

LAND OPTION AGREEMENT

THIS AGREEMENT (the "Agreement") made effective the ____ day of _____, 200_ (the "Effective Date")

BETWEEN:

_____, of the _____
of _____ in the Province of Ontario
(hereinafter called the "Owner")

-and-

TRANSCANADA ENERGY LTD.,
a corporation governed pursuant to the laws of Canada
(hereinafter called "TCE")

WHEREAS the Owner is the registered owner, subject however to the exceptions, conditions and Encumbrances registered on title of that certain parcel or tract of land situate, lying and being in the Province of Ontario known as: •

(hereinafter called the "Lands", which may be more particularly described in Schedule "E", if any, attached hereto);

AND WHEREAS TCE desires to obtain an Option to lease from time to time portions of the Lands for the purposes and uses as set out in this Agreement and, during the currency of this Agreement, to assess the wind resources over such Lands.

THIS AGREEMENT WITNESSES THAT the parties hereto covenant and agree with each other as follows:

ARTICLE I

PURPOSE AND DEFINITIONS

1.1 Purpose:

The purpose of this Agreement is to grant to TCE an exclusive Option over the Lands to allow TCE the opportunity to assess the wind resources over such Lands and, if satisfactory to TCE in its sole discretion, potentially to lease from the Owner a portion or all of such Lands either for the installation of equipment to further measure such wind resources or for the installation of windpower electricity generating facilities including wind driven turbines and the transmission of electricity for use or sale created therefrom. During the Option Period, TCE will pay to the Owner a fee for the Option for the unrestricted, exclusive use of the Lands to complete any and all testing as required by TCE in order to determine the suitability of the Lands.

1.2 Definitions:

Capitalized terms unless otherwise defined herein shall have the meanings given to such terms as set out in Schedule "A" attached hereto.

ARTICLE II

GRANT OF OPTION AND PAYMENT OF OPTION FEE

2.1 Grant of Option(s):

The Owner HEREBY GRANTS to TCE the sole and exclusive Option and the Rights, irrevocable for a period of three (3) years from the Effective Date (the "First Option Period"), to acquire at any time or times during the First Option Period one (1) or more leases to all or parts or portions of the Lands, whether for any one or more of Wind Turbine sites, Anemometer sites or Permanent Access Roads (such portions referred to as the "Leased Lands") and, if reasonably required by TCE, to use parts or portions of the Lands for Temporary Workspace, in each case, not inconsistent with the terms of this Agreement, substantially in the form of the Ground Lease annexed hereto as Schedule "B".

In consideration of the grant of such Option, TCE will pay to the Owner a basic annual fee in the sum of One Thousand Five Hundred (\$1,500.00) Dollars (the "Option Fee") payable annually on or before each anniversary date of the Effective Date during the First Option Period, the receipt and sufficiency of which sum for the initial year in the First Option Period is hereby acknowledged. In the event TCE installs any Anemometer on any portion of the Lands, TCE shall also pay to the Owner a further Anemometer fee of Seven Hundred and Fifty (\$750.00) Dollars per annum (an "Anemometer Fee"), payable at the time and dates concurrent with the Option Fee. Upon any exercise by TCE of its Option, a separate Ground Lease

shall be prepared for Wind Turbines or any other surface improvement required for windpower electricity generating, as further provided in Subsection 3.1 hereof, as the case may be.

The grant of this Option herein shall also include the right in favour of TCE and its employees, agents and contractors to enter upon the Lands at any time for the purpose of conducting such further and other environmental, engineering, meteorological, soil and property surveys and tests, investigations and other activities including the installation of Anemometers or other testing equipment to assess the wind resource as TCE deems necessary and to install temporary fences and construction facilities including mobile trailers, vehicles and equipment as may be deemed necessary by TCE and this Option shall include all rights of ingress to and egress from the Lands as reasonably determined necessary by TCE. The Option Fee shall continue to be payable to the Owner up to the Commencement Date of any Ground Lease.

