

THIS MEMORANDUM OF UNDERSTANDING is made the 28th day of January, 2013.

BETWEEN:

TRANSCANADA PIPELINES LIMITED, a corporation organized under the laws of Canada ("**TransCanada**"), and

ENBRIDGE GAS DISTRIBUTION INC., a corporation incorporated under the laws of Ontario ("**Enbridge**").

RECITALS:

- A.** TransCanada owns and operates a natural gas pipeline system extending from a point near the Alberta/Saskatchewan border where TransCanada's facilities interconnect with the facilities of NOVA Gas Transmission Ltd. easterly to the Province of Quebec with branch lines extending to various points past the international border with the United States (the "**TransCanada System**"). TransCanada utilizes the capacity on the TransCanada System and from firm service transportation entitlements on other natural gas transmission systems.
- B.** In May 2012, TransCanada held a New Capacity Open Season for natural gas transportation services on the TransCanada System (the "**May 2012 NCOS**"). Due to commitments received from participants in the May 2012 NCOS, TransCanada is proposing to expand the TransCanada System capacity between Parkway and Maple to accommodate incremental firm service transportation contracts to meet these commitments.
- C.** In December 2012, Enbridge filed a leave to construct application with the OEB to increase natural gas supply and reliability of natural gas distribution service to the Greater Toronto Area (the "**GTA Project**"). As part of the GTA Project, Enbridge is seeking approval from the OEB to construct a new section of NPS 36 pipeline originating in the vicinity of the Parkway gate stations and terminating at Enbridge's Albion district station (the "**Enbridge Pipeline**").
- D.** In an effort to provide greater certainty with respect to the efficient development of natural gas infrastructure in Enbridge's Greater Toronto Area distribution franchise (the "**GTA**") and for the reasons set out in Section 2.1, the Parties wish to enter into the transactions contemplated in this MOU, subject to the terms and conditions outlined in this MOU.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties, the Parties agree as follows:

ARTICLE 1 DEFINITIONS AND PRINCIPLES OF INTERPRETATION

1.1 Definitions

Whenever used in this MOU, the following words and terms have the meanings set out below:

“**Actual Costs**” shall have the meaning given to it in Section 3.2(c).

“**Affiliate**” means any Person that, directly or indirectly:

- (i) controls a Party;
- (ii) is controlled by a Party; or
- (iii) is controlled by the same Person that controls a Party,

it being understood and agreed that for purposes of this definition the terms “controls” and “controlled by” shall mean the power to direct or cause the direction of the management and policies of another Person whether through the ownership of shares, a contract, trust arrangement or any other means, either directly or indirectly, that results in control in fact, but notwithstanding the foregoing includes, with respect to the control of or by a corporation or partnership, the ownership of shares or equity interests carrying not less than 50% of the voting rights regardless of whether such ownership occurs directly or indirectly, as contemplated above.

“**Albion Meter Station**” means a measurement station at the Albion district station.

“**Application Amendment**” shall have the meaning given to it in Section 3.2(b).

“**Banking Day**” shall have the meaning given to it in the Tariff.

“**Bram West**” shall have the meaning given to it in Section 3.1(a)(i).

“**Bram West CDA**” shall have the meaning given to it in Section 3.1(a)(iii).

“**Bram West CDA Service Contracts**” shall have the meaning given to it in Section 3.2(f)(i).

“**Bram West Interconnect**” shall have the meaning given to it in Section 3.1(a)(i).

“**Confidentiality Agreement**” means the confidentiality agreement dated February 14, 2011, between TransCanada and Enbridge, as amended from time to time.

“**Election #1**” means the election described in Schedule “A”.

“**Election #1 Option**” shall have the meaning given to it in section 1 of Schedule “A”.

“**Election #2**” means the election described in Schedule “B”.

“Election #2 Option” shall have the meaning given to it in section 1 of Schedule “B”.

“Election #2 Option Date” shall have the meaning given to it in section 1 of Schedule “B”.

“Election #3” means the election described in Schedule “C”.

“Election Date” shall have the meaning given to it in Section 3.1(c).

“Enbridge Authorizations” shall have the meaning given to it in Section 4.2(a).

“Enbridge Long Haul FT Contracts” means Enbridge’s existing long haul firm transportation service contracts on the TransCanada System.

“Enbridge Maple Pipeline” shall have the meaning given to it in section 1 of Schedule “C”.

“Enbridge Pipeline” shall have the meaning given to it in the recitals.

“Enbridge Pipeline Costs” means the reasonably (or prudently) incurred internal and third party costs, expenses and charges of Enbridge arising from, attributable to or incurred in respect of the development and construction of the Enbridge Pipeline, calculated in a manner consistent with capital costs forming part of a regulated rate base, as depreciated, as applicable.

“Estimated Costs” shall have the meaning given to it in Section 3.2(b).

“Firm Transportation Service” shall have the meaning given to it in the Tariff.

“GJ” means gigajoule, being 1,000,000,000 joules and include the plural as the context requires.

“Governmental Authority” means any government, regulatory authority, governmental department, agency, commission, bureau, official, minister, Crown corporation, court, board, tribunal, dispute settlement panel or body or other law, rule or regulation-making entity (a) having or purporting to have jurisdiction on behalf of any nation, province, state or other geographic or political subdivision thereof; or (b) exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power.

“GTA” and **“GTA Project”** shall have the meaning given to those terms in the recitals.

“Hamilton Line” means a pipeline comprised primarily of NPS 20 and NPS 36 pipe that connects to TransCanada’s high pressure Kirkwall Niagara line at a point near Hamilton and extends between Hamilton and Enbridge’s Parkway meter station near Toronto and will allow sourcing of natural gas from Niagara Falls or Chippawa and delivery of gas to Toronto at the new Parkway Enbridge CDA.

“**Laws**” means applicable statutes, by-laws, rules, regulations, orders, ordinances or judgments, in each case of any Governmental Authority.

“**Linepack**” means the initial gas purchased at the time the pipeline is placed into service for the efficient operation of the Enbridge Pipeline.

“**Maple**” means at or near TransCanada’s compressor Station 130 located at Lot 29, Concession 6.

“**Maple Interconnect**” means the interconnect facilities to be located upstream of Maple on the TransCanada System.

