

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 PIN: 63155-0099 being; Part 6 Foot Lane, Plan 98; Part Lot 1, South side Bond Street and West side Colborne Street, Plan 17 Fenelon; Part Lot 2 South side Bond Street and West side Colborne Street, Plan 17 Fenelon; Shown as part1 on 57R1711; in the Geographic Village of Fenelon Falls, City of Kawartha Lakes (the "**Lands**").

EASEMENT PROPERTY: Part of PIN 63155-0099 (LT) described as Part of Lot 1 and 2 South of Bond Street, West of Colborne Street RP 17; shown as part 7 on 57R-10826 in the Geographic Village of Fenelon Falls, City of Kawartha Lakes" (the "**Easement Lands**")

PRICE: The Grantee agrees to compensate the Grantor in the amount of Two Dollars (CDN\$2.00) (the "**Price**").

ADDITIONAL COSTS: The Grantee agrees to reimburse the Grantor for all reasonable and documented external legal costs incurred to complete the closing arrangements as provided for in Section 4 of this agreement (the "**Agreement**") upon receiving a receipt from the Grantor's solicitor (the "**Additional Costs**").

TERM: The Grantor acknowledges that the easement allows for the Grantee to be able to carry out among other things operation, repair and maintenance of natural gas infrastructure (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. 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:** Title to the Easement Lands shall be 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 registered easements for the supply of domestic utility or telephone services to the property or adjacent properties; and (d) any registered 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. **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.
6. **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.
7. **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.
8. **SUCCESSORS AND ASSIGNS:** The heirs, executors, administrators, successors and assigns of the undersigned are bound by the terms herein.

9. **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.
10. **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 INC.

Per: _____

Name: Cheryl Chauvin-Fryscok

Title: Supervisor Land Contracts & Services

(I have the authorization to bind the Corporation.)

SCHEDULE 'A'

ADDITIONAL COVENANTS

1. The Grantor hereby grants, transfers and conveys unto the Grantee in perpetuity, but subject to the right of termination of the Grantor set out in Section 3, the free, uninterrupted and unobstructed right and easement to survey, lay, construct, install, operate, use, inspect, repair and maintain, replace, alter, enlarge, reconstruct, expand and remove gas pipelines on the Easement Lands together with any and all attachments, appurtenances, fixtures or works and other equipment thereto and including but not limited to meters and markers, as the Grantee may deem necessary or convenient thereto from time to time (all of the foregoing collectively referred to as the "**Equipment**") on, in, across, under and through the Easement Lands and including the right of the Grantee and its servants, agents, contractors and workmen with all necessary materials, equipment, machinery and vehicles to enter upon the Easement Lands at all times and to pass and re-pass thereon.
2. Grantee shall have the right at any time and from time to time to remove any boulder or rock and to sever, fell, remove or control the growth of any roots, trees, stumps, brush or other vegetation on or under the Easement Lands.
3. The Grantor may terminate this easement and require the Grantor to relocate from the Easement Lands subject to satisfaction of the following conditions: (i) provision of reasonable notice to the Grantee of such termination; (ii) provision by the Grantor to the Grantee at no charge, of an alternate location for the Equipment in municipal road allowance acceptable to the Grantee (the "Alternate Location"); (iii) completion by the Grantee of the installation and energization of the Equipment in the Alternate Location, enabling the Grantee to continue to provide gas distribution services without interruption to all customers who are serviced through Equipment located within the Easement Lands; and (iv) Equipment in the Easement Lands will be de-energized and abandoned in place by Grantee in accordance with Grantee's standard procedures with surface restoration being completed by the Grantee to a condition consistent with the original condition of the Easement Lands at time of grant of the easement pursuant to this Agreement. In the event of such termination and relocation, all costs, expenses and overheads incurred by the Grantee in order to relocate the Equipment to the Alternate Location will be reimbursed by the Grantor.
4. Grantor covenants with the Grantee (i) to keep the Easement Lands free and clear of any buildings, structures, fences or obstructions; (ii) not to deposit on or remove any fill from the Easement Lands or otherwise excavate, alter the grading, drill, install thereon any pit, well foundation and/or pavement which will obstruct or prevent the exercise and enjoyment by the Grantee of its rights hereunder; (iii) not to do or suffer to be done any other thing which may or might injure or damage any of the Equipment and without limiting the generality of the foregoing to comply with the Grantee's Third Party Requirements in the Vicinity of Natural Gas Facilities as the same may be amended or updated from time to time.
5. Grantor further covenants with the Grantee that:
 - a) it has the right to convey the rights hereby transferred to the Grantee;
 - b) Grantee shall have quiet enjoyment of the rights hereby transferred; and
 - c) Grantor has not done, omitted or permitted anything whereby the Easement Lands are or may be encumbered (except as the records of the Land Registry Office disclose).

6. 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.

7. The Grantee shall at all times, indemnify and save harmless the Grantor 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 Grantee operating, constructing and maintaining its gas system for the carriage of gas owned by others. Provided that the Grantee shall not be required to indemnify or save harmless the Grantor 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 Grantor, its servants, agents or employees.

8. Grantee covenants with the Grantor:

- a) Prior to commencement of work, with the exception of services, the Grantee shall deliver to the Grantor a plan drawn to scale and of appropriate detail, showing the proposed Equipment location within the Easement Lands (the "**Plan**"). All work shall materially conform to the design drawings with material changes to the Plans requiring the prior approval of the Grantor and which approval shall not be unreasonably withheld or delayed. Grantor shall review Plans (or modifications thereof) and communicate acceptance or rejection (with reasons) within five (5) business days of submission by the Grantee
- b) The Grantee will submit within six months of completing the installation and energization of the Equipment two copies of "as laid" drawings of the Equipment to the Grantor. These drawings must be sufficient to accurately establish the location, depth (measurement between the top of the Equipment and the ground surface at the time of installation) and distance of the Equipment. The "as laid" drawings shall be of the same quality as the Plan and, if the approved Plan included elevations that were geodetically referenced, the "as laid" drawings shall similarly include elevations that are geodetically referenced. Upon the request of the Engineer/Roads Superintendent, the Grantee shall provide one copy of the drawings in an electronic format and one copy of the drawings hard copy drawing.
- 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 the Engineering Department of the Grantor following completion of the work;

- h) The materials used for restoration along with the workmanship shall be warranted 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, acting reasonably.

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 restore the Lands as provided in Section 3, and its indemnification of the Grantor. The Grantor's covenants pursuant to Section 3 shall survive termination of the Agreement.

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.