For clarity with respect to the use contemplated herein, the Owner acknowledges and agrees that TCE and any persons authorized by TCE may enter the Lands at all times during normal business hours, and at any time in the case of an emergency, for the purpose of effecting changes, repairs or alterations to any Anemometers, fixtures, equipment or systems contained upon the Lands or adjacent thereto. In so doing, TCE agrees to provide reasonable advance notice to the Owner but shall not be liable to the Owner with respect to any interference of the use herein contemplated and the Owner shall have no right to make or advance any claim for losses or damages against TCE in respect of any such interruption of use and enjoyment of the Lands.

2.2 Renewal Option Period:

If TCE is not in default in respect of any of the covenants and conditions contained in this Agreement at the date of expiration of the First Option Period, and whether or not TCE has exercised its Option to acquire one (1) or more Ground Leases hereunder, and unless TCE gives to the Owner notice of termination of this Agreement at least thirty (30) days prior to the end of the First Option Period, then this Agreement and the Option herein provided shall be renewed automatically and the term extended for a further term of four (4) years, (the "Renewal Option Period") at the same Option Fee as set out in Subsection 2.1. The Renewal Option Period shall commence on the date of the expiration of the First Option Period.

2.3 Surveys and Registrations:

TCE may, at its sole cost and expense, file or register any such surveys to legally describe the Leased Lands and Temporary Workspace to be granted under any Ground Lease and any notice of this Agreement and any Ground Lease on or in respect of title to the Lands at the appropriate Land Registry Office or other public offices, and the Owner shall cooperate in promptly signing or cause all persons whose consent is required to sign such survey plans and executing such related consents or other documents as may be required.

2.4 Exercise of Option:

During the First Option Period or the Renewal Option Period, TCE may, from time to time, exercise its Option to acquire a Ground Lease for all or parts or portions of the Lands by delivering to the Owner a Notice to Lease, in duplicate, which shall be effective from the Notice Date. TCE shall have the right to select and determine the location, configuration and area of the Leased Lands and any Temporary Workspace and Permanent Access Roads to be granted under any Ground Lease, subject to the approval of the Owner, which approval shall not be unreasonably delayed or withheld. Any disputes as to the reasonableness of such approval shall be resolved pursuant to the dispute resolution provisions hereof.

2.5 Continuing Option:

Notwithstanding the exercise by TCE of its Option to lease any portion of the Lands, the Option hereby granted shall continue in full force and effect over all other portions of the Lands for the duration of this Option Agreement.

2.6 Interest:

Any amounts to be paid by TCE to the Owner pursuant to this Article II shall bear interest at two (2%) percentage points above the prime rate charged by any chartered bank of Canada designated from time to time by the Owner, compounded monthly, from the time such amounts are due until paid.

**ARTICLE III
GROUND LEASE**

3.1 Preparation and Execution of Ground Lease:

(a) Any Ground Lease shall be prepared by and at the sole cost and expense of TCE and shall be delivered to the Owner by TCE upon delivery to the Owner of the Notice to Lease or so soon thereafter as is possible. The form of the Ground Lease shall be substantially the same form and

having the substantially the same terms and conditions as contained in Schedule "B" attached hereto and shall set out:

- (i) the annual rent for the Leased Land together with any adjustments for the first year of the Ground Lease to be paid by TCE;
- (ii) a legal description of the Leased Lands and the Temporary Workspace (if applicable);
- (iii) a copy of a sketch or a plan of survey of the Leased Lands;
- (iv) a sketch of any anticipated area of Temporary Workspace (if applicable);
- (v) a sketch of any anticipated Permanent Access Roads;
- (vi) a non-binding indicative schedule for construction of Wind Turbine and/or Permanent Access Roads; and
- (vii) a non-binding sketch of the anticipated location of buried cable/transmission lines.

