

# Public Review Draft

RIGHT OF WAY LEASE FOR THE  
ALASKA NATURAL GAS TRANSPORTATION SYSTEM  
BY AND BETWEEN  
THE STATE OF ALASKA  
AND  
THE TRANSCANADA ALASKA COMPANY, LLC  
AND THE ALASKAN NORTHWEST NATURAL GAS  
TRANSPORTATION COMPANY

# Public Review Draft

## TABLE OF CONTENTS

Nature of LEASE .....	1
Principles.....	1
Definition of Terms.....	2
1. Lease of RIGHT-OF-WAY .....	2
2. Duration .....	5
3. Rental .....	6
4. Payment.....	8
5. Denial of Warranty .....	8
6. Reservation of Certain Rights to the STATE .....	9
7. Access to Navigable and Public Waters .....	10
8. Coordination with TRANS-ALASKA PIPELINE SYSTEM.....	10
9. Connections for Delivery.....	11
10. Compliance with DESIGN CRITERIA, Plans, and Programs .....	12
11. Mitigative, Preventive, and Abatement Activities Required .....	12
12. Written Authorization .....	13
13. Orders and Notices.....	13
14. Right of the STATE to Perform.....	15
15. Temporary Suspension.....	16
16. COMMISSIONER’s Decisions .....	19
17. Reimbursement of STATE Expenses .....	20
18. Liability of the STATE .....	22
19. Indemnity .....	22
20. Liability With Regard to Contaminated SITES .....	23
21. Guarantee and State as Additional Insured.....	27
22. Workers’ Compensation Insurance.....	28
23. Transfer, Assignment, or Other Disposition.....	28
24. Release of RIGHT-OF-WAY. ....	30
25. Default, Remedies and Forfeiture .....	31
26. LESSEE’s Obligations upon TERMINATION not Resulting from Forfeiture.....	34
27. Correspondence.....	36
28. Appointment of Agent for Service of Process .....	37
29. Books, Accounts and Records .....	37
30. Waiver not Continuing.....	38
31. No Third Party Beneficiaries. ....	38
32. Local Hire .....	38
33. Nondiscrimination.....	38
34. Rights and Remedies Cumulative.....	38
35. Authority to Enter into LEASE.....	39
36. Delegation of Authority .....	39
37. Interpretation of LEASE.....	39
38. Compliance with Law and Regulation.....	40

Public Review Draft

39.	Venue .....	40
40.	Recording .....	40
41.	Severability .....	40
42.	Amendments in Writing.....	40
43.	Exhibits .....	40
44.	Merger Clause.....	41
45.	Section Headings. ....	41

RIGHT-OF-WAY LEASE FOR THE  
ALASKA NATURAL GAS TRANSPORTATION SYSTEM  
ADL 403427

This RIGHT-OF-WAY LEASE (hereinafter “LEASE”) is entered into this \_\_\_ day of \_\_\_\_\_, 200\_ (hereinafter “Effective Date”), by the State of Alaska (hereinafter “STATE”), acting through the Commissioner of the Department of Natural Resources (hereinafter “COMMISSIONER”), and by TransCanada Alaska Company, LLC and Alaskan Northwest Natural Gas Transportation Company (collectively hereinafter “LESSEE”).

Nature of LEASE

By this instrument, the LESSEE receives a non-exclusive right to use certain STATE LANDS, including lands subject to other rights-of-way, for the purpose of CONSTRUCTION, operation, maintenance, and TERMINATION of the NATURAL GAS transportation PIPELINE SYSTEM specified in this LEASE.

Principles

(1) In the planning, design, CONSTRUCTION, operation, maintenance (including but not limited to a continuing and reasonable program of preventive maintenance) and TERMINATION of the PIPELINE, LESSEE shall employ the BEST PRACTICABLE TECHNOLOGY AVAILABLE as provided in this LEASE and in accordance with applicable State laws and regulations.

(2) The planning, design, CONSTRUCTION, operation, maintenance and TERMINATION of this PIPELINE will be subject to regulation and oversight by numerous State and Federal agencies, pursuant to the Natural Gas Act (hereinafter “NGA”) and other State and Federal statutes. The parties agree that close coordination between the Federal government and the STATE in (i) the administration of the LEASE, (ii) the renewal and administration of the FEDERAL ROW GRANT, and (iii) the

issuance and administration of required Federal Energy Regulatory Commission (hereinafter “FERC”) certificates of public convenience and necessity, or amendments thereto, pursuant to the NGA, for the PIPELINE SYSTEM, is essential to avoid unnecessary duplication of efforts, and to provide for consistent and efficient State and Federal oversight and monitoring of the PIPELINE SYSTEM. It is therefore the intent of the STATE that this LEASE be administered in a manner that, to the extent possible, harmonizes the interpretation and application of this LEASE with the requirements of the FEDERAL ROW GRANT and the requirements of the certificates of public convenience and necessity, including any amendments thereto; and it is the intent of the LESSEE to facilitate the STATE’s full participation in all Federal processes involved with the renewal and/or amendment of the FEDERAL ROW GRANT, and with the issuance of required certificates of public convenience and necessity, and any amendments thereto, pursuant to the NGA, for the PIPELINE SYSTEM.

Definition of Terms

Terms having special meaning in the body of this LEASE are capitalized. Such terms are defined in the body of this LEASE and in the definitions set forth in the Stipulations to the Right-of-Way Lease for the Alaska Natural Gas Transportation System (hereinafter “Stipulations”) attached hereto as Exhibit A and incorporated herein by this reference. In the absence of a definition in the body of the LEASE or in the Stipulations, terms will be defined in accordance with definitions found in any applicable State statute or regulation, and otherwise in accordance with common usage.

1. Lease of RIGHT-OF-WAY (a) Pursuant to the provisions of AS 38.35 (the Alaska Right-of-Way Leasing Act) as amended, and for and in consideration of LESSEE’s payment of the annual rental fees prescribed in Section 3 hereof, and subject to the covenants and conditions set forth in the Stipulations attached hereto as Exhibit A, the STATE hereby grants to the LESSEE a non-exclusive RIGHT-OF-WAY LEASE (hereinafter referred to as the “LEASE”) for CONSTRUCTION, operation, maintenance, and TERMINATION of a NATURAL GAS transportation PIPELINE SYSTEM, across, through, and upon those STATE LANDS now owned or hereafter acquired as shown and

described in the alignment and site location drawings attached hereto as Exhibits B and C and incorporated herein by this reference.

(b) This LEASE conveys a RIGHT-OF-WAY interest only in lands in which the State holds or obtains a property interest, including lands selected by the State pursuant to Section 906 of the Alaska National Interest Lands Conservation Act and certain lands originally included in the “Grant of Right-of-Way for the Alaska Natural Gas System’s Alaska Segment,” No. F-24538, issued by the Bureau of Land Management on December 1, 1980. This LEASE does not convey land or interests in lands owned or administered by the University of Alaska, the Alaska Mental Health Trust Authority, or the Alaska Railroad Corporation. Although this LEASE applies to STATE LANDS in which the Alaska Department of Transportation and Public Facilities has an interest or which the Alaska Department of Transportation and Public Facilities administers, the LESSEE must also secure the written permission of the Alaska Department of Transportation and Public Facilities to enter upon or use such lands through an Agreement on HIGHWAY Use, Maintenance, and Repairs to be entered into pursuant to Stipulation 3.1.

(c) This LEASE is granted for the sole purpose of the CONSTRUCTION, operation, maintenance, and TERMINATION of a NATURAL GAS transportation PIPELINE SYSTEM in compliance with all applicable State laws and regulations. Except as otherwise provided herein, the LESSEE shall not allow or suffer any other PERSON or entity to use the LEASEHOLD for carrying on activities which are not part of the LESSEE’s authorized operations pursuant to this LEASE. Nothing in this subsection is intended to excuse or preclude the LESSEE from complying with its obligations under this LEASE, or employing agents, employees, or contractors to effect the CONSTRUCTION, operation and maintenance, or TERMINATION of all or any part of the PIPELINE SYSTEM. This LEASE is subject to any valid existing rights including rights of third parties and of State entities with authority over land in the lands subject to the LEASE.

(d) During CONSTRUCTION of the PIPELINE and prior to the execution of the release of interests in the RIGHT-OF-WAY provided for in Subsection (e) of this section, the width of the RIGHT-OF-WAY shall not exceed five-hundred (500) feet without the express written approval of the COMMISSIONER, except

(1) that in locations where the line of pipe is to enter or cross any riverbed or floodplain, the width of the RIGHT-OF-WAY shall not exceed six-hundred (600) feet for a segment of pipe not to exceed a distance of one-thousand five hundred (1,500) feet from the high water mark on each side of the particular river without written approval of the COMMISSIONER, and

(2) that the dimensions of the RIGHT-OF-WAY for RELATED FACILITIES including compressor stations, metering stations, and river and stream crossings, shall be those more particularly set forth in Exhibits C and D.

(e) Within three-hundred sixty (360) days following the date that the PIPELINE SYSTEM is placed in service, the LESSEE shall execute and deliver to the STATE a release of all interest in such portions of the RIGHT-OF-WAY as will result in the LESSEE retaining only

(1) the LEASEHOLD underlying the RELATED FACILITIES described in Exhibit D; and

(2) a RIGHT-OF-WAY corridor not exceeding one-hundred (100) feet in width along the line of pipe with the centerline of the line of pipe being the centerline of the RIGHT-OF-WAY, except at such locations where the COMMISSIONER has approved a request from the LESSEE to retain a wider or offset RIGHT-OF-WAY corridor.