“**May 2012 NCOS**” shall have the meaning given to it in the recitals.

“**MOU**” means this MOU, including all schedules and all amendments or restatements as permitted, and references to an “Article” or “Section” mean the specified Article or Section of this MOU.

“**NEB**” means the National Energy Board.

“**New Capacity Open Season**” shall have the meaning given to it in the Tariff.

“**Notice**” shall have the meaning given to it in Section 6.1.

“**OEB**” means the Ontario Energy Board.

“**Parkway**” means in the vicinity of 6626 9th Line, Mississauga, Ontario.

“**Parkway Enbridge CDA**” means a new single point distributor delivery area created by removing the Parkway Enbridge meter station located on the TransCanada System from the existing Enbridge CDA.

“**Parkway Enbridge CDA Service Contract**” shall have the meaning given to it in Section 3.2(f)(ii).

“**Parties**” means, collectively, TransCanada and Enbridge, and “**Party**” means any one of them, as applicable.

“**Person**” means any natural person, firm, trust, partnership, corporation, limited liability company, joint venture, association, joint stock company, enterprise, unincorporated entity, government, governmental agency or other entity.

“**Regulatory Approvals**” means the applicable certificates, permits, orders, authorizations, approvals, certificates, licenses, exemptions or comparable orders from any applicable Government Authority (including the NEB and OEB as applicable).

“**Storage Transportation Service**” shall have the meaning given to it in the Tariff.

“**Tariff**” means the TransCanada System tariff, as amended from time to time.

“**TBO Agreement**” shall have the meaning given to it in Section 2.5.

“**Term Sheet**” shall have the meaning given to it in Section 2.4(a).

“**Term Sheet Date**” shall have the meaning given to it in Section 2.4(a).

“**TransCanada Authorizations**” shall have the meaning given to it in Section 4.1(a).

“**TransCanada Maple Pipeline**” means a pipeline originating near Enbridge’s Albion district station and terminating at a point upstream of Maple.

“**TransCanada System**” shall have the meaning given to it in the recitals.

“**Transportation Access Procedure**” or “**TAPS**” shall have the meaning given to it in the Tariff.

“**Union Interconnect**” shall have the meaning given to it in section 1 of Schedule “C”.

1.2 Certain Rules of Interpretation

In this MOU:

- (a) **Derivatives:** Where a term is defined in this MOU, a capitalized derivative of such term shall have a corresponding meaning unless the context otherwise requires.
- (b) **Governing Law:** This MOU is a contract made under and shall be governed by and construed in accordance with the Laws in force in the Province of Ontario.
- (c) **Headings:** Headings of Articles and Sections are inserted for convenience of reference only and shall not affect the construction or interpretation of this MOU.
- (d) **Including:** Where the word “including” or “includes” is used in this MOU, it means “including (or includes) without limitation”.
- (e) **No Strict Construction:** The language used in this MOU is the language chosen by the Parties to express their mutual intent and no rule of strict construction shall be applied against any Party.
- (f) **Number and Gender:** Unless the context otherwise requires, words importing the singular include the plural and *vice versa* and words importing gender include all genders.
- (g) **References to Agreements or Statutes:** Any reference in this MOU to an agreement shall, unless the context otherwise requires, mean and refer to such agreement as modified, amended, restated, supplemented or replaced from time to time, and a reference to any statute is a reference to it as re-enacted, varied, amended, modified, supplemented or replaced from time to time.

- (h) **Severability:** If, in any jurisdiction, any provision of this MOU or its application to any Party or circumstance is restricted, prohibited or unenforceable, such provision shall, as to such jurisdiction, be ineffective only to the extent of such restriction, prohibition or unenforceability without invalidating the remaining provisions of this MOU and without affecting the validity or enforceability of such provision in any other jurisdiction or without affecting its application to other Parties or circumstances.
- (i) **Time:** Time is of the essence in the performance of the Parties' respective obligations.
- (j) **Time Periods:** Unless otherwise specified, time periods within or following which an act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the period to the next Banking Day following if the last day of the period is not a Banking Day.

1.3 Entire Agreement

This MOU, the Confidentiality Agreement and any documents delivered in connection therewith constitute the entire agreement among the Parties and set out all the covenants, promises, warranties, representations, conditions, understandings and agreements among the Parties pertaining to the subject matter of this MOU and supersede all prior agreements, understandings, negotiations and discussions among the Parties, whether oral or written. There are no covenants, promises, warranties, representations, conditions, understandings or agreements, whether oral or written, express, implied or collateral among the Parties in connection with the subject matter of this MOU except as specifically set forth in this MOU, the Confidentiality Agreement and any documents required to be delivered in connection herewith.

1.4 Schedules

The following schedules are attached to and form an integral part of this MOU:

<u>Schedule</u>	<u>Description</u>
Schedule "A"	Election #1
Schedule "B"	Election #2
Schedule "C"	Election #3
Schedule "D"	Terms of TBO Agreement

ARTICLE 2 SCOPE AND PURPOSE OF MOU

2.1 Purpose

The Parties have entered into this MOU for the following purposes:

- (a) to provide greater certainty with respect to the efficient development of natural gas infrastructure in the GTA and on TransCanada's Parkway to Maple path;
- (b) to optimize use of existing natural gas transportation infrastructure in and around the GTA and TransCanada's Parkway to Maple path to meet the capacity needs of the Parties' current and future respective customers;
- (c) to plan for future infrastructure to meet medium and long term needs in a coordinated fashion in order to manage rate impacts upon the current and future customers of both Parties;
- (d) to ensure reliability and adequacy of the Parties' respective services and gas transportation systems for customers; and
- (e) to manage infrastructure costs and potential risk of redundant infrastructure and other risks that may negatively impact either Party or its customers.

2.2 Condition Precedent

- (a) The obligations of each Party under this MOU are subject to satisfaction or waiver (in each Party's sole discretion) of the condition precedent that it shall obtain, on or before February 1, 2013, approval by its senior executive of the terms and conditions of this MOU.
- (b) The condition precedent set forth in Section 2.2(a) in respect of each Party is for the sole benefit of such Party, and may only be waived in writing (in whole or in part) by such Party.

