

**329**

**DB30**

Projet de stockage de gaz naturel liquéfié  
et de regazéification à Bécancour

**6211-19-025**

**ENTENTE SURVENUE ENTRE TRANSCANADA  
ENERGY LTD ET HYDRO-QUÉBEC DISTRIBUTION**



**AGREEMENT RESPECTING THE TEMPORARY SUSPENSION OF ELECTRICITY  
PRODUCTION AT THE BÉCANCOUR GENERATING STATION OF  
TRANSCANADA ENERGY LTD. ENTERED INTO IN MONTRÉAL, PROVINCE OF  
QUÉBEC, ON 29 JUNE 2009**

**BETWEEN:**            **TRANSCANADA ENERGY LTD.**, a company incorporated under the laws of Canada, having its head office at 450 – 1<sup>st</sup> Street SW, Calgary, Alberta, T2P 5H1, represented by Karl Johannson, Sr. Vice President, Power Commercial, and John Cashin, Assistant Secretary, who are duly authorized for the purposes hereof,

hereinafter called the “**Supplier**”;

**AND:**                **HYDRO-QUÉBEC DISTRIBUTION**, a division of HYDRO-QUÉBEC, a company incorporated under the *Hydro-Québec Act*, (R.S.Q., c. H-5), having its head office at 75 René-Lévesque Boulevard West, Montreal, Québec, H2Z 1A4, represented by André Boulanger, President of Hydro-Québec Distribution, who is duly authorized for the purposes hereof,

hereinafter called the “**Distributor**”;

hereinafter referred to individually as the “**Party**” and collectively as the “**Parties**”.

**WHEREAS:**

- A.    On 10 June 2003, the Parties entered into an electricity supply contract (“**ESC**”) respecting the production of electricity by the Supplier from its electricity generation *power plant* to be constructed in the Bécancour Industrial Park and the sale of capacity and energy primarily generated at the Supplier’s *power plant* to the Distributor, the whole pursuant to the Distributor’s Call for Tenders A/O 2002-01.
- B.    The ESC was approved by the Régie de l’énergie (“**Régie**”) by decision D-2003-159 of 19 August 2003.
- C.    The *power plant* entered into service in September 2006.
- D.    On 30 November 2007, the Parties entered into an agreement providing for the suspension of electricity production from the *power plant* during calendar year 2008 with an option to extend such suspension during calendar year 2009 (“**Initial Agreement**”).

- E. Pursuant to the Initial Agreement, electricity production at the *power plant* was suspended during calendar years 2008 and 2009 (“**Initial Suspension Period**”).
- F. The Distributor has advised the Supplier that the electricity to be produced at the Supplier’s *power plant* would contribute, along with other supply contracts, to cause excess supply above the Distributor’s system requirements during calendar year 2010 and possibly afterwards.
- G. The Distributor has therefore requested the Supplier to consent, subject to the approval of the Régie, to the temporary suspension of all electricity production at the *power plant* during calendar year 2010 and to the possible extension of such suspension thereafter subject to certain conditions as provided for herein (“**Suspension**”).
- H. The purpose of the Suspension is to assist the Distributor in achieving a more appropriate overall supply and demand balance in its portfolio during the Suspension Period (as hereinafter defined).
- I. The Parties wish to proceed with the conclusion of a formal agreement regarding the Suspension (“**Agreement**”), subject to its approval by the Régie.

**NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:**

**I. INTERPRETATION**

- 1. Italicized terms used in this Agreement have the meaning ascribed to them in the ESC. All references to dollar (\$) amounts are expressed in terms of Canadian currency.
- 2. Schedules 1, 2 and 3 form an integral part of this Agreement.
- 3. In the event of any inconsistency between the provisions of this Agreement and those of the ESC, the provisions of this Agreement shall prevail to the extent required to resolve such inconsistency.