Together with delivery to the Owner of four (4) copies of the Ground Lease, duly completed as aforesaid, TCE shall pay to the Owner the estimated (by TCE) amount of the first year rent (whether a fixed annual rental, a percentage rental or a combination thereof payable under the Ground Lease) for the Leased Lands and the Temporary Workspace, if any, as set out in the Ground Lease, which shall become payable from the Commencement Date of the Ground Lease. Notwithstanding the payment by TCE aforementioned, the Option Fee, in addition, shall continue to be payable to the Owner until the Commencement Date of the Ground Lease as determined by TCE together with the further sum equal to that proportion of Five Thousand (\$5,000.00) Dollars that the number of days in which construction of the Wind Turbine continues is to Three Hundred and Sixty Five (365) days which further sum shall be subject to adjustment between the parties within fifteen (15) days of the Commencement Date of the Ground Lease.

The Owner acknowledges that the Ground Lease is to be executed with the effective date of the Ground Lease and the Commencement Date being left blank. TCE will, and is hereby authorized by the Owner, to insert the effective date of the Ground Lease and the Commencement Date of the Term as hereinafter determined.

(b) Execution of Ground Lease by Owner:

Upon receipt by the Owner of the completed Ground Lease in four (4) copies the Owner shall promptly execute all copies of the Ground Lease and complete any required consents or certificates in respect thereof and deliver to TCE three (3) fully executed copies of such Ground Lease, undated, pending determination of the effective date of the Ground Lease and its Commencement Date.

(c) Execution of Ground Lease by TCE:

Subsequent to each exercise of the Option as provided in this Agreement, TCE shall promptly proceed to obtain all necessary approvals, consents, licenses and orders as contemplated in Section 4.6 and when permitted to do so, diligently commence construction of its Wind Turbines upon completion of which and the commencement of operations, TCE shall:

- (i) insert the Commencement Date of the Ground Lease into the three (3) copies of the Ground Lease in its possession; and
- (ii) personally deliver or mail one (1) executed copy of the Ground Lease to the Owner at its address for Notices as hereinafter provided together with the first year basic annual rental due under the Ground Lease.

Notwithstanding the foregoing, failure by the Owner to promptly execute and return a copy of the Ground Lease to TCE shall not invalidate or otherwise void or render voidable the grant of the Ground Lease, and failure by TCE to comply promptly with this Section 3.1 shall not invalidate an otherwise valid exercise of the Option granted under this Agreement. With respect to the proposed Leased Lands in the interval between the Notice Date and the Commencement Date, and with respect to the balance of the Lands, all rights granted to TCE under this Agreement shall remain in full force and effect

3.2 Annual Rental and other Consideration for Ground Lease(s):

If TCE exercises its Option to acquire a Ground Lease, rental from and after the Commencement Date shall be determined as follows:

- (a) For the Leased Lands: The basic annual rental and any other rental payable for the Leased Lands and the Temporary Workspace from and after the Commencement Date shall be calculated as

provided in Schedule "C" attached hereto
the Ground Lease; and

as revised from time to time as provided in

- (b) Adjustment of first year basic annual rental: On or before the Commencement Date of any Ground Lease, the first year consideration and basic annual rental to be paid under such Ground Lease shall be adjusted if not previously adjusted, settled and paid by TCE subject to the provisions of Schedule "C" and the Ground Lease in the event rental is payable as percentage rental in whole or in part. For the purposes of such adjustment, the amount paid by TCE to the Owner as referenced in Section 3.1 for the period of time from the date of the Notice to Lease up to the Commencement Date of the Ground Lease shall be based upon five thousand (\$5,000) dollars per annum and will be pro rated on the basis of the number of days less than a whole year between the Notice to Lease and the Commencement Date and any over or under payment will be credited or debited to either the Owner or TCE as the case may be as of the Commencement Date.