(f) Within one-hundred eighty (180) days of delivery of the release required by Subsection (e) of this section, LESSEE shall

(1) complete the installation of monumentation of the PIPELINE SYSTEM to standards required by the Department of Natural Resources for the purposes of locating and describing rights-of-way on STATE LANDS; and

(2) provide a final survey, approved by the COMMISSIONER, showing the final “as built” location of the completed PIPELINE, including the final locations and elevations of all buried and above-ground improvements, the centerline of the RIGHT-OF-WAY, the boundaries of the RIGHT-OF-WAY, and its relationship to existing pipelines and other structures pursuant to survey instructions issued by the Department of Natural Resources.

(g) All CONSTRUCTION activities within the RIGHT-OF-WAY shall be limited to a CONSTRUCTION SEGMENT or to other FIELD ACTIVITIES approved in writing by the COMMISSIONER in the applicable NOTICE TO PROCEED.

(h) The LESSEE and the STATE recognize that when commercial commitments for shipments of NATURAL GAS on the PIPELINE are sufficient to secure financing for the CONSTRUCTION of the PIPELINE SYSTEM, the initial capacity of the PIPELINE and the number and location of the compressor stations, as well as other components of the PIPELINE SYSTEM, may change or need to be further optimized. Any such updating of the PIPELINE SYSTEM will require the approval of the FERC, subject to environmental review through the tiering off of existing environmental analysis of the PIPELINE SYSTEM, and may also require amendment of the LEASE. To the extent that any part of the PIPELINE SYSTEM is to be so modified, the LESSEE will provide to the COMMISSIONER copies of relevant applications and supporting materials, contemporaneously with the filing of such documents with the FERC. The LESSEE will not commence CONSTRUCTION of any such modified components of the PIPELINE SYSTEM until after it has obtained

(1) the approval of the FERC; and

(2) the review of the COMMISSIONER of any requested amendment to this LEASE necessitated by such proposed modification to the PIPELINE SYSTEM and the issuance of, as appropriate: (i) any amendment to this LEASE necessitated by such proposed modification to the PIPELINE SYSTEM; and/or (ii) any NOTICE TO PROCEED or amendment thereto necessitated by such proposed modification to the PIPELINE SYSTEM.

2. Duration (a) This LEASE shall expire on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, at 12 noon (Alaska Time) [**30 years from EFFECTIVE DATE**], unless prior thereto it is released, abandoned, or otherwise terminated pursuant to the provisions of this LEASE or of any applicable law or regulation.

(b) The COMMISSIONER shall, upon request of the LESSEE, renew the LEASE for additional terms of up to thirty (30) years, but not less than ten (10) years



each, so long as the PIPELINE is in commercial operation and LESSEE is in compliance with

(1) all terms of the LEASE;

(2) all State law, including but not limited to State law pertaining to regulation and taxation of the PIPELINE; and

(3) any agreement(s) between the STATE and the LESSEE pertaining to regulation and taxation of the PIPELINE.

The LESSEE shall give written notice to the COMMISSIONER of its intent to seek renewal of this LEASE no later than one-hundred eighty (180) days before expiration. In accordance with Section 26 of this LEASE, the LESSEE shall provide not less than three hundred sixty-five (365) days notice to the COMMISSIONER prior to any relinquishment, abandonment or other TERMINATION of this LEASE.

(c) Upon the expiration of the LEASE term (including any renewal thereof), or upon its earlier forfeiture, relinquishment, abandonment, or other TERMINATION, the provisions of this LEASE, to the extent applicable, shall continue in effect and shall be binding on the LESSEE, its successors, and assigns, until they have fully performed their respective obligations and liabilities accruing before or on account of the expiration, or prior to TERMINATION, of the LEASE. At any time following the expiration, forfeiture, relinquishment, abandonment, or other TERMINATION of this LEASE, upon a determination in writing that the State's best interest will be served, the COMMISSIONER may release the LESSEE from all or a portion of such continuing obligations and liabilities, with the exception of those contained in Sections 19 and 26 herein.

(d) Any subsequent conveyance, transfer or other disposition of any right, title, or interest in the STATE LAND or any part thereof, burdened by and subservient to this LEASE, shall, to the extent allowed by law, be subject to the RIGHT-OF-WAY and the provisions of this LEASE, including the LESSEE's right to renew the LEASE under Subsection (b) of this section.

3. Rental (a) The LESSEE shall pay to the STATE annual rental payments in the amount of the fair market rental value of the LEASEHOLD, adjusted in accordance with

this section. The appraisal will not incorporate a valuation of severance damages or other adverse effects of the PIPELINE and PIPELINE activities on surrounding STATE LANDS and State supported community facilities in determination of the fair market value of the RIGHT-OF-WAY for purposes of this section. Other provisions of this LEASE requiring payment of damages, prevention and mitigation measures will be deemed to be in lieu of inclusion of such factors in the fair market value.

(b) The initial charge for the first year's rental shall be four hundred fifty-one thousand eighty dollars (\$451,080.00); however, this amount shall be adjusted on the basis of a formal appraisal conducted within one (1) year after the Effective Date of this LEASE.

(c) The annual rental payment is subject to adjustment at five (5) year intervals thereafter. Any adjusted rental payment shall be based on the reappraised fair market rental value of the LEASEHOLD.

(d) The initial formal appraisal, and all subsequent reappraisals, shall be carried out by an independent appraiser selected by the LESSEE from a list of appraisers provided by the Department of Natural Resources, and in accordance with Division of Mining, Land and Water appraisal instructions and standards. All costs of the initial formal appraisal, and of all subsequent reappraisals, will be borne by the LESSEE.

(e) The LESSEE's rental obligations described in this section shall expire upon the expiration, forfeiture, relinquishment, abandonment, or other TERMINATION of this LEASE, subject only to the completion of all of LESSEE's obligations described in Sections 24 and 26 of this LEASE, whichever is applicable.

(f) Any interest in land acquired under the provisions of AS 38.35.130 for the PIPELINE SYSTEM will become part of the land leased to the LESSEE under this LEASE, and the costs for the acquisition thereof shall be borne by the LESSEE. Rental shall not be charged for any land acquired under AS 38.35.130 and conveyed without cost to the STATE.

(g) For a year in which portions of the RIGHT-OF-WAY are reconveyed to the STATE, including LESSEE's release of RIGHT-OF-WAY lands to the STATE pursuant to Subsection 1(e) of this LEASE following completion of CONSTRUCTION, the STATE shall credit the LESSEE, against the payment of future rentals, a portion of the

rental paid to the STATE for the year of the reconveyance. The amount of the credit shall be equal to the percentage of the total acreage of the RIGHT-OF-WAY released times the total rental paid to the STATE, reduced pro rata by the portion of the LEASE year which had elapsed prior to the reconveyance.

4. Payment (a) The initial rental payment is due and shall be tendered on or before the Effective Date of the LEASE. Subsequent rental payments shall be due annually on or before each LEASE anniversary date.

(b) All payments to the STATE under this LEASE must be made payable to the STATE in the manner directed by the STATE, and unless otherwise specified, shall be tendered to the STATE at

Alaska Department of Natural Resources  
Attention: Revenue Unit  
550 West 7<sup>th</sup> Avenue, Suite 1410  
Anchorage, Alaska 99501-3561

or to any other depository designated by the STATE. If the STATE changes the designated depository, it shall give at least sixty (60) days written notice to the LESSEE in the manner provided in Section 27 herein.

(c) The LESSEE shall pay the fee set forth in 11 AAC 05.010 for any late payment or returned check issued by the LESSEE. Interest at the rate set by AS 45.45.010(a) shall be assessed on all past due amounts until payment is received by the STATE.

5. Denial of Warranty (a) The STATE makes no representations or warranties, express or implied, as to title to, access to, or quiet enjoyment of the STATE LANDS subject to this LEASE. The STATE is not liable to the LESSEE for any deficiency of title to or difficulty in securing access to the STATE LANDS subject to this LEASE. The LESSEE or any successor in interest to the LESSEE is not entitled to any refund of prior rentals paid under this LEASE due to deficiency of title.

(b) The STATE makes no warranty, express or implied, and assumes no liability whatsoever, regarding the social, economic, or environmental aspects of the STATE

LANDS included in the LEASEHOLD granted herein, including, without limitation, the soil conditions, water drainage, access, natural or artificial hazards that may exist, or the profitability or fitness of the STATE LANDS included in the LEASEHOLD granted herein for any use. The LESSEE represents that the LESSEE has inspected the STATE LANDS included in the LEASEHOLD granted herein and determined that the STATE LANDS are suitable for the use intended, or has voluntarily declined to do so, and accepts the STATE LANDS included in the LEASEHOLD granted herein “as is” and “where is,” subject to Section 20 of this LEASE.

6. Reservation of Certain Rights to the STATE (a) The STATE reserves and will have a continuing and reasonable right of access to any part of the lands (including the subsurface of, and the air space above, such lands) that are subject to this LEASE and a continuing and reasonable right of physical entry to any part of the PIPELINE SYSTEM, including Federal and private lands, for inspection or monitoring purposes and for any other purpose or reason that is consistent with any right or obligation of the STATE.

(b) The right of access and entry reserved in Subsection (a) of this section will extend to and be enjoyed by any contractor of the STATE designated by the STATE in writing. Such written designation shall be provided to the LESSEE. The STATE and the LESSEE may mutually develop additional procedures to implement this subsection.

