

LANDOWNER WARNING:

Don't sign this document before having a lawyer review it for you.
Look closely at Section 1, Section 5 and Section 8.

COPY

Tract No. [REDACTED]

EASEMENT AND RIGHT-OF-WAY
AGREEMENT

For and in consideration of the sum of Ten Dollars (\$10.00) paid in accordance with this Easement and Right-of-Way Agreement (this "**Agreement**"), the mutual promises of the parties herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged (collectively, the "**Consideration**"), [REDACTED], whose mailing address is [REDACTED] (hereinafter called "**Grantor**") does hereby grant, sell, convey and warrant unto TRANSCANADA KEYSTONE PIPELINE, LP., a Limited Partnership having its principal place of business at 450 – 1 Street SW, Calgary, Alberta, Canada, T2P 5H1, its successors and assigns (hereinafter called "**Grantee**"), a perpetual, permanent easement and right-of-way (the "**Easement**") for the purposes of surveying, laying, constructing, inspecting, maintaining, operating, repairing, replacing, altering, reconstructing, removing and abandoning in place one or more pipelines, together with all fittings, cathodic protection equipment, pipeline markers and all other equipment and appurtenances thereto, for the transportation of oil, natural gas, hydrocarbons, petroleum products and all by-products thereof, along routes convenient for Grantee's operations on, over, under, across and/or through a strip of land generally 50 feet in width, as more particularly described under the heading "Permanent Easement and Right-of-Way" in Exhibit A, which is attached hereto and made a part hereof (the "**Easement Area**") described as being situated in the County of Marshall, State of South Dakota, located on real property (the "**Property**"). [REDACTED] owned by Grantor, as more particularly described in Exhibit A attached hereto and made a part hereof (the "**Property**"). In addition, during the original construction of the pipeline(s), the easement and right-of-way granted hereunder shall also include the area described under the headings "Temporary Work Space" and "Additional Temporary Work Space" in Exhibit A hereto (the "**Temporary Work Space**").

Grantee may further define the location of the Easement Area by recording a "Notice of Location" referring to this instrument and setting forth a legal description of the Easement Area and the location of the pipelines contained therein, which description may be set forth by map attached to said Notice. A copy of said Notice shall be delivered to Grantor.

The aforesaid Easement is granted subject to the following terms, stipulations and conditions which are hereby covenanted and agreed to by Grantor. By acceptance of any of the benefits hereunder, Grantee shall be deemed to have agreed to be bound by the covenants applicable to Grantee hereunder.

1. The above recited Consideration is accepted by Grantor, and, subject to Paragraph 4, Paragraph 6 and Paragraph 8, below, Grantor (on behalf itself and its heirs, assigns, agents, successors in interest and any other person or entity taking through or under it) does hereby release, acquit, waive and forever discharge Grantee, and its successors and assigns, its parent, subsidiary and related companies and their officers, directors, employees, shareholders, agents, successors, assigns, attorneys, insurers, subcontractors, consultants, or any other person or entity taking through or under them, or any of them, of all and from all manner of action, causes of action, lawsuits, claims and demands of every kind and nature whatsoever, whether known or unknown and whether arising in law or in equity, that Grantor has or may have against Grantee (its successors and assigns) in connection with this Agreement.

WEB Exhibit # 2-a

2. Insofar as it may be practicable to do so, Grantee shall, unless otherwise requested by Grantor, strip the topsoil from the ditch line in the Easement Area only prior to construction and installation of any pipeline placed in the Easement Area. Following the construction and installation of each pipeline, the top soil will be replaced, to the extent feasible, as near as practicable to its original location and condition.

3. Except for above-ground piping facilities, such as mainline block valves, pump stations, etc., and except as otherwise stated in this Agreement, each pipeline shall be installed at a depth conforming with industry standards and the requirements of applicable laws.

4. Grantee shall have the right to remove all fences from the Easement Area and the Temporary Work Space, as required for purposes of construction of Grantee's pipeline(s) and Grantee shall repair all such fences promptly upon completion of construction on Grantor's Property to substantially the same condition as such fences were in prior to removal by Grantee.

