

THIS AGREEMENT made this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

ALBERTA ONE CALL # \_\_\_\_\_

BETWEEN:

**YELLOWHEAD GAS CO-OP LTD.** (the "Grantor")

-and-

\_\_\_\_\_ (the "Grantee")

**PRIVATE LANDOWNER CROSSING/PROXIMITY AGREEMENT**

**WHEREAS** the Grantor holds one or more rights-of-way for a pipeline(s) across the Grantee’s lands and has constructed a pipeline(s) therein (the “Grantor’s Facility”), upon which the Grantee intends to construct the surface improvement(s) as described in Section 4 (the “Grantee’s Facility”); and

**WHEREAS** the Grantor’s Facility and the Grantee’s Facility intersect in the area as described in Sections 2 and 3(a) (the “Crossing Area”); and

**WHEREAS** this Agreement constitutes approval of the ground disturbance as required under Section 42 in the *Pipeline Act*; and

**Approval to undertake ground disturbance**

42 No ground disturbance may be undertaken in the right of way for a pipeline without the approval of the licensee of the pipeline in accordance with the rules, or, if approval cannot reasonably be obtained from the licensee, without the approval of the Regulator.

RSA 2000 cP-15 s42;2012 cR-17.3 s101

**WHEREAS** the Grantor is willing to consent to the crossing of the Grantor’s Facilities subject to, amongst other things, the Grantee being responsible for losses, costs, charges, damages and expenses which the Grantor may suffer or sustain as a result of the operations of the Grantee, its employee, agents, contractors and subcontractors on the above lands;

**WHEREAS** the parties wish to define their respective rights and liabilities with respect to the Crossing Area.

**NOW THEREFORE** in consideration of the premises, covenants and agreements herein contained, the parties hereby agree as follows:

1. **Terms and Conditions** – This Agreement shall be comprised of the following:

- (a) **Schedule “A”** - Terms and Conditions;
- (b) **Schedule “B”** - Location Plan and Profile; and
- (c) **Schedule “C”** - Specific Terms and Conditions.

2. **Grant** – The Grantor hereby grants to the Grantee the right, liberty, and privilege to cross the Grantor’s Facility with the Grantee’s Facility within the Crossing Area, upon and subject to the terms, covenants and conditions contained within this Agreement.

3. **Locations and Notices**

(a) **Location of Crossing Area (Legal Description)** – The Crossing Area is located as follows:

\_\_\_\_\_

(b) **Notices** – Notices shall be in writing and shall be mailed, e-mailed or delivered by hand to the addresses for the parties provided below:

Grantor

Grantee

**Name:** YELLOWHEAD GAS CO-OP LTD \_\_\_\_\_

**Address:** BOX 7230 EDSON AB T7E1V5 \_\_\_\_\_  
4914-3<sup>rd</sup> Ave, Edson \_\_\_\_\_

**Email:** info@yellowheadgas.com \_\_\_\_\_

(c) **Field Representative** – The Grantor's and Grantee's field representatives, or alternatives designated from time to time, shall have the right and authority to make, give, receive any notice, information, direction or decision required in conducting the Work hereunder.

Grantor

Grantee

**Name:** \_\_\_\_\_

**Home Phone/  
Cell Phone:** \_\_\_\_\_

**Email:** \_\_\_\_\_

4. **Grantee's Facility** – The Grantee's Facility shall constitute the following (check which applies):

<input type="checkbox"/> Ditch	<input type="checkbox"/> Sidewalk
<input type="checkbox"/> Drainage System	<input type="checkbox"/> Driveway
<input type="checkbox"/> Fence	<input type="checkbox"/> Private Road/Driveway
<input type="checkbox"/> Gravel Road	<input type="checkbox"/> _____
<input type="checkbox"/> Private Water/Wastewater Service Connection	<input type="checkbox"/> _____

For clarity, unless otherwise contemplated within the location plan and profile forming **Schedule "B"** and agreed to and addressed under the specific terms and conditions contained within **Schedule "C"**, the Grantee's Facility shall specifically exclude third party-owned or operated utilities or services, pipelines other than private service connections, foundations of buildings, or other improvements requiring an excavation depth within the Crossing Area of greater than 0.5 meter.

