

AGREEMENT TO GRANT AN EASEMENT

Between:

THE CORPORATION OF THE CITY OF KAWARTHA LAKES

(herein called the "Grantor")

offers to grant an easement to

ENBRIDGE GAS INC.

(herein called the "Grantee")

REAL PROPERTY: Legally described as Part 6 on Plan 98, Part of Lot 1 on Plan 17, Part 2 on Plan 17, Part 1 on 57R-1711 subject to R128917, Lot 3 on Plan 17, Part 1 and 2 on 57R-3324 together with A31885, Lot 4 on Plan 17 as in R173282, subject to A8323, together with R316562, R316563, in the Geographic Village of Fenelon Falls, City of Kawartha Lakes (PIN 63155-0099) (the "Lands").

PRICE: The Grantee agrees to compensate the Grantor in the amount of Eight Thousand, Five Hundred Dollars (CDN \$8,500.00).

ADDITIONAL COSTS: The Grantee agrees to reimburse the Grantor for all reasonable legal costs upon receiving a receipt from the solicitor (the "Additional Costs").

TERM: The Grantor acknowledges that the easement allows for the Grantee to be able to perform operation, repair and maintenance of a gas pipeline (the "Easement"). The Easement shall commence as of the date of the execution by the Grantor. More specific terms shall be set out in Schedule "A" attached to this agreement (the "Agreement"). These terms shall be attached to the easement documents registered on title.

BALANCE: The Grantor agrees to pay the balance of and Price the Additional Costs, by bank draft or certified cheque, to the Grantor's solicitor in trust on closing, subject to the usual adjustments.

FURTHER CLAUSES AND CONDITIONS:

1. **COMPLETION DATE:** This Agreement shall be completed and registered on title by no later than 5:00 p.m. on or before the **30th day** following the execution of both the Grantor and Grantee of this Agreement. If the 30th day is not a business day, it shall be the next business day and if said not that day then mutually agreed upon by both the Grantor and Grantee.
2. **HST:** If this transaction is subject to Harmonized Sales Tax (H.S.T.), then such tax shall be in addition to the Price. If this transaction is not subject to H.S.T., the Grantor agrees to certify on or before closing that the transaction is not subject to H.S.T.
3. **TITLE:** Provided that the title to the property is good and free from all registered restrictions, charges, liens, and encumbrances except as otherwise specifically provided in this Agreement and save and except for (a) any registered restrictions or covenants that run with the land providing that such are complied with; (b) any registered municipal agreements and registered agreements with publicly regulated utilities providing such have been complied with, or security has been posted to ensure compliance and completion, as evidenced by a letter from the relevant municipality or regulated utility; (c) any minor easements for the supply of domestic utility or telephone services to the property or adjacent properties; and (d) any easements for drainage, storm or sanitary sewers, public utility lines, telephone lines,

cable television lines or other services which do not materially affect the present use of the property.