2.3 Effect of MOU

- (a) Subject to Section 2.2 and Section 2.3(b), the Parties intend for the obligations outlined in this MOU to be legally binding unless expressly stated otherwise.
- (b) All obligations of the Parties under this MOU are subject to:
 - (i) Laws; and
 - (ii) the ability of the respective Party or Parties to obtain such necessary Regulatory Approvals to give effect to such obligations (including the TransCanada Authorizations and the Enbridge Authorizations) on conditions satisfactory to the applicable Party in its sole discretion.

2.4 Term Sheet

- (a) As soon as reasonably practicable following execution of this MOU, the Parties agree to meet to determine in good faith and with diligence the most effective procedures and mechanisms to give effect to each Party's respective obligations under this MOU, which shall include the development of a term sheet (the "**Term Sheet**") setting out the procedures and mechanisms to give effect to the Election #1 Option or the Election #2 Option, as the case may be, by March 15, 2013 (the "**Term Sheet Date**"). The Parties commit to make every reasonable effort to satisfy their respective obligations hereunder.
- (b) In respect of the equity ownership structure in the Term Sheet to give effect to the commercial terms outlined in Schedule "A" and Schedule "B", the Parties acknowledge their mutual intent to develop a tax-efficient structure that is likely to be successful in obtaining Regulatory Approval in a time frame consistent with the obligations outlined in this MOU, and may include joint ownership on an undivided interest basis, or through joint ownership of some other entity, either directly or through one or more Affiliates.
- (c) The Parties acknowledge that while Schedule "A" and Schedule "B" do not contain all of the commercial principles for the Term Sheet, the commercial principles set forth in Schedule "A" and Schedule "B" have been agreed by the Parties and are not subject to further negotiation.
- (d) The Term Sheet, once agreed, shall govern the relationship between the Parties in respect of the matters contemplated therein until one or more definitive agreements that by their terms supersede and replace the Term Sheet.

2.5 TBO Agreement

If the Parties:

- (a) fail to agree on the Term Sheet by the Term Sheet Date; or
- (b) are unable to implement the transactions described in the Election #1 Option or the Election #2 Option, as applicable, due to Laws, the denial of any Regulatory Approvals required by a Party to meet its obligations under this MOU (including the TransCanada Authorizations and the Enbridge Authorizations) or the granting of same on conditions unsatisfactory to such Party in its sole discretion;

and provided that TransCanada has not elected Election #3, then the Parties shall, subject to Section 2.6(a)(v), enter into a transportation-by-other service agreement on the terms and conditions set out in Schedule "D" (the "**TBO Agreement**").

2.6 Term and Termination

- (a) This MOU shall be binding upon the Parties and shall commence on the date hereof and shall terminate on the earliest to occur of:

- (i) Notice from one Party to the other Party if the condition precedent set forth in Section 2.2 shall have become incapable of fulfilment or has not been fulfilled within the time frame set forth therein, and shall not have been waived by the applicable Party in its sole discretion;
 - (ii) Subject to Section 2.5, the inability of either Party to meet any obligations under this MOU due to Laws, the denial of any Regulatory Approvals required by a Party to meet its obligations herein (including the TransCanada Authorizations and the Enbridge Authorizations), the granting of same on conditions unsatisfactory to such Party in its sole discretion, or due to conditions described in Section 3.3;
 - (iii) the execution and delivery by the Parties of a TBO Agreement that, by its terms, is expressed to supersede and replace the terms and conditions set out in Schedule "D";
 - (iv) the mutual agreement of the Parties;
 - (v) where TransCanada has elected Election #1 or Election #2 pursuant to Section 4.1(c), May 8, 2013, unless the Board of Directors of Enbridge has as at such date approved:
 - (A) the transactions contemplated in:
 - (1) Election #1, in the case where Election #1 was chosen (including the Term Sheet, if agreed); or
 - (2) Election #2, in the case where Election #2 was chosen (including the Term Sheet, if agreed); and
 - (B) the terms and conditions of the TBO Agreement as set out in Schedule "D"; and
 - (vi) the latest date that all of the Parties' obligations under this MOU have been satisfied or have been superseded by definitive agreements as contemplated herein.
- (b) The items outlined in Section 2.7 shall survive termination of this MOU for the periods outlined therein.

2.7 Surviving Obligations

- (a) Notwithstanding the termination of this MOU for any reason other than Section 2.6(a)(v), and subject to Section 2.7(b), the following shall apply:
 - (i) If TransCanada has elected Election #1, then:

- (A) Section 14 of Schedule "A" shall survive any such termination and shall remain in full force and effect for a period of ten (10) years; and
 - (B) Section 15 of Schedule "A" shall survive any such termination and shall remain in full force and effect for a period of ten (10) years.
- (ii) If TransCanada has elected Election #2, then:
- (A) Section 15 of Schedule "B" shall survive any such termination and shall remain in full force and effect for a period of ten (10) years; and
 - (B) Section 16 of Schedule "B" shall survive any such termination and shall remain in full force and effect for a period of ten (10) years.
- (iii) If TransCanada has elected Election #3, then Section 3 of Schedule "C" shall survive any such termination and shall remain in full force and effect for a period of ten (10) years.
- (iv) Section 5.1 shall survive any such termination for the duration of the period outlined in Section 5.1.
- (v) In circumstances where:
- (A) Section 2.5 applies and the Parties would, subject to Section 2.6(a)(v), be obligated to enter into the TBO Agreement; and
 - (B) termination of this MOU is for any reason other than that listed in Sections 2.6(a)(iii) or 2.6(a)(v);
- Schedule "D" shall survive in accordance with its terms.
- (b) In the case of termination of this MOU as provided in Section 2.6(a)(v), all obligations under this MOU and the Confidentiality Agreement, including Section 5.1, notwithstanding anything in Section 5.1 which states otherwise, shall immediately terminate.
- (c) Notwithstanding the termination of this MOU for any reason, Sections 3.2(d) and 6.2 shall survive such termination and remain in full force and effect in accordance with its terms.