**IN WITNESS WHEREOF** the parties hereto executed this Agreement effective the day first written above.

\_\_\_\_\_  
**Grantor**

Per: \_\_\_\_\_

Per: \_\_\_\_\_

\_\_\_\_\_  
**Grantee**

Per: \_\_\_\_\_

Per: \_\_\_\_\_

**Schedule “A” - Terms and Conditions**

1. **Grant** – The Grantor hereby agrees, insofar as it has the right to do so, that the Grantee may perform the carrying, laying, installing, constructing, maintaining, operating, repairing, inspecting, replacing, altering, removing and such other operations as may be required from time to time (the “**Work**”) necessary to construct the Grantee’s Facility within the Crossing Area.
2. **Compliance with Laws** – Grantee shall at all times comply with any and all applicable codes, statutes, laws, regulations, permits, licenses, orders and directions of any governmental authority from time to time in force.
3. **Supervision** – The Grantee acknowledges that the Grantor has the right to have a representative present to inspect the Work of the Grantee in the Crossing Area.
4. **Conduct of Work** – The Grantee shall carry out all Work in the Crossing Area in a proper, diligent and workmanlike manner, and in accordance with good engineering and construction practices. The Grantee shall lay down and construct the Grantee’s Facility in accordance with the location plan and profile forming a part of **Schedule “B”**. The Grantee shall, as soon as is reasonably possible after the completion of any Work, restore the Crossing Area as closely as is possible to the condition in which it existed immediately prior to said Work including depth of cover for the Grantor’s Facilities and drainage.
5. **Precautions** – The Grantee shall undertake all reasonable precautions to ensure that no damage occurs to the Grantor’s Facility, including damage which may result from the use of heavy work equipment within or outside the Crossing Area.
6. **Limit of Excavation** – Unless otherwise provided for within the location plan and profile forming a part of **Schedule “B”**, and addressed to the satisfaction of the Grantor’s Representative by the specific terms and conditions contained within **Schedule “C”**, the Grantee shall not excavate within the Crossing Area to a depth of greater than 0.5 meters.
7. **Contact/Damage** – In the event that the Grantor’s Facility suffers contact damage or other damage as a result of the Grantee’s Work, the Grantor shall be notified forthwith and its repair shall be carried out as directed by the Grantor at the Grantee’s sole cost and expense.
8. **Default & Remedy** – In the event of a default by the Grantee of this Agreement, the Grantor may give notice of such default to the Grantee. If the Grantee fails to commence to remedy such default within 15 days after receipt of such notice, and/or fails to diligently carry out such remedial activities thereafter, the Grantor may take such steps as are appropriate to remedy such default, and the Grantee shall be liable for and shall pay all costs and expenses incurred by the Grantor in doing so.
9. **Grantor Access** – If the Grantor desires to undertake any maintenance, repair or replacement of the Grantor’s Facility in the Crossing Area, the Grantor shall:
  - (a) as much as is reasonably possible, access the Grantor’s Facility away from or around the Grantee’s Facility;
  - (b) be entitled to break up and remove the Grantee’s Facility to the extent reasonably required to access the Grantor’s Facility and complete the required work;
  - (c) not be responsible for restoring all or any of the Grantee’s Facility upon completion of the Grantor’s work; and
  - (d) only be required to return the areas impacted by its excavation to a clean and level condition.

