

ALBERTA RIGHT-OF-WAY AGREEMENT (the “Agreement”)

THIS AGREEMENT made the ____ day of _____, _____

BETWEEN _____, of _____, in the Province of Alberta. (hereinafter called the “Grantor”) being the registered owner or entitled to become the registered owner of an estate in fee simple, subject however to such encumbrances, liens and interests as may be noted upon the existing Certificate of Title in all of that certain tract of land situate, lying and being in the Province of Alberta, namely:

Legal description

As more particularly described in Certificate of Title No _____.
(hereinafter called the “Said Lands”);

and

(hereinafter called the “Grantee”)

NOW THEREFORE in consideration of the sum of Ten Dollars (10.00) (the receipt and sufficiency of which is hereby acknowledged) paid to the Grantor by the Grantee and in consideration of the covenants hereinafter contained THE GRANTOR DOES HEREBY GRANT, CONVEY, TRANSFER AND SET OVER, to and unto the Grantee, its successors and assigns, a right-of-way across, over, under, on or through the Said Lands, as outlined in red on the attached sketch or plan (hereinafter called the “right-of-way”, to construct, operate and maintain, a pipeline or pipelines including accessories and appurtenances and for any other purpose preparatory or incidental thereto including the right to repair or replace the said pipeline or pipelines; provided however that the right to construct more than one pipeline in the right-of-way hereby granted shall be limited to those pipelines which are constructed during one construction operation.

THE GRANTOR AND THE GRANTEE HEREBY COVENANT AND AGREE TO THE FOLLOWING TERMS AND CONDITIONS:

1. FILING PLAN OF SURVEY

Following construction and installation of the pipeline or pipelines, the Grantee shall file at the appropriate Land Titles Office a plan of survey of the right-of way _____ (_____) metres in width across the Said Lands, in substantially the same location as shown in red on a sketch or plan initialled by the parties and attached to this Agreement.

2. PARTIAL WITHDRAWAL AND DISCHARGE

Upon filing the plan of survey, the Grantee shall cause to be registered such documents as shall restrict this Agreement, and the rights herein granted, to the right-of-way shown upon the plan of survey.

3. ADDITIONAL PAYMENT

Prior to entering upon the Said Lands for any purposes relating to the construction of the aforesaid pipeline(s), other than for survey purposes, the Grantee shall make a one-time additional payment to the Grantor calculated at the rate of _____ Dollars (\$_____) per acre of right-of-way shown on the sketch or plan which will be filed and any additional payments that are required by law. If the plan acreage increases, from the sketch or plan, additional consideration shall be paid to the Grantor at the rate calculated above.

4. NON-EXERCISE OF RIGHTS

If the Additional Payment has not been paid within _____ (_____) days of the date of this Agreement the Grantee shall pay to the Grantor the sum of _____ (\$_____) for the right to survey and all other inconveniences, and this Agreement shall terminate.

5. PROTECTION OF RIGHT-OF-WAY

Subject to the terms and conditions contained in this Agreement, the Grantor shall have the right to occupy, cross or otherwise use and enjoy the right-of-way provided that:

- i. The Grantor shall not use the right-of-way for any purpose which might either obstruct, impede or unduly interfere with the rights granted herein to the Grantee, or which might incur a liability for damages payable by the Grantee, without the prior written consent of the Grantee; which includes but is not limited to:
 - a) The Grantor may not erect any permanent structures on the right-of-way without the prior written consent of the Grantee.
 - b) The Grantor may not alter the physical condition of the right-of-way to diminish or add to the ground cover over any pipeline or to plant trees or other vegetation which may interfere with the Grantee's operations without the prior written consent of the Grantee. For greater clarity this clause is not intended to restrict the Grantor from conducting normal agricultural operations including, but not limited to, the addition of soil amendments such as fertilizer or manure that do not significantly alter the contour of the Said Lands.

- ii. The Grantor hereby agrees to indemnify and save harmless the Grantee from all actions, causes of action, proceedings, claims, demands, losses, costs, damages and expenses which the Grantee may sustain, pay or incur as a result of or in connection with any act of negligence or wilful misconduct by the Grantor or the Grantor's occupant(s), agents, employees, or assigns.
- iii. The Grantee shall be responsible for and compensate the Grantor for reasonable additional costs incurred by the Grantor as a direct result of the existence of the said pipeline, pipelines and right-of-way in connection with the excavation, drilling, installation, erection, repair or construction for any operation related to agriculture across, over or under, on or through the right-of-way. If the Grantee and the Grantor fail to agree as to the amount of compensation for such reasonable costs incurred, then the matter shall be referred to arbitration in accordance with the terms of this Agreement.

