum rate possible under Applicable Law and, to the extent Carrier has realized a deemed loss from claiming these deductions, the loss will be deemed to be carried forward;
- (d) Carrier will utilize the Equity Return as determined in accordance with Section 9 above; and
- (e) Carrier will be deemed to have deducted all Operating Expenses to the maximum extent permitted under Applicable Law.

13. Operating Expenses

All of the following costs will be recovered as operating expenses (“**Operating Expenses**”) namely:

- (a) all costs incurred by Carrier to operate and maintain the Diluent Pipeline will be recovered as operating expenses, including without limitation all external and internal costs incurred by Carrier in the operation, maintenance and repair of the Diluent Pipeline (and not otherwise capitalized as part of Capital Costs or Miscellaneous Capital Costs) including salaries and wages, employee benefits and pension costs, insurance costs, general and administrative expenses and Power Costs;
- (b) incremental power and drag reducing agent costs incurred by Enbridge on its mainline pipeline system as a result of Carrier acquiring Line 13, and Enbridge replacing the capacity of Line 13 with the Mainline Expansion, as approved by the NEB; and
- (c) all other expenses approved to be recovered or required to be recovered by the NEB, and all municipal, property, capital and other taxes other than federal and provincial income taxes.

14. Determination of Committed Toll and Uncommitted Toll

- (a) The Committed Toll and the Uncommitted Toll for each Year will, subject to the year end adjustment set out in paragraph (b) below, be determined as follows:
 - (i) in the case of the Committed Toll, by dividing Carrier’s estimated total cost of service for such Year (the estimated total cost of service for such Year being the sum of the estimated Equity Return, Cost of Debt, Depreciation, Income Tax Allowance and Operating Expenses for such Year based on the assumption that all Committed Volumes are transported from the Receiving Point to Edmonton) by the aggregate of the Committed Volumes of all Committed Shippers for such Year; and
 - (ii) in the case of the Uncommitted Toll, by multiplying the Committed Toll as determined in (i) above by 2.0.¹
- (b) Carrier will:

¹ It shall be an over-arching principle that, to the extent permitted by Applicable Law, the ratio of Uncommitted Rate to Committed Rate, before and after any year end adjustment, shall each be 2:1, as provided for in Paragraph 14(c).

- (i) as soon as reasonably practicable after the end of the Year which is immediately after the Year in which the In-Service Date occurs, calculate and recover from or refund to each Shipper, as the case may be, the Total Adjusted Differential for such Shipper for the period from the In-Service Date to the December 31 next following the In-Service Date and the Total Adjusted Differential for such Shipper for the Year which is immediately after the Year in which the In-Service Date occurs;
 - (ii) as soon as reasonably practicable after the end of each Year thereafter calculate and recover from or refund to each Shipper, as the case may be, the Total Adjusted Differential for such Shipper for such Year; and
 - (iii) if a Committed Shipper has executed more than one TSA, a barrel of Diluent shipped by such Committed Shipper will be used one time for purposes of calculating the Total Adjusted Differential for such Year, based on the priority set forth in Section 3.02 of the TSA.
- (c) For the purposes of this Section 14:
- (i) “**Shipper**” means a Committed Shipper and any shipper that is not a Committed Shipper;
 - (ii) “**Power Costs**” means all costs associated with drag reducing agent, natural gas, diesel and other fuels, electrical power, utility ratchet charges, and any and all other energy or flow enhancement costs incurred to transport commodities through the Diluent Pipeline;
 - (iii) “**Power Cost Savings**” means, in respect of any Year, and in respect of each Regular Delivery Point other than Edmonton, an amount deemed to be equal to the actual Power Costs per barrel applicable to the segment of the Diluent Pipeline that is not utilized in transporting Diluent to such Regular Delivery Point;
 - (iv) “**Power Cost Savings Amount**” means, in respect of each Shipper transporting Diluent to one or more Regular Delivery Points other than Edmonton in any Year, the number of barrels of Diluent transported by such Shipper to each such Regular Delivery Point multiplied by the applicable Power Cost Savings for deliveries to such Regular Delivery Point;
 - (v) “**Actual Cost of Service**” means, in respect of any Year, the sum of Carrier’s actual total cost of service for such Year (the actual total cost of service for such Year being the sum of the Equity Return, Cost of Debt, Depreciation and Income Tax Allowance for such Year based on the Rate Base for such Year and the Operating Expenses for such Year);
 - (vi) “**Actual Revenue**” means, in respect of any Year, the sum, before taking into account the year end adjustment in Section 14(b) above, of (A) all

revenue, net of all Power Cost Savings Amounts, received by Carrier in relation to Committed Volumes for such Year, plus (B) 100% of all revenue received by Carrier for transporting Uncommitted Volumes (net of all Committed Volume Credits paid to Committed Shippers pursuant to Section 16 below) up to the positive difference, if any, of (i) 162,000 barrels per day less (ii) the aggregate committed volumes, including the aggregate committed volumes of any Expansion Committed Shippers (collectively, the “**Aggregate Committed Volumes**”), plus (but only if Actual Shipments of Uncommitted Volumes and the Aggregate Committed Volumes exceed 162,000 barrels per day in the aggregate) (C) 75% of all revenue received by Carrier for transporting Uncommitted Volumes, other than Uncommitted Volumes addressed in (B) above (net of all Committed Volume Credits paid to Committed Shippers pursuant to Section 16 below). For example, if the Aggregate Committed Volumes for the year are 150,000 barrels per day, and Actual Shipments of Uncommitted Volumes are 20,000 barrels per day, then (B) above applies to 12,000 barrels per day of Uncommitted Volumes, and (C) above applies to the remaining 8,000 barrels per day of Uncommitted Volumes;

- (vii) “**Differential Amount**” means, in respect of any Year, the Actual Revenue for such Year minus the Actual Cost of Service for such Year;
- (viii) “**Differential**” means, in respect of any Year, the Differential Amount for such Year divided by the sum of (A) the Aggregate Committed Volumes transported on the Diluent Pipeline during such Year or for which a Monthly Deficiency Payment was paid, plus (B) 200% of the aggregate Uncommitted Volumes transported on the Diluent Pipeline during such Year;
- (ix) “**Revenue Adjustment**” means, in respect of each Shipper transporting Diluent on the Diluent Pipeline in any Year, (A) the Differential for such Year multiplied by the Aggregate Committed Volumes transported on the Diluent Pipeline during such Year by such Shipper or for which a Monthly Deficiency Payment was paid by such Shipper, if any, after applying Section 3.02 of the TSA, if applicable, plus (B) the Differential for such Year multiplied by 200% of the Uncommitted Volumes transported on the Diluent Pipeline by such Shipper during such Year, if any, after applying Section 3.02 of the TSA, if applicable;
- (x) “**Total Adjusted Differential**” means, in respect of each Shipper transporting Diluent on the Diluent Pipeline in any Year, the sum of the Power Cost Savings Amount for such Shipper for such Year and the Revenue Adjustment for such Shipper for such Year, after applying Section 3.02 of the TSA, if applicable.