ARTICLE IV

THE LANDS

4.1 Title to the Lands:

The Owner represents and warrants that the Owner has good and marketable title to the Lands and has the full power and authority to enter into and execute this Agreement and any Ground Lease to be issued under this Agreement. The Owner represents and warrants that there are no other agreements in or pursuant to which any other person or entity has or may acquire the right to purchase or obtain a transfer of the Lands, or any portion thereof, from the Owner. The Owner further warrants that there are no Encumbrances except as registered on title to the Lands effective as of the Effective Date hereof, and the Owner covenants and agrees that no Encumbrances will be granted, created or suffered to exist without prior notice to TCE, and there are no other Encumbrances on the title to the Lands that would prevent TCE using the Lands for the uses intended by TCE as set forth above. Should the Owner propose to charge or encumber title to the Lands, it shall give TCE prior notice of such intention and shall make it a condition of any such charge or encumbrance that the charging or encumbering Party agrees in writing with TCE to be bound by and subordinate to all of the terms of this Agreement.

4.2 Covenant Regarding Use of Lands:

- (a) The Owner hereby grants (on behalf of itself and its successors and permitted assigns) a covenant in favour of TCE, not to construct or erect, or cause to be constructed or erected, during the term of this Agreement and all renewals thereof, on any of the Lands which are or were owned or controlled by the Owner as of the Effective Date, in any direction surrounding the Leased Lands from the Notice Date, any above-ground structure of any height located within three hundred and fifty (350) meters of any Wind Turbine located on the Leased Lands; and (without TCE's prior written consent, acting reasonably) any above ground structure having a height greater than twenty (20) meters located outside of the aforementioned three hundred and fifty (350) meter boundary but within eight hundred (800) meters of any Wind Turbine located on the Leased Lands.

This covenant is for the benefit of all or any portion of the Leased Lands which are or will be acquired pursuant to this Agreement (being the dominant tenement) and shall run with and burden every portion of the Lands (as the servient tenement) for the duration of this Agreement and any Ground Lease of the Leased Land. The parties agree that damages will be an insufficient remedy for breach of this covenant by the Owner, and that TCE may seek an equitable remedy of specific performance or an injunction or both in respect of such covenant, in addition to any other remedies available to it in equity or at law.

- (b) The Owner further covenants and agrees that so long as this Option Agreement is in force and throughout the term of any Ground Lease, the Owner will not permit the use of any of the Lands by anyone whose use of any portion of the Lands would interfere with or impede the use of the Leased Lands or any portion of the Lands by TCE for the purposes hereinbefore set out.
- (c) The Owner further covenants and agrees that unless the Owner transfers the Lands to a *bona fide* third party, the Owner will not, for a period of fifteen (15) years from the date the Owner delivers the notice, if any, referred to in Section 6.4, enter into any option agreement, lease or sale of the Lands for the purpose of the installation of Wind Turbines or for the operation of a wind driven electricity generating facility.

4.3 Changes in Property:

During the Option Period and the Renewal Option Period, if any, if the Owner wishes to change the zoning or the land use designation of the Lands or any portion thereof, the Owner shall immediately and prior to initiating any activity to do so notify TCE in writing. Notwithstanding the foregoing, the Owner shall not, without the prior written consent of TCE acting reasonably, initiate, impose or consent to any such change or other restriction that would prevent or limit TCE from using or exercising the Rights in respect of any portions of the Lands or any Leased Lands or Temporary Workspace for the uses intended by TCE as described in this Agreement and in any Ground Lease.