6. PIPELINE OWNERSHIP

Notwithstanding any rule of law or equity, the pipeline or pipelines including accessories and appurtenances shall at all times remain the property of the Grantee, notwithstanding that the same may be annexed or affixed to the Said Lands and shall at any time and from time to time be removable in whole or in part by the Grantee, provided however, that the Grantee may at its option, leave and abandon the pipeline or pipelines including accessories and appurtenances in place.

7. DAMAGES

The Grantee shall pay compensation for any and all damage where such damage occurs as a result of the operations of the Grantee, its servants, agents or contractors. [

8. LIABILITY

The Grantee covenants and agrees to indemnify and save harmless the Grantor from any and all liabilities, damages, costs, claims, suits or actions caused by or resulting from the construction, operation, maintenance or repairs of the said pipeline or pipelines or any related fixtures and appurtenances affixed to the right-of-way other than through wilful damage or gross negligence by the Grantor, the Grantor's occupant, agent, employees, or assigns. In particular, but not in limitation, the Grantor, where permitted by the Grantee, shall use the right-of-way at its own risk and the Grantee shall not be liable to the Grantor for any damages arising from such use.

9. TOPSOIL

The Grantee shall conserve and preserve the topsoil, as required or regulated, from the right-of-way, having regard to good soil conservation practices.

10. DRAINAGE

The Grantee shall not knowingly obstruct or impede the natural drainage of the Said Lands and shall ensure that the hydraulic, hydrologic, hydrogeological characteristics of the Said Lands as they pertain to the right-of-way are maintained in, or returned to, a condition that is similar to the condition that existed prior to commencing construction operations, as determined by the Grantee, acting reasonably.

11. WEEDS

The Grantee shall take reasonable steps and exercise reasonable precautions to control invasive plants from growing on the right-of-way but in so doing, will not use a soil sterilant without the prior written consent of the Grantor. The Grantee shall not move any machinery, equipment or vehicles related to its operations onto the right-of-way if the Grantee is aware that such movement is likely to cause the spread of invasive plants.

12. TAXES

The Grantor and Grantee shall each promptly pay and satisfy all taxes, levies, rates and assessments that may be assessed or levied against the Said Lands, as a result of their respective use and occupation of the Said Lands. The Grantor or any person to whom the Grantor assigns any right to receive any payments hereunder shall be and shall remain liable for all taxes assessed against either of them in respect of such payment, without recourse to the Grantee.

13. DISCONTINUANCE AND ABANDONMENT

Upon the discontinuance of the use of the said right-of way and of the exercise of the right(s) hereby granted, the Grantee shall, in accordance with the applicable regulations restore the Said Lands to the same condition, so far as may be practicable to do so, as the Said Lands were prior to the entry thereon and the use thereof by the Grantee. PROVIDED HOWEVER, the Grantee may, at its option and subject to applicable law, leave and abandon the said pipeline or pipelines in place.

14. DISCHARGE OF ENCUMBRANCES

The Grantee may, acting reasonably to protect its interest under this Agreement, pay or discharge all or any balance owing under any agreement for sale or mortgage, or of any tax, charge, lien or encumbrance of any kind or nature whatsoever which may now or hereafter exist on or against or in any way affect the Said Lands, in which event the Grantee shall be subrogated to the rights of the holder or holders thereof. In addition thereto, the Grantee may, at its option, set-off on account the repayment of the amount so paid by it, the rates or other sums accruing to the Grantor under the terms of this Agreement.