15. Carrier Incentive

Except as provided in Paragraph 14(c)(vi) above, Carrier will be entitled to retain for its own account 25% of all revenues received by Carrier for transporting Uncommitted Volumes (net of all Committed Volume Credits paid to Committed Shippers pursuant to Section 16 below) and, for greater certainty, such revenues shall not be taken into consideration in determining the Carrier's Equity Return for any Year.

16. Committed Volume Credits

Carrier will, as soon as reasonably practicable after the end of each Year, pay to each Committed Shipper an amount (the "**Committed Volume Credit**"), if any, equal to the product obtained by multiplying (i) the Uncommitted Toll for such Year as determined pursuant to Section 14(a)(ii) above and before taking into account the year end adjustment in Section 14(b) above, by (ii) the lesser of (A) the number of barrels of Diluent in respect of which such Committed Shipper paid a Monthly Deficiency Payment for such Year (excluding any barrels in respect of which such Committed Shipper made payments under Section 7.05 of its TSA) and (B) the number of barrels of Diluent for which such Committed Shipper paid the Uncommitted Toll for such Year, after applying Section 3.02 of the TSA, if applicable.

17. Changes to Generally Accepted Accounting Principles

Carrier's tolls will be adjusted to reflect any changes in costs during the Term resulting from changes to Generally Accepted Accounting Principles or any changes in applicable accounting standards or the application thereof to Carrier, the Diluent Pipeline, or the Mainline Expansion.

18. Regulatory Approval

Implementation of the Committed Tolls and the Uncommitted Tolls in accordance with these Toll Principles is subject to the approval of the NEB.

19. Interpretation

Capitalized terms used herein have the meaning given to them in these Toll Principles or in the TSA.

20. Fiscal Period

For the purposes of determining Carrier's tolls hereunder, all fiscal periods will be calendar years, with the exception of the period commencing on January 1 of the Year in which the Term ends, which will end on the Term ending date.

Schedule “C”

**Current Rules and Regulations Tariff
for the Southern Lights Diluent Pipeline**

[SEE ATTACHED]

Schedule "D"

Depreciation Schedule
Annual Percentage Depreciation

<u>Year of</u> <u>Operation</u>	<u>Annual Percentage</u>
July 1, 2010 – June 30, 2011	1.53
July 1, 2011 – June 30, 2012	1.91
July 1, 2012 – June 30, 2013	2.28
July 1, 2013 – June 30, 2014	2.74
July 1, 2014 – June 30, 2015	3.14
July 1, 2015 – June 30, 2016	3.66
July 1, 2016 – June 30, 2017	4.19
July 1, 2017 – June 30, 2018	4.84
July 1, 2018 – June 30, 2019	5.43
July 1, 2019 – June 30, 2020	4.11
July 1, 2020 – June 30, 2021	4.47
July 1, 2021 – June 30, 2022	4.83
July 1, 2022 – June 30, 2023	5.18
July 1, 2023 – June 30, 2024	5.61
July 1, 2024 – June 30, 2025	6.08
July 1, 2025 – June 30, 2026	2.67
July 1, 2026 – June 30, 2027	2.67

Schedule "E"

**Monthly Deficiency Payment, Committed Volume Credit and
Total Adjusted Differential**

Illustration and Example

For Illustrative Purposes Only

Pipeline Segments: Canada/US Border to Hardisty = (BD-YP)
Hardisty to Edmonton = (YP-EP)

I. EXAMPLE ASSUMPTIONS

Volume Summary (One Year Period – kbpd)

Shipper	Committed Volumes	Actual Vols BD - YP	Actual Vols YP - EP	Uncommitted Volumes	Deficiency Volumes
A	50.0	45.0	35.0	0.0	5.0
B	27.0	34.0	34.0	10.0	3.0
C	40.0	40.0	40.0	10.0	10.0
D	0.0	30.0	30.0	30.0	0.0
Total	117.0	149.0	139.0	50.0	18.0

Shipper A – Volume Detail

<u>Shipper A – Volume Detail - kbbls</u>	Jan	Feb	Mar	Apr	May	Jun
Committed Volume per day	50	50	50	50	50	50
Committed Volume	1,550	1,450	1,550	1,500	1,550	1,500
Actual Shipments	1,550	1,450	1,240	1,200	1,085	1,200
Monthly Deficiency Quantity	0	0	310	300	465	300
Uncommitted Volume	0	0	0	0	0	0
Deliveries to Hardisty	310	290	310	300	310	300

<u>Shipper A – Volume Detail - kbbls</u>	Jul	Aug	Sep	Oct	Nov	Dec	Total
Committed Volume per day	50	50	50	50	50	50	50
Committed Volume	1,550	1,550	1,500	1,550	1,500	1,550	18,300
Actual Shipments	1,395	1,250	1,500	1,550	1,500	1,550	16,470
Monthly Deficiency Quantity	155	300	0	0	0	0	1,830
Uncommitted Volume	0	0	0	0	0	0	0
Deliveries to Hardisty	310	310	300	310	300	310	3,660

Shipper B – Volume Detail

<u>Shipper B – Volume Detail - kbbls</u>	Jan	Feb	Mar	Apr	May	Jun
Committed Volume per day	27	27	27	27	27	27
Committed Volume	837	783	837	810	837	810
Actual Shipments	837	580	620	450	519	810
Monthly Deficiency Quantity	0	203	217	360	318	0
Uncommitted Volume	0	0	0	0	0	0
Deliveries to Hardisty	0	0	0	0	0	0

<u>Shipper B – Volume Detail - kbbls</u>	Jul	Aug	Sep	Oct	Nov	Dec	Total
Committed Volume per day	27	27	27	27	27	27	27
Committed Volume	837	837	810	837	810	837	9,882
Actual Shipments	1240	1395	1500	1705	1650	1138	12,444
Monthly Deficiency Quantity	0	0	0	0	0	0	1,098
Uncommitted Volume	403	558	690	868	840	301	3,660
Deliveries to Hardisty	0	0	0	0	0	0	0

Shipper C – Volume Detail

<u>Shipper C – Volume Detail - kbbls</u>	Jan	Feb	Mar	Apr	May	Jun
Committed Volume per day	40	40	40	40	40	40
Committed Volume	1,240	1,160	1,240	1,200	1,240	1,200
Actual Shipments	620	580	620	600	620	580
Monthly Deficiency Quantity	620	580	620	600	620	620
Uncommitted Volume	0	0	0	0	0	0
Deliveries to Hardisty	0	0	0	0	0	0

<u>Shipper C – Volume Detail - kbbls</u>	Jul	Aug	Sep	Oct	Nov	Dec	Total
Committed Volume per day	40	40	40	40	40	40	40
Committed Volume	1,240	1,240	1,200	1,240	1,200	1,240	14,640
Actual Shipments	1,860	1,820	1,820	1,840	1,820	1,860	14,640
Monthly Deficiency Quantity	0	0	0	0	0	0	3,660
Uncommitted Volume	620	580	620	600	620	620	3,660
Deliveries to Hardisty	0	0	0	0	0	0	0

Shipper D – Volume Detail

<u>Shipper D – Volume Detail - kbbls</u>	Jan	Feb	Mar	Apr	May	Jun
Committed Volume per day	0	0	0	0	0	0
Committed Volume	0	0	0	0	0	0
Actual Shipments	930	870	930	900	930	900
Monthly Deficiency Quantity	0	0	0	0	0	0
Uncommitted Volume	930	870	930	900	930	900
Deliveries to Hardisty	0	0	0	0	0	0