4.4 Assignment and Disposition; Binding Effect:

- (a) The intention of the parties with respect to the covenants contained in Sections 4.2 and 4.3 is to ensure that all portions of the original Lands which are subject to this Agreement remain subject to the covenant contained herein as if no sale or assignment of the Sold Lands (as hereinafter defined) had occurred. Accordingly, should the Owner propose to sell, assign, transfer, convey or otherwise alienate or dispose of title to all or any portion of the Lands (the "Sold Lands") other than by the grant of the Leased Lands to TCE under the Ground Lease, the Owner (as vendor or transferor) shall make it a condition of any such sale or transfer that the purchaser or transferee agrees with TCE in writing under seal to assume the burden of the covenants contained in Sections 4.2 and 4.3 in full against the Sold Lands as servient tenement, such that the benefit of this covenant accrues to all or any portion of the Leased Lands (whether located on the Sold Lands or the retained Lands) which are or will be acquired pursuant to this Agreement, as dominant tenement, as if the purchaser or transferee of the Sold Lands were an original party to this Agreement with TCE. All assignment provisions of this Agreement shall apply to any successor or permitted assign of the Owner or of the above-referenced purchaser or transferee. Similarly, the covenant herein granted by the Owner shall continue to burden the Lands and shall continue to accrue to the benefit of any portion of the Lands to the extent same are comprised, or will be comprised at a future date, of the Leased Lands.
- (b) If the estate and interest of either party in this Agreement or the Lands or both or any portion thereof is sold, assigned, transferred, conveyed or disposed of in any manner (which disposition is hereby expressly allowed, subject to compliance with the provisions of Sections 4.2 and 4.3 hereof) the provisions of this Agreement shall inure to the benefit of and be binding upon the parties hereto and each of them, their respective heirs, executors, administrators, successors and permitted assigns, and shall constitute a grant, interest and covenant in and running with the Lands.
- (c) No such disposition shall be effective or binding on the non-assigning party: (i) until that non-assigning party has received notice thereof, which notice shall include the name and address of the assignee; (ii) with respect to the devolution of all or part of the estate in the Lands to the heir, administrator or executor of a party, until written notice of such devolution and copies of pertinent documents evidencing such devolution is provided to the non-assigning party; and (iii) in all other circumstances except those described in (ii) above, until the assignee of the assigning party has acknowledged and agreed in writing to assume and be bound by all of the terms hereof, and the assignee of the assigning party has delivered to the non-assigning party a written assumption notice pursuant to Article VI hereunder evidencing the foregoing, in which case the assigning party shall be absolutely released from any and all obligations under this Lease except Sections 4.2, 4.3 and 4.4(a) and (b).

4.5 Transmission and Telecommunication Services:

During the Option Period and during the term of any Ground Lease, the Owner shall cooperate fully with TCE, or with such third parties as may be designated by TCE, in providing access, easements or utility corridors or rights-of-way as may be deemed necessary or required by TCE for the conduct of its operations as authorized pursuant to the Ground Lease, by promptly signing such documents, easements or servitudes as are so required. In addition, the Owner hereby agrees to promptly grant such easements, rights-of-way or other access agreements to a transmitter or purchaser of electricity or telecommunication services as reasonably required by TCE, either to TCE or to the distributor, transmitter or purchaser of electricity or such third party as may be designated by TCE, for use as an access corridor, utility easement or connecting corridor for such services.

4.6 Governmental Approvals:

TCE shall at its sole cost and expense perform all acts associated with any zoning, land use, subdivision or other process or procedure necessary to obtain any certificate, permit, license, approval, consent, order, exemption or authorization that may be required by any federal, provincial, local or municipal authorities for the use of any portions of the Lands for the purposes contemplated herein or in the Ground Lease, including the *Planning Act*, R.S.O. 1990 c.P13, as amended, and the *Ontario Energy Board Act*, S.O.

1998 c.15 Sch B., as amended. The Owner shall promptly consent to and assist TCE in performing all such acts, as required.