(c) The granting of this LEASE is subject to the express condition that the exercise of the rights and privileges granted under this LEASE will not unduly interfere with the management, administration, or disposal by the STATE of the land affected by this LEASE. The LESSEE agrees and consents to the occupancy and use by the STATE, its grantees, permittees, or other lessees of any part of the RIGHT-OF-WAY not actually occupied or required by the PIPELINE SYSTEM for the full and safe utilization of the PIPELINE SYSTEM, for necessary operations incident to land management, administration, or disposal.

(d) This LEASE is subject to the reservations set forth in AS 38.05.125 and the rights and obligations contained in AS 38.05.130 as such statutes exist on the Effective Date of this LEASE.

(e) There is reserved to the STATE the right to grant additional permits, leases or easements for rights-of-way or other uses to third parties for compatible uses on, or adjacent to, the lands subject to the RIGHT-OF-WAY; provided that such grant shall not unreasonably interfere with the LESSEE's rights under this LEASE. Before the STATE grants an additional right-of-way permit for a compatible use, the STATE will provide the LESSEE with reasonable notice of its intentions and shall consult with the LESSEE before taking final action in that regard; however, the decision to grant additional rights-of-way rests exclusively with the STATE.

7. Access to Navigable and Public Waters Consistent with applicable State and Federal laws and regulations, the STATE reserves a public access easement to and along all public or navigable water bodies or waterways that border on or are included in the STATE LANDS included in the LEASEHOLD. No public access easement may be obstructed or otherwise rendered incapable of reasonable use for the purposes for which it was reserved. The LESSEE will not petition to vacate, abandon, or extinguish any public access easement without the prior written approval of the COMMISSIONER.

8. Coordination with TRANS-ALASKA PIPELINE SYSTEM (a) The LESSEE shall not interfere with operations of the TRANS-ALASKA PIPELINE SYSTEM (hereinafter "TAPS"), including use of STATE LANDS covered by the TAPS right-of-way, by employees, contractors, and agents of the TAPS, except as may be approved in writing by the COMMISSIONER. The PIPELINE shall be separated by two-hundred (200) feet or more from facilities of the TAPS (except roads, airfields, or other facilities that are not either oil containing or civil works or structures that protect or physically support oil containing facilities). The COMMISSIONER will designate the points on the facilities from which the two-hundred (200) feet shall be measured. Separations of less than two-hundred (200) feet requested by the LESSEE may be approved by the COMMISSIONER, consistent with any required Federal authorization, at crossings of the

TAPS and at other locations agreed upon by the owners of the TAPS and the LESSEE. In no case will reducing the cost of CONSTRUCTION be the sole basis for approval of a requested variance from these separation requirements.

(b) At other locations where required to avoid environmental damage or terrain constraints, requests by the LESSEE for separation of less than two-hundred (200) feet may be approved by the COMMISSIONER, consistent with any required Federal authorization, provided that the COMMISSIONER has first determined that the following criteria have been met:

(1) Stability of foundation and other earth materials will be protected and maintained;

(2) the integrity of the PIPELINE will be reasonably protected and maintained;

(3) significant damage to the environment (including but not limited to fish and wildlife populations and their habitats) will not be caused;

(4) hazards to public health and safety will not be created; and

(5) the TAPS will be reasonably protected from adverse effects of the LESSEE's activities, including the activities of its agents and contractors, and the employees of each of them.

Approval of requests by the LESSEE under this subsection for separations of less than two-hundred (200) feet shall not be unreasonably withheld.

9. Connections for Delivery (a) The LESSEE shall provide connections, as determined by the appropriate State or Federal regulatory authority, to facilities on the PIPELINE subject to the LEASE, both on STATE LAND and on other land in the State, for the purpose of delivering NATURAL GAS to PERSONS (including the STATE and its political subdivisions) contracting for the purchase, including the purchase at wholesale rates when required by the public interest, of NATURAL GAS transported by the PIPELINE.

(b) The LESSEE shall, notwithstanding any other provisions, provide connections and interchange facilities at STATE expense at such places the STATE

considers necessary, if the STATE determines to take a portion of its royalty or taxes in kind subject to approval of any appropriate State or Federal regulatory agency.

10. Compliance with DESIGN CRITERIA, Plans, and Programs In conducting PIPELINE activities subject to this LEASE, the LESSEE shall comply with the DESIGN CRITERIA, plans, and programs developed pursuant to Stipulation 2.5.1. Assessment and repair of any defects that may develop in the PIPELINE SYSTEM shall be consistent with such plans and programs, and in compliance with applicable Federal and State codes and standards.

11. Mitigative, Preventive, and Abatement Activities Required (a) The LESSEE will, at its own expense in accordance with the terms of this LEASE and in the manner set forth in the appropriate plans and programs developed pursuant to Stipulation 2.5.1:

- (1) maintain the LEASEHOLD and PIPELINE SYSTEM in good repair;
- (2) promptly repair or remedy any damage to the LEASEHOLD; and
- (3) promptly compensate for any damage to or destruction of property for

which the LESSEE is liable, resulting from damage to or destruction of the LEASEHOLD or PIPELINE SYSTEM.

(b) The LESSEE shall prevent or, if the procedure, activity, event or condition already exists or has occurred, shall abate, as completely as practicable, using the BEST PRACTICABLE TECHNOLOGY AVAILABLE and in the manner set forth in the appropriate plans and programs developed pursuant to Stipulation 2.5.1, any physical or mechanical procedure, activity, event or condition:

- (1) that is susceptible to prevention or abatement;
- (2) that arises out of, or could adversely affect, PIPELINE activities; and
- (3) that causes or threatens to cause

(A) a hazard to the safety of workers or to the public health or safety (including but not limited to personal injury or loss of life with respect to any PERSON or PERSONS); or

(B) immediate, serious, or irreparable harm or damage to the environment (including but not limited to soil, sediments, water and air quality,

areas of vegetation, fish or other wildlife populations or their habitats, or any other natural resource).

(c) Unless clearly inapplicable, the requirements and prohibitions imposed upon the LESSEE by this LEASE (including the Stipulations thereto) are also imposed upon the LESSEE's employees, and the LESSEE's agents and contractors and the employees of each of them. The LESSEE shall ensure compliance with this LEASE (including the Stipulations thereto) by its employees and by its agents and contractors, and the employees of each of them.

12. Written Authorization The LESSEE shall not initiate any FIELD ACTIVITY on STATE LANDS pursuant to this LEASE without prior specific written permission in accordance with the procedures set forth in Stipulation 2.18.1. Such permission shall be given by a NOTICE TO PROCEED or other appropriate written authorization required by an AGENCY.

13. Orders and Notices (a) The COMMISSIONER may issue any order necessary to enforce or implement any provision of this LEASE. Before delivery of any such order, the COMMISSIONER shall confer with LESSEE, if practicable to do so, regarding the required action or actions included in the order. Any such order shall state in detail what is demanded of LESSEE and the reasons and basis for such demand.

(b) All decisions, determinations, authorizations, approvals, consents, demands or directions that shall be made or given by the COMMISSIONER to LESSEE in connection with the enforcement or administration of this LEASE, or any other agreement, permit or authorization relating in whole or in part to all or any part of the PIPELINE shall, except as otherwise provided in Subsection (c) of this section, be in the form of a written order or notice.

(c) All orders, approvals, or notices of the COMMISSIONER shall be in writing; provided, however, that if, in the judgment of the COMMISSIONER, there is an emergency that necessitates the immediate issuance to the LESSEE of an order, approval, or notice, such order, approval, or notice may be given orally with subsequent



confirmation in writing as soon as possible thereafter, but not later than forty-eight (48) hours.

(d) During the period of CONSTRUCTION and initial operation of the PIPELINE SYSTEM, all formal written communications between the LESSEE and an AGENCY relating to PIPELINE activities shall be transmitted through the COMMISSIONER or as the COMMISSIONER may direct. Documents relating to PIPELINE activities and required by statute or regulation to be filed with an AGENCY other than the Department of Natural Resources shall be filed as so required, with a copy concurrently provided to the COMMISSIONER.

(e) Any written order, notice, or other written communication, including any facsimile, relating to any subject, that is addressed to the LESSEE from the COMMISSIONER shall be deemed to have been delivered to and received by the LESSEE when the order, notice, or other communication has been delivered either by hand delivery or facsimile during normal business hours, or by means of registered or certified United States mail, postage prepaid, return receipt requested, to the office of the representative designated by LESSEE pursuant to Section 27 of this LEASE.

(f) Any written notice or communication, including any facsimile, addressed to the COMMISSIONER from the LESSEE, shall be deemed to have been delivered to and received by the COMMISSIONER when the notice or communication has been delivered, either by hand delivery or by facsimile during normal business hours, or by means of registered or certified United States mail, postage prepaid, return receipt requested, to the COMMISSIONER.

(g) The STATE or LESSEE, by written notice to the other, may change the office address to which written notices, orders, or other written communications may be addressed and delivered thereafter, subject, however, to the provisions of Section 27 of this LEASE.

(h) The COMMISSIONER may order the LESSEE at any time to furnish any and all data or other information related to the PIPELINE, PIPELINE activities, or PIPELINE SYSTEM that may be reasonably relevant to the COMMISSIONER's responsibilities and duties to implement and enforce this LEASE. If the LESSEE desires that records submitted to the STATE be kept confidential, the LESSEE shall submit a request for

confidentiality in writing to the COMMISSIONER along with the basis for its claim of confidentiality. The COMMISSIONER will maintain and defend the confidentiality of records that the COMMISSIONER has determined to be confidential under State law. The LESSEE acknowledges that a judicial challenge to a confidentiality determination by the COMMISSIONER may result in a court-ordered disclosure of a document that the COMMISSIONER had determined to be confidential under this Agreement. In the event of a court-ordered disclosure, the LESSEE waives any claim of damages or liability against the STATE based upon the loss of confidentiality of documents disclosed. The COMMISSIONER shall provide the LESSEE with notice and a reasonable opportunity, which shall not be less than three (3) business days, to respond prior to releasing to the public any data or other information furnished by the LESSEE under this subsection.