<u>Shipper D – Volume Detail - kbbls</u>	Jul	Aug	Sep	Oct	Nov	Dec	Total
Committed Volume per day	0	0	0	0	0	0	0
Committed Volume	0	0	0	0	0	0	0
Actual Shipments	930	930	900	930	900	930	10,980
Monthly Deficiency Quantity	0	0	0	0	0	0	0
Uncommitted Volume	930	930	900	930	900	930	10,980
Deliveries to Hardisty	0	0	0	0	0	0	0

2012 Tolls (\$/bbl)

Committed \$2.440

Uncommitted \$4.880

Power Costs (\$000/day)

	Forecast		Actuals	
	BD-YP	YP-EP	BD-YP	YP-EP
Total Power Cost (\$000)	\$ 7.61	\$ 1.73	\$ 22.83	\$ 5.20
Power cost (\$/bbl)	\$ 0.099	\$ 0.023	\$ 0.153	\$ 0.035

Cost of Service (\$000/day)

	Forecast	Actual*
Capital Related	\$ 118.71	\$ 118.71
Operating	\$ 59.80	\$ 56.81
Power	\$ 9.34	\$ 28.03
Total	\$ 187.85	\$ 203.55

* For this illustration and example a reduction of 5% in the operating costs is assumed and Power is adjusted for transporting 149,000 bbls per day

II. MONTHLY DEFICIENCY PAYMENT

1. Monthly Deficiency Payment (TSA Article 6) – Shipper A

a. Monthly Deficiency Payment for Shipper A for March

i. Calculate Monthly Deficiency Quantity (Section 6.02)

= (Committed Vol (kbpd) * Days in Month) – Actual Shipments in Month

= (50 kbpd * 31 days) – 1,240 kbbls

= 1,550 kbbls – 1,240 kbbls

= 310 kbbls

ii. Calculate Monthly Deficiency Payment (Section 6.01)

= Monthly Deficiency Quantity * Committed Rate

= 310 kbbls * \$2,440/bbl

= \$756.40 k

b. Monthly Deficiency Payment for Shipper A for April

i. Calculate Monthly Deficiency Quantity (Section 6.02)

= (Committed Vol (kbpd) * Days in Month) – Actual Shipments in Month

= (50 kbpd * 30 days) – 1,200 kbbls

= 1,500 kbbls – 1,200 kbbls

= 300 kbbls

ii. Calculate Monthly Deficiency Payment (Section 6.01)

= Monthly Deficiency Quantity * Committed Rate

= 300 kbbls * \$2,440/bbl

= \$732.00 k

c. Monthly Deficiency Payment for Shipper A for May

i. Calculate Monthly Deficiency Quantity (Section 6.02)

= (Committed Vol (kbpd) * Days in Month) – Actual Shipments in Month

$$\begin{aligned} &= (50 \text{ kbpd} * 31 \text{ days}) - 1,085 \text{ kbbbls} \\ &= 1,550 \text{ kbbbls} - 1,085 \text{ kbbbls} \\ &= 465 \text{ kbbbls} \end{aligned}$$

ii. Calculate Monthly Deficiency Payment (Section 6.01)

$$\begin{aligned} &= \text{Monthly Deficiency Quantity} * \text{Committed Rate} \\ &= 465 \text{ kbbbls} * \$2.440/\text{bbl} \\ &= \$1,134.60 \text{ k} \end{aligned}$$

d. Monthly Deficiency Payment for Shipper A for June

i. Calculate Monthly Deficiency Quantity (Section 6.02)

$$\begin{aligned} &= (\text{Committed Vol (kbpd)} * \text{Days in Month}) - \text{Actual Shipments in Month} \\ &= (50 \text{ kbpd} * 30 \text{ days}) - 1,200 \text{ kbbbls} \\ &= 1,500 \text{ kbbbls} - 1,200 \text{ kbbbls} \\ &= 300 \text{ kbbbls} \end{aligned}$$

ii. Calculate Monthly Deficiency Payment (Section 6.01)

$$\begin{aligned} &= \text{Monthly Deficiency Quantity} * \text{Committed Rate} \\ &= 300 \text{ kbbbls} * \$2.440/\text{bbl} \\ &= \$732.00 \text{ k} \end{aligned}$$

e. Monthly Deficiency Payment for Shipper A for July

i. Calculate Monthly Deficiency Quantity (Section 6.02)

$$\begin{aligned} &= (\text{Committed Vol (kbpd)} * \text{Days in Month}) - \text{Actual Shipments in Month} \\ &= (50 \text{ kbpd} * 31 \text{ days}) - 1,395 \text{ kbbbls} \\ &= 1,550 \text{ kbbbls} - 1,395 \text{ kbbbls} \\ &= 155 \text{ kbbbls} \end{aligned}$$

ii. Calculate Monthly Deficiency Payment (Section 6.01)

$$\begin{aligned} &= \text{Monthly Deficiency Quantity} * \text{Committed Rate} \\ &= 155 \text{ kbbbls} * \$2.440/\text{bbl} \end{aligned}$$

$$= \$378.20 \text{ k}$$

f. Monthly Deficiency Payment for Shipper A for August

i. Calculate Monthly Deficiency Quantity (Section 6.02)

$$= (\text{Committed Vol (kbpd)} * \text{Days in Month}) - \text{Actual Shipments in Month}$$

$$= (50 \text{ kbpd} * 31 \text{ days}) - 1,250 \text{ kbbbls}$$

$$= 1,550 \text{ kbbbls} - 1,250 \text{ kbbbls}$$

$$= 300 \text{ kbbbls}$$

ii. Calculate Monthly Deficiency Payment (Section 6.01)

$$= \text{Monthly Deficiency Quantity} * \text{Committed Rate}$$

$$= 300 \text{ kbbbls} * \$2,440/\text{bbl}$$

$$= \$732.00 \text{ k}$$

g. Total Deficiency Payment for Shipper A for Year

$$= \text{Deficiency}_{\text{Mar}} + \text{Deficiency}_{\text{Apr}} + \text{Deficiency}_{\text{May}} + \text{Deficiency}_{\text{Jun}} + \\ \text{Deficiency}_{\text{Jul}} + \text{Deficiency}_{\text{Aug}}$$

$$= \$756.40 \text{ k} + \$732.00 \text{ k} + \$1,134.60 \text{ k} + \$732.00 \text{ k} + \$378.20 \text{ k} + \$732.00 \text{ k}$$

$$= \mathbf{\$4,465.20 \text{ k}}$$

2. Monthly Deficiency Payment (TSA Article 6) – Shipper B

$$= \mathbf{\$2,679.12}$$

3. Monthly Deficiency Payment (TSA Article 6) – Shipper C

$$= \mathbf{\$8,930.4}$$

III. COMMITTED VOLUME CREDIT

1. Committed Volume Credit (TSA Schedule "B" Section 5) - Shipper A

$$\begin{aligned} &= \text{Uncommitted Rate} * (\text{Lesser of (A) Sum of Monthly Deficiency} \\ &\quad \text{Quantities or (B) Sum of Monthly Uncommitted Volume}) \\ &= 4.880/\text{bbl} * 0 \text{ kbbls} = \mathbf{\$0.00 \text{ k}} \end{aligned}$$