ARTICLE 3 THE TRANSACTIONS

3.1 TransCanada Obligations

- (a) TransCanada will:

- (i) construct interconnect facilities with sufficient capacity and specification for the purposes contemplated herein (the “**Bram West Interconnect**”), in the vicinity of Highway 407, between Winston Churchill and Heritage Road (“**Bram West**”), to connect to the Enbridge Pipeline at a point of connection located at or near Bram West;
 - (ii) complete construction of the Bram West Interconnect by April 1, 2015 or as soon as possible thereafter and use reasonable efforts to have the Bram West Interconnect in-service no later than September 1, 2015 or as soon as possible thereafter; and
 - (iii) add the Bram West Interconnect as a single point distributor delivery area to the Tariff (the “**Bram West CDA**”).
- (b) TransCanada will construct, own, operate and maintain the Albion Meter Station.
- (c) TransCanada will make an election to manage the service requests identified in the May 2012 NCOS by electing one of the following options:
- (i) Election #1 (as set out in Schedule “A”);
 - (ii) Election #2 (as set out in Schedule “B”); or
 - (iii) Election #3 (as set out in Schedule “C”),
- and provide Notice of the relevant election to Enbridge on or before April 29, 2013 (the “**Election Date**”). If Notice is not given within such time frame, TransCanada shall be deemed to have elected Election #3. The requirement of the Parties to give effect to Election #1 and Election #2 are subject to agreement on the Term Sheet pursuant to Section 2.4, except to the extent that the provisions of Schedule “A” or Schedule “B” are incorporated into the TBO Agreement terms contained in Schedule “D”.
- (d) TransCanada acknowledges that, at any time prior to November 1, 2015, Enbridge may, but shall not be obligated to, bid and contract for Interruptible Transportation Service on the TransCanada System in accordance with and subject to the Tariff for the purposes of commissioning the Enbridge Pipeline.

3.2 Enbridge Obligations

- (a) Enbridge will construct the Enbridge Pipeline and connect it to the TransCanada System at the Bram West Interconnect by April 1, 2015 or as soon as possible thereafter and use reasonable efforts to have the Enbridge Pipeline in-service for TransCanada by November 1, 2015 or as soon as possible thereafter.
- (b) Enbridge will provide TransCanada, within ten (10) days of the execution of this MOU, a Notice containing its reasonable estimate (the “**Estimated Costs**”) of the incremental costs directly attributable to, arising from or associated with

amending its GTA Project application to modify the size of the Enbridge Pipeline from NPS 36 to NPS 42, including changes to facilities as contemplated by this MOU (the “**Application Amendment**”), together with such reasonable supporting documentation as may be typically provided with similar estimates, or as may be reasonably requested by TransCanada.

- (c) Enbridge will proceed to amend the GTA Project application to reflect the Application Amendment and TransCanada agrees to reimburse Enbridge for the actual incremental costs attributable to, arising from or associated with the Application Amendment, up to a maximum amount of \$1,000,000 (the “**Actual Costs**”), if TransCanada has elected Election #3 or either Party is unable to obtain its Regulatory Approvals such that the NPS 42 Enbridge Pipeline is not approved and constructed.
- (d) If TransCanada has elected Election #3 or if either Party is unable to obtain its Regulatory Approvals such that the NPS 42 Enbridge Pipeline is not approved and constructed, Enbridge shall make a final determination of the Actual Costs no later than September 30, 2015 and shall provide TransCanada with an invoice, with sufficient supporting evidence reasonably satisfactory to TransCanada, and TransCanada shall pay Enbridge the Actual Costs within thirty (30) days of receipt of such invoice.
- (e) Enbridge will consult with TransCanada in respect of the Application Amendment and provide TransCanada with a reasonable opportunity to review and comment on the Application Amendment. Notwithstanding the foregoing, the Parties acknowledge that Enbridge has exclusive control over the filing and prosecution process for the Enbridge Approvals (including the Application Amendment).
- (f) If TransCanada elects either Election #1 or Election #2 in Section 3.1(c), Enbridge will bid and contract for:
 - (i) service contracts for 800,000 GJ/day of Firm Transportation Service and/or Storage Transportation Service on the TransCanada System from Parkway to the Bram West CDA (the “**Bram West CDA Service Contracts**”); and
 - (ii) a service contract for 200,000 GJ/d of Firm Transportation Service on the TransCanada System from Niagara Falls and/or Chippawa to the Parkway Enbridge CDA (the “**Parkway Enbridge CDA Service Contract**”),

through one or more New Capacity Open Seasons, to be held, in compliance with the TAPS, on or before June 30, 2013, with service to commence on November 1, 2015 or as soon as possible thereafter, in each case for a minimum term of fifteen (15) years and at a toll to be determined in accordance with TransCanada’s NEB approved point-to-point tolling methodology and the Tariff.

- (g) Unless TransCanada elects Election #1 as provided in Section 3.1(c), Enbridge shall be under no obligation to modify the size of the Enbridge Pipeline from NPS 36 to NPS 42 or make any other related change to facilities.

3.3 Limitations on Application

- (a) The obligations of a Party to construct facilities pursuant to this ARTICLE 3 and any Schedule to this MOU will be undertaken by such Party on a reasonable commercial efforts basis.
- (b) In the event of either Party being rendered unable, wholly or in part, by force majeure to perform or comply with any obligation or condition hereof or any obligation in this ARTICLE 3 or any of the Schedules to this MOU, such Party shall give notice and full particulars of such force majeure in writing to the other Party as soon as possible thereafter, and the obligations of the Party giving such notice, other than obligations to make payments of money then due, so far as they are affected by such force majeure, shall be suspended during the continuance of any inability so caused but for no longer period, and such cause shall as far as possible be remedied with all reasonable dispatch. The term “force majeure” as used herein shall mean acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, wars, blockades, insurrections, riots, epidemics, landslides, lightening, earthquakes, fires, storms, floods, washouts, arrests and restraints of governments and people, civil disturbances, explosions, breakage or accident to machinery or lines of pipe, the necessity for making repairs to or alterations of machinery or lines of pipe, freezing of wells or lines of pipe, temporary failure of either Party’s gas supply, inability to obtain materials, supplies, permits or labour, any laws, orders, rules, regulations, acts or restraints of any governmental body or authority, civil or military, any act or omission (including failure to deliver gas) of a supplier of gas to, or a transporter of gas to or for either Party which is excused by any event of force majeure, any act or omission by parties not controlled by the Party having the difficulty and any other similar causes not within the reasonable control of the Party claiming suspension. The settlement of strikes, lockouts or other labour disputes shall be entirely within the discretion of the Party having the difficulty. Under no circumstances will lack of finances be construed to constitute force majeure.