**II. AGREEMENT**

- 4. This Agreement suspends the application of certain provisions of the ESC during the Suspension Period and the Re-commissioning Period (as defined in sections 10 to 12 and 33, respectively) and defines certain rights and obligations of the Parties in accordance with the terms hereof.
- 5. The entry into force of this Agreement shall be conditional upon its approval by the Régie. The Distributor shall apply to the Régie for approval of this

Agreement and shall pay the legal fees and expenses associated with such application. The Parties acknowledge that should the Supplier be required to intervene in these regulatory proceedings the Distributor shall pay the Supplier's legal fees and expenses in connection therewith.

6. If the Régie fails to approve this Agreement in its entirety by 30 September 2009, or approves this Agreement on terms not satisfactory to either Party, this Agreement shall be null and void and of no further effect.
7. The entry into force of this Agreement shall be subject to the condition precedent in favour of the Supplier that it shall receive, not later than 31 October 2009:
  - (a) confirmation by the ministère du Développement durable, de l'Environnement et des Parcs ("MDDEP") that the certificates of authorization issued under the *Environment Quality Act* (Québec) in respect of the construction and operation of the *power plant* shall not be affected by the Suspension, or proper authorization from MDDEP for such purpose;
  - (b) confirmation by MDDEP that the certificate of authorization issued on 20 December 2007 under reference number 7610-17-01-02560-15; 400 456 972 continues to permit the Supplier to operate continuously the auxiliary boilers for the production of steam during the Suspension Period and Re-commissioning Period, or proper authorization from MDDEP for such purpose;

failing which, this Agreement shall be null and void and of no further effect.

### III. SUSPENSION

8. In consideration of the undertakings of the Distributor set forth herein, and subject to the terms and conditions set forth herein, the Supplier hereby consents to the Suspension during the Suspension Period. The Supplier shall therefore temporarily suspend all electricity production at the *power plant* during the Suspension Period.

### IV. TERM

9. The term of this Agreement ("Term") shall commence, subject to sections 5 to 7, on the date of its execution and shall, subject to the provisions of this Agreement, expire on the expiry or termination of the ESC.

### V. SUSPENSION PERIOD

10. Subject to sections 11 and 12, the Suspension shall commence on 1 January 2010 and expire on 31 December 2010 ("Suspension Period").

11. The Suspension Period may be extended thereafter from year to year if deemed necessary by the Distributor, subject to the terms and conditions hereof, provided that:
- (a) a request from the Distributor to that effect is received by the Supplier not later than 10:00 a.m. (EDT) of 2 July of the year preceding each year for which an extension of the Suspension Period is so requested (“**Extension Year**”); and
  - (b) the Supplier receives, not later than 31 October of the year preceding the relevant Extension Year, the confirmations or authorizations mentioned in sections 7(a) and (b).

In such case, the Parties shall, subject to the approval of the Régie, extend the Suspension Period for the relevant Extension Year. If the Suspension Period is so extended, then, subject to section 12, the term “Suspension Period”, as used in this Agreement, shall cumulatively include each Extension Year. It is understood that, if the Suspension Period is not so extended by the Parties for a given Extension Year, the Suspension Period shall end on 31 December of the year preceding that Extension Year and may not be resumed in subsequent years, absent express written agreement of the Parties and the approval of the Régie to that effect.

12. If pursuant to section 11, the Parties extend the Suspension Period, the Distributor shall, in such case, inform the Régie of such extension and the Distributor shall comply with the process that will be defined by the Régie regarding such extension of the Suspension Period. The Supplier may intervene in such regulatory process; the Distributor shall pay the Supplier’s legal fees and expenses in connection therewith. If, for a given Extension Year, the Régie does not approve the extension or approves such extension on terms not acceptable to either Party, the Suspension Period shall not be extended to such Extension Year, but shall expire six months following the date on which the Régie publishes its decision. Likewise, if, for a given Extension Year, the Supplier can reasonably demonstrate to the Distributor that such extension will cause a major material adverse economic impact on the Supplier, and that such impact cannot be alleviated by the Parties using commercially reasonable means, then the Suspension period shall not be extended to such Extension Year.