15. DISPUTE RESOLUTION

In the event of any dispute or claim arising between the parties in relation to or in connection with this Agreement (including without limitation, any dispute or claim as to its formation, existence, validity, interpretation, performance or breach), either party may refer dispute to the appropriate governing body to be determined in accordance with the provisions of the relevant legislation then in force in the Province of Alberta. If the provisions of the relevant legislation do not permit resolution of the matter in issue, or the appropriate governing body refuses to hear the matter, the matter in issue shall be referred to Dispute Resolution before a single arbitrator agreed upon by the Grantor and the Grantee, and if they cannot agree, then the issue shall be referred to three (3) disinterested arbitrators, one (1) to be appointed by the Grantor, one (1) by the Grantee and the third by the two (2) arbitrators so appointed and the decision of the single arbitrator or any two (2) of the three (3) arbitrators, as the case may be, shall be final and conclusive; PROVIDED THAT in all other aspects the provision of the Dispute resolution legislation then in force in the Province of Alberta shall apply to each submission. In any event, the responsibility for the Dispute resolution costs shall be determined by the appointed arbitrators.

16. DEFAULT

Notwithstanding anything herein contained to the contrary, the Grantee shall not be in default in the performance of any of its covenants or obligations under this Agreement, unless and until the Grantor has notified the Grantee in writing of such default and the Grantee has failed, within thirty (30) days of the receipt of such notice, to commence action to remedy the same. For the purpose of this clause, a letter from the Grantee outlining its proposed timeline and intent to remedy the default and its anticipated timeline for completing same shall constitute a commencement of action to remedy the said default. Thereafter the Grantee shall proceed to take all reasonable steps to remedy the default within its anticipated timeline. In the event, a mutual agreement to remedy cannot be reached, the Grantor may proceed to seek resolution, pursuant to the Clause 15.

17. FORCE MAJEURE

Compliance with any of the obligations of the Grantee in this Agreement shall be suspended while and so long as the Grantee is prevented from complying with such obligations in part or in whole, acts of God, acts of war or terrorism, severe weather conditions or action of the elements, laws, rules and regulations of any governmental bodies or agencies, zoning or land use ordinances of any governmental agency, inability to obtain necessary materials in the open market, or other matters beyond reasonable control of the Grantee, provided that the Grantee shall make all reasonable efforts to remedy such event of force majeure. The time periods specified in this Agreement shall be extended by the period of time during which any of the aforesaid events of force majeure exist and continue.

18. ADDITIONAL TERMS

This Agreement constitutes the entire agreement of the parties relative to the subject matter hereof and supersedes and cancels all previous agreements, negotiations, commitments and representations in respect thereto. The parties agree that there are no oral or other representations or warranties connected with the subject matter hereof other than set out in this Agreement. Any additional terms, expressed or implied, shall be of no force or effect unless made in writing and agreed to by the Grantor and the Grantee.

19. ASSIGNMENT

The Grantee or the Grantor may delegate, assign or convey to other persons, corporations or agents all or any of the powers, rights and interests obtained by or conferred upon the Grantee or the Grantor, respectively, herein, and may enter into all agreements, contracts, and writings and do all necessary acts and things to give effect to the provisions of this clause. However, no delegation, assignment or conveyance by the Grantor or the Grantee is effective or binding upon the other party until the other party has received notice, which notice shall include the name, contact information and address of the assignee.

20. QUIET ENJOYMENT

The Grantee while performing and observing the covenants and conditions on its part to be performed and observed, shall and may peaceably hold and enjoy the rights, liberties and easements hereby granted without hindrance, molestation or interruption on the part of the Grantor or any person claiming by, through, under or in trust for the Grantor for so long thereafter as the Grantee, his successors and assigns continues to use the right-of-way for the purposes herein set forth.

21. NOTICES

All notices to be given herein shall be in writing. All notices to be given herein may be given personally, by letter addressed to the party to whom the notice is to be given, sent by facsimile or e-mail provided the Grantor has facilities to receive the notice. Any such notice shall be deemed to be given to, and received by, the addressee the same day if given personally, ten (10) days after the mailing thereof, if mailed postage prepaid and within three (3) days if sent electronically.

Unless changed by written notice, the addresses of the parties hereto shall be:

Grantee: _____

Email: _____ Phone: _____

Grantor: _____

Email: _____ Phone: _____

22. ENUREMENT

This Agreement shall enure to the benefit of and be binding upon the Grantor and Grantee and their respective successors, heirs, administrators and executors (if applicable) and permitted assigns.

23. PERSONAL INFORMATION CONSENT

By providing “personal information” (as that term is defined in applicable privacy legislation) to the Grantee, the Grantor consents to the Grantee’s collection, use, retention and disclosure of that information for any and all purposes and uses as permitted or contemplated under this Agreement and in accordance with applicable privacy legislation and as needed in regulatory proceedings or to comply with any legal requirements.