(i) In coordination with the FERC, and consistent with applicable State and Federal law, the COMMISSIONER may, by written order, require the LESSEE to make such modification of the PIPELINE SYSTEM as the COMMISSIONER determines is necessary to:

(1) protect or maintain stability of the foundation and other earth materials;

(2) protect or maintain integrity of the PIPELINE SYSTEM;

(3) control or prevent significant damage to the environment (including but not limited to soil, sediments, water and air quality, areas of vegetation, fish or other wildlife populations or their habitats, or any other natural resource); or

(4) remove hazards to public health and safety, including the activities of the LESSEE, the LESSEE's agents, and contractors, and the employees of each of them.

14. Right of the STATE to Perform (a) The LESSEE shall carry out at the LESSEE's expense all lawful orders and requirements of the STATE relative to the LESSEE's occupation and use of the LEASEHOLD within a reasonable time period except in the event of an emergency. If, after thirty (30) days, or in emergencies such shorter periods as shall not be unreasonable, following the making of a demand therefore by the COMMISSIONER in the manner that is provided in Sections 13 and 27 of this LEASE, the LESSEE, or its respective agents, employees, or contractors, shall fail or

refuse to perform any action required by this LEASE or by the COMMISSIONER under this LEASE, the STATE shall have the right, but not the obligation, to enter the LEASEHOLD and at the LESSEE's expense, consistent with all applicable State and Federal laws and regulations, perform any or all of the following:

- (1) repair damage;
- (2) prevent imminent harm to workers;
- (3) protect public health or safety; and
- (4) prevent immediate, serious or irreparable harm or damage to the

environment.

(b) Prior to entering the LEASEHOLD, the COMMISSIONER shall confer with the LESSEE, if practicable to do so, regarding the required action or actions that are proposed by the STATE, and shall provide the LESSEE with a budget of the forecast expenditures. The COMMISSIONER shall submit each quarter to the LESSEE a statement of the expenses reasonably incurred by the STATE during the preceding quarter in the performance by the STATE of any required action under this section, and the amount shown to be due on each such statement shall be paid by the LESSEE. The LESSEE may dispute whether the work involved was justified and the reasonableness of the specifications for, and the cost of, such work in accordance with procedures described in Section 17.

15. Temporary Suspension (a) The COMMISSIONER may, consistent with applicable State and Federal law, order the temporary suspension of any or all PIPELINE activities, if

(1) an immediate temporary suspension of the activity or the activities is necessary to protect:

(A) public health or safety (including but not limited to personal injury or loss of life with respect to any PERSON or PERSONS); or

(B) the environment from immediate, serious or irreparable harm or damage (including, but not limited to harm or damage to soil, sediments, water and air quality, areas of vegetation, fish or other wildlife population or their habitats, or any other natural resource); or

(2) the LESSEE, its agents, employees, or contractors are failing or refusing, or have failed or refused, to comply with or observe

(A) any provision of this LEASE intended to protect public health, safety or the environment; or

(B) any order of the COMMISSIONER implementing any provision of this LEASE or any NOTICE TO PROCEED, plan or agreement approved, issued or granted by the COMMISSIONER in connection with all or any part of the PIPELINE SYSTEM.

(b) A temporary suspension order will specify:

(1) the specific activity or activities which must be stopped and the site of such activities;

(2) the reason for the issuance of the order, including a description of the immediate, serious or irreparable harm sought to be avoided that requires suspension of the specific activity or activities;

(3) any NOTICE TO PROCEED, or other written authorizations affected by the order;

(4) the name of the PERSON issuing the order;

(5) the name of the LESSEE's representative to whom the order is issued;

and

(6) the time and date of the order.

(c) When a temporary suspension order is issued by any delegate of the COMMISSIONER a copy of the written delegation of authority from the COMMISSIONER must accompany the order. A copy of the temporary suspension order must be provided to the LESSEE in a manner specified by Section 27 herein.

(d) A temporary suspension order is effective as of the date and time given, unless it specifies otherwise. A written temporary suspension order will remain in full force and effect until modified or revoked in writing by the COMMISSIONER.

(e) If the COMMISSIONER finds that an emergency exists, a temporary suspension order may be given orally to the LESSEE or a field representative of LESSEE. If an oral temporary suspension order is given, a written order consistent with the requirements of Subsection (b) shall be issued as soon as possible, but no later than

seventy-two (72) hours, after the oral order is given. An oral temporary suspension order that is not confirmed with a written order within the specified time is vacated.

(f) To the extent practicable, the COMMISSIONER will give the LESSEE prior notice of any temporary suspension order. If circumstances permit, the COMMISSIONER will discuss with the LESSEE before issuing the order measures that would:

(1) immediately abate or avoid the harm or threatened harm that is the reason for the issuance of the order; or

(2) effect compliance with the provision or order, whichever is applicable.

(g) After a temporary suspension order has been given by the COMMISSIONER, the LESSEE shall promptly comply with all of the provisions of the order and shall not resume any activity suspended or curtailed thereby except as provided in this LEASE, a subsequent order of the COMMISSIONER, or a court order.

(h) When the COMMISSIONER is satisfied that

(1) the harm or threatened harm has been abated or remedied,

(2) the LESSEE has effected, or is ready, willing and able to effect, compliance with the provisions of the temporary suspension order, or

(3) the LESSEE has implemented, or is ready, willing and able to implement, mitigating, corrective, or alternative measures approved by the COMMISSIONER, the COMMISSIONER will promptly authorize in writing the resumption of the suspended activity or activities. The COMMISSIONER shall render a decision within three (3) business days of the date that the request from the LESSEE to resume suspended activities is received by the COMMISSIONER. The decision will state whether the request is granted or denied, and the basis for the decision.

(i) Without limiting any other rights available under 11 AAC 02 or any other law, the LESSEE may bring appeals from temporary suspension orders of the COMMISSIONER's delegates, requests for reconsideration from temporary suspension orders of the COMMISSIONER, and requests for reconsideration of denials of requests to resume suspended activities under the provisions of this section. The LESSEE may:

(1) appeal directly to the COMMISSIONER for review of any temporary suspension order issued by a COMMISSIONER's delegate under this section; or

(2) request reconsideration from the COMMISSIONER of

(A) any temporary suspension order issued by the COMMISSIONER; or

(B) any denial by the COMMISSIONER of a request for resumption of activities suspended under such temporary suspension order.

(j) The LESSEE shall file a notice of appeal or a request for reconsideration brought pursuant to this subsection within ten (10) days after the effective date of the order or denial being appealed. The notice must set forth with particularity the order or denial being appealed and must contain a statement of facts and points of law the LESSEE wishes to present to justify modification or reversal of the order or denial. All statements of fact must be under oath.

(k) The COMMISSIONER shall decide an appeal or a request for reconsideration within ten (10) days from the date the COMMISSIONER received the notice of appeal or request for reconsideration from the LESSEE. If the COMMISSIONER does not render a decision within that time, the appeal or request for reconsideration will be considered to have been denied by the COMMISSIONER, and that denial will constitute a final decision appealable in accordance with the rules of the court, and to the extent permitted by applicable law.

16. COMMISSIONER's Decisions (a) Except as set forth in Subsection (b) of this Section, any decision of the COMMISSIONER as to any matter arising out of this LEASE will constitute the final AGENCY decision appealable in accordance with the Alaska Rules of Appellate Procedure. The COMMISSIONER will act in writing upon each required submission for approval of an action by the LESSEE, in accordance with the agreed-upon schedules developed pursuant to Stipulations 2.5.1 and 3.2. The absence of any comment by the COMMISSIONER on any plan, design, specification, or other document that may be filed by the LESSEE with the COMMISSIONER will not represent in any way whatsoever any assent to, approval of, or concurrence in such plan, design, specification, or other document, or any action proposed therein. Any written approval, instruction or order remains in effect unless and until written notice of the withdrawal or modification of the approval, instruction or order is provided to LESSEE.

Any written approval or instruction by the COMMISSIONER may be relied upon by the LESSEE unless and until rescinded in writing. Any disapproval by the COMMISSIONER, including any requests for additional information, will state what additional action is necessary to gain approval.

b. Decisions of a delegate of the COMMISSIONER shall not constitute final AGENCY decisions and are subject to the procedures for appeal and reconsideration as set forth in regulations of the Department of Natural Resources.

17. Reimbursement of STATE Expenses (a) LESSEE shall reimburse the STATE for all reasonable costs incurred by the STATE in the oversight of LEASE activities and the design review of all or any part of the PIPELINE and RELATED FACILITIES. The COMMISSIONER will administer this LEASE to reasonably assure that unnecessary employment of personnel and needless expenditure of funds by the STATE are avoided.