## VI. COMMERCIAL TERMS

### A. Continued Capacity Payment

13. During the Suspension Period and the Re-commissioning Period, the Distributor shall continue to pay the Supplier on a monthly basis the amount for capacity set forth in section 16.1 of the ESC. [REDACTED]

**B. Energy Payment**

14. The Distributor shall pay the Supplier on a monthly basis:

- (a) an annual amount of \$ [REDACTED] million during the Suspension Period, and
- (b) a lump-sum amount of \$ [REDACTED] million during the Re-commissioning Period, such amount to be reduced *pro rata* (i) the number of hours during the Re-commissioning Period that the *power plant* is operating at or above a level of [REDACTED] MW [REDACTED], to (ii) the total number of hours during the Re-commissioning Period,

such amounts to compensate the Supplier for its loss of earnings on the energy that would otherwise have been produced, delivered and sold from the *power plant* pursuant to the ESC during said periods (collectively, "**Energy Payment**").

15. The Parties acknowledge that the Energy Payment has been estimated using the same principles, [REDACTED] as used pursuant to the Initial Agreement, [REDACTED]

16. If, pursuant to sections 11 and 12, the Suspension Period is extended to any Extension Year, the Supplier shall calculate the Energy Payment for such Extension Year and associated Re-commissioning Period, in the same manner as pursuant to the Initial Agreement, [REDACTED]

- [REDACTED]
17. If, after the Suspension Period has been extended to at least one Extension Year, the Suspension Period is not extended to any subsequent Extension Year pursuant to the last sentence of section 12, the component of the Energy Payment mentioned in section 14(a) for the current Extension Year shall be adjusted to reflect the length of the Suspension Period as provided for in the last sentence of section 12 and the component of the Energy Payment mentioned in section 14(b) shall be adjusted for the applicable Re-commissioning Period as provided for in section 16.

**C. Replacement Steam Production**

18. During the Suspension Period and Re-commissioning Period, steam production for the Supplier's steam host will have to be replaced via the use of the *power plant's* auxiliary boiler system. The Distributor shall pay to the Supplier, on a monthly basis, [REDACTED] costs associated with producing such replacement steam production using the auxiliary boilers.

19. [REDACTED]

20. The Supplier has no indication that the anticipated volume of steam to be sold to the steam host during the Suspension Period will be significantly different from the volume sold during the Initial Suspension Period. Should the Supplier be informed of any significant change in the volume of steam sold to the steam host, it shall notify the Distributor as soon as reasonably possible.
21. At the Distributor's option, the Supplier shall provide the Distributor the option of executing a fixed price gas swap agreement in order to allow the Distributor to manage the expected cost associated with the estimated fuel use for auxiliary boiler operation. Notwithstanding the possible use of such option by the Distributor, [REDACTED] costs for auxiliary boiler operation as noted herein shall continue to be paid by the Distributor. Therefore such gas swap agreement, if executed between the Supplier and the Distributor, shall operate independently of this Agreement.
22. The Supplier shall use commercially reasonable efforts to conduct maintenance, inspection, testing, repair and overhaul of the auxiliary boilers concurrently with the Supplier's steam host's scheduled shut-downs. However, if the Distributor exercises its option to extend the Suspension Period under section 11 and the



Supplier declares during such extended Suspension Period an outage of one or both of the auxiliary boilers other than during the Supplier's steam host's scheduled shut-downs, then the Distributor shall indemnify and hold the Supplier whole for any sums of money it must pay to the Supplier's steam host for failure to deliver steam and/or exhaust gas during such outage.