24. NON-RESIDENT STATUS

Each Grantor represents that he, she or it, as the case may be, is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada), and that if the Grantor’s status for income tax purposes changes, the Grantor will promptly notify the Grantee in writing. Subsequent to such notification, any payment made by or on behalf of the Grantee to the Grantor under this Lease will be made net of any deduction or withholding as required by the *Income Tax Act* (Canada) or any other applicable law.

IN WITNESS WHEREOF the parties hereto have executed this Agreement on the day and year first above written.

SIGNED

by the above named Grantor in the presence of:

GRANTOR

Witness:

Per:

Witness:

Per:

GRANTEE

Witness:

Per:

Witness:

Per:

DOWER CONSENT OF SPOUSE

I, _____ being married to _____ (Grantor) do hereby give my consent to the disposition of our homestead, made in this instrument, and I have executed this document for the purpose of giving up my life estate and other dower rights in the said property given to me by the *Dower Act*, to the extent necessary to give effect to the said disposition.

Spouse of Grantor

CERTIFICATE OF ACKNOWLEDGMENT BY SPOUSE

1. This document was acknowledged before me by _____ apart from her husband (or his wife).
2. _____ acknowledged to me that she (or he):
- (a) is aware of the nature of the disposition,
 - (b) is aware that the *Dower Act*, gives her (or him) a life estate in the homestead and the right to prevent disposition of the homestead by withholding consent,
 - (c) consents to the disposition for the purpose of giving up the life estate and other dower rights in the homestead given to her (or him) by the *Dower Act*, to the extent necessary to give effect to the said disposition,
 - (d) is executing the document freely and voluntarily without any compulsion on the part of her husband (or his wife).

Dated at _____, in the Province of Alberta this ____ day of _____.

A Commissioner for Oaths in and for Alberta

DOWER AFFIDAVIT

I, _____ of _____, in the Province of Alberta, make oath and say:

1. That I am the Grantor named in the within instrument.
2. That I am not married

OR

That neither myself nor my spouse have resided on the within mentioned land at any time since our marriage.

SWORN before me at _____
in the Province of Alberta,
this ____ day of _____, _____

A Commissioner for Oaths in and for Alberta

AFFIDAVIT OF ATTESTATION

I, _____ of _____, in the Province of Alberta make oath and say:

1. I was personally present and did see _____ who is known to me to be the person named in the within (or annexed) instrument, duly sign the instrument;

or

I was personally present and did see _____ who, on the basis of the identification provided to me, I believe to be the person named in the within (or annexed) instrument, duly sign the instrument;

2. The instrument was signed at _____, in the Province of Alberta, and I am the subscribing witness thereto;
3. I believe the person whose signature I witnessed is at least eighteen (18) years of age.

SWORN before me at _____
in the Province of Alberta,
this ____ day of _____, _____

A Commissioner for Oaths in and for Alberta

CONSENT BY OTHER INTERESTED PARTY

I, (WE) _____, of _____

_____, having an interest in and to the

Said Lands as _____ by virtue of:

(describe the interest, i.e.: occupant, vendor, purchaser, mortgagee)

a) an Agreement or Instrument dated the _____ day of _____ A.D. _____.

b) a verbal agreement with the Grantor.

DO HEREBY AGREE that all my (our) rights, interests and estate which are, or may be, affected by the Agreement shall be fully bound by all the terms and conditions thereof both now and henceforth.

DATED at _____, in the Province of _____,

this ____ day of _____, _____

Witness

AFFIDAVIT OF ATTESTATION

I, _____ of _____, in the Province of
Alberta make oath and say:

1. I was personally present and did see _____ who is known to me to be the person named
in the within (or annexed) instrument, duly sign the instrument;

or

I was personally present and did see _____ who, on the basis of the identification
provided to me, I believe to be the person named in the within (or annexed) instrument, duly sign the instrument;

2. The instrument was signed at _____, in the Province of Alberta, and I am the subscribing witness
thereto;

3. I believe the person whose signature I witnessed is at least eighteen (18) years of age.

SWORN before me at _____

in the Province of Alberta,

this ____ day of _____, _____

A Commissioner for Oaths in and for Alberta