ARTICLE 4 REGULATORY AUTHORIZATIONS

4.1 TransCanada Authorizations

- (a) Enbridge agrees to cooperate with, and shall not oppose, intervene against, or seek to delay, whether directly or indirectly, TransCanada in its efforts to obtain such Regulatory Approvals that TransCanada reasonably determines are necessary to enable it to meet its obligations under this MOU (the “**TransCanada Authorizations**”) and shall provide such reasonable support as may be necessary

in connection with the applications for, and the processing of, the TransCanada Authorizations.

- (b) Notwithstanding Section 4.1(a), nothing shall obligate TransCanada to appeal, or seek a review of, any decision of a regulatory or judicial authority which has the effect of denying any of the TransCanada Authorizations or granting same on conditions unsatisfactory to TransCanada.
- (c) TransCanada agrees to diligently and expeditiously pursue the TransCanada Authorizations.

4.2 Enbridge Authorizations

- (a) Except as this Section 4.2(a) may be modified by section 3 of Schedule "C", TransCanada agrees to cooperate with, and shall not oppose, intervene against, or seek to delay, whether directly or indirectly, Enbridge in its efforts to obtain such Regulatory Approvals Enbridge reasonably determines are necessary to enable it to meet its obligations under this MOU and build the Enbridge Pipeline, including any related gas supply portfolio approvals and Union Gas Limited's development of the Parkway West site in order to provide Enbridge with a back-up feed and adequate compression for the GTA Project (the "**Enbridge Authorizations**"), and shall provide such reasonable support as may be necessary in connection with the applications for, and the processing of, the Enbridge Authorizations.
- (b) Notwithstanding Section 4.2(a), nothing shall obligate Enbridge to appeal, or seek a review of, any decision of a regulatory or judicial authority which has the effect of denying any of the Enbridge Authorizations or granting same on conditions unsatisfactory to Enbridge.
- (c) Enbridge agrees to diligently and expeditiously pursue the Enbridge Authorizations.

4.3 Regulatory Approvals

For greater certainty, the obligation on both Parties to not oppose, intervene against, or seek to delay, whether directly or indirectly, the other Party in its efforts to obtain Regulatory Approvals as outlined in Section 4.1(a) and Section 4.2(a), respectively:

- (a) only applies to those Regulatory Approvals that are within the scope of this MOU; and
- (b) shall not apply in respect of any applications for Regulatory Approvals that are inconsistent with the terms of this MOU.

ARTICLE 5 CONFIDENTIALITY

5.1 Confidentiality

- (a) The Parties acknowledge that all information disclosed by a Party to the other Party pursuant to or in relation to this MOU shall be deemed to be Confidential Information of the disclosing Party subject in all respects to the receiving Party's obligations pursuant to the Confidentiality Agreement. The Parties' obligations to be bound by such Confidentiality Agreement shall survive the termination of this MOU until the later of (i) November 1, 2014, and (ii) such later date as may be specified in this Section 5.1.
- (b) If Enbridge extends the Election #2 Option Date in accordance with Section 1 of Schedule "B", then the Parties agree that the termination date of the Confidentiality Agreement shall be extended to the Election #2 Option Date.
- (c) Notwithstanding Section 2 of the Confidentiality Agreement and Section 5.2, the Parties agree that each of them may publicly disclose the following information:
 - (i) The existence of the Confidentiality Agreement;
 - (ii) that:
 - (A) the Parties are seeking to enter into transactions for the purposes described in Section 2.1, subject to Regulatory Approvals;
 - (B) Enbridge plans to amend its GTA Project application to include an option to change the size of its Enbridge Pipeline to a NPS 42 line and TransCanada proposes to acquire up to 60% of that line from Enbridge for TransCanada's own system requirements;
 - (C) TransCanada proposes to build a connection to Enbridge at a location called Bram West and Enbridge proposes to build a connection to TransCanada at Bram West;
 - (D) TransCanada proposes to create a new single point distributor delivery area called Parkway Enbridge CDA, by removing the Enbridge Parkway meter from the Enbridge CDA and adding it to the Tariff;
 - (E) TransCanada proposes to create a new single point distributor delivery area called Bram West and add it to the Tariff;
 - (F) TransCanada proposes to charge the NEB-approved point to point tolling methodology for these two new distributor delivery areas;
 - (G) Enbridge proposes to bid and contract for:

- (1) Firm Transportation Service or Storage Transportation Service on the TransCanada System from Parkway to the Bram West CDA for 800,000 GJ/d; and
 - (2) Firm Transportation Service on the TransCanada System from Niagara Falls or Chippawa to the new Parkway Enbridge CDA for 200,000 GJ/d and TransCanada proposes to utilize its Hamilton Line to provide this service;
- (H) TransCanada will construct own and operate a meter station at or near the existing Albion district station to measure deliveries from TransCanada at Bram West to Enbridge;
- (I) the Parties propose to enter into the TBO Agreement, provided such disclosure is made at the earlier of:
- (1) the time that the Parties have entered into a definitive agreement in respect of the TBO Agreement; and
 - (2) the time that Enbridge or TransCanada first applies for Regulatory Approval of the TBO Agreement, as contemplated herein; and
- (iii) The Parties will work together to determine the optimum capacity of the Enbridge Pipeline and to meet a commissioning date of April 1, 2015 and in-service date for TransCanada of November 1, 2015 or as soon as possible thereafter.

5.2 Press Releases

Except as expressly provided in Section 5.1(c), the Parties may only disclose information regarding this MOU and/or the contents thereof to the public at a time and in a manner as mutually agreed to by the Parties. If the Parties mutually agree to a disclosure, then either Party may issue press releases, public announcements or make such other similar communications, provided that the content, timing and manner of any such disclosure is in strict compliance with the mutual agreement of the Parties.