4. **CLOSING ARRANGEMENTS:** Where each of the Grantee and the Grantor retain a lawyer to complete the Agreement to enter into an Easement and where in the transaction will be completed by electronic registration pursuant to Part III of the *Land Registration Reform Act*, R.S.O. 1990, Chapter L4 and the *Electronic Registration Act* S.O. 1991, Chapter 44, and any amendments thereto, the Grantee and the Grantor acknowledge and agree that the exchange of closing funds, non-registrable documents and other items (the "Requisite Deliveries") and the release thereof to the Grantee and the Grantor will (a) not occur at the same time as the registration of the transfer/deed (and any other documents intended to be registered in connection with the completion of this transaction) and (b) be subject to conditions whereby the lawyer(s) receiving any of the Requisite Deliveries will be required to hold same in trust and not release same except in accordance with the terms of a document registration agreement between the said lawyers. The Grantee and Grantor irrevocably instruct the said lawyers to be bound by the document registration agreement, which is recommended from time to time by the Law Society of Upper Canada. Unless otherwise agreed to by the lawyers, such exchange of the Requisite Deliveries will occur in the applicable Land Titles Office or such other location by both lawyers.
5. **INDEMNIFICATION:** The Grantee will indemnify the Grantor for any third-party claims relating to the Grantor's work or encumbrance on the Lands. The Grantee will indemnify the Grantor for any spill originating from its pipeline. The Gas Company shall at all times, indemnify and save harmless the Corporation from and against all claims, including costs related thereto, for all damages or injuries including death to any person or persons and for damage to any property, arising out of the Gas Company operating, constructing and maintaining its gas system for the carriage of gas owned by others. Provided that the Gas Company shall not be required to indemnify or save harmless the Corporation from and against claims, including costs related thereto, which it may incur by reason of damages or injuries including death to any person or persons and damage to any property, resulting from the negligence or wrongful act of the Corporation, its servants, agents or employees.
6. **TIME LIMITS:** Time shall in all respects be of the essence hereof provided that the time for doing or completing any matter provided for herein may be extended or abridged by an agreement in writing signed by Grantee and Grantor or by their respective lawyers who may be specifically authorized in that regard.
7. **TENDER:** Any tender documents or money hereunder may be made upon Grantee or Grantor or their respective lawyers on the day set for completion. Money may be tendered by bank draft or cheque certified by a Chartered Bank, Trust Company, Province of Ontario Savings Office, Credit Union or Caisse Populaire.
8. **AGREEMENT IN WRITING:** If there is conflict between any provision written or typed in this Agreement (including any Schedule attached hereto) and any provision in the printed portion hereof, the written or typed provision shall supersede the printed provision to the extent of such conflict. This Agreement including any Schedule attached hereto, shall constitute the entire Agreement between the Grantor and the Grantee. There is no representation, warranty, collateral agreement or condition, which affects this Agreement other than as

expressed herein. This Agreement shall be read with all changes of gender or number required by context.

9. **SUCCESSORS AND ASSIGNS:** The heirs, executors, administrators, successors and assigns of the undersigned are bound by the terms herein.
10. **LEGAL ADVICE:** The Grantor and Grantee acknowledge that they have either received or waived the benefit of their own independent legal advice with respect to the execution of this Agreement.
11. **PUBLIC DOCUMENT:** The Grantee acknowledges that this Agreement is a public document, and consents to its disclosure pursuant to the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56.

DATED at _____, this _____ day of _____,
2020.

**THE CORPORATION OF THE CITY OF
KAWARTHA LAKES**

Per: _____

Name: Andy Letham

Title: Mayor

Per: _____

Name: Cathie Ritchie

Title: Clerk

We have authority to bind the Corporation pursuant
to By-Law _____

DATED at _____, this _____ day of _____,
2020.

ENBRIDGE GAS DISTRIBUTION INC.

Per: _____

Name: Anissa Trenholm

Title: Supervisor, Right of Way

Per: _____

Name: Chuck Reaney

Title: Right of Way Advisor

I/We have the authorization to bind the Corporation.

SCHEDULE 'A'

ADDITIONAL COVENANTS

The Grantor hereby grants, transfers and conveys unto the Grantee the free, uninterrupted and unobstructed right and easement to install, operate, repair and maintain, and remove the gas pipeline together with any and all appurtenances thereto as may be required from time to time on, in, across, under and through the Lands. More specifically, the pipeline will be contained within Parts 4, 5 and 6 on 57R-10822 and the laterals will extend from the pipeline and to the property lines on the Lands;

TOGETHER WITH the right of the Grantee and its servants, agents, contractors and workmen with all necessary materials, equipment, machinery and vehicles to enter upon the Lands at all times and to pass and re-pass thereon for the purposes of installing, constructing, reconstructing, examining, altering, maintaining, repairing, renewing or replacing the said gas pipeline or any part thereof.