(b) Reimbursement provided for in this section must be made for each quarter ending on the last day of March, June, September, and December. On or before the ninetieth (90<sup>th</sup>) day after the close of each quarter, the COMMISSIONER will submit to the LESSEE a written statement describing any reimbursable costs incurred by the STATE during that quarter. This statement may be supplemented within ninety (90) days after the end of a fiscal year for costs incurred in the State's fiscal year but which, because of reasonable mistake, inadvertence, or unavailability, were not previously submitted. The STATE shall submit invoices to (or to any new address that the LESSEE designates in writing):

**TransCanada PipeLines Limited**  
**450 1st St., SW**  
**Calgary, Alberta Canada T2P 4K5**

(c) The LESSEE shall pay to the STATE the total amount shown on each statement submitted under Subsection (b), within thirty (30) days of receipt. If the LESSEE disputes any item of a statement for reimbursement, the LESSEE shall, on or before the date on which the statement is due and payable, deliver to the

COMMISSIONER written notice of each item that is disputed, accompanied by a detailed explanation of its objection. The COMMISSIONER shall provide a written decision regarding the LESSEE's objections within thirty (30) days of receipt of the LESSEE's objections, and any items determined by the COMMISSIONER to have been in error, improper, unnecessary, or needless shall be reimbursed within thirty (30) days after the date of the COMMISSIONER's written decision.

(d) The LESSEE may conduct, at its own expense, and by auditors or accountants designated by the LESSEE, reasonable audits of the books, records and documents of the STATE relating to a statement submitted under Subsection (b) of this section, at the places where such books, records and documents are usually maintained and at reasonable times. Written notice of intent to conduct an audit must be given to the COMMISSIONER (1) at least fifteen (15) days prior to the audit and (2) not later than the sixtieth (60<sup>th</sup>) day after the date that the STATE submits the statement, or supplemental statement, as applicable, under Subsection (b) of this section. An audit under this subsection must be completed within one hundred eighty (180) days after receipt by the STATE of the notice of intent to conduct an audit; provided, however, that if the STATE fails to provide the LESSEE with reasonably timely access to the relevant books, records and documents necessary to complete the audit, such period will be extended by an appropriate number of days to be mutually agreed to in writing by the STATE and the LESSEE. The LESSEE may present the results of an audit to the COMMISSIONER in a written notice requesting a timely review by the COMMISSIONER of errors, omissions, or discrepancies noted in the audit, including unnecessary employment of personnel or needless expenditures of funds. The COMMISSIONER shall meet with the LESSEE within thirty (30) days of receipt of the notice of results of the audit to discuss and attempt to resolve all items listed in the notice of results. The COMMISSIONER shall promptly provide a written decision to the LESSEE setting forth the results of the meeting between the LESSEE and the COMMISSIONER. Any items previously reimbursed to the STATE but found during the audit and concurred in by the COMMISSIONER in the written decision setting forth the results of the meeting to have been in error, improper, unnecessary, or needless shall



be reimbursed within thirty (30) days after the date of the COMMISSIONER's written decision.

(e) Nothing herein requires the STATE to maintain books, records or documents other than those usually maintained by it, provided such books, records and documents reasonably segregate and identify the costs for which reimbursement is required by this section. Such books, records and documents must be preserved for a period of at least two (2) years after the STATE submits a statement for reimbursement based on such books, records and documents. The LESSEE and auditors or accountants designated by the LESSEE will be given reasonable access to, and the right to copy, at the LESSEE's expense, all such books, records and documents.

18. Liability of the STATE The LESSEE agrees that neither the STATE nor any of its officials, employees, agents or contractors shall be liable for money damages for any loss caused to the LESSEE, its agents or contractors, by reason of decisions made in respect to the application and administration of this LEASE; provided, however, this section does not excuse the STATE, its officials, employees, agents or contractors from liability for damages or injuries resulting from other acts that result from the negligence or willful misconduct of the STATE.

19. Indemnity (a) The LESSEE assumes all responsibility, risk, and liability for its PIPELINE activities and use of or contact with the LEASEHOLD. The LESSEE shall defend, indemnify, and hold harmless the STATE, its agents and employees, from and against any and all demands, causes of action (whether in the nature of an action for damages, indemnity, contribution, government cost recovery or otherwise), fines, judgments, suits, claims, actions, proceedings, losses, costs (including reasonable attorneys' fees and costs), expenses, charges, forfeitures, liens, liabilities, settlements, penalties, and damages of any kind or nature whatsoever, including, but not limited to those alleging personal injury, wrongful death, nuisance property damage, environmental contamination (including any disposal, release, spill or discharge or any threatened disposal, release, spill, or discharge of or contamination by hazardous materials, but subject to the limitations on LESSEE's liabilities expressly provided under Section 20 of

this LEASE), and environmental noncompliance (including the LESSEE's failure to provide all information, make all submissions, and take all steps required by the authority under the environmental laws or any other law concerning any spill, discharge, or contamination), arising out of, in connection with, directly or indirectly from, or otherwise incident to, LESSEE's PIPELINE activities or use of or contact with the LEASEHOLD, except to the extent the sole legal cause of the injury or damage is the negligence or willful misconduct of the STATE or anyone acting on the STATE's behalf.

(b) The LESSEE shall immediately accept the tender by the STATE of any such cause of action, lawsuit, or other proceeding described in Subsection (a) of this section that is brought against the STATE. Any reasonable attorneys' fees or costs incurred by the STATE prior to such tender of defense shall be the complete and sole responsibility, without limitations, of LESSEE. If the STATE tenders such cause of action, lawsuit, or other proceeding later than twenty (20) days after service on the STATE, and the LESSEE informs the STATE that the delay in tendering will require LESSEE to incur additional costs in order to respond in a competent and timely manner, and the STATE is unable to obtain an extension of time sufficient to provide LESSEE with at least one-half of the number of days which the STATE originally had to respond, then the STATE shall reimburse LESSEE for documented, reasonable costs incurred by the LESSEE that are directly related to the delay in tendering.

(c) The obligations of the LESSEE to indemnify the STATE under the terms of this LEASE shall survive the transfer, assignment, or other disposition of an interest in this LEASE as well as the expiration, forfeiture, relinquishment, abandonment or other TERMINATION of this LEASE.

20. Liability With Regard to Contaminated SITES.

(a) The STATE and the LESSEE recognize that certain SITES authorized for use by the LESSEE under the LEASE may contain releases or threatened releases of HAZARDOUS SUBSTANCES that are the result of activities that were undertaken by PERSONS or entities other than the LESSEE prior to any FIELD ACTIVITY on such SITES by the LESSEE. For the purposes of this section, the term "SITE" shall mean a specific area of the LEASEHOLD selected for a particular operation or use by the

LESSEE in accordance with the terms of this LEASE, and the term “EXISTING CONTAMINATION” shall mean HAZARDOUS SUBSTANCES present at the SITE prior to LESSEE’s initial FIELD ACTIVITY on the SITE.

(b) It is the intent of the STATE and the LESSEE that, as between the STATE and the LESSEE, the LESSEE’s liability arising from or in connection with the release or threatened release of EXISTING CONTAMINATION at a SITE shall be limited to liability for those releases or threatened releases of EXISTING CONTAMINATION on, at, or in the vicinity of a SITE only to the extent caused by the LESSEE, its agents or contractors, subcontractors, employees servants, representatives, parent companies, affiliates, subsidiaries, officers, directors, any entity acting at the direction of LESSEE, or their agents or employees during or after the LESSEE’s initial FIELD ACTIVITY on the SITE. The LESSEE shall not be liable for failing to prevent the passive leaching or migration of EXISTING CONTAMINATION at a SITE into the air, land, or water. The limitation on LESSEE’s liability in this section is subject to the conditions set forth herein.

(c) Prior to undertaking any FIELD ACTIVITY on a particular SITE, the LESSEE shall undertake all reasonable and appropriate inquiries into the previous ownership and uses of the SITE consistent with good commercial or customary practice. If such inquiries indicate to the LESSEE or the STATE, at any time prior to the conduct or completion of a baseline assessment, as described in Subsection (d), that there is EXISTING CONTAMINATION or there is a reasonable possibility that there is EXISTING CONTAMINATION at a SITE, the LESSEE, in its sole discretion, may choose:

(1) to pursue the use of the SITE, and proceed to a baseline assessment pursuant to Subsection (d) below: or

(2) to work with the STATE to amend the LEASE to:

(i) remove the SITE from the LEASEHOLD, without any further obligation or liability to remove, remediate, minimize or control EXISTING CONTAMINATION, and

(ii) identify and add any necessary alternative STATE LANDS to the LEASEHOLD in replacement of the removed SITE.

(d) In the event that LESSEE decides, pursuant to subsection (c), to pursue the use of a SITE where LESSEE or the STATE determines that there is EXISTING CONTAMINATION or there is a reasonable possibility that there is EXISTING CONTAMINATION, LESSEE shall:

(1) unless a satisfactory baseline assessment has already been completed, conduct a baseline assessment to identify conditions indicative of any releases and/or threatened releases of EXISTING CONTAMINATION at, on, or from the SITE and to provide a basis for LESSEE's decision whether to use the SITE. The baseline assessment shall be conducted in accordance with the requirements of 18 AAC 75.335(b). The Alaska Department of Environmental Conservation (hereinafter ADEC) may waive some or all of the requirements for completion of a baseline assessment, if it determines, in its sole discretion, that such an assessment can be completed using more limited information than that required under AS 18 AAC 75.335(b); and

(2) provide the baseline assessment to ADEC for review. ADEC shall review the baseline assessment to determine whether it is in compliance with the requirements of 18 AAC 75.335(b), as may be modified by ADEC pursuant to paragraph (1) of this subsection. If the baseline assessment is in compliance, ADEC shall provide written notice of its approval to the LESSEE.