ARTICLE 6 GENERAL

6.1 Notices

Any notice, consent or approval required or permitted to be given in connection with this MOU (a "Notice") shall be in writing and shall be sufficiently given if delivered (whether in person, by courier service or other personal method of delivery), or if transmitted by facsimile:

If to TransCanada:

TransCanada PipeLines Limited
450-1st Street, S.W.
Calgary, AB T2P 5H1

Attn: Corporate Secretary
Facsimile: 403.920.2467

If to Enbridge:

Enbridge Gas Distribution Inc.
500 Consumers Road
Toronto, ON M2J 1P8

Attn: VP Gas Supply c/o Law Department
Facsimile: 416.495.5994

Any Notice delivered or transmitted to a Party as provided above shall be deemed to have been given and received on the day it is delivered or transmitted, provided that it is delivered or transmitted on a Banking Day prior to 5:00 p.m. local time in the place of delivery or receipt. However, if the Notice is delivered or transmitted after 5:00 p.m. local time or if such day is not a Banking Day then the Notice shall be deemed to have been given and received on the next Banking Day. Any Party may, from time to time, change its address by giving Notice to the other Parties in accordance with the provisions of this Section 6.1.

6.2 Limitation of Liability

- (a) Notwithstanding anything contained herein to the contrary, neither Party will be liable under this MOU or under any cause of action relating to the subject matter of this MOU for any indirect, punitive, or consequential damages, or loss of profits, loss of use of any property or claims of customers or contractors of the Parties for any such damages.
- (b) Other than in the case of wilful misconduct or gross negligence, aggregate liability of a Party hereunder shall be capped at ten million dollars (\$10,000,000.00), regardless of the number of events, incidents or breaches.

6.3 Audit Rights

- (a) To the extent that amounts are payable by TransCanada under this MOU in respect of the Actual Costs and Enbridge Pipeline Costs, TransCanada and its representatives shall have the right within one (1) year of the payment or final calculation of any such amount to engage an independent auditor to conduct a single audit of the relevant books and records in respect of such costs for such payment during regular business hours and in a manner that does not unreasonably interfere with Enbridge's business or operations (upon sixty (60) days Notice and at TransCanada's expense).
- (b) TransCanada and Enbridge will use reasonable commercial efforts to resolve any discrepancies disclosed by an audit report as soon as reasonably practicable and in any event within 180 days following presentation of the audit report by TransCanada.

6.4 Payments

If either Party fails to make a payment to the other Party in full within any applicable time period set out herein, interest on the unpaid portion of any such payment shall accrue from the date payment is first overdue until payment is made at a rate of interest equal to the prime rate of interest per annum of the Canadian Imperial Bank of Commerce applicable to Canadian dollar commercial loans plus two percent (2%).

6.5 Miscellaneous


- (a) **Costs and Expenses:** Each Party shall bear its own costs and expenses in respect of the negotiation and execution of this MOU.
- (b) **Amendment:** No amendment, supplement, modification, waiver or termination of this MOU and, unless otherwise specified, no consent or approval by any Party, shall be binding unless executed in writing by an officer or other authorized representative of the Party to be bound thereby.
- (c) **Assignment:** No Party shall have the right to assign this MOU or any interest in this MOU to a non-affiliated third party without the prior written consent of the other Party, which consent may be withheld in such other Party's sole, absolute and unfettered discretion. Upon providing prior written Notice, either Party may assign all of its rights hereunder to an Affiliate of such Party provided however, that the assigning Party shall remain obligated to ensure the performance by such Affiliate of the assigned obligations hereunder and shall not be released from any of its obligations hereunder upon such assignment without the consent of the other Party delivered in accordance with this Section 6.2(c).
- (d) **Enurement:** This MOU shall enure to the benefit of and be binding upon the Parties and their respective successors (including any successor by reason of amalgamation of any Party) and permitted assigns.
- (e) **Further Assurances:** The Parties shall, with reasonable diligence, do all such things and provide all such reasonable assurances as may be required to consummate the transactions contemplated by this MOU, and each Party shall provide such further documents or instruments required by the other Party as may be reasonably necessary or desirable to effect the purpose of this MOU and carry out its provisions.

- (f) **Execution and Delivery:** This MOU may be executed by the Parties in counterparts and may be executed and delivered by facsimile and all such counterparts and facsimiles shall together constitute one and the same agreement.

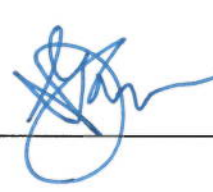
IN WITNESS OF WHICH the Parties have duly executed this MOU as of the date first written above.

TRANSCANADA PIPELINES LIMITED

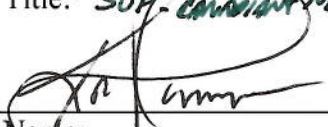
ENBRIDGE GAS DISTRIBUTION INC.

By: 

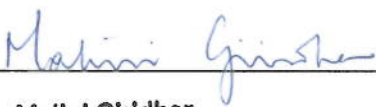
Name: **S. CLARK**
Title: **SUP. CANADIAN NEUS PIPELINES**

By: 


Name: **D. Guy Jarvis**
Title: **President**

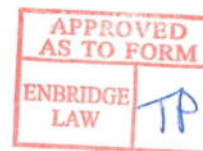
By: 

Name: **Karl Johansson**
Title: **President, Natural Gas Pipelines**

By: 

Name: **Malini Girdhar**
Title: **Vice President, Gas Supply**

Legal	
Content	



SCHEDULE "A"
ELECTION #1

If TransCanada makes Election #1 in accordance with Section 3.1(c), then the following shall apply:

1. TransCanada shall acquire, upon the terms and conditions set out in the Term Sheet, a percentage equity interest in the Enbridge Pipeline and its related capacity or such alternative capital structure that would allow both Parties to own and earn a regulated return on their respective portions of the Enbridge Pipeline, either:
 - (a) if the Enbridge Pipeline is sized at NPS 36, fifty (50%) percent of the Enbridge Pipeline for a contribution of fifty (50%) percent of the Enbridge Pipeline Costs, or
 - (b) if the Enbridge Pipeline is sized at NPS 42, sixty (60%) percent of the Enbridge Pipeline for a contribution of sixty (60%) percent of the Enbridge Pipeline Costs,with service to commence on or before November 1, 2015 or as soon as possible thereafter (the "**Election #1 Option**").
2. The Parties agree to do all such things and provide all such reasonable assurances as may be required to give effect to the Term Sheet and the related Election #1 Option. Each Party shall provide such further documents or instruments required by the other Party as may be reasonably necessary or desirable to effect such purpose.
3. The Parties agree that Enbridge will retain a quantity of 800,000 GJ/d on the Enbridge Pipeline and that any future expanded pipeline capacity will be attributable to and at the expense of TransCanada.
4. The initial Linepack associated with the Enbridge Pipeline, as determined by Enbridge, represents a cost to the project and these costs shall be treated as any other non-depreciating rate base item. The Parties agree that Enbridge will purchase the initial Linepack and TransCanada's share of the cost of the initial Linepack will be included in the contribution contemplated in section 1 of this Schedule "A".
5. Enbridge will be responsible for the operation of the Enbridge Pipeline and TransCanada will pay Enbridge for its proportionate share of operation and maintenance costs.
6. TransCanada will construct, own, operate and maintain the TransCanada Maple Pipeline.
7. TransCanada will construct, own, operate and maintain the Maple Interconnect.
8. Enbridge will construct, own, operate and maintain odourization facilities downstream of the Albion Meter Station.
9. If Enbridge requires Storage Transportation Service to Bram West CDA then Enbridge will be required to contract for long haul firm transportation service to Bram West CDA.