2. Committed Volume Credit (TSA Schedule "B" Section 5) - Shipper B

$$\begin{aligned} &= \text{Uncommitted Rate} * (\text{Lesser of (A) Sum of Monthly Deficiency} \\ &\quad \text{Quantities or (B) Sum of Monthly Uncommitted Volume}) \\ &= \$4.880/\text{bbl} * 1,098 \text{ kbbls} = \$5,358.24 \text{ k} \\ &= \mathbf{\$5,358.24 \text{ k} \rightarrow \$14.64 \text{ k/day}} \end{aligned}$$

3. Committed Volume Credit (TSA Schedule "B" Section 5) - Shipper C

$$\begin{aligned} &= \text{Uncommitted Rate} * (\text{Lesser of (A) Sum of Monthly Deficiency} \\ &\quad \text{Quantities or (B) Sum of Monthly Uncommitted Volume}) \\ &= \$4.880/\text{bbl} * 3,660 \text{ kbbls} = \$17,860.80 \text{ k} \\ &= \mathbf{\$17,860.80 \rightarrow \$48.80 \text{ k/day}} \end{aligned}$$

4. Committed Volume Credit (TSA Schedule "B" Section 5) per day

$$\begin{aligned} &= \text{Sum of all Committed Volume Credits} \\ &= \$14.64 \text{ k/day} + \$48.80 \text{ k/day} \\ &= \mathbf{\$63.44 \text{ k/day}} \end{aligned}$$

IV. TOTAL ADJUSTED DIFFERENTIAL

1. Power Cost Savings Amount (Section 3(c)(iv))

$$\begin{aligned} &= \text{Shipper Actual Shipments to/from Intermediate Point} * \text{Power Cost Savings (\$/bbl) Associated with Pipeline Segment not utilized} \\ &= 3,660 \text{ kbbls} * \$0.035/\text{bbls} \\ &= \mathbf{\$128.10 \text{ k} \rightarrow \$0.35 \text{ k / day}} \end{aligned}$$

Only Shipper A has Power Cost Savings Amount in this example and illustration

2. Total Adjusted Differential (TSA Schedule "B" Section 3)

a. Revenue Adjustment (TSA Schedule "B" Section 3(c))

i. Calculate Actual Cost of Service (Section 3(c)(v))

$$\text{Actual Cost of Service} = \mathbf{\$203.55 \text{ k/day}}$$

ii. Calculate Actual Revenue (Section 3(c)(vi))

$$\begin{aligned} &= \text{Committed Revenue}^{(1)} - \text{Power Cost Savings}^{(2)} \\ &+ \text{(a) If total shipments} \leq 162 \text{ kbpd: Uncommitted Revenue}^{(3)} - \text{Committed Volume Credits}^{(4)}, \text{ or} \\ &+ \text{(b) If total shipments} > 162 \text{ kbpd: Uncommitted Revenue}_{\text{up to 162 kbpd}} \\ &+ (75\% * \text{Uncommitted Revenue}_{\text{above 162 kbpd}} - \text{Committed Volume Credits}) \end{aligned}$$

Total Shipments are lower than 162 kbpd for this illustration and example therefore (a) applies and (b) gets discarded from the calculation.

$$\begin{aligned} &= \$285.48 \text{ k/day}^{(1)} - \$0.35 \text{ k / day}^{(2)} + \$244.00 \text{ k/day}^{(3)} - \$63.44 \text{ k/day}^{(4)} \\ &= \mathbf{\$465.69 \text{ k/day}} \end{aligned}$$

Where:

⁽¹⁾ Committed Revenue

$$\begin{aligned} &= \text{Committed Volume} * \text{Committed Rate} \\ &= 117 \text{ kbpd} * \$2.440/\text{bbl} \end{aligned}$$

= **\$285.48 k/day**

⁽²⁾ **Power Cost Savings:** as calculated in 9 above

⁽³⁾ **Uncommitted Revenue**

= Uncommitted Volume * Uncommitted Rate

= 50 kbpd * \$4.880/bbl

= **\$244.00 k/day**

⁽⁴⁾ **Committed Volume Credits:** as calculated in point 8 above

iii. Differential Amount (Section 3(c)(vii))

= Actual Revenue – Actual Cost of Service

= \$465.69 k/day – \$203.55 k/day

= **\$262.14 k/day**

iv. Differential (Section 3(c)(viii))

1. Differential for Committed Volumes

= Differential Amount / (Committed Volumes + 2 * Net Uncommitted Volumes⁽⁵⁾)

⁽⁵⁾ Net of committed Shippers Credit volumes

= \$262.14 k/day / (117 kbpd + 2 * 37 kbpd)

= **\$1.3725/bbl**

2. Differential for Uncommitted Volumes

= 2 * Differential for Committed Volumes

= 2 * \$1.3725/bbl

= **\$2.7449/bbl**

Results may appear slightly different due to rounding

v. Calculate Revenue Adjustment

For Committed Volumes:

= Differential for Committed Volumes * Committed Volume

For Uncommitted Volumes:

$$= \text{Differential for Uncommitted Volumes} * \text{Uncommitted Volume}^{(5)}$$

⁽⁵⁾ Net of Committed Shippers Credit volumes

Shipper A – Revenue Adjustment

For Committed Volume

$$= \$1.3725/\text{bbl} * 50 \text{ kbpd}$$

$$= \$68.62 \text{ k/day}$$

For Uncommitted Volumes - Shipper A does not have any Uncommitted Volumes for this illustration and example.

Revenue Adjustment – Shipper A = \$68.62 k/day

Shipper B – Revenue Adjustment

For Committed Volumes

$$= \$1.3725/\text{bbl} * 27 \text{ kbpd}$$

$$= \$ 37.06 \text{ k/day}$$

For Uncommitted Volumes

$$= \$2.7449/\text{bbl} * 7 \text{ kbpd}$$

$$= \$19.21 \text{ k/day}$$

Revenue Adjustment – Shipper B

$$= \$37.06 \text{ k/day} + \$19.21 \text{ k/day}$$

= \$56.27 k/day

Shipper C – Revenue Adjustment

For Committed Volumes

$$= \$1.3725/\text{bbl} * 40 \text{ kbpd}$$

$$= \$ 54.90 \text{ k/day}$$

For Uncommitted Volumes

$$= \$2.7449/\text{bbl} * 0 \text{ kbpd}$$

$$= \$0.00 \text{ k/day}$$

Revenue Adjustment – Shipper C = \$54.90 k/day

Shipper D – Revenue Adjustment

For Committed Volumes

Shipper D does not have any Committed Volumes for this illustration and example.