(e) If a baseline assessment conducted under Subsection (d) of this section indicates the presence of EXISTING CONTAMINATION at levels greater than those allowed under applicable statutes and regulations, LESSEE may, in its sole discretion, choose:

(1) to use a SITE where EXISTING CONTAMINATION is determined to be present, in compliance with the provisions of this section; or

(2) to work with the STATE to amend the LEASE to

(i) remove the SITE where EXISTING CONTAMINATION is determined to be present from the LEASEHOLD, without any further obligation or liability to remove, remediate, minimize or control EXISTING CONTAMINATION, and

(ii) identify and add any necessary alternative STATE LANDS to the LEASEHOLD in replacement of the removed SITE.

(f) If LESSEE chooses to use a SITE where EXISTING CONTAMINATION is determined to be present, LESSEE shall initiate and engage in FIELD ACTIVITIES at that SITE only in accordance with an operations plan approved by ADEC with the concurrence of the COMMISSIONER. In accordance with the foregoing, the LESSEE shall prepare and submit to ADEC an operations plan for a SITE where EXISTING CONTAMINATION is determined to be present prior to undertaking any CONSTRUCTION at that SITE. ADEC shall review the aforesaid plan and approve it if ADEC determines, in its sole discretion, that the plan adequately provides for reasonable and necessary measures (which may include removal or remediation) to assure that operations at the SITE will not exacerbate the threat to human health or the environment caused by the EXISTING CONTAMINATION.

(g) If ADEC approves an operations plan for a SITE, and LESSEE proceeds to implement the operations plan in compliance with all material requirements of the plan, LESSEE shall not be liable for additional requirements with respect to EXISTING CONTAMINATION, and the STATE agrees not to sue and not to assert any claims or take any civil or administrative action against the LESSEE with respect to EXISTING CONTAMINATION, except that as provided in Section 17, the LESSEE agrees to reimburse the STATE for any claims for reasonable response costs or oversight costs relating to EXISTING CONTAMINATION pursuant to implementation of an operation plan for a SITE. If the LESSEE is required by a SITE operations plan to perform any removal action, remedial measures or other action to abate or control EXISTING CONTAMINATION, the STATE will assist the LESSEE to identify any responsible party that may have liability for or that may have contributed to the EXISTING CONTAMINATION. If claims are asserted by a third party against the LESSEE alone or in conjunction with any other party including the STATE, and the STATE is entitled to indemnity or defense with respect to those claims under any prior or existing agreement with any such responsible party with respect to the SITE, the STATE agrees that it shall exercise its right to assert such indemnity or defense, or assign its right to assert such indemnity or defense, to the maximum extent permitted by applicable law, to LESSEE.

(h) If a third party (including a federal entity) asserts a claim against the LESSEE, but not the STATE, for contribution or for damages to PERSON or property arising from

the release, threat of release or the migration of EXISTING CONTAMINATION, other than that caused by the LESSEE, its agents or contractors, subcontractors, employees servants, representatives, parent companies, affiliates, subsidiaries, officers, directors, any entity acting at the direction of LESSEE, or their agents or employees the STATE shall to the extent permitted by law, affirm on the LESSEE's behalf, or provide to the LESSEE by assignment or other legal means, all defenses to such claims and liability to which the STATE is entitled under applicable law with respect to such EXISTING CONTAMINATION.

21. Guarantee and State as Additional Insured (a) The STATE will not issue a NOTICE TO PROCEED or other written authorization for LESSEE to initiate any CONSTRUCTION activity under the LEASE, prior to the STATE's receipt from the LESSEE of an unconditional guarantee, meeting all requirements of this section, guaranteeing the performance of all of LESSEE's duties and obligations under and by virtue of this LEASE. If the LESSEE at the time of the initial request for CONSTRUCTION authorization is a subsidiary of TransCanada PipeLines Limited, then the guarantee shall be executed by TransCanada PipeLines Limited (hereinafter "TCPL" or "Guarantor"). If an assignment of the LEASE to an entity that is not a subsidiary of TCPL has been approved by the COMMISSIONER prior to the initial request for CONSTRUCTION authorization, the guarantee shall be executed by the assignee's guarantor (hereinafter "Guarantor") as approved by the COMMISSIONER under Section 23 of the LEASE.

(b) The Guarantor's unconditional guarantee shall be in a form approved by the COMMISSIONER, and shall be substantially as is attached to this LEASE as Exhibit E. If the COMMISSIONER determines at any time, in the COMMISSIONER's sole discretion, that the Guarantor's guarantee is insufficient to satisfactorily guarantee the performance of all the LESSEE's duties, obligations, and potential liabilities under and by virtue of this LEASE, the COMMISSIONER may require the substitution and delivery of a supplementary guarantee or other security from LESSEE or from a substitute guarantor or insurer, with any provisions the COMMISSIONER reasonably finds necessary. LESSEE shall submit, on an annual basis, Guarantor's annual financial

statement and balance sheet, or such financial documentation of any required substitute guarantor, that the COMMISSIONER requests.

(c) The LESSEE will procure and furnish liability and property damage insurance from a company licensed to do business in the State or furnish other security or undertaking upon the terms and conditions the COMMISSIONER considers necessary if the COMMISSIONER finds that the net assets of the LESSEE are insufficient to protect the public from damage for which the LESSEE may be liable arising out of the CONSTRUCTION or operation of the PIPELINE. If the LESSEE, at its option or as required by the COMMISSIONER under this section, obtains commercially available insurance coverage for the LEASEHOLD and the LESSEE's activities in, on or related to the LEASEHOLD, the LESSEE shall cause the STATE to be named as an additional insured on all such insurance policies obtained and maintained by the LESSEE, except that such insurance coverage shall not cover or apply where the sole proximate cause of the injury or damage is the willful misconduct by the STATE or anyone acting on behalf of the STATE. Any commercially available insurance purchased by LESSEE under this section will not be construed to limit in any way the LESSEE's liabilities or responsibilities under this LEASE.

22. Workers' Compensation Insurance. The LESSEE shall provide and maintain, for all employees of the LESSEE engaged in work on the LEASEHOLD, workers' compensation insurance as required by State and Federal law. The LESSEE shall require all of its contractors to obtain workers' compensation insurance policies as required by State and Federal law. All workers' compensation insurance policies required herein shall waive rights of subrogation against the STATE, its agents, and employees.

23. Transfer, Assignment, or Other Disposition

(a) COMMISSIONER Approval. The LESSEE shall not transfer, assign, or dispose of in any manner, directly or indirectly, or by transfer of control of the LESSEE, its interest in this LEASE, any rights under this LEASE, or the PIPELINE SYSTEM subject to this LEASE, to any PERSON other than the Guarantor or another subsidiary or affiliate of the Guarantor, except to the extent that the COMMISSIONER authorizes the

transfer, assignment or disposition after consideration of the protection of the public interest. The COMMISSIONER shall not unreasonably withhold his consent to the transfer, assignment or disposal, or condition any transfer in a way that conflicts with applicable Federal laws or regulations.

(b) In reviewing a request for transfer, assignment, or other disposal pursuant to Subsection (a), the COMMISSIONER will consider the protection of the public interest, including whether the proposed transferee is fit, willing and able to perform the transportation or other acts proposed in a manner that will reasonably protect the lives, property and general welfare of the people of Alaska. In making the determination whether the proposed transferee is fit, willing, and able under this paragraph, the COMMISSIONER shall not consider the existence of the guarantee by the Guarantor, unless specifically requested by the LESSEE in the LESSEE's request for transfer or assignment. If the COMMISSIONER determines that a guarantee or other security is required to guarantee the performance of all of the duties, obligations, and potential liabilities under and by virtue of this LEASE by the proposed assignee, transferee, or other receiving party, the proposed assignee, transferee, or other receiving party shall secure a guarantee or other security satisfactory to the COMMISSIONER, in substantially such form as the COMMISSIONER required from the LESSEE under Section 21 of this LEASE, as a condition to the COMMISSIONER's approval of the transfer, assignment, or other disposal.

(c) Upon approval of a transfer pursuant to this section, in whole or in part, of the LESSEE's right, title and interest to the RIGHT-OF-WAY and this LEASE, the COMMISSIONER shall issue a release of the LESSEE's rights, duties, liabilities and obligations (accrued, contingent or otherwise) to the STATE under this LEASE, to the extent that the transferee unconditionally assumes the performance and observance of each such liability and obligation.

(d) Transfer Upon Demonstration of Sufficient Commercial Arrangements. The LESSEE shall promptly request that the COMMISSIONER authorize the transfer of this LEASE to a PERSON not affiliated with the LESSEE or Guarantor where the following conditions are met:



(1) the transferee demonstrates to the COMMISSIONER's satisfaction that it has entered commercial arrangements sufficient to secure financing for CONSTRUCTION of the PIPELINE SYSTEM;

(2) the transferee has entered into an agreement with LESSEE to interconnect the PIPELINE SYSTEM with the Canadian portion of the Alaska Natural Gas Transportation System; and

(3) the transferee has agreed to reimburse the LESSEE for the costs and expenses incurred by the LESSEE since January 1, 2000 to procure and maintain this LEASE, plus interest thereon at prime plus three percent (3 %) from the date such costs and expenses were incurred.

(e) Conveyance by the STATE. The STATE may convey all or a portion of its ownership of the STATE LANDS subject to this LEASE at any time to any entity allowed by law. Any conveyance, transfer or other disposition, subsequent to the execution of this LEASE, of any right, title, or interest in any of the STATE LANDS subject to this LEASE shall be subject to this LEASE and the LESSEE's rights hereunder, including the LESSEE's right to renew the LEASE under Section 2(b) herein.