**D. Natural Gas**

23. During the Suspension Period and, subject to section 34, the Re-commissioning Period, the Distributor shall pay the Supplier, on a monthly basis, the value of the fixed component of the GMI distribution tariff and the fixed component of the TCPL transport tariff from Dawn to GMI EDA, as such may be amended or replaced from time to time.
24. During the Suspension Period, the Supplier shall grant a credit in favour of the Distributor in respect of the market value of unutilized firm transportation on the TCPL system that is held by the Supplier in regards to the *power plant*. The amount of this credit for the 2010 calendar year is definitively established as of the date of execution of this Agreement at \$■ million. The Supplier shall assume the risk of fixing this credit amount. The credit shall be applied monthly, using one-twelfth of the total amount for each month. If the Distributor exercises its option to extend the Suspension Period to any given Extension Year in accordance with section 11, then the amount of such credit shall be re-assessed by the Supplier on the basis of the Supplier's reasonable assessment of the market value of unutilized firm transportation on the TCPL system that is held by the Supplier in regards to the *power plant*. If such re-assessed amount is less than \$■ million, the Supplier shall notify the Distributor of the re-assessed credit amount, which shall be subject to the approval of the Distributor; such approval not to be unreasonably withheld.
25. Should the GMI distribution tariff applicable to the Supplier in respect of the *power plant* be modified or increased in a manner reasonably attributable to the Suspension ("**GMI Rate Change**"), the Distributor shall indemnify the Supplier for any future increase, resulting from a GMI Rate Change in effect as of or after October 1<sup>st</sup>, 2009, in the total annual natural gas distribution tariff costs payable by the Supplier to GMI in respect of consumption of natural gas at the *power plant* over the distribution tariffs in place and applicable to the Supplier as of the date hereof. For further clarity, a GMI Rate Change may include, without limitation, any reallocation of costs between the unit price by volume withdrawn (variable component) and the daily minimum obligation (fixed component), any increase of either such component, any reallocation of costs between rate classes or steps, and any modification in rate of return. This indemnification shall apply during the entire period of application of the GMI Rate Change, whether during or after the Suspension Period.

26. Any indemnity amounts payable under section 25 after the resumption of electricity production at the *power plant* in respect of a GMI Rate Change shall be paid [REDACTED] in the final month of each *contract year* under the ESC.
27. The provisions of sections 16.1, Amount for capacity, and 16.2, Price for eligible energy, of the ESC shall be subject to sections 25 and 26 of this Agreement.

#### E. Substitution Rights

28. As compensation for the Supplier's loss of existing substitution rights under section 7.5 of the ESC during the Suspension Period, the Supplier shall have the right, for a period of three (3) years for each year of the Suspension Period from the end of the Re-commissioning Period (the "**Additional Incremental Substitution Period**"), to increase the substitution of the generation at the *power plant* from another source, by an incremental amount equal to 0.339 TWh per year. This Additional Incremental Substitution Period shall be in addition to the Incremental Substitution Period of six years in respect of the Initial Suspension Period as provided for in section 28 of the Initial Agreement.
29. To take account of the fact that the Supplier's ability to substitute will be affected by the increased volumes noted in section 28, the Supplier shall be permitted to substitute energy from outside Quebec under section 7.5 of the ESC, but only to a limited extent and only during the Additional Incremental Substitution Period. In order to protect the Distributor's access to interconnection facilities, the Supplier's substituted electricity generated from outside Quebec shall not exceed a rate of [REDACTED] per hour during the summer period (April through November) and [REDACTED] per hour during the winter period (December through March) during the Incremental Substitution Period.
30. Any power delivered by the Supplier to the Distributor as substituted energy under section 7.5 of the ESC from outside Quebec, as provided for in section 29, shall not be subject to incremental transmission expenses levied by the Distributor or by Hydro-Québec TransÉnergie ("**HQT**"). For further clarity, if such energy is delivered by the Supplier to the interconnection of the HQT system with an adjacent control area, then such energy shall be deemed to be *net delivered energy* and such interconnection shall be deemed to be the *delivery point* for the purposes of the ESC.
31. The provisions of sections 7.5, third paragraph, 8.1(i) and 13 of the ESC shall be subject to sections 28 to 30 of this Agreement.