4.7 Non-Renewal:

In the event that TCE elects, by notice in writing to the Owner, delivered on or before the expiry of the term of the Ground Lease that TCE does not wish to renew the Ground Lease, the Owner shall have the right to purchase from TCE, at its fair market value as determined, if necessary, pursuant to the dispute resolution provisions of the Ground Lease, all Wind Turbines, equipment, appurtenances, systems and rights (collectively, the "Installations") of TCE in any way relating to the Wind Turbines located upon the Leased Lands. In the event that the Owner and TCE cannot agree on the fair market value of the Installations, TCE shall be responsible for the removal of the Installations and the full remediation of the Leased Lands to substantially the condition the Leased Lands were in prior to the introduction of the Installations.

4.8 Pre-Existing Contaminants:

To the best of the Owner's knowledge and belief, the Lands do not contain any pollutant, contaminant, hazardous materials, dangerous or toxic substances (collectively, "Contaminants"). The Owner shall not contravene any law, order, regulation or by-law in regard to the creation, manufacture, production, use, storage, discharge, disposal, transportation or presence of any Contaminants. TCE shall promptly notify the Owner of the discovery of Contaminants during any excavation or assessment work done by TCE on the Lands. Unless the Contaminants are sourced from the TCE's structures, fixtures, materials or the exercise of any of TCE's rights hereunder, TCE shall not be liable for and the Owner hereby releases, discharges and indemnifies TCE from and against any Claims or costs that may arise as a consequence of the discovery of any Contaminants in, on, or under the Lands during TCE's exercise of any of its rights under this Agreement.

ARTICLE V

DAMAGES; DISPUTES

5.1 Default:

Notwithstanding anything herein contained to the contrary, TCE shall not be in default in the performance of any of its covenants or obligations under this Agreement, including the payment of consideration under any of Articles II or III hereof unless and until the Owner has notified TCE of such default in writing and TCE has failed to commence action to remedy the same within forty-five (45) days of receipt of such notice and fails thereafter to diligently continue to complete such remedial action.

5.2 Indemnities:

- (a) TCE shall indemnify and hold the Owner harmless against all actions, suits, claims or demands by any person in respect of any loss or damage or personal injury and physical damage to the Lands or the property or person of third parties resulting from any operations of TCE, or persons authorized by TCE, on the Lands, Leased Lands or Temporary Workspace, other than through the use, occupancy or operations of the Owner.
- (b) The Owner shall indemnify and save harmless TCE from and against all actions, suits, claims and demands by any person in respect of any loss, injury, damage or obligation arising out of or connected with the use, occupancy or operations of the Owner on the Lands, Leased Lands and Temporary Workspace, other than through the use, occupancy or operations of TCE.

5.3 Compensation for Damages:

TCE shall pay compensation for damage done by it or its servants, agents or contractors which, without restricting the generality thereof, shall include growing crops, machinery or other equipment, livestock, fences, buildings, or other improvements of the Owner upon the Lands other than the Leased Lands. In the event the parties are unable to agree upon the compensation, if any, to be paid to the Owner, the liability for any compensation as well as the amount, if any, shall be determined pursuant to the dispute resolution provisions set out in Section 5.4.

5.4 Dispute Resolution:

- (a) Any matter or issue arising under or by virtue of this Agreement which cannot be agreed upon by the Owner and TCE shall be determined by arbitration pursuant to the provisions of the *Arbitration Act*, 1991 S.O. 1991 chap.17, as amended. The responsibility for the arbitration costs shall be determined by the appointed arbitrators. If a party is not satisfied with the decision of the arbitrators, or if the parties mutually agree to forego arbitration, then any party may, within thirty (30) days of such party's receipt of the decision of the arbitrators or the agreement to forego arbitration, appeal the decision or award of the arbitrators to or initiate proceedings in the Superior Court of Justice of the Province of Ontario on a question of law or fact or mixed law and fact as if any arbitration had not occurred.

- (b) If issues of compensation arise, the arbitrators or adjudicator shall be required to consider the sums described in Schedule "C" of this Agreement by considering the equivalent market value of the Leased Lands excluding the value of all chattels, equipment, structures, buildings, and improvements, located on or under the Leased Lands which have been installed by TCE or are owned by TCE.