The combined quantity will not be greater than 800,000 GJ/d. At the same time Enbridge executes any Bram West CDA Service Contracts for Storage Transportation Service, Enbridge may choose to replace the delivery point identified in any of its Enbridge Long Haul FT Contracts, or a portion thereof, with Bram West CDA and the Parties shall execute amending agreements evidencing the same as soon as reasonably possible thereafter.

10. TransCanada will add the Parkway Enbridge CDA as a new single point distributor delivery area by removing the Parkway Enbridge meter station located on the TransCanada System from the existing Enbridge CDA.
11. TransCanada will use its Hamilton Line to provide Enbridge with service for the Parkway Enbridge CDA Service Contracts. Enbridge agrees that TransCanada may deliver such gas to the Parkway Enbridge CDA at lower than the minimum pressure set out in the Tariff but in no circumstances will any such delivery pressure be lower than 3450 kilopascals.
12. Enbridge agrees that the Parkway Enbridge CDA Service Contract will not displace any existing TransCanada System Firm Transportation Service contracts currently serving the Enbridge CDA.
13. Enbridge agrees that 200,000 GJ/d of the 800,000 GJ/d referred to in Section 3.2(f)(i) will consist of quantities displaced from the suction side of Union Gas Limited's Parkway compression to the Bram West Interconnect.
14. The Enbridge Pipeline will only be used to serve TransCanada and Enbridge's distribution franchise, including direct purchase customers, and will not be used for the transportation of gas for any other Person.
15. If requested by Enbridge to provide future incremental gas transportation service through or along the Parkway to Maple path, TransCanada will use reasonable commercial efforts under the TAPS procedures for New Capacity Open Seasons to accommodate Enbridge's request through either existing facilities or an expansion of TransCanada's system capacity, or a combination of these. Such efforts will involve the exercise of TransCanada discretion in a non-discriminatory basis and will be subject to Regulatory Approval.

SCHEDULE "B"
ELECTION #2

If TransCanada makes Election #2 in accordance with Section 3.1(c), then the following shall apply:

1. TransCanada shall have an option, exercisable at any time by TransCanada until November 1, 2014, or such other later date as determined by Enbridge (the "**Election #2 Option Date**"), to acquire, upon the terms and conditions set out in the Term Sheet, a percentage equity interest in the Enbridge Pipeline and its related capacity or such alternative capital structure that would allow both Parties to own and earn a regulated return on their respective portions of the Enbridge Pipeline, either
 - (a) if the Enbridge Pipeline is sized at NPS 36, fifty (50%) percent of the Enbridge Pipeline for a contribution of fifty (50%) percent of the Enbridge Pipeline Costs, or
 - (b) if the Enbridge Pipeline is sized at NPS 42, sixty (60%) percent of the Enbridge Pipeline for a contribution of sixty (60%) percent of the Enbridge Pipeline Costs,with service to commence on or before November 1, 2017 or as soon as possible thereafter (the "**Election #2 Option**").
2. The Parties agree to do all such things and provide all such reasonable assurances as may be required to give effect to the Term Sheet and the related Election #2 Option. Each Party shall provide such further documents or instruments required by the other Party as may be reasonably necessary or desirable to effect such purpose.
3. The Parties agree that Enbridge will retain a quantity of 800,000 GJ/d on the Enbridge Pipeline and that any future expanded pipeline capacity will be attributable to and at the expense of TransCanada.
4. The initial Linepack associated with the Enbridge Pipeline, as determined by Enbridge, represents a cost to the project and these costs shall be treated as any other non-depreciating rate base item. The Parties agree that Enbridge will purchase the initial Linepack and TransCanada's share of the cost of the initial Linepack will be included in the contribution contemplated in section 1 of this Schedule "B".
5. Enbridge will be responsible for the operation of the Enbridge Pipeline and TransCanada will pay Enbridge for its proportionate share of operation and maintenance costs.
6. TransCanada will meet the service requests identified in the May 2012 NCOS by using available capacity on the TransCanada System through a turnback open season or through the cancellation or reduction of quantities in the May 2012 NCOS precedent agreements and will delay exercising the Election #2 Option. Notwithstanding the foregoing, TransCanada may, at any time up to and including the Election #2 Option Date, exercise the Election #2 Option.