For Uncommitted Volumes

$$= \$2.7449/\text{bbl} * 30 \text{ kbpd}$$

$$= \$82.35 \text{ k/day}$$

Revenue Adjustment – Shipper D = \$82.35 k/day

b. Total Adjusted Differential (TSA Schedule “B” Section 3(c)(x))

i. Calculate Total Adjusted Differential by Shipper

$$= \text{Power Cost Savings Amount} + \text{Revenue Adjustment}$$

Shipper A

$$= \$0.35 \text{ k/day} + \$68.62 \text{ k/day}$$

$$= \mathbf{\$68.97 \text{ k/day}}$$

Shipper B

$$= \$0.00 \text{ k/day} + \$56.27 \text{ k/day}$$

$$= \mathbf{\$56.27 \text{ k/day}}$$

Shipper C

$$= \$0.00 \text{ k/day} + \$54.90 \text{ k/day}$$

$$= \mathbf{\$54.90 \text{ k/day}}$$

Shipper D

$$= \$0.000 \text{ k/day} + \$82.35 \text{ k/day}$$

$$= \mathbf{\$82.35 \text{ k/day}}$$

The Assumptions in this Schedule E are used for illustrative purposes and do not constitute or imply that they will be the actual or anticipated numbers.

Schedule "F"

Form of Guaranty Agreement

GUARANTY AGREEMENT

This Guaranty Agreement (the "**Guaranty**"), dated _____, 20__ (the "**Effective Date**"), is made by _____, a _____ ("**Guarantor**"), in favor of Enbridge Southern Lights LP, a _____ limited partnership ("**Beneficiary**");

WITNESSETH:

WHEREAS, [Shipper] ("**Shipper**") and Beneficiary are parties to that certain Transportation Services Agreement dated as of _____, 2012 (as amended, supplemented or restated from time to time, the "**Agreement**") and, pursuant to the Agreement, Shipper has agreed, among other things, to make certain payments to Beneficiary under the Agreement, the Toll Schedules (as defined in the Agreement) and the Rules Tariff (as defined in the Agreement); and

WHEREAS, Guarantor either directly or indirectly owns Shipper or is otherwise an affiliate of Shipper and, in exchange for issuing this Guaranty, Guarantor will receive substantial and direct benefits and other consideration from the transactions and services contemplated by the Agreement that are reasonably equivalent to this Guaranty; and

WHEREAS, Beneficiary was willing to enter into the Agreement only on the condition, among others, that, if Shipper was required by the terms of the Agreement or the Rules Tariff to provide Financial Assurances (as defined in the Agreement), and Shipper elected to provide a Guaranty, then Shipper would deliver to Beneficiary this duly executed Guaranty and that, but for such delivery, Beneficiary would have certain rights and remedies under the Agreement and the Rules Tariff; and

NOW, THEREFORE, in consideration of the foregoing, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Guarantor hereby agrees as follows:

1. **Incorporation of Recitals.** Guarantor hereby confirms that the recitals hereto are accurate and acknowledges that Beneficiary has relied on same.
2. **Guaranty.**
 - (a) Guarantor hereby unconditionally, absolutely and irrevocably guarantees the full, prompt and complete payment by Shipper when due and payable under the Agreement, the Toll Schedules or the Rules Tariff of any and all of Shipper's payment obligations to Beneficiary thereunder, including, without limitation, any and all present and future payment obligations of Shipper under the Agreement, the Toll Schedules or the Rules Tariff that would become due but for the voluntary or involuntary commencement or initiation of proceedings (or the giving of notice thereof) by or against Guarantor or Shipper under the *Bankruptcy and Insolvency Act* (Canada), any chapter of Title 11 of the United States Code or the equivalent legislation of any other country, each as now or hereafter in effect and any

successor thereto (collectively, the “**Bankruptcy Statutes**” and all such obligations of Shipper, collectively, the “**Guaranteed Obligations**”). As used in this Guaranty, the term “**Guaranteed Obligations**” is intended to be construed broadly to include any and all payment obligations of Shipper to Beneficiary under the Agreement, the Toll Schedules or the Rules Tariff.

(b) Guarantor shall reimburse Beneficiary for all sums paid to Beneficiary by Shipper with respect to such Guaranteed Obligations which Beneficiary is subsequently required to return to Shipper or a representative of Shipper’s creditors as a result of Shipper’s bankruptcy, insolvency, liquidation, or similar proceeding.

(c) Except as otherwise provided in Section 3 of this Guaranty, in respect of subsection 1(b), this Guaranty shall be a continuing guaranty of all of the Guaranteed Obligations outstanding from time to time and shall apply to and secure any ultimate balance due or remaining unpaid to Beneficiary, and this Guaranty shall not be considered wholly or partially satisfied by any partial payment or satisfaction of the Guaranteed Obligations.

(d) This Guaranty shall continue to be effective or be reinstated, as the case may be, if at any time any payment of any of the Guaranteed Obligations is rescinded or must otherwise be returned by Beneficiary on the insolvency, bankruptcy or reorganization of Shipper or Guarantor or otherwise, all as though such payment had not been made.

(e) Guarantor’s obligations and liability under this Guaranty shall be limited to payment obligations only, and Guarantor shall have no obligation for Shipper’s non-payment obligations under the Agreement or the Rules Tariff.

(f) In no event shall Guarantor be liable for consequential damages.

3. **Maximum Guaranty.** The total liability of the Guarantor hereunder, regardless of any amendment or modification of the Agreement, is limited to the then current Committed Toll (as defined in the Agreement) multiplied by Shipper’s Committed Volume (as defined in the Agreement) multiplied by the number of days remaining in the unexpired term of the Agreement as of the day this Guaranty is executed (such lesser amount, the “**Maximum Amount**”). The Maximum Amount shall be adjusted on the first and each subsequent anniversary of the date of this Guaranty (or, if later, the Shipper Commencement Date [as defined in the Agreement]) to an amount equal to the Maximum Amount multiplied by a fraction, the numerator of which is the number of days remaining in the unexpired term of the Agreement as of such anniversary date, and the denominator of which is the number of days remaining in the unexpired term of the Agreement as of the date of this Guaranty. In addition, interest shall be payable on the amount provided for above from the date of such demand at, to the extent that the Agreement specifies an interest rate applicable to the corresponding Guaranteed Obligations, the rate or rates applicable to the corresponding Guaranteed Obligations pursuant to the Agreement and, otherwise, at the Prime Rate (as hereinafter defined) plus 2% per annum.