ARTICLE VI

MISCELLANEOUS

6.1 Notices:

All notices, communications, payments and deliveries (collectively the "Notices") required or permitted hereunder shall be in writing, unless otherwise expressed herein. All such Notices and all payments to be tendered hereunder may be given personally or by registered letter addressed to the party to whom the Notice is to be given. When delivered personally, such Notice shall be deemed received on the day of delivery, and when mailed, such Notice shall be deemed to be given to, and received by, the addressee four (4) days after the mailing thereof, postage prepaid, provided however that if a Notice is mailed and a disruption of postal services occurs before the date of deemed receipt of such Notice, such Notice shall not be deemed to be received until the expiration of four (4) days following the resumption of postal service.

The respective addresses for service of Notices shall be as follows.

If to the Owner: •

If to TCE:

TransCanada Energy Ltd.
450 – 1st Street S.W.
Calgary, AB T2P 5H1

Fax (403) 920.2353

Attention: Terry Bennett

Any party may change its address for service by Notice to the other party. At any time there shall be only one address for service of Notices for each party.

6.2 Amendment and Waivers:

No amendment or waiver of any provision of this Agreement shall be binding on any party unless consented to in writing by such party. No waiver of any provision of this Agreement shall constitute a waiver of any other provision, nor shall any waiver constitute a continuing waiver unless otherwise expressly provided.

6.3 Surrender:

TCE shall have the right at any time to surrender this Agreement upon no less than forty-five (45) days written Notice to the Owner, provided however that there shall be no refund to TCE of any fee or rental which may have been paid in advance, and provided that TCE shall have complied with all provisions for abandonment and reclamation in accordance with applicable laws.

6.4 Owner's Right to Terminate:

- (a) The Owner shall have the right exercisable on not less than sixty (60) days written notice to TCE and exercisable strictly during the last sixty (60) days of the First Option Period and received by TCE not later than forty-five (45) days before the expiry of the First Option Period (the "Owner's Termination Notice") to terminate this Option Agreement upon the expiry of the First Option Period without further notice. In the event the Owner exercises the right to terminate herein set out, the Owner shall pay to TCE that amount equal to 200% of any Option Fee paid from the Effective Date of this Option Agreement, provided however that in the event TCE has elected to exercise its Option in the First Option Period and proceed with a Ground Lease and the installation of a Wind Turbine, but the consideration and rental payable to the Owner as contemplated pursuant to the executed Ground Lease will not meet or exceed the rental thresholds established pursuant to the terms of Schedule "C", the Owner may terminate this Option Agreement without the necessity of the payment to TCE hereinbefore set out. Provided that, notwithstanding the foregoing, in the event TCE, within thirty (30) days of its receipt of the Owner's Termination Notice delivers to the Owner its Notice to Lease all or part or a portion of the Lands, the Owner's Termination Notice shall be null and void, and of no effect.

- (b) In the event TCE has not exercised any Option to lease any part or portion of the Lands on or before sixty (60) days prior to the 7th anniversary of the Effective Date, the Owner shall have the further right at any time within such sixty (60) days to notify TCE which Notice must be received by TCE not later than forty-five (45) days before the 7th anniversary of the Effective Date that, unless TCE exercises its Option to lease all or any part or portion of the Lands before the 7th anniversary of the Effective Date, this Agreement and all rights of TCE hereunder shall terminate on the 7th anniversary of the Effective Date without the necessity of payment to TCE hereinbefore set out.

6.5 Non-Merger:

The rights of TCE pursuant to this Agreement shall not merge in any Ground Lease.

6.6 Severability:

If and to the extent that any Court of competent jurisdiction determines that any of the terms or provisions of the within Agreement except Sections 4.2 and 4.3 are void or unenforceable, such determination shall not affect the validity of the other provisions of this Agreement which shall remain in full force and effect.