24. Release of RIGHT-OF-WAY. (a) In connection with the relinquishment, abandonment or other TERMINATION before the expiration of this LEASE, of any right or interest in the LEASEHOLD, and/or in the use of all or any part of the STATE LANDS subject to this LEASE, the LESSEE shall promptly execute and deliver to the STATE, through the COMMISSIONER, a valid instrument of release in recordable form, which must be executed and acknowledged with the same formalities as a deed. The instrument of release must contain, among other things, appropriate recitals, a description of the pertinent rights and interests, and for the benefit of the STATE and its grantees or assigns, express representations and warranties by the LESSEE that it is the sole owner and holder of the rights or interests described therein and that such right or interest is free and clear of all liens, equities or claims of any kind requiring or that may require the consent of a third party, claiming in whole or in part by, through or under the LESSEE, for the valid release or extinguishment thereof, except for such that are owned or claimed

by third parties in the execution of the release of any such claims which may subsequently arise. The form and substantive content of each instrument of release must be approved by the COMMISSIONER, but except as otherwise provided for in this subsection, in no event will any such instrument operate to increase the then-existing liabilities and obligations of the LESSEE furnishing the release.

(b) A release under this section must be accompanied by such resolutions and certifications as the COMMISSIONER may require, including the power or the authority of the LESSEE, or of any officer or agent acting on its behalf, to execute, acknowledge or deliver the release.

(c) Notwithstanding any language or provision in the release that operates or could operate to the contrary, neither the tender, nor approval and acceptance, of any such release shall operate as an estoppel or waiver of any claim or judgment against the LESSEE or as a relief or discharge, in whole or in part, of the LESSEE from any of its then-existing liabilities or obligations whether accrued or contingent.

25. Default, Remedies and Forfeiture

(a) Default.

(1) Event of Default. The occurrence of any one or more of the following events shall constitute an “Event of Default” under this LEASE during the continuance of such event:

(i) Violation of a provision of AS 38.35 or an obligation, condition, or provision of the LEASE.

(ii) Failure of the LESSEE to substantially begin CONSTRUCTION of the PIPELINE SYSTEM within four (4) years after commercial arrangements sufficient to secure financing for the PIPELINE SYSTEM are available to the LESSEE or to the Guarantor, subject to possible extension by the COMMISSIONER, in the COMMISSIONER’s sole discretion, for good cause upon the LESSEE’s request to the COMMISSIONER.

(iii) Failure of the LESSEE to substantially comply with the terms of the LEASE as determined by the COMMISSIONER in his sole discretion.

(2) Notice and Opportunity to Cure Event of Default. At any time during the continuance of any such Event of Default, the COMMISSIONER may give the LESSEE notice in writing of the alleged Event of Default. The LESSEE shall have the opportunity to cure the default within the timelines set out below in Subsections (b) and (c).

(3) Removal of Items on LEASEHOLD During Event of Default. No items on the LEASEHOLD, including but not limited to, improvements, structures, machinery, equipment, tools, or materials, may be removed from it by the LESSEE during the continuance of an Event of Default except with the COMMISSIONER's prior approval.

(b) Remedies.

(1) Damages and Injunctive Relief. The remedy for an Event of Default under either Subparagraph (a)(1)(i) or Subparagraph (a)(1)(iii) that does not constitute a material breach of the LEASE having material consequences and that can be adequately compensated by injunctive relief and/or damages pursuant to a suit brought under AS 38.35.180, shall be injunctive relief and/or damages, as may be awarded pursuant to a suit brought under AS 38.35.180. The COMMISSIONER may commence an action for injunctive relief and/or damages in the superior court under AS 38.35.180 only if

(i) the COMMISSIONER has provided the LESSEE notice in writing of the alleged default, and

(ii) the LESSEE has failed, within thirty (30) days of receipt of such notice, to initiate good faith efforts to cure such default, in accordance with Subsection (a).

(2) Forfeiture. The remedy for an Event of Default under subparagraph (a)(1)(ii) or an Event of Default under subparagraph (a)(1)(iii) that constitutes a fundamental and material breach of the LEASE having material consequences and that cannot be adequately compensated by injunctive relief and/or damages pursuant to a suit brought under AS 38.35.180, shall be forfeiture, in accordance with subsection (c) below.

(c) Forfeiture.

(1) The COMMISSIONER may commence an action for forfeiture of the LEASE in the superior court only if (i) the COMMISSIONER has provided the LESSEE notice in writing of the alleged default, and (ii) the LESSEE has failed, within sixty (60) days of receipt of such notice, to initiate good faith efforts to cure such default, in accordance with subsection (a).

(2) Upon order of forfeiture of the interest of the LESSEE in this LEASE by a court of competent jurisdiction:

(i) The STATE shall have an immediate right to possession of the LEASEHOLD and to all items found thereon, including but not limited to, improvements, structures, machinery, equipment, tools, and materials, and except as otherwise approved or permitted by the COMMISSIONER for the purposes of allowing the LESSEE to abandon the PIPELINE SYSTEM in a manner consistent with the LEASE and applicable State and Federal law and to comply with an approved plan for RESTORATION and REVEGETATION of the LEASEHOLD, any possession by the LESSEE shall be unlawful. Subject to the STATE's best interests, the COMMISSIONER shall order in writing the disposition of all such improvements, structures, machinery, equipment, tools, materials, and any other item on the LEASEHOLD, in a manner consistent with the LEASE and applicable State and Federal law. The COMMISSIONER may order the LESSEE to perform disposition work required under this subsection. The LESSEE is responsible for all disposition costs incurred by the STATE under this subparagraph.

(ii) The LESSEE shall be obligated to perform RESTORATION and REVEGETATION of the LEASEHOLD to the condition ordered by the COMMISSIONER.

(3) The issuance of any new right-of-way lease for the LEASEHOLD after forfeiture of the LEASE will have no effect on the continuing rights and obligations of any party under this LEASE. In the event of a forfeiture of this LEASE after CONSTRUCTION has been initiated, the LESSEE shall be liable for any obligations due and payable and for all costs, expenses, and fees incurred by the STATE arising out of the STATE's efforts to grant a new RIGHT-OF-WAY LEASE for this LEASEHOLD, except to the extent such obligations are reimbursable by a subsequent lessee pursuant to

AS 38.35.140. In the event of forfeiture based on an Event of Default under Subparagraph (a)(1)(ii), the LESSEE's liability for costs, expenses, and fees incurred by the STATE under this paragraph will be limited to costs, expenses, and fees incurred by the STATE within two (2) years of the effective date of the order of forfeiture.

26. LESSEE's Obligations upon TERMINATION not Resulting from Forfeiture (a) This section shall apply to all TERMINATIONS of this LEASE, whether from expiration, relinquishment, abandonment or otherwise, with the exception of a forfeiture under Section 25.

(b) Within seven-hundred twenty (720) days, but not less than three-hundred sixty-five (365) days, of the planned TERMINATION of the PIPELINE, the LESSEE shall submit TERMINATION plans to the COMMISSIONER, which shall include all such information as the COMMISSIONER may hereafter specify and which shall be consistent with any request for abandonment of the PIPELINE SYSTEM filed with the FERC under requirements of Federal law. No TERMINATION activity shall begin until all necessary State and Federal authorizations for that activity have been received, including, but not limited to, written approval from the COMMISSIONER.

(c) Prior to the expiration, relinquishment, abandonment or TERMINATION of this LEASE, the COMMISSIONER shall determine in writing whether the public interest allows or requires that all or a portion of the PIPELINE SYSTEM be left in place following the expiration, relinquishment, abandonment or TERMINATION of this LEASE. The COMMISSIONER's written determination shall (1) describe which components of the PIPELINE SYSTEM, if any, must remain on the LEASEHOLD following the expiration, relinquishment, abandonment or TERMINATION of this LEASE, and (2) resolve issues pertaining to title to such components of the PIPELINE SYSTEM.

(d) No later than sixty (60) days after receipt of the COMMISSIONER's determination under Subsection (c), the LESSEE shall submit the following to the COMMISSIONER for the COMMISSIONER's approval:

(1) A plan for the removal of all facilities and items found on the LEASEHOLD, including but not limited to, improvements, structures, machinery,

equipment, tools and materials, but excluding those components of the PIPELINE SYSTEM that the COMMISSIONER's determination under Subsection (c) allows to be abandoned in place; and

(2) A plan for RESTORATION and REVEGETATION of the LEASEHOLD.

Should the LESSEE fail to comply with the requirements of this subsection, then Subsection (g) of this section shall govern the expiration, relinquishment, abandonment or TERMINATION of this LEASE.

(e) The COMMISSIONER shall set a reasonable time, which may be extended, during which the LESSEE shall implement the plans in Subsections (b), (c), and (d) of this section. The LESSEE shall be responsible for all costs of implementation of the plans required by this section.

(f) Following completion of the time period for plan implementation under Subsection (e) and any extensions, the COMMISSIONER shall order the disposition of all improvements, structures, machinery, equipment, tools, and materials, if any, that the LESSEE failed to remove, in a manner consistent with the LEASE and applicable State and Federal law. The COMMISSIONER may order the LESSEE to perform disposition work required under this subsection. The LESSEE is responsible for all disposition costs incurred by the STATE under this subsection.

(g) If the LESSEE fails to submit or fully implement the plans required by this section, the STATE's options include any of the following:

(1) The COMMISSIONER may order the LESSEE to submit and fully implement the plans required by this subsection.

(2) The STATE may develop the plans required under this section and order the LESSEE to fully implement them. The LESSEE shall be responsible for all costs incurred by the STATE in developing such plans.

(3) The STATE may complete the required work under such plans. The LESSEE shall be responsible for all costs incurred by the STATE for such work.