4. **Guaranty Absolute.** The obligations of Guarantor under this Guaranty are absolute and unconditional and shall remain in full force and effect without regard to, and shall not be

released, suspended, discharged, terminated or otherwise affected by, any circumstance or occurrence whatsoever, including, without limitation:

- (a) any action or inaction by Beneficiary as contemplated in Section 5 of this Guaranty;
- (b) the bankruptcy, insolvency, liquidation or reorganization of Shipper or Guarantor, or the sale or other disposition of all or substantially all of Shipper's or Guarantor's assets, the receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization of, or similar proceedings affecting Shipper or Guarantor or any of the assets of Shipper or Guarantor;
- (c) the failure of Shipper to exist as a legal entity, any change in the ownership or structure of Shipper or any termination of or change in any relationship between Guarantor and Shipper, including any such termination or change resulting from a change in the ownership of Guarantor or from the cessation of any commercial relationship between Guarantor and Shipper or the consolidation or merger of Shipper with any other corporation, or the disposition by Shipper of its assets to any other entity;
- (d) (i) any increase in, (ii) any extension of the time of payment, observance or performance of, (iii) any other amendment or modification of any of the other terms and provisions of, (iv) any release, composition or settlement (whether by way of acceptance of a plan of reorganization or otherwise) of, (v) any subordination (whether present or future or contractual or otherwise) of, or (vi) any discharge, disallowance, invalidity, illegality, voidness or other unenforceability of, the Guaranteed Obligations;
- (e) (i) any failure to obtain, (ii) any release, composition or settlement of, (iii) any amendment or modification of any of the terms and provisions of, (iv) any subordination of, or (v) any discharge, disallowance, invalidity, illegality, voidness or other enforceability of, any other guarantees of the Guaranteed Obligations;
- (f) any exercise of, or any election not or failure to exercise, delay in the exercise of, waiver of, or forbearance or other indulgence with respect to, any right, remedy or power available to Beneficiary, including (i) any election not or failure to exercise any right of set-off, recoupment or counterclaim, and (ii) any election of remedies effected by Beneficiary;
- (g) the lack of power or authority of Guarantor to execute and deliver this Guaranty or of Shipper to execute and deliver the Agreement; or
- (h) any other law, event or circumstance or any other act or failure to act or delay of any kind which might, but for the provisions of this Section 4, constitute a legal or equitable defense to or discharge or limitation of Guarantor's obligations hereunder,

other than as a result of payment in full of the Guaranteed Obligations. The foregoing provisions shall apply even if the effect of any action or failure to take action by Beneficiary is to destroy or diminish Guarantor's subrogation rights, Guarantor's right to proceed against Shipper for reimbursement, Guarantor's right to recover contribution from any other guarantor or any other right or remedy of Guarantor.

Any account settled or stated by or between Beneficiary and Shipper shall be accepted by Guarantor in the absence of manifest error, as conclusive evidence that the balance or amount thereof thereby appearing due by Shipper to Beneficiary, is so due.

The obligations of Guarantor hereunder are several and not joint with Shipper or any other person, and are primary obligations for which Guarantor is the principal obligor. There are no conditions precedent to the enforcement of this Guaranty. It shall not be necessary for Beneficiary, in order to enforce payment by Guarantor under this Guaranty, to exhaust any of its remedies or recourse against Shipper, any other guarantor, or any other person liable for the payment and not of collection and shall apply regardless of whether recovery of all such Guaranteed Obligations may be discharged or uncollectible in any bankruptcy, insolvency or other proceeding, or otherwise unenforceable.

5. **Waiver.** Guarantor hereby waives:

- (a) notice of acceptance of this Guaranty, notice of the creation or existence of any of the Guaranteed Obligations and notice of any action by Beneficiary in reliance hereon or in connection herewith;
- (b) notice of the entry into the Agreement between Shipper and Beneficiary and notice of any amendments, supplements or modifications thereto; or any waiver or consent under the Agreement, including waivers of the payment and performance of the obligations thereunder;
- (c) notice of any increase, reduction or rearrangement of Shipper's obligations under the Agreement or notice of any extension of time for the payment of any sums due and payable to Beneficiary under the Agreement;
- (d) except as expressly set forth herein, presentment, demand for payment, notice of dishonor or nonpayment, protest and notice of protest or any other notice of any other kind with respect to the Guaranteed Obligations;
- (e) any requirement that suit be brought against, or any other action by Beneficiary be taken against, or any notice of default or other notice to be given to, or any demand be made on Shipper or any other person, or that any other action be taken or not taken as a condition to Guarantor's liability for the Guaranteed Obligations under this Guaranty or as a condition to the enforcement of this Guaranty against Guarantor;
- (f) any defense based upon (i) any amendment, modification or extension of the Guaranteed Obligations and (ii) any assertion or claim that any stay of proceedings provided under the Bankruptcy Statutes (arising upon the voluntary or involuntary

bankruptcy proceeding of Shipper or any permitted assignee), or any other stay provided under any other debtor relief law (whether statutory, common law, case law or otherwise) of any jurisdiction whatsoever, now or hereafter in effect, which may be or become applicable, shall operate or be interpreted to stay, interdict, condition, reduce or inhibit the ability of Beneficiary to enforce any rights, whether now existing or hereafter acquired, which Beneficiary may have against Guarantor; and

(g) any other circumstance (including, without limitation, the failure to obtain from any intended guarantor, other than Guarantor, a valid guaranty and any release and discharge of any other guarantor or surety for the Guaranteed Obligations) which might otherwise constitute a defence, set-off or counterclaim available to, or a legal or equitable discharge of, Shipper in respect of the Guaranteed Obligations or Guarantor in respect of this Guaranty, all of which are hereby expressly waived by Guarantor.

6. **Subrogation.** Guarantor shall be subrogated to all rights of Beneficiary against Shipper in respect of any amounts paid by Guarantor pursuant to the Guaranty, provided that Guarantor waives any rights it may acquire by way of subrogation under this Guaranty, by any payment made hereunder or otherwise, reimbursement, exoneration, contribution, indemnification, or any right to participate in any claim or remedy of Beneficiary against Shipper or any collateral which Beneficiary now has or acquires, until all of the Guaranteed Obligations and all amounts described in Section 24 hereof shall have been irrevocably and indefeasibly paid to Beneficiary in full. If (a) Guarantor shall make payment to Beneficiary of all or any part of the Guaranteed Obligations, (b) all the Guaranteed Obligations and all amounts described in Section 24 hereof shall have been indefeasibly paid in full and (c) Beneficiary shall have confirmed in writing to Shipper that no amounts are outstanding under the Agreement, the Rules Tariff or the Toll Schedules, Beneficiary shall, at Guarantor's request, execute and deliver to Guarantor appropriate documents necessary to evidence the transfer by subrogation to Guarantor of any interest in the Guaranteed Obligations resulting from such payment of Guarantor.

7. **Notices.** All demands, notices and other communications provided for hereunder shall, unless otherwise specifically provided herein, (a) be in writing addressed to the party receiving the notice at the address set forth below or at such other address as may be designated by written notice, from time to time, to the other party, and (b) be effective upon delivery, when mailed by U.S. or Canadian mail, as the case may be, registered or certified, return receipt requested, postage prepaid, or personally delivered. Notices shall be sent to the following addresses:

If to Beneficiary:

Enbridge Southern Lights,
c/o Enbridge Pipelines Inc.
3000, 425 – 1st Street SW
Calgary, AB T2P 3L8
Attention: President
Telephone: (403) 231-5915

Fax No.: (403) 266-7963

If to Guarantor:



Attention:
Telephone:
Fax No.:

8. **Demand and Payment.** Any demand by Beneficiary for payment hereunder shall be in writing, reference this Guaranty, reference the Guaranteed Obligations, and be signed by a duly authorized officer of Beneficiary and delivered to Guarantor pursuant to Section 7 hereof. There are no other requirements of notice, presentment or demand. Guarantor shall pay, or cause to be paid, such Guaranteed Obligations within five (5) Business Days of receipt of such demand, unless, within such five (5) Business Day period, the default giving rise to such demand has been remedied, as evidenced by the delivery of a notice of same by Beneficiary to Guarantor.