6.7 Headings:

The division of this Agreement into Articles and Sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

6.8 Gender:

In this Agreement, words importing the singular number only shall include the plural and vice versa, words importing gender shall include all genders and words importing persons shall include individuals, corporations, partnerships, associations, trusts, unincorporated organizations, governmental bodies and other legal and business entities.

6.9 Counterparts:

This Agreement may be executed in counterparts, each of which will constitute an original and all of which taken together will constitute one and the same instrument.

6.10 Inurement:

This Agreement and everything herein contained shall inure to the benefit of and be binding upon the Owner, his/her heirs, executors, administrators, successors and assigns and upon TCE, its successors and assigns.

6.11 Further Acts:

The parties shall each do and perform such acts and things and execute and deliver all such instruments, documents or writings and give all such further assurances as may be necessary to give full effect to the provisions and the intent of this Agreement, including but not limited to registration of notice of this Agreement on title to the Lands.

6.12 Perpetuities:

Notwithstanding anything else hereinbefore contained, the rights of TCE pursuant to this Agreement (including during any Renewal Option Period) to acquire Rights or a Ground Lease in or in respect of the Lands or for TCE or any other person to otherwise acquire any interest in the Lands shall not extend beyond twenty-one (21) years as provided in Section 13(3) of the *Perpetuities Act*, R.S.O. 1990 c. P.9.

6.13 Planning Act:

This Option is subject to the provisions of *The Planning Act*, R.S.O. 1990 c.P.13, as amended. If any consent is required it shall be obtained by TCE with the consent of the Owner and until such consent is obtained any term hereof, including any options to renew, shall be read as not exceeding twenty-one (21) years less one (1) day and in the event such consent is not obtained, the Term hereof, including any options to renew, shall not exceed twenty-one (21) years less one (1) day.

6.14 Governing Law:

This Agreement shall for all purposes be construed according to the laws of the Province of Ontario and the laws of Canada as applicable therein. Any references herein to specific legislation shall be deemed a reference to amending or successor legislation thereto once same is enacted and in force.

6.15 Personal Information Consent:

By providing personal information to TCE, the Owner consents to TCE' collection, use, retention and disclosure of that information for any and all purposes and uses as permitted and contemplated under this Agreement and as needed to comply with any legal requirements. Notwithstanding the foregoing, TCE agrees that it shall maintain in confidence all personal information pertaining to the Owner and it shall not publish or otherwise disclose such information except as may be required for the purposes of this Agreement.

6.16 Confidentiality:

The Owner shall keep confidential all confidential information of a technical or business nature relating to the business of TCE, the operation of any Wind Turbine, the terms of this Agreement and any Ground Lease, all research data, technical information, trade secrets or other proprietary no-how, processes, plans, equipment, instructions, manuals, records and procedures (unless readily available from public or published information or sources or required to be disclosed by law) ("Confidential Information") obtained from or in respect to the business transactions between the Owner and TCE. In the event this Agreement is terminated, all Confidential Information in the possession of the Owner arising from this Agreement or any Ground Lease shall, promptly upon such termination, be returned without duplication and in its original form to TCE.

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6.17 **Time of Essence:**
Time shall be of the essence of this Agreement.

IN WITNESS WHEREOF the Owner has executed this Agreement under his/her/their hand(s) and TCE has executed this Agreement under the hand of its proper officer duly authorized in that behalf, all as of the day and year first above written.

SIGNED, SEALED AND DELIVERED

in the presence of _____)
_____)
_____)
Witness _____

Owner

_____)
Witness _____

Owner

TRANSCANADA ENERGY LTD.

Per: _____
Name:
Title:

Per: _____
Name:
Title:

CONSENT OF SPOUSE

I, _____ being the spouse of the above named _____ (Owner) do hereby give my consent to the transaction set out in this Agreement pursuant to Section 21 (Matrimonial Home) of the *Family Law Act*, R.S.O. 1990 Chap. F3.

Spouse of the Owner