(h) In the event the COMMISSIONER makes a determination under Subsection (c) that all or a portion of the PIPELINE SYSTEM shall remain on the LEASEHOLD following the expiration, relinquishment, abandonment or TERMINATION of this

LEASE, then, following completion of the RESTORATION and REVEGETATION plan approved by the COMMISSIONER under Subsection (d) of this section, LESSEE shall be released from all future obligation or liability for the portion of the PIPELINE SYSTEM the COMMISSIONER determined shall remain on the LEASEHOLD, including but not limited to, abandonment or removal liability. Upon release, the STATE or its assignee shall immediately assume all responsibility and obligation for the PIPELINE SYSTEM or any part thereof remaining on the STATE LANDS formerly subject to this LEASE. Such release will not discharge LESSEE from performance obligations and other liabilities which have accrued prior to the expiration, relinquishment, abandonment or TERMINATION of this LEASE.

27. Correspondence (a) Any notice or demand by the LESSEE to the STATE will be made in writing and must be given by hand delivery or facsimile during normal business hours, or by registered or certified mail, postage paid, return receipt requested, addressed as follows (or to any new address that the STATE designates in writing):

**State Pipeline Coordinator's Office  
411 W. 4th Avenue, Suite 2C  
Anchorage, Alaska 99501-2343  
Facsimile Number: (907) 272-0690**

Delivery to the STATE occurs (1) if by hand delivery or facsimile during normal business hours, when received by the addressee, and (2) if by registered or certified mail, when the notice or demand is signed for by the STATE or STATE's agent.

(b) Except as provided for in Section 13 and 15 of this LEASE, any notice or demand by the STATE to the LESSEE will be made in writing and must be given by hand delivery or by facsimile during normal business hours, or by registered or certified mail, postage paid, return receipt requested, addressed as follows (or to any new address that the LESSEE designates in writing):

**TransCanada PipeLines Limited**  
**450 1st St., SW**  
**Calgary, Alberta Canada T2P 4K5**  
**Facsimile Number: (403) 920-2451**

Delivery to the LESSEE occurs (1) if by hand delivery or facsimile during normal business hours, when received by the addressee, and (2) if by registered or certified mail, when the notice or demand is signed for by the LESSEE or LESSEE's agent.

(c) Other correspondence may be made by mail, or by hand delivery or facsimile during normal business hours with original to follow in the mail.

28. Appointment of Agent for Service of Process The LESSEE shall file with the COMMISSIONER a written appointment of a named permanent resident of the State to be its registered agent in the State and to receive service of notices, regulations, decisions, and orders of the COMMISSIONER. If the LESSEE fails to appoint an agent for service, service may be made by posting a copy in the office of the COMMISSIONER and filing a copy of it in the office of the Lieutenant Governor and by mailing a copy to the LESSEE's last known address.

29. Books, Accounts and Records (a) The LESSEE will maintain and preserve books, accounts, and records and will make those reports that the STATE may prescribe by regulation or law as necessary and appropriate for the purposes of administering AS 38.35. The LESSEE will accord at all reasonable times and places to the STATE and its authorized agents and auditors the right of access to its property and records, of inspection of its property, and of examination and copying of records.

(b) LESSEE agrees that it shall submit to the COMMISSIONER, on request, any information or documents or other materials which are submitted to the Secretary of the Interior, Federal Inspector, and other Authorized Officers under the Agreement and Grant of Right-of-way for the gas PIPELINE between the United States and the LESSEES and which the COMMISSIONER determines may be relevant to the enforcement of the rights of the STATE under this LEASE.



30. Waiver not Continuing. The waiver by the STATE of any breach of any provision of this LEASE, whether express or implied, will not be construed to be a continuing waiver or a waiver of or consent to any subsequent or prior breach by the LESSEE. The waiver by the LESSEE of any breach of any provision of this LEASE, whether express or implied, will not be construed to be a continuing waiver or a waiver of or consent to any subsequent or prior breach by the STATE.

31. No Third Party Beneficiaries. Nothing in this LEASE (including the Stipulations thereto) shall be construed to affect any right or cause of action that otherwise would be available to the LESSEE against any PERSON or entity. The STATE and the LESSEE do not intend to create any rights under this LEASE (including the Stipulations thereto) that may be enforced by third parties for their own benefit or for the benefit of others.

32. Local Hire. The LESSEE will, in the CONSTRUCTION and operation of the PIPELINE SYSTEM, comply with, and require its contractors to comply with applicable and valid laws and regulations regarding the hiring of residents of the State then in effect or that take effect subsequently.

33. Nondiscrimination The LESSEE and its contractors may not discriminate against any employee or applicant for employment because of race, religion, marital status, change in martial status, pregnancy, parenthood, physical handicap, color, sex, age, or national origin as set out in AS 18.80.220. The LESSEE and its contractors, on beginning any PIPELINE activities, must post in a conspicuous place notices setting out this nondiscrimination provision.

34. Rights and Remedies Cumulative. No right or remedy conferred by this LEASE upon or reserved to the STATE or the LESSEE is intended to be exclusive of any other right or remedy provided for by this LEASE or by law, and each and every right and remedy set forth herein shall be cumulative.

35. Authority to Enter into LEASE. The LESSEE represents and warrants to the STATE that

(1) it is authorized and empowered under the applicable laws of the STATE and its jurisdiction of formation to enter into and perform this LEASE in accordance with the LEASE and its provisions;

(2) the LESSEE has approved and authorized the execution, delivery and performance of this LEASE insofar as it pertains to the obligations of the LESSEE;

(3) all action that may be necessary to the approval, execution, and delivery of this LEASE by the LESSEE, has been taken; and

(4) all of the required and necessary approvals, authorizations, and actions are in effect at the time of the execution and delivery of the LEASE.

36. Delegation of Authority. The COMMISSIONER may make delegations of authority and changes to delegations of authority to administer all or a portion of the provisions of this LEASE, consistent with AS 38.35.210, at any time. The COMMISSIONER shall notify LESSEE in writing of any such delegation of authority or change in delegation of authority that affects this LEASE.

37. Interpretation of LEASE. (a) The applicable laws of the State of Alaska will be used in resolving questions of interpretation of the LEASE; provided, however, that, to the extent possible under the applicable laws of the State, such questions of interpretation shall be resolved in a manner consistent with relevant Federal law and regulations, including FERC regulations and policies.

(b) Any interpretation of this LEASE shall take into account the parties' intent and understanding that the protection and preservation of the LEASEHOLD's environment are high priorities, and the nature of the environment, including permafrost and seismic areas, will require special consideration and a high degree of care.

(c) The parties acknowledge that this LEASE is an "arm's length" agreement, and that each party has had an adequate opportunity to consult with counsel, and has consulted with counsel with respect to this LEASE. The parties agree that ambiguities in this LEASE shall not be construed either for or against any party.

38. Compliance with Law and Regulation. LESSEE shall conduct all PIPELINE activities in compliance with all applicable Federal, State and local laws and regulations.

39. Venue. The venue for any appeal or civil action relating to this LEASE shall be in the Third Judicial District of the State of Alaska.

40. Recording. Upon execution, acknowledgment, and delivery of this LEASE, the LESSEE shall at its sole expense cause this LEASE to be recorded in each State Recording District that contains LEASEHOLD lands.

41. Severability. A judicial finding that any term or condition of this LEASE is unlawful or invalid may not operate to invalidate this LEASE or any other term or condition of the LEASE.

42. Amendments in Writing. No amendment to this LEASE is effective until agreed to in writing by the parties.

43. Exhibits. The following exhibits are attached to this LEASE and are, by this reference, incorporated into this LEASE as if they were set out in their entirety:

(1) "Exhibit A": Stipulations for the RIGHT-OF-WAY LEASE for the Alaska Natural Gas Transportation System, being numbered 1.0 through 6.0, inclusive, attached hereto as Exhibit A, which are sometimes referred to in this LEASE as the "Stipulations." These provisions are included pursuant to the provisions of AS 38.35.120 (c) and (d).

(2) "Exhibit B": A reference to the application for a RIGHT-OF-WAY and a reference to the accompanying alignment maps and site location drawings for the PIPELINE, attached hereto as Exhibit B.

(3) "Exhibit C": A description of the STATE LANDS included in the GENERAL ROUTE, attached hereto as Exhibit C. The LESSEE will update this description as needed to reflect the addition to the LEASEHOLD of any lands and

interests therein included in the FEDERAL ROW GRANT, to which the STATE, subsequent to the Effective Date, obtains an interest sufficient to permit the STATE to LEASE such lands and interests under State law, provided that at that time such lands and interests therein are no longer subject to the FEDERAL ROW GRANT, as may be amended or extended from time to time.

(4) “Exhibit D”: A description of the RIGHT-OF-WAY, including all relevant dimensions and proposed locations for compressor stations, attached hereto as Exhibit D.

(5) “Exhibit E”: Form of Guarantee from TransCanada PipeLines Limited.

44. Merger Clause. This LEASE, including all Exhibits hereto, and all documents that are required to be approved by the COMMISSIONER by this LEASE, contains the entire agreement between the parties, and is binding upon the parties.

45. Section Headings. The section headings in this LEASE are for convenience only and have no other significance.

IN WITNESS WHEREOF, the parties hereto have duly executed this LEASE as of the date first above written.

STATE OF ALASKA

TRANSCANADA ALASKA COMPANY, LLC.

By: \_\_\_\_\_

By: \_\_\_\_\_

Commissioner, Department  
of Natural Resources

Title: \_\_\_\_\_

ALASKAN NORTHWEST NATURAL GAS  
TRANSPORTATION COMPANY

By: \_\_\_\_\_

Title:

\_\_\_\_\_ \