#### F. Lay-Up and Re-commissioning

32. Within thirty (30) days of the end of each calendar year during the Suspension Period, the Distributor shall pay to the Supplier, a fixed amount of \$ [REDACTED] million, as

compensation for certain lay-up costs at the *power plant*. If the Suspension Period is extended after calendar year 2010, then this amount shall be indexed annually, [REDACTED]

33. The Supplier shall be permitted a period of 90 days from the end of the Suspension Period in order to re-commission the *power plant* following the Suspension Period (the “**Re-commissioning Period**”).

34. The availability and scheduling provisions of the ESC (*i.e.* Part IV, sections 7 to 12) shall be suspended during the Re-commissioning Period. During the Re-commissioning Period, all energy produced shall be “as available”, but shall be paid for as *eligible energy* using the price for *eligible energy* set forth in section 16.2 of the ESC. [REDACTED]

35. The Distributor shall, within thirty (30) days of receipt of an invoice from the Supplier, reimburse the Supplier for [REDACTED] costs incurred by the Supplier during the Re-commissioning Period, in excess of the [REDACTED]

[REDACTED] For greater clarity, this section shall provide cost recovery to Supplier for [REDACTED]

[REDACTED]. The Supplier shall engage a qualified independent consultant who is mutually acceptable by the Parties to audit and validate these costs. The consultant shall certify these costs by report to the Parties, but the [REDACTED] shall remain confidential to the Supplier and shall not be divulged to the Distributor.

36. For greater certainty, the Distributor shall also compensate the Supplier for the [REDACTED] during the Re-commissioning Period. The amount of the compensation shall be evaluated on the basis of [REDACTED] [REDACTED] during the Re-commissioning Period and this amount shall be calculated in accordance with [REDACTED]

37. The provisions of Part IV, sections 7 to 12, of the ESC shall be subject to section 34 of this Agreement.

### G. Indemnification – Section 22 ESC

38. The Distributor shall indemnify and hold the Supplier whole against any incremental costs incurred by the Supplier, whenever incurred, due to fact that the *power plant* is not in operation during the Suspension Period in order to comply with the obligations of the Supplier under section 22 of the ESC, over the costs that the Supplier would have incurred to comply with such obligations if the *power plant* had been in operation during the Suspension Period, provided that the Supplier shall use commercially reasonable efforts to avoid or minimize, where possible, such incremental costs. Without restricting the generality of the foregoing, such incremental costs may relate to:
- (a) obtaining and keeping in force all permits and authorizations required by the laws and regulations in effect in Quebec and Canada for the construction of the *power plant* and for its operation at generation levels that comply with the requirements of the ESC;
  - (b) performing all the work which may be required during the course of the ESC resulting from changes to laws and regulations; and
  - (c) obtaining all rights pertaining to atmospheric emissions (including, without limitation, annual allocations, quotas or credits associated with greenhouse gas emissions from the *power plant* (collectively, “**GHG Credits**”)) which might be required by the competent authorities under applicable environmental laws and regulations, provided that the Supplier shall, if permitted under the applicable environmental laws and regulations, assign to the Distributor during the Suspension Period any surplus GHG Credits that it obtains during the Suspension Period over those that it would have obtained if the *power plant* had been in operation during the Suspension Period. The Supplier shall use commercially reasonable efforts during the Suspension Period to obtain, where possible, such surplus GHG Credits.

## VII. ESC

### A. During Suspension Period and Re-commissioning Period

39. During the Suspension Period and the Re-commissioning Period, the ESC shall remain in full force and effect, subject to the provisions hereof and to section 40.
40. During the Suspension Period and the Re-commissioning Period, the application of the provisions of the ESC set forth in **Schedules 1** and **2**, respectively, shall be suspended.

**B. After Re-commissioning Period**

41. After the Re-commissioning Period, the ESC shall remain in full force and effect, subject to the provisions hereof and to section 42.
42. After the Re-commissioning Period, the provisions of the ESC mentioned in **Schedule 3** shall be adjusted as provided for therein. If required, the Parties shall conclude an amendment of the ESC in respect of such adjustments and the Distributor shall submit the amendment to the Régie for approval. The Supplier may intervene and participate in such proceedings, and the Distributor shall pay the Supplier's legal fees and expenses in connection therewith.