5. Provided its use of the Property does not in any manner interfere with or prevent the exercise by Grantee of its rights hereunder, or create an actual or potential hazard to the pipeline(s) or its appurtenances, the undersigned Grantor, its successors, heirs or assigns, reserve all oil, gas and minerals on and under Property and the right to farm, graze and otherwise fully use and enjoy the Property; provided, however, that Grantee shall have the right hereafter to cut, keep clear and remove all trees, brush, shrubbery, structures and other obstructions or facilities in the Easement Area being conveyed that are deemed by Grantee to injure, endanger or interfere in any manner with the proper and efficient construction, use, inspection or maintenance of said pipeline(s), or fittings, cathodic protection equipment and other appurtenances thereto; and, provided, further, that Grantor shall not excavate or otherwise alter the ground elevation, construct any dam or otherwise create a water impoundment within or over the Easement Area without prior authorization of Grantee. Grantee shall have all privileges necessary or convenient for the full use of the rights herein granted, together with reasonable ingress and egress over and across that part of the Property located adjacent to the Easement Area and the Temporary Work Space.

6. Grantee agrees to pay all commercially reasonable costs and expenses relating to damages to crops, pasture, fences, structures, timber on the Property, or any other damages to the Property, resulting from Grantee's use of the Easement Area and the Temporary Work Space, except to the extent arising out of or relating to the negligence, recklessness or willful misconduct of Grantor or any of Grantor's invitees, licensees, agents or employees.

7. Any payment hereunder may be made or mailed to Grantor at the address shown above or to

who is hereby appointed agent and authorized to receive and receipt for same, and who is also appointed the true and lawful attorney in fact for Grantor. The agency and power of attorney granted by Grantor to its agent hereunder shall not be deemed revoked until written notice from Grantor has been received by Grantee.

8. Except as provided above with respect to limitations on damages, from and after the date of this Agreement, Grantee shall indemnify and hold harmless Grantor from any loss, damages, claims or actions resulting from Grantee's use of the Easement, except to the extent such loss, damage, claim or action results from the negligence or willful misconduct of Grantor, its invitees, licensees, agents or employees. Grantor shall indemnify and hold harmless Grantee from any loss, damages, claims or actions alleging injury to Grantor, its invitees, licensees, agents or employees who enter the Easement Area, except to the extent such loss, damage, claim or action results from the negligence or willful misconduct of Grantee.

9. All notices under this Agreement shall be in writing, addressed to the addresses first set forth above and be delivered by certified mail, postage prepaid, and return receipt requested, next business day delivery via a reputable national courier service, regular United States mail, facsimile, e-mail or hand delivery. A party may change its address for notice by giving notice of such change to the other party.

10. The undersigned hereby bind themselves, and their respective heirs, executors, administrators, successors and assigns, to warrant and forever defend this easement and right-of-way unto Grantee, its successors and assigns, against every person claiming or to claim the same, or any part thereof. The Easement granted hereby shall create a covenant and burden upon the Property and running therewith.

WEB Exhibit # 26

11. Grantor and Grantee acknowledge that the actual location of the Easement Area may change because of various engineering factors and Grantor agrees to execute and deliver to Grantee, without additional compensation, and, where necessary, in recordable form, any additional documents needed to correct the legal description of the Easement Area to conform with the actual location of the pipeline(s). Said document, if required, will be prepared by Grantee at its expense.
12. It is agreed that this Agreement constitutes the entire agreement between the parties and that no other agreements have been made modifying, adding to or changing the terms of the same. This Agreement may not be abrogated, modified, rescinded or amended in whole or in part without the consent of Grantor and Grantee, in writing and executed by each of them, and duly recorded in the appropriate real property records.
13. The rights granted hereby to Grantee may be assigned by Grantee in whole or in part, in Grantee's sole discretion.
14. This Agreement shall be governed by the law of the State in which the Easement Area is situated.
15. This Agreement may be executed in counterparts, each of which shall be considered an original for all purposes; provided, however, that all such counterparts shall together constitute one and the same instrument.

IN WITNESS WHEREOF, Grantor has executed this Agreement as of the _____ day of _____, 200__.

COPY

GRANTOR:

Print: _____

Sign: _____

CORPORATE ACKNOWLEDGMENT

STATE OF South Dakota)
) SS
 COUNTY OF Marshall)

Before me, a Notary Public in and for said County and State, on this _____ day of _____, 20 ____, personally appeared _____, to me known to be the identical person who subscribed the name of the maker thereof to the foregoing instrument as its _____ and acknowledged to me that he executed the same as his free and voluntary act and deed and as the free and voluntary act and deed of such corporation for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year last above written.

My Commission expires:

 NOTARY PUBLIC
 ADDRESS

This Instrument Prepared by:

TRANSCANADA KEYSTONE PIPELINE, LP
 450-1 Street SW
 Calgary, Alberta, Canada
 T2P 5H1

WEB Exhibit # 2-c