TO HAVE AND TO HOLD the said easement or right in the nature of an easement for the Grantee's sole use forever, **unless terminated by the Grantor on 730 days advance written notice in the event that the Grantor wishes to sell or build upon the Lands and cannot do so without interference with the Easement. In this event, the Grantor is required to provide suitable alternative access through a road allowance and is required to pay for the Grantee's relocation costs. In the event that the Grantor wishes to build upon the Lands and is able to do so without interfering with the Easement, but the Grantor is subjected to additional costs as a result of the Easement, then the Grantor is entitled to invoice the Grantee for the additional costs and the Grantee is required to pay same.**

AND the Grantor covenants with the Grantee:

- a) To keep the Lands free and clear of any buildings, structures or obstructions;
- b) Not to deposit on or remove any fill from the Lands, and
- c) Not to do or suffer to be done any other thing which may or might injure or damage any of the works of the Grantee herein.

AND the Grantor covenants with the Grantee that it has the right to convey the said rights and easement to the Grantee, notwithstanding any act of the Grantor.

AND the Grantee shall have quiet possession of the said rights and easement, free from all encumbrances excepting those noted on title, being third party interests in the property as a right of way. **Grantee covenants with the Grantor to do its repair, maintenance and removal work so as not to restrict third party access and to minimize interruption to the Grantor's use of the Lands as a parking lot.**

AND the Grantor and Grantee each covenant to the other that it will execute such further assurances of the said rights and easement as may be required.

AND the Grantee covenants and agrees with the Grantor that it will remove the gas service and fill in all excavations and restore the Lands and premises to the condition existing prior to any entry thereon at the time that the gas service is abandoned.

AND the Grantee covenants with the Grantor:

- a) All work shall strictly conform to the design drawings provided to and accepted by the Grantor as of and following the date of the Easement, and kept on file with the Grantor;

- b) The pipeline shall be contained within the easement, but the laterals will be contained outside the easement within the Lands. Should, during the construction, the Grantee necessarily need to make slight modifications to the location of the pipeline due to unforeseen circumstances such as drainage/ sewer pipe placement, catch basins, large underground rocks, the Grantee will submit revised easement drawings to the Grantor and the location of the easement will be amended by amendment to this agreement and registration of the amended document on title to the Lands. As built drawings showing the location of the laterals will be provided to the Engineering Department;
- c) The tie-in pit(s) shall be backfilled with Granular A, compacted to 98% Standard Proctor Density meeting the OPSS 1010 specifications;
- d) The asphalt shall be restored with 60mm of HL4, with the work and material meeting the OPSS 1150 and OPSS 310 specifications;
- e) The tie-in pit and any pits for services shall be restored with a single continuous asphalt patch (1 asphalt patch covering all pits), which is rectangular or square in shape;
- f) The joints in the asphalt between the existing surface and the asphalt patch shall be routed and sealed following the OPSS 341 and OPSS 1212 specifications;
- g) As built drawings shall be submitted to Ontario One Call and to the Engineering Department of the Grantor following completion of the work;
- h) The materials used for restoration along with the workmanship shall be warrantied for a minimum of 12 months;
- i) The Grantee will provide the Engineering Department of the Grantor with notice and obtain approval in accordance with paragraphs 5(a)-(j) of By-law 2005-104 prior to commencing work on the Lands in non-emergency situations. In the event of an emergency, the Grantee shall proceed with the work required to deal with the emergency and will use its best efforts to provide the Engineering Department of the Grantor with immediate notice of the location and the nature of the emergency and the work being done and, if it deems appropriate, notify the police force, fire, or other emergency services having jurisdiction. The Grantee shall provide the Engineering Department of the Grantor with at least one 24-hour emergency contact for the Grantee and shall ensure the contacts are current; and
- j) All work and any damages to the parking lot or other infrastructure shall be restored to the satisfaction of the Grantor.

Upon Termination of this Agreement, the Grantee will consent to the Grantor deleting the Agreement from title to the Lands. This obligation survives the termination of the Agreement, as does the Grantee's obligation to remove its encumbrances and restore the Lands, and its indemnification of the Grantor with respect to third party claims, actions or damages arising out of the Grantee's actions, or the actions of its agents.

IT IS UNDERSTOOD and agreed that the burden of this easement and of all the covenants herein contained shall run with the Lands and that this easement and all the covenants herein contained shall be binding upon and ensure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.