**VIII. ASSIGNMENT**

43. Neither Party may assign its rights and obligations under this Agreement without the prior consent of the other Party, which consent shall not be unreasonably withheld. The acceptance or refusal of such other Party shall be given within 30 days of receipt by such Party of a notice to such effect.
44. Notwithstanding section 43, in the event of the sale, assignment, donation or other disposition by the Supplier of the *power plant*, or any assignment or transfer by the Supplier of the ESC in accordance with section 29 of the ESC, an assignment by the Supplier of its rights and obligations to the acquirer of the *power plant* or to the assignee of the ESC shall be accepted by the Distributor, provided that the purchaser or assignee agrees in writing to be bound by each and every provision of this Agreement in the same manner as the Supplier, including the provisions of this section 44. The Distributor shall be notified in writing of any such assignment and signify its acceptance in writing within 30 days of receipt of such notice.

**IX. GENERAL****A. Confidentiality**

45. Neither of the Parties, without the consent of the other Party, shall divulge or communicate to any person or entity or use for any purpose whatsoever any Confidential Information disclosed to it by another Party or any Confidential Information obtained or produced in relation to the *power plant*, this Agreement or the ESC.
46. "Confidential Information" means any information ordered not to be disclosed by the Régie in its decisions D-2003-146, D-2007-127 and D-2008-106 as well as all information, written or oral, furnished by a Party, directly or indirectly, to the receiving Party, including but not limited to all contracts, electricity capacity and energy payments and quantities, natural gas volumes and prices, financial

information, engineering reports, environmental reports, technical and economic data, marketing terms and arrangements, knowledge, know-how and related information such as plans, maps, drawings, field notes, sketches, photographs, computer records or software, specifications, models, or other information which is or may be either applicable to or related in any way to the assets, business or affairs of the disclosing Party, the *power plant*, this Agreement or the ESC.

47. Such prohibition does not prevent the disclosure of Confidential Information to officers, employees, counsel or consultants engaged by either of the Parties in connection with the foregoing or disclosure which is ordered or required by any applicable law or competent judicial, governmental or other authority or in accordance with the requirements of any recognized stock exchange.
48. Confidential Information shall not include information that is already known to the receiving Party on a non-confidential basis from a source that is entitled to disclose the information, or that is or becomes generally available to the public other than as a result of any act or omission of the receiving Party or its officers, employees or advisers, or that is received by the receiving Party from a third party which is not prohibited from disclosing it.

#### **B. Publicity**

49. The content and timing of any press releases and announcements regarding any of the matters provided for in this Agreement shall require the prior written approval of each of the Parties, provided that this shall not prevent any Party making any announcement which it is required to make by any applicable law or competent judicial, governmental or other authority or in accordance with the requirements of any recognized stock exchange.

#### **C. Notice**

50. Any notice, request, demand or other communication required or permitted to be given to any Party shall be in writing and shall be personally delivered to such Party or sent by facsimile to the address of such Party:

(a) in the case of the Distributor to:

Address: HYDRO-QUÉBEC DISTRIBUTION  
22<sup>th</sup> Floor, 75 boul. René-Lévesque Ouest  
Montréal, QC  
H2Z 1A4

Fax: (514) 289-7355

Telephone: (514) 289-3715

For the attention of: Director, Electricity Supply



(b) in the case of the Supplier to:

Address: TRANSCANADA ENERGY LTD.  
8<sup>th</sup> Floor, 55 Yonge Street  
Toronto, ON  
M5E 1J4

Fax: (416) 869-2056  
Telephone: (416) 869-2107

For the attention of: Director, Power Commercial

and shall be deemed to have been received by such Party on the earliest of the date of delivery in the case of personal delivery, and the day following the date of communication by facsimile. Any Party may give written notice to the other Parties of a change of address to some other address, in which event any communication shall thereafter be given to such Party as hereinbefore provided at the last such changed address of which the Party communicating has received written notice.