7. TransCanada will construct, own, operate and maintain the TransCanada Maple Pipeline.
8. TransCanada will construct, own, operate and maintain the Maple Interconnect.
9. Enbridge will construct, own, operate and maintain odourization facilities downstream of the Albion Meter Station.
10. If Enbridge requires Storage Transportation Service to Bram West CDA then Enbridge will be required to contract for long haul firm transportation service to Bram West CDA. The combined quantity will not be greater than 800,000 GJ/d. At the same time Enbridge executes any Bram West CDA Service Contracts for Storage Transportation Service, Enbridge may choose to replace the delivery point identified in any of its Enbridge Long Haul FT Contracts, or a portion thereof, with Bram West CDA and the Parties shall execute amending agreements evidencing the same as soon as reasonably possible thereafter.
11. TransCanada will add the Parkway Enbridge CDA as a new single point distributor delivery area by removing the Parkway Enbridge meter station located on the TransCanada System from the existing Enbridge CDA.
12. TransCanada will use its Hamilton Line to provide Enbridge with service for the Parkway Enbridge CDA Service Contracts. Enbridge agrees that TransCanada may deliver such gas to the Parkway Enbridge CDA at lower than the minimum pressure set out in the Tariff but in no circumstances will any such delivery pressure be lower than 3450 kilopascals.
13. Enbridge agrees that the Parkway Enbridge CDA Service Contract will not displace any existing TransCanada System Firm Transportation Service contracts currently serving the Enbridge CDA.
14. Enbridge agrees that 200,000 GJ/d of the 800,000 GJ/d referred to in Section 3.2(f)(i) will consist of quantities displaced from the suction side of Union Gas Limited's Parkway compression to the Bram West Interconnect.
15. The Enbridge Pipeline will only be used to serve Enbridge's distribution franchise, including direct purchase customers, and will not be used for the transportation of gas for any other Person, unless TransCanada has exercised the Election #2 Option, then the Enbridge Pipeline may also be used to serve TransCanada.
16. If requested by Enbridge to provide future incremental gas transportation service through or along the Parkway to Maple path, TransCanada will use reasonable commercial efforts under the TAPS procedures for New Capacity Open Seasons to accommodate Enbridge's request through either existing facilities or an expansion of TransCanada's system capacity, or a combination of these. Such efforts will involve the exercise of TransCanada discretion in a non-discriminatory basis and will be subject to Regulatory Approval.

17. If TransCanada does not exercise the Election #2 Option, the Parties will work together to ensure that the Bram West CDA point to point toll is reasonable in relation to Enbridge's cost of extending the Enbridge Pipeline to Parkway.

SCHEDULE "C"
ELECTION #3

If TransCanada makes Election #3 in accordance with Section 3.1(c), then the following shall apply:

1. Enbridge may build a pipeline from Enbridge's Albion district station terminating upstream of Maple (the "**Enbridge Maple Pipeline**") and may interconnect the Enbridge Pipeline to the Union Gas Limited system at Parkway (the "**Union Interconnect**").
2. If Enbridge builds the Enbridge Maple Pipeline, TransCanada will construct, own and operate the Maple Interconnect which will connect to the Enbridge Maple Pipeline.
3. TransCanada shall not be obligated to support but shall not oppose, intervene against or seek to delay, Enbridge in its efforts to obtain the Enbridge Authorizations for the Enbridge Maple Pipeline or the Union Interconnect.
4. Notwithstanding anything to the contrary herein, TransCanada will not be required to construct the Bram West Interconnect, add the Bram West CDA as a single point distributor delivery area to the Tariff or construct, own, operate and maintain the Albion Meter Station.
5. TransCanada will have the right, but shall in no way be obligated, to transportation-by-other service on the entire Enbridge pipeline from Bram West to Maple.

SCHEDULE "D"
TERMS OF TBO AGREEMENT

The following sets forth the primary commercial terms of the TBO Agreement. In the event that the Parties are unable to enter into a definitive agreement in respect of the TBO Agreement, the Parties agree that all material commercial terms are contained in this Schedule "D", which shall, where the Parties are obligated to enter into the TBO Agreement in accordance with the terms of this MOU, be considered legally binding until such time as the Parties have entered into a definitive TBO Agreement that by its terms supersedes and replaces this Schedule "D".

Term	Application
General	The intent of the Parties is that the TBO Agreement will reflect, as much as is commercially practicable, the same commercial effect as if the Enbridge Pipeline was jointly owned by the Parties as contemplated by Election #1 or Election #2, except that the Enbridge Pipeline would be wholly owned and operated by Enbridge.
Capacity Allocation	Enbridge's allocated capacity on the Enbridge Pipeline would be equal to 800,000 GJ/d, and TransCanada shall be entitled to the balance of the capacity on the Enbridge Pipeline, including any increases in such capacity.
Rate	<ul style="list-style-type: none"> • The rate will be based on OEB-approved methodologies for rate setting in respect of the Enbridge Pipeline or comparable pipeline facilities inclusive of interest on (short and long term) debt, equity thickness, return on equity (ROE), depreciation expense, municipal and income taxes, and operating and maintenance expense. • If the Enbridge Pipeline is sized at 42 NPS, the rate to be charged to TransCanada would be based on 60% of the Enbridge Pipeline Costs. • If the Enbridge Pipeline is sized at 36 NPS, the rate to be charged to TransCanada would be based on 50% of the Enbridge Pipeline Costs. • In principle, except where capital improvements are made to the Enbridge Pipeline, the rate payable will decline over time as the Enbridge Pipeline is depreciated. Any such capital improvements will otherwise be treated in the same manner as the balance of the Enbridge Pipeline Costs.
Term & Termination	<ul style="list-style-type: none"> • The TBO Agreement will have a primary term of 15 years from the in-service date of the Enbridge Pipeline, with automatic annual renewals at TransCanada's option, where TransCanada could terminate the TBO Agreement not later than 6 months prior the next renewal date. • Upon termination by TransCanada, TransCanada would be obliged to reimburse Enbridge for that percentage of the net book value of the Enbridge Pipeline as of the date of termination, based on the applicable percentage used for calculating the rate. • If Enbridge wishes to sell, assign or dispose of the Enbridge Pipeline, TransCanada would have the first right to buy the Enbridge Pipeline at the net book value of the Enbridge Pipeline as of the date of transfer.

Term	Application
Operations	Enbridge will operate the Enbridge Pipeline in an operationally similar manner to the TransCanada System.
Impact of Elections	<p>In the event that TransCanada has elected the election specified below where the Parties have not reached agreement on the Term Sheet in accordance with Section 2.4, the following provisions shall be incorporated into the TBO Agreement:</p> <ul style="list-style-type: none"> • In respect of Election #1, the provisions of sections 6-15 of Schedule "A", inclusive; or • In respect of Election #2, the provisions of sections 7-17 of Schedule "B", inclusive.
Terms of Service	Unless otherwise agreed to by the Parties, the TBO Agreement will contain standard terms and conditions consistent with the standard terms of service found in the Tariff and the Parties will rely on these standard terms in the development of agreements for the service.
Other Terms	Unless otherwise included in the foregoing, the TBO Agreement would also contain other reasonable terms and conditions consistent with other agreements for the transportation of natural gas in Canada.