9. **No Waiver; Remedies.** Except as to applicable statutes of limitation, no failure or delay on the part of Beneficiary in exercising any right, power or privilege hereunder and no course of dealing between Guarantor or Beneficiary shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights, powers and remedies herein expressly provided are cumulative and not exclusive of any rights, powers, or remedies which Beneficiary would otherwise have.

10. **Term.** This Guaranty shall be and continue to be in full force and effect from the Effective Date until all of the Guaranteed Obligations and all amounts described in Section 24 hereof have been fully and indefeasibly paid.

11. **Assignment; Successors and Assigns.** Guarantor shall not assign or delegate any of its respective rights or obligations hereunder without the prior written consent of Beneficiary, except that Guarantor may assign its rights under this Guaranty to (i) any permitted assignee under the Agreement; (ii) any assignee that is controlled by or under common control with the Guarantor; or (iii) to any assignee that acquires all or substantially all of the assets of the Guarantor; in all instances, provided however, the credit ratings of any such assignee shall at all times be equal to or better than the credit ratings set forth in Article 16 of the Agreement (Financial Assurances). Any assignment without such prior written consent or not in accordance with the foregoing shall be null and void and of no force or effect. All rights of Beneficiary hereunder shall be assignable. This Guaranty shall be binding upon and inure to the benefit of each party hereto and their respective successors and permitted assigns.

12. **Amendments, etc.** No amendment or other modification of the terms of this Guaranty shall be effective unless in writing and signed by Guarantor and Beneficiary and stating that it is expressly intended to give effect to the applicable amendment or modification hereto. No waiver of any provision of this Guaranty or consent to any

departure by Guarantor therefrom shall in any event be effective unless such waiver shall refer to this Guaranty, be in writing and be signed by Beneficiary. Any such waiver shall be effective only in the specific instance and for the specific purpose for which it was given.

13. **Captions.** The captions in this Guaranty have been inserted for convenience only and shall be given no substantive meaning or significance whatsoever in construing the terms and provisions.

14. **Representations and Warranties.** Guarantor represents and warrants as follows:

(a) Guarantor is duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation and has full corporate power and authority to execute, deliver and perform this Guaranty.

(b) The execution, delivery and performance of this Guaranty have been and remain duly authorized by all necessary corporate action and do not contravene Guarantor's constitutional documents or any contractual restriction binding on Guarantor or its assets.

(c) This Guaranty constitutes the legal, valid and binding obligation of Guarantor, enforceable against it by Beneficiary in accordance with its terms, subject, as to enforcement, to bankruptcy, insolvency, reorganization and other laws of general applicability relating to or affecting creditor's rights and to general equity principals.

(d) Guarantor is in compliance with all applicable provisions of Article 14 of the Agreement (Financial Assurances).

All of the representations and warranties of Guarantor contained herein (i) shall survive the execution and delivery of this Guaranty and also the provision of Services (as defined in the Agreement) under the Agreement, (ii) shall be deemed to be repeated each time Services are provided as if made on and as of such occasion and (iii) shall continue to be effective whenever made or deemed to be made until all of the Guaranteed Obligations and all amounts described in Section 24 hereof have been indefeasibly repaid in full, notwithstanding any investigation made at any time by or on behalf of Beneficiary.

15. **Taxes.** All payments by Guarantor shall be made free and clear of and without deduction for any and all present and future taxes, levies and withholdings including stamp and documentary taxes, other than taxes imposed on the net income of Beneficiary (collectively "**Taxes**"). If Guarantor is required by law to deduct any Taxes from or in respect of any amount paid or payable hereunder, such amount shall be increased as necessary so that Beneficiary receives an amount equal to the sum it would have received had no such deduction been made and Guarantor shall pay same to the relevant taxing authority and give to Beneficiary acceptable evidence of such payment. Guarantor will indemnify Beneficiary for any Taxes paid by Beneficiary in respect of any amount paid or payable by Guarantor hereunder. The provisions of this Section as they pertain to Taxes shall survive payment in full hereunder.

16. **Judgment Currency.** The obligation of Guarantor hereunder to make payments in any currency of payment and account shall not be discharged or satisfied by any tender or recovery pursuant to any judgment expressed in or converted into any other currency except to the extent to which such tender or recovery shall result in the effective receipt by Beneficiary of the full amount of such currency of payment and account so payable and accordingly the obligation of Guarantor shall be enforceable as an alternative or additional cause of action for the purpose of recovery in the other currency of the amount (if any) by which such effective receipt shall fall short of the full amount of such currency of payment and account so payable and shall not be affected by any judgment being obtained for any other sums due hereunder.

17. **Severability.** Wherever possible, each provision of this Guaranty shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Guaranty shall be prohibited by or invalid under such law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Guaranty.

18. **Governing Law.** This Guaranty shall be governed by and construed in accordance with the laws of the Province of Alberta, without regard to principles of conflicts of law.

19. **Dispute Resolution.**

(a) Any dispute arising under this Guaranty that is subject to the jurisdiction of the National Energy Board and any lawful successor agency thereto (the “**NEB**”) will be referred to the NEB with a request that such dispute be dealt with on an expedited basis. Where a disagreement arises concerning whether a dispute is subject to the jurisdiction of the NEB, such matter will be referred to the NEB for resolution. Beneficiary or Guarantor may refer all disputes arising under this Guaranty that are not subject to the jurisdiction of the NEB to dispute resolution by providing written notice to the other party of its intention to refer the dispute to arbitration (“**Dispute Resolution**”). Except for (i) any dispute that is subject to the jurisdiction of the NEB, and (ii) as provided in Section 19(g) hereof, arbitration pursuant to this Section 19 shall be the exclusive remedy for all disputes arising under this Guaranty.

(b) All arbitrations conducted hereunder will take place before an arbitrator in Calgary, Alberta. Arbitration will be conducted in accordance with the *Arbitration Act* (Alberta), c. A-43, R.S.A. 2000, as amended (the “**Arbitration Act**”) except to the extent that the Arbitration Act is inconsistent with or in conflict with any terms of this Section 19. Any other statute that applies to the Dispute Resolution will apply only to the extent that it is not inconsistent with this Section 19(b). The decision of the arbitrator will be final and binding.

(c) There will be one arbitrator appointed by mutual agreement of Beneficiary and Guarantor. The arbitrator will sign a declaration attesting as to his or her impartiality with respect to Beneficiary and Guarantor and to the dispute. If, after twenty (20) days following the receipt of the notice, Beneficiary and Guarantor have not agreed on the appointment of the arbitrator, the court will, on application by

either party, appoint the arbitrator. Any person serving as an arbitrator will have training or experience in serving as an arbitrator, and will have legal training if the dispute involves substantive legal issues and will, in any event, be qualified by education and experience to rule on the matters raised by the dispute. Where the mandate of an arbitrator terminates for any reason, a substitute arbitrator will be mutually appointed in accordance with this Section 19(c).

(d) Beneficiary and Guarantor will agree in advance as to the manner in which the arbitrator will hear witnesses and arguments, review documents and otherwise conduct the arbitration procedure. Failing agreement between Beneficiary and Guarantor and within five (5) days from the date of selection of the arbitrator, the arbitrator will set the procedure and promptly commence and expeditiously conduct the arbitration proceedings.