For clarity, the Grantee shall be responsible for any and all restoration or reconstruction of the Grantee’s Facility after the completion of any work by the Grantor.
10. **Liability** – The Grantee shall be liable to the Grantor for (a) all losses, damages and expenses which the Grantor may suffer, sustain, pay or incur, and (b) all actions, proceedings, claims, demands and costs which may be brought against or suffered by the Grantor, to the extent caused by or attributable to any act or omission of the Grantee, its servants, agents, contractors or employees in respect of the Grantee’s use of the Crossing Area, constituting negligence or a default under the terms of this Agreement. Notwithstanding any other provisions of this Agreement, the parties shall in no event be responsible or held liable for consequential damages, including without limitation, liability for loss of use of existing property, loss of profits, loss of product or business interruption however the same may be caused.
11. **Insurance** – Without in any way limiting the liability of either party under this Agreement, each party shall obtain and keep in force during the term of this Agreement comprehensive general liability insurance covering liability for bodily injury and property damage arising from the Work contemplated by this Agreement. The limit of this insurance shall not be less than \$2,000,000.00, inclusive, for any one occurrence unless otherwise agreed by the parties in writing. This policy shall provide coverage for liability assumed under this Agreement.
12. **Term** – The rights and obligations of the parties under this Agreement shall terminate:
  - (a) 2 years from the date hereof if construction of the Grantee’s Facility has not yet commenced; or
  - (b) upon proper removal of the Grantor’s Facility or Grantee’s Facility from the Crossing Area, and the completion of any reclamation Work required by this Agreement or applicable laws.
13. **General:**
  - (a) This agreement is non-assignable and non-transferable.
  - (b) No change, modification or alteration of this Agreement shall be valid unless it is in writing and signed by the parties hereto, and no course of dealing between the parties shall be construed to alter the terms hereof.
  - (c) Time is of the essence of this Agreement.
  - (d) The terms contained within this Agreement, including the recitals and Schedules, shall constitute the entire Agreement between the parties.
  - (e) This Agreement shall be construed in accordance with the laws of the Province of Alberta.

**Schedule "B" – Location Plan and Profile**

**Schedule “C” – Specific Terms and Conditions**

When the Grantee constructs the Grantee’s Facility in the Crossing Area, the following requirements shall be met and performed, and marked as completed by the Grantor’s Representative:

**A. Prior to Commencing Work:**

- Alberta One-Call must be contacted;
- Private Landowner Crossing Agreement must be signed by the Grantor and Grantee;
- The Grantee must contact the Grantor’s Field Representative directly, either in person or by telephone, a minimum of 48 hours (excluding Saturdays, Sundays and Statutory Holidays) before commencement of Grantee’s Work within 30 meters of the Crossing Area;
- A copy of this Agreement must be available in the Crossing Area;

**B. Where Excavation of Grantor’s Facility Required/Authorized:**

- Before proceeding to excavate within 5 meters of the Crossing Area, the Grantee must fully expose the Grantor’s Facility by hand digging and/or hydrovac;
- No mechanical excavating machine within 1.5 meters of either side of the Grantor’s Facility;
- If deemed necessary by the Grantor, the Grantee shall support any exposed pipe;
- The Grantee must contact the Grantor prior to backfilling, and provide the Grantor’s Representative the opportunity to view and inspect before backfilling;

**C. General Requirements:**

- For subsurface facilities installed by the Grantee, a minimum distance of 30 centimeters shall be maintained between the external surfaces of the Grantee’s Facility and the Grantor’s Facility;
- Upon completion of all Work by the Grantee, a minimum depth of cover of \_\_\_\_\_centimeters shall be maintained to protect the Grantor’s Facility;
- The Grantee’s Facility shall be maintained at the same depth with no side bends for the entire width of the Crossing Area in total ROW, centered on the Grantor’s Facilities);
- Suitable markers indicating the location of the Grantor’s Facility in the Crossing Area must be present during performance of the Work;
- Backfill material must be free of rocks and compacted satisfactory to the Grantor’s Representative;

**D. Special Requirements:**

- \_\_\_\_\_;
- \_\_\_\_\_;
- \_\_\_\_\_;
- \_\_\_\_\_;
- \_\_\_\_\_;
- \_\_\_\_\_.