#### **D. Entire Agreement**

51. This Agreement and the accompanying letter of ~~22-29~~ June 2009 contain the entire agreement between the Parties with respect to the subject matter hereof and supersedes any and all prior understandings, correspondence or memoranda of understanding between the Parties.
52. However, nothing herein shall affect the Initial Agreement or the accompanying letter of 30 November 2007 from the Distributor to the Supplier, provided that Schedule 3 of this Agreement shall replace Schedule 2 of the Initial Agreement.
53. Notwithstanding sections 5 to 7 and 9, the last sentence of section 5 and sections 45 to 49 of this Agreement shall have full effect as of the date of execution hereof, whether or not this Agreement is approved by the Régie.

#### **E. Counterparts and French Version**

54. This Agreement may be executed in counterparts, each of which when so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument. Signatures delivered by facsimile or electronic mail shall be deemed for all purposes to be original counterparts of this Agreement. The Parties agree that a French version of the Agreement will be signed by the Parties as soon as possible.

**F. No Partnership**

55. Nothing contained herein shall be construed as creating any partnership, agency or joint and several liability between the Parties.

**G. Taxes**

56. All amounts payable under this Agreement are exclusive of all applicable taxes, including the Goods and Services Tax ("GST") and the Québec Sales Tax ("QST"). The Distributor undertakes to pay to the Supplier any taxes applicable in respect of amounts payable under this Agreement (other than income taxes), and the Supplier shall remit any such taxes received from the Distributor to the relevant tax authorities.

**H. Governing Law and Jurisdiction**

57. This Agreement shall be governed by and construed in accordance with the laws of the Province of Québec. The Parties irrevocably attorn to the jurisdiction of the courts of the district of Montréal, Province of Québec.

**IN WITNESS WHEREOF, THE PARTIES HAVE SIGNED AT THE PLACE AND ON THE DATE FIRST ABOVE MENTIONED.**

**TRANSCANADA ENERGY LTD.**

**HYDRO-QUÉBEC**

**Through its division Hydro-Québec  
Distribution**

Karl Johannson  
Sr. Vice President, Power Commercial

André Boulanger  
President

\_\_\_\_\_  
John Cashin  
Assistant Secretary



## SCHEDULE 1

### ESC PROVISIONS SUSPENDED DURING SUSPENSION PERIOD

(Ref. s. 40)

**Note:** Unless otherwise mentioned, where a section number appears in the following list, all provisions of that section are suspended.

#### PART IV - CONDITIONS FOR DELIVERY OF ELECTRICITY

7. *CONTRACT QUANTITIES*
8. REFUSAL OR INABILITY TO TAKE DELIVERY
9. REVISION OF CONTRACT QUANTITIES
10. ELECTRICITY DURING TESTING
11. DELIVERY PRIORITY
12. DELIVERY SCHEDULES
13. *POWER PLANT'S DELIVERY POINT*
14. ELECTRICAL LOSSES
15. ELECTRICITY METERING

#### PART V - PRICING, BILLING AND PAYMENT

16. PRICE OF ELECTRICITY

All provisions of section 16 are suspended, save for section 16.1, Amount for Capacity, which is maintained in force.

#### PART VI - DESIGN, CONSTRUCTION AND OPERATION

22. PERMITS AND AUTHORIZATIONS

First paragraph only is suspended.

**23. MAINTENANCE SCHEDULE AND UNAVAILABILITY LOG**

**PART VIII - RELATED CONTRACTS AND OTHER UNDERTAKINGS**

**26. RELATED CONTRACTS AND OTHER UNDERTAKINGS**

**26.3 Natural gas supply contracts**

**Suspended with respect to natural gas supply contracts only.**

**PART X – INSURANCE**

**28.3 Machinery breakdown insurance is suspended.**

**28.4 Business interruption insurance is suspended.**

**PART XII - DAMAGES AND PENALTIES**

**32. DAMAGES IN THE EVENT OF FAILURE TO TAKE OR DELIVER ENERGY**

**33. DAMAGES IN THE EVENT OF A REVISION OF *CONTRACT QUANTITIES***

**36. FORCE MAJEURE**

**PART XIII - TERMINATION AND RIGHT TO OPERATE**

**37. TERMINATION**

**37.2 Termination for default after commencement date of delivery  
Only paragraphs (g) and (h) are suspended.**

**37.6 Termination in the event of force majeure is suspended.**

**38. RIGHT OF DISTRIBUTOR TO OPERATE**

## SCHEDULE 2

### ESC PROVISIONS SUSPENDED DURING RE-COMMISSIONING PERIOD

(Ref. s. 40)

**Note:** Unless otherwise mentioned, where a section number appears in the following list, all provisions of that section are suspended.

#### PART IV - CONDITIONS FOR DELIVERY OF ELECTRICITY

7. *CONTRACT QUANTITIES*
8. REFUSAL OR INABILITY TO TAKE DELIVERY
9. REVISION OF CONTRACT QUANTITIES
10. ELECTRICITY DURING TESTING
12. DELIVERY SCHEDULES

#### PART V - PRICING, BILLING AND PAYMENT

16. PRICE OF ELECTRICITY

All provisions of section 16 are suspended, save for section 16.1, Amount for Capacity, and section 16.2, Price for *Eligible Energy*, which are maintained in force.

#### PART VI - DESIGN, CONSTRUCTION AND OPERATION

23. MAINTENANCE SCHEDULE AND UNAVAILABILITY LOG

Fourth paragraph only is suspended

#### PART VIII - RELATED CONTRACTS AND OTHER UNDERTAKINGS

26. RELATED CONTRACTS AND OTHER UNDERTAKINGS

26.3 Natural gas supply contracts  
Suspended with respect to natural gas supply contracts only.

#### PART X - INSURANCE

28.3 Machinery breakdown insurance is suspended.

**28.4 Business interruption insurance is suspended.**

**PART XII - DAMAGES AND PENALTIES**

- 32. DAMAGES IN THE EVENT OF FAILURE TO TAKE OR DELIVER ENERGY**
- 33. DAMAGES IN THE EVENT OF A REVISION OF *CONTRACT QUANTITIES***
- 36. FORCE MAJEURE**

**PART XIII - TERMINATION AND RIGHT TO OPERATE**

- 37. TERMINATION**
  - 37.2 Termination for default after commencement date of delivery  
Only paragraphs (g) and (h) are suspended.**
  - 37.6 Termination in the event of force majeure is suspended.**
- 38. RIGHT OF DISTRIBUTOR TO OPERATE**

SCHEDULE 3

ESC PROVISIONS TO BE ADJUSTED AFTER RE-COMMISSIONING PERIOD

(Ref. s. 42)

1. After the Re-Commissioning Period, the reference to *contract years* #6, 12 and 18 in sections 7.2(i), 7.3(i), 7.4(i), 7.5(iii)(a) and 23, third paragraph, of the ESC Supplier shall be replaced by a reference to [REDACTED] that are replacement major maintenance years (“**Replacement Major Maintenance Years**”) reasonably determined by the Supplier on the basis of its major maintenance schedule, which the Supplier shall, within 180 days from the end of the Re-Commissioning Period, revise to take into account the Suspension Period and submit to the Distributor for approval, not to be unreasonably withheld. Notwithstanding the third paragraph of section 23 of the ESC,
  - (a) the Supplier shall not be limited, in determining the Replacement Major Maintenance Years, to a period of one year in bringing forward or postponing its major maintenance work on the *power plant*;
  - (b) the same interval of six years between the major maintenance years need not be kept in selecting the Replacement Major Maintenance Years.

2. [REDACTED]

3. [REDACTED]

4. [REDACTED]