(e) Subject only to the express agreement by Beneficiary and Guarantor to amend the date for decision, the arbitrator will issue a written decision within forty-five (45) days from the date of his or her appointment. The decision of the arbitrator will be final and binding on the parties, will not be subject to any appeal and will deal with the question of the costs of the arbitration and all other related matters.

(f) If a judgment forms a part of the decision of the arbitrator then any award rendered may be entered in any court having jurisdiction, or application may be made to such court for judicial recognition of the award or an order of enforcement thereof, as the case may be.

(g) Nothing in this Section 19 will prevent a party to the dispute from applying to a court of competent jurisdiction for equitable relief pending the decision.

(h) Each of Beneficiary and Guarantor will bear its respective costs incurred in connection with the negotiation and arbitration procedures set out in this Section 19. The fees and expenses of the arbitrator and the costs of the facilities required for the arbitration will be awarded at the discretion of the arbitrator.

(i) Guarantor and Beneficiary agree that, in the event that any issue, matter or dispute arises under the Agreement which is resolved under the Agreement, including, but not limited to, any issue, matter or dispute which is resolved in accordance with the dispute resolution provisions under the Agreement, such issue, matter or dispute shall be deemed to have been conclusively determined for the purpose of this Guaranty and neither party to this Guaranty will thereafter take any steps to argue that such issue, matter or dispute should be resolved under this Guaranty in any different manner from the resolution under the Agreement, and the parties waive any right to do so.

(j) All information disclosed by a party in the course of negotiation or arbitration will be treated as confidential and neither the delivery nor disclosure thereof will represent any waiver of privilege by a party disclosing the same. Each party agrees to not disclose information provided by the other party for purposes of this Section 19 to any other person or entity for any other purpose, and such information

cannot be used in any subsequent proceedings without the consent of the party who has made disclosure of the same hereunder. Beneficiary and Guarantor agree that any arbitrator appointed hereunder will not be subpoenaed or otherwise compelled as a witness in any proceedings for any purpose whatsoever in relation to any matter that is a subject of this Guaranty. Nothing in this Section 19(j) will cause or require a party to disclose information that is subject to a confidentiality obligation to any third party. Notwithstanding anything in the foregoing to the contrary; (i) a party shall be permitted to disclose confidential information disclosed to it as aforesaid (A) as required by applicable law, (B) on a confidential basis, to its counsel, professional advisors, directors, officers and employees, and (C) to the extent required by an arbitrator or as reasonably required for enforcement or interpretation of any provision of the Agreement or this Guaranty by the NEB to the extent any dispute under this Guaranty is brought to the NEB; and (ii) the following shall not be subject to the restrictions provided for in this Section 19(j): (A) any information which is within the public domain at the time of its disclosure to the recipient or which thereafter enters the public domain through no fault of the recipient, but only after such information becomes part of the public domain; (B) any information (other than the provisions of this Guaranty and the Agreement) which the recipient can show was in its possession prior to receipt or acquisition thereof from the other party and which is not subject to an obligation of confidence; and (C) any information (other than the provisions of this Guaranty and the Agreement) which, following its disclosure by the other party to the recipient is received by the recipient without obligation of confidence from a third party who the recipient had no reason to believe was not properly or lawfully in possession of such information free from any obligation of confidence.

20. **No Set Off.** Guarantor shall not claim any defence, set-off or counterclaim against Shipper in respect of any liability of Shipper to Guarantor, and shall not claim any defence, set-off or counterclaim against Beneficiary in respect of any liability of Beneficiary to Guarantor.

21. **Indemnity.** Guarantor shall indemnify and save Beneficiary harmless from and against any losses it may incur by virtue of any of the Guaranteed Obligations or the Agreement being or becoming for any reason whatsoever in whole or in part: (i) void, voidable, *ultra vires*, illegal, invalid, ineffective or otherwise unenforceable by Beneficiary in accordance with its terms; or (ii) released or discharged by operation of law (collectively, an “**Indemnifiable Circumstance**”). For greater certainty, these losses shall include, without limitation, the amount of all Guaranteed Obligations which would have been payable by Shipper to Beneficiary but for the existence of an Indemnifiable Circumstance.

22. **Postponement.** Upon the occurrence and during the continuance of a Shipper Default (as defined in the Agreement) all obligations, liabilities and indebtedness, present and future, direct or indirect, of Shipper to Guarantor, of any nature whatsoever, together with each and every security therefor, shall be and are hereby (without further act or agreement) subordinated and postponed to the prior payment in full of all Guaranteed Obligations. All money received by Guarantor in respect of such obligations, liabilities and indebtedness at any time after the occurrence and during the continuance of a Shipper

Default (as defined in the Agreement) shall be received by Guarantor in trust for Beneficiary and, upon demand hereunder, shall be forthwith paid over to Beneficiary, the whole without in any way lessening or limiting the liability of Guarantor hereunder, and this subordination and postponement is independent of this Guaranty and shall remain in full force and effect until payment in full of all the obligations of Guarantor under this Guaranty.

23. **Further Assurances.** Guarantor shall from time to time, whether before or after the Guaranteed Obligations shall have become enforceable, do all such acts and things and execute and deliver all such transfers, assignments and instruments as Beneficiary may reasonably require for protecting or realizing upon the Guaranteed Obligations, as the case may be.

24. **Expenses.** Guarantor shall pay to Beneficiary all reasonable out-of-pocket costs and expenses, including all attorney's fees (on a solicitor and his own client basis) and other expenses incurred by Beneficiary from time to time in the enforcement, realization and collection of or in respect of this Guaranty. All such amounts shall be payable by Guarantor on demand by Beneficiary. All such amounts shall be payable by Guarantor on demand, shall bear interest at a rate per annum equal to the Prime Rate plus 2% per annum, calculated from the date incurred by Shipper to the date paid by Guarantor, compounded monthly on the last day of each month, both before and after default, maturity and judgment. For the purposes hereof, "Prime Rate" means the rate of interest per annum established by The Toronto-Dominion Bank or any successor bank (the "**Reference Bank**") from time to time as a reference rate of interest for determination of interest rates that the Reference Bank charges for Canadian dollar loans made by it in Canada.

25. **Acknowledgment.** Guarantor confirms that its obligations under this Guaranty are not subject to any promise or condition affecting or limiting its liability, and no statement, representation, collateral agreement or promise by Beneficiary or by any of its officers, employees or agents forms any part of this Guaranty or has induced the making thereof, or shall be deemed in any way to affect Guarantor's liability hereunder. It is intended that all conditions and limitations relating to this Guaranty are expressly set out herein, unless expressly stated otherwise herein, failing which Guarantor expressly waives reliance on any conditions or limitations not set forth herein as a defence to or limitation of its obligations hereunder.

26. **Time of the Essence.** Time shall be of the essence hereof.

IN WITNESS WHEREOF, Guarantor has caused this Guaranty to be executed and delivered as of the date first above written.

● _____

Per: _____

Name: _____

Title:

Agreed and accepted:

ENBRIDGE SOUTHERN LIGHTS LP

Per: _____

Name:

Title:

Per: _____

Name:

Title: