

1. Definitions:

Throughout the Agreement, unless there is something in the subject matter or context inconsistent therewith, the following words shall have the following meanings:

“Additional or Modified Work Chargeable to Customer” means any work to be performed by Hydro One beyond the Work Chargeable to Customer described in Schedule “A” of the Agreement due to Generator Customer initiated scope changes or Non-Customer Initiated Scope Change(s) or the IESO, and any work that is increased beyond the Work Chargeable to Customer described in Schedule “A” of the Agreement as a result of delays or other actions caused by or requested by the Generator Customer.

“Applicable Laws”, means any and all applicable laws, including environmental laws, statutes, codes, licensing requirements, treaties, directives, rules, regulations, protocols, policies, by-laws, orders, injunctions, rulings, awards, judgments or decrees or any requirement or decision or agreement with or by any government or governmental department, commission, board.

“Business Day” means a day other than a Saturday, Sunday, statutory holiday in Ontario, Easter Monday or any other day on which the principal chartered banks located in the City of Toronto, are not open for business during normal banking hours.

“Capital Contribution” means a capital contribution calculated using the economic evaluation methodology set out in Section 6.5 of the *Transmission System Code*.

“Confidential Information” means:

- (i) the terms of the Agreement and the operations and dealings under the Agreement;
- (ii) all information disclosed by a party to the other party under the Agreement or in negotiating the Agreement which by its nature is confidential to the party disclosing the information; and
- (iii) all interpretative reports or other data generated by a party that are based in whole or in part on information that is made Confidential Information by clauses (i) and (ii).

“Connect” and “Connection” have the same meaning ascribed to the term “connect” in the Transmission System Code.

“Connection Agreement” means the form of connection agreement appended to the Transmission System Code as Appendix 1, Version B

“Connection Facilities” has the meaning set forth in the Transmission System Code.

“Connection Point” means the point where the Generator Customer’s Facilities are connected to Hydro One’s transmission system.

“Dispute” means a dispute between the Parties with respect to any of the matters listed in Section 6.1.4 of the *Transmission System Code* where either Party is alleging that the other is seeking to impose a term that is inconsistent or contrary to the *Ontario Energy Board Act*, the *Electricity Act, 1998*, Hydro One’s transmission licence or the *Transmission System Code* or refusing to include a term or condition that is required to give effect to the Code.

“Electricity Act, 1998” means the *Electricity Act, 1998* being Schedule “A” of the *Energy Competition Act, S.O. 1998, c.15*, as amended.

“Emergency” has the meaning set forth in the Transmission System Code.

“Engineering and Construction Cost” means Hydro One’s charge for equipment, labour and materials at Hydro One’s standard rates plus Hydro One’s standard overheads as well as interest during construction using Hydro One’s capitalization rate in effect during the construction period.

“Generator Customer Allocated Network Work” means the construction of or modifications to Network Facilities to be performed by Hydro One that are minimum connection requirements.

“Generator Connection Work” means the work to be performed by the Generator Customer, at its sole expense, which is described in Schedule “C” of the Agreement.

“Generator Customer’s Facilities” has the meaning ascribed to the term “customer’s facilities” in the Transmission System Code and includes the facilities specified in Schedule “D” of the Agreement.

“Generation Facility” means the facility described in Schedule “D” of the Agreement.

“Generator Customer’s Property(ies)” means any lands owned by the Generator Customer in fee simple.

“Good Utility Practice” has the meaning set forth in the Transmission System Code.

“GST” means the Goods and Services Tax.

Hydro One’s Property(ies)” means any lands owned by Hydro One in fee simple or where Hydro One now or hereafter has obtained easement rights.

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“**Hydro One Work**” means collectively, the Work Chargeable to Generator Customer and the Work Not Chargeable to the Generator Customer.

“**IESO**” means the Independent Electricity System Operator continued under the *Electricity Act, 1998*.

“**In Service Date**” has the same meaning ascribed to the term “comes into service” in the *Transmission System Code*.

“**Interest**” means the interest rates specified by the Ontario Energy Board to be applicable to security deposits in the form of cash as specified in Subsection 6.3.11(b) in the *Transmission System Code*.

“**Market Rules**” means the IESO administered Market Rules, including, but not limited to Chapter 6 thereof.

“**Network Facilities**” has the meaning set forth in the *Transmission System Code*.

“**Non-Customer Initiated Scope Change(s)**” means one or more changes that are required to be made to the Scope of the Hydro One Work as detailed and documented in the Agreement as a result of any one or more of the following:

- (a) environmental assessment(s);
- (b) where applicable, as a result of the approval received under Section 92 of the *Ontario Energy Board Act*; and
- (c) IESO requirements identified in the System Impact Assessment or any update thereof.

“**Non-Recoverable Connection Work**” means any work that Hydro One is performing at a connection facility that has been triggered by the Connection of the Generation Facility but because the Connection of the Generation Facility did not cause the ground fault current levels to exceed the limits prescribed in Appendix 2 of the *Transmission System Code*, no Capital Contribution will be payable in respect thereof.

“**OEB**” means the Ontario Energy Board.

“**OEB-Approved Connection Procedures**” means Hydro One’s connection procedures as approved by the OEB.

“**Ontario Energy Board Act**” means the *Ontario Energy Board Act* being Schedule “B” of the *Energy Competition Act, S.O. 1998, c. 15*, as amended.

“**Premium Costs**” means those costs incurred by Hydro One in order to maintain or advance the Ready for Service Date, including, but not limited to, additional amounts expended for materials or services due to short time-frame for delivery; and the difference between having Hydro One’s employees, agents and contractors perform work on overtime as opposed to during normal business hours.

“**Ready for Service Date**” means the date that the Hydro One Work is fully completed.

“**Taxes**” means all property, municipal, sales, use, value added, goods and services, harmonized and any other non-recoverable taxes and other similar charges (other than taxes imposed upon income, payroll or capital).

“**Transmission System Code**” means the code of standards and requirements issued by the OEB on July 25, 2005 that came into force on August 20, 2005 as published in the Ontario Gazette, as it may be amended, revised or replaced in whole or in part from time to time.

“**Work Chargeable to Generator Customer**” means the work to be performed by Hydro One described in Schedule “A” of the Agreement which includes, but is not limited to the Generator Customer Allocated Network Work described therein.

“**Work Not Chargeable to Generator Customer**” means the work described in Scheduled “B” attached hereto and forming a part hereof which includes:

- (a) the construction of or modifications to Hydro One’s facilities, including but not limited to Network Facilities that is required to be performed by Hydro One, at its expense, to accommodate the Connection of the Generation Facility; and
- (b) the Non-Recoverable Connection Work.

Hydro One Work and Generator Connection Work

2. Hydro One shall perform the Hydro One Work and the Generator Customer shall perform the Generator Connection Work in a manner consistent with Good Utility Practice, in compliance with all Applicable Laws, including, but not limited to the Transmission System Code, and using duly qualified and experienced people.

2.1 Any change in the Project Scope for the Hydro One Work as described in this Agreement whether they are initiated by the Generator Customer or are Non-Customer Initiated Scope Changes, may result in a change to the Estimated Capital Contribution specified in Schedule “D” of this Agreement and the Project schedule, including the Ready for Service Date.

All scope changes initiated by the Generator Customer must be made in writing to Hydro One. Hydro One will advise the Generator Customer of any cost and schedule impacts of the scope changes initiated by the Generator Customer. Hydro One will advise the Customer of any Material cost and/or Material

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schedule impacts of any Non-Customer Initiated Scope Changes.

Hydro One will not implement any scope changes initiated by the Generator Customer until written approval has been received from the Generator Customer accepting the new pricing and schedule impact.

Hydro One will implement all Non-Customer Initiated Scope Change(s) until the estimate of the Engineering and Construction Cost of all of the Non-Customer Initiated Scope Change(s) made by Hydro One reaches 10% of the total sum of the Estimated Capital Contribution. At that point, no further Non-Customer Initiated Scope Change(s) may be made by Hydro One without the written consent of the Customer accepting new pricing and schedule impact. If the Customer does not accept the new pricing and schedule impact, Hydro One will not be responsible for any delay in the Ready for Service Date as a consequence thereof.

3. If Hydro One requires access to the Generator Customer's Facilities for the purposes of performing any of the Hydro One Work or the Generator Customer requires access to Hydro One's Connection Facilities for the purposes of the Generator Connection Work, the parties agree that the parties agree that Section 27.13 of the Connection Agreement shall govern such access and is hereby incorporated in their entirety by reference into, and forms an integral part of the Agreement. All references to "this Agreement" in Section 27.13 shall be deemed to be a reference to the Agreement.

4. Hydro One shall cooperate with the Generator Customer to ensure that modeling data that may be required for the planning, design and operation of the Connection are complete and accurate. Hydro One may conduct, or may require that the Generator Customer conduct such tests as may be required where Hydro One believes on reasonable grounds that the accuracy of the modeling data that may be required for the planning, design and operation of the Connection is in question. If Hydro One performs the tests:

- (a) the tests shall be conducted at a time that is mutually agreeable to Hydro One and the Generator Customer; and
- (b) Hydro One shall promptly report the results of such tests to the Generator Customer.

5. Except as provided herein, Hydro One makes no warranties, express or implied, and Hydro One disclaims any warranty implied by law, including implied warranties of merchantability or fitness for a particular purpose and implied warranties of custom or usage with respect to the Hydro One Work.

6. Hydro One shall provide the Generator Customer with such technical parameters as may be required to assist the Generator Customer in ensuring that the design of the Generator Customer's Facilities is consistent with the requirements applicable to Hydro One's transmission system and the basic general performance standards for facilities set out in the *Transmission System Code*, including Appendix 2 thereof.

7. The Hydro One Work and Hydro One's rights and requirements hereunder, including, but not limited to Hydro One's:

- (i) specifications of the protection equipment on the Generator Customer's side of the Connection Point;
- (ii) review and acceptance of power system components on the Generator Customer's side of the Connection Point; and
- (iii) acceptance of the technical specifications (including electrical drawings) for the Generator Customer's Facilities; and
- (iv) participation in the commissioning, inspection and testing of the Generator Customer's Connection Facilities,

are solely for the purpose of Hydro One ensuring that the Connection will not materially reduce or adversely affect the reliability of Hydro One's transmission system and do not adversely affect other customers connected to Hydro One's transmission system. The Generator Customer is responsible for installing equipment and facilities such as protection and control equipment to protect its own property, including, but not limited to the Generator Customer's Facilities.

8. Upon completion of the Hydro One Work, Hydro One shall own, operate and maintain all equipment specified in Schedule "D" of the Agreement as Hydro One's Assets and the Generator Customer shall have no right of property therein.

Generator's Obligations – Connection

9. Except as specifically provided in the Agreement, the Generator Customer is responsible for obtaining, at its own expense, any and all permits, certificates, reviews and approvals required under any Applicable Laws for the construction, Connection and operation of the Generator Customer's Facilities.

10. The Generator acknowledges and agrees that:

- (a) it shall provide, operate and maintain all power system components on the Generator Customer's side of the Connection Point, including, without limitation, all transformation, switching, metering and auxiliary equipment such as protection and control equipment;

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- (b) all of the power system components referred to in Subsection (a) above are subject to the acceptance of Hydro One with regard to Hydro One's requirements to permit Connection; and
- (c) it shall provide Hydro One with Project data required by Hydro One, including, but not limited to (i) the same technical information that the Generator Customer provided the IESO during any connection assessment and facility registration process associated with the Generator Customer's Facilities in the form outlined in the applicable sections of the IESO's public website and (ii) technical specifications (including electrical drawings) for the Generator Customer's Facilities;
- (d) Hydro One may participate in the commissioning, inspection or testing of the Generator Customer's Connection Facilities at a time that is mutually agreed by Hydro One and the Generator Customer;
- (e) Hydro One is not permitted to Connect any new, modified or replaced Generator Customer's Facilities until all required Connection authorizations, certificate of inspection or other applicable approval have been issued or given by the Ontario Electrical Safety Authority in relation to such facilities; and
- (f) Hydro One may require that the Generator Customer provide Hydro One with test certificates certifying that the Generator Customer's Facilities have passed all relevant tests and comply with the *Transmission System Code*, the Market Rules, Good Utility Practice, the standards of all applicable reliability organizations and any Applicable Laws, including, but not limited to any certificates of inspection that may be required by the Ontario Electrical Safety Authority.

11. Upon completion of the Hydro One Work, the Generator Customer acknowledges and agrees that the Generator Customer is responsible for providing, at its own expense:

- (a) separate telecommunication circuits for the Generation Rejection, metering, SCADA, and transfer tripping/blocking requirements for so long as the Generator Customer's Facilities remain connected to Hydro One's transmission system;
- (b) where Hydro One has equipment for automatic reclosing of circuit breakers after an interruption for the purpose of improving the continuity of feeder connection, adequate protective equipment for the Generator Customer's Facilities and the Generation Facility that might be adversely affected by the operation of such reclosing equipment;
- (c) such equipment as may be required from time to time by Hydro One for the prompt disconnection of any of the Generator Customer's apparatus that might negatively affect the proper functioning of Hydro One's reclosing equipment;
- (d) Hydro One with copies of the documentation specified in Schedule "D", acceptable to Hydro One, by no later

than 60 days after the In Service Date and ensure that Hydro One may retain this information for Hydro One's ongoing planning, system design, and operating reviews.

This Section 11 shall survive the termination of the Agreement. In the event that there is a conflict between the terms of this Section 11 and the terms of the Connection Agreement, the terms of the Connection Agreement shall govern.

Capital Contributions and Payment of Other Costs

12.1 The Generator Customer shall pay Hydro One a Capital Contribution for the Work Chargeable to Generator Customer and any Additional or Modified Work Chargeable to Generator Customer which includes:

- (a) the fully allocated cost of the minimum design required to meet the Generator Customer's needs attributed in accordance with the requirements of Section 6.3.12, 6.3.14 or 6.3.16 of the *Transmission System Code* as applicable;
- (b) the capital cost of equipment installed on Hydro One's Connection Facilities to monitor the performance of the Generation Facility and for verification testing of fault protection equipment associated with the Generation Facility; and
- (c) if the Generator Customer elects, in writing, to have verification testing costs included in the economic evaluation rather than pay such costs on an "as incurred basis" over time, Hydro One shall also include the present value of the estimated cost of doing periodic verification testing of its monitoring and testing equipment and, if necessary, of similar equipment.

The Generator Customer shall pay the estimate of the Capital Contribution required for the Work Chargeable to Generator Customer which is estimated to be the amount specified in Schedule "D" of the Agreement ("Estimated Capital Contribution") (plus applicable Taxes) in the manner specified in Schedule "D".

Within 90 days after the later of the Ready for Service Date and the completion of Hydro One's witnessing of the commissioning, inspection or testing of the Generator Customer's Connection Facilities, Hydro One shall provide the Generator Customer with a final invoice or credit memorandum which shall indicate whether the amounts already paid by the Generator Customer exceed or are less than the actual Capital Contribution required for the Work Chargeable to Generator Customer and any Additional or Modified Work Chargeable to Generator Customer (plus applicable Taxes) Any difference shall be paid within 30 days after the rendering of the said final invoice or

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credit memorandum by Hydro One to the Generator Customer.

In addition to the final invoice or credit memorandum, Hydro One shall also provide the Generator Customer with a Statement of Engineering and Construction Costs in the form attached to the Agreement as Schedule "E".

12.2 Hydro One shall not include the following amounts in the Capital Contribution referenced in Section 12.1 above:

- (i) costs associated with incremental operation and maintenance of its monitoring and testing equipment;
- (ii) any Capital Contribution for a Connection Facility that was otherwise planned by Hydro One except for advancement costs;
- (iii) any Capital Contribution for capacity added to a Connection Facility in anticipation of future load growth not attributable to the Generator Customer; or
- (iv) any Capital Contribution for construction or modifications to Network Facilities other than Generator Customer Allocated Network Work ("**Network Facilities Work**") unless Hydro One has indicated in Schedule "D" of the Agreement that exceptional circumstances exist so as to reasonably require the Generator Customer to make a Capital Contribution for network construction or modifications.

12.3 If Hydro One indicates in Schedule "D" of the Agreement that exceptional circumstances exist so as to reasonably require the Generator Customer to make a Capital Contribution towards the Network Facilities Work, Hydro One shall not, without the prior written consent of the Generator Customer, refuse to commence or diligently perform the Network Facilities Work pending direction from the OEB under section 6.3.5 of the *Transmission System Code* provided that the Generator Customer provides Hydro One with a security deposit in accordance with Section 16 of these Standard Terms and Conditions.

Until such time as Hydro One has actually begun to perform the Network Facilities Work, the Generator Customer may request, in writing, that Hydro One not perform the Network Facilities Work and Hydro One shall promptly return to the Generator Customer any outstanding security deposit related to the Network Facilities Work.

12.4 If the Generator Customer has made a Capital Contribution under Section 12.1 hereof and where this Capital Contribution includes the cost of capacity on the Connection Facility not needed by the Generator Customer as indicated in Schedule "D" of the Agreement, Hydro One shall provide the Generator Customer with a refund, calculated in accordance with Section 6.2.25 of the *Transmission System Code* if that capacity is assigned to

another customer within five (5) years of the In Service Date.

12.5 The Generator Customer shall pay the Engineering and Construction Cost reasonably incurred by Hydro One in:

- (a) participating in the commissioning, inspection or testing of the Generation Customer's Connection Facilities; and
- (b) conducting the tests described in Section 4 above, if Hydro One conducts such tests.

The Engineering and Construction Cost (plus Taxes) of Hydro One participating in the commissioning, inspection or testing of the Generator Customer's Connection Facilities and of Hydro One performing the tests described in Subsection 4 above, if any, is estimated to be the amount specified in Schedule "D" of the Agreement under the heading "Estimate of Other Costs" and the Customer shall pay Hydro One that amount in the manner specified in Schedule "D" of the Agreement.

Any difference between the Engineering and Construction Cost of Hydro One participating in the commissioning, inspection or testing of the Customer's Connection Facilities and of Hydro One performing the tests described in Subsection 4 above, if any, and the amount already paid by the Customer shall be paid within 30 days after the issuance of the final invoice or credit memorandum by Hydro One to the Generator Customer by:

- (i) Hydro One to the Customer, if the amount already paid by the Customer exceeds the Engineering and Construction Cost of such work (plus Taxes); or
- (ii) the Customer to Hydro One, if the amount already paid by the Customer is less than the Engineering and Construction Cost of such work (plus Taxes).

If the commissioning, inspection or testing or the tests described in Section 4 above is required to be rescheduled at the request of Hydro One or by reason of Hydro One's failure to attend, Hydro One shall, if so requested by the Generator Customer, pay all reasonable costs incurred by the Generator Customer in respect of the rescheduling of the commissioning, inspection or testing activity. If commissioning, inspection or testing or the tests described in Section 4 above are required to be rescheduled at the request of the Generator Customer or by reason of the Generator Customer's failure to attend, Hydro One may recover from the Generator Customer all reasonable costs incurred by Hydro One in respect of the rescheduling of the commissioning, inspection or testing activity.

12.6 Hydro One shall provide the Generator Customer with all information pertaining to the Capital

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Contributions that the Generator Customer is entitled to receive in accordance with the requirements of the *Transmission System Code*.

12.7 Hydro One shall refund to the Customer or the Customer shall pay to Hydro One any portion of Capital Contributions, as the case may be, which the OEB subsequently determines should not have been allocated to the Customer or should have been allocated to the Customer by Hydro One but were not, as the case may be, or should have been allocated in a manner different from that allocated by Hydro One in this Agreement.

12.8 Subject to Sections 12.3 and 13 hereof, Hydro One shall perform all Work Not Chargeable to Generator Customer at Hydro One's sole expense.

Cancellation or Early Termination of Agreement for Breach

13. Notwithstanding any other term of the Agreement, if at any time prior to the In-Service Date the Connection is cancelled or the Agreement is terminated for any reason whatsoever other than breach of the Agreement by Hydro One, the Generator Customer shall pay Hydro One's Engineering and Construction Cost (plus Taxes) of the Hydro One Work incurred on and prior to the date that the Connection is cancelled or the Agreement is terminated, including the preliminary design costs and all costs associated with the winding up of the Project (as that term is defined in the Agreement), including, but not limited to storage costs, facility removal expenses and any environmental remediation costs.

Within 60 days after the Connection is cancelled, or the Agreement is terminated, Hydro One shall provide the Generator Customer with a final invoice or credit memorandum which shall indicate whether the amounts already paid by the Generator Customer exceeds or is less than the Engineering and Construction Costs referred to above.

Premium Costs

14. As this Project is schedule-driven and as the Estimated Capital Contribution is based upon normal timelines for delivery of material and performance of work, in addition to the amounts that the Generator Customer is required to pay pursuant to Section 12.1 above, the Generator Customer agrees to pay Hydro One's Premium Costs if the Generator Customer causes or contributes to any delays, including, but not limited to, the Generator Customer failing to execute the Agreement by the Execution Date specified in Part II(a) of the Agreement.

Hydro One will obtain the Generator Customer's approval prior to Hydro One authorizing the purchase of materials or the performance of work that will attract Premium Costs. The Generator acknowledges that its failure to

approve an expenditure of Premium Costs within the time specified by Hydro One, acting reasonably, may result in further delays and Hydro One will not be liable to the Generator Customer as a result thereof. Hydro One shall invoice the Generator Customer for expenditures of Premium Costs (plus applicable Taxes) approved by the Generator Customer by no later than 90 days following the later of the In-service Date and the completion of Hydro One's witnessing of the Generator Customer's Connection Facilities.

Disposition of the Generation Facility and/or Generator Customer's Facilities

15. In the event that the Generator Customer sells, leases or otherwise transfers or disposes of all or part of the Generator Customer's Facilities and/or the Generation Facility, to a third party during the Term of the Agreement, the Generator Customer shall cause the purchaser, lessee or other third party to enter into an assumption agreement with Hydro One to assume all of the Generator Customer's obligations in the Agreement; and notwithstanding such assumption agreement, the Generator Customer shall remain obligated to pay the amounts thereafter payable hereunder by the purchaser, lessee or other third party in the case of a transfer or disposition.

Security Requirements

16. If Hydro One requires that the Generator Customer furnish security, which at the Generator Customer's option may be in the form of cash, letter of credit or surety bond, the Generator Customer shall furnish such security in the amount specified in Schedule "D" of the Agreement. Hydro One shall return the security deposit to the Generator Customer as follows:

- (i) security deposits in the form of cash shall be returned to the Generator Customer, together with Interest, less the amount of any Capital Contribution owed by the Generator Customer once the Generator Customer's Facilities are connected to Hydro One's new or modified Connection Facilities; and
- (ii) security deposits in any other form shall be returned to the Generator Customer once the Generator Customer's Facilities are connected to Hydro One's new or modified Connection Facilities and any Capital Contribution has been paid.

Notwithstanding the foregoing, Hydro One may keep all or a part of the security deposit: (a) where the Generator Customer fails to pay any amount due under the Agreement within the time stipulated for payment or (b) in the circumstances described in the OEB-Approved Connection Procedures.

Easement

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17. If specified in Schedule "D" of the Agreement that an easement is required, the Generator Customer shall and/or the Generator Customer shall use reasonable commercial efforts to cause the third party specified in Schedule "D" of the Agreement to grant an easement to Hydro One substantially in the form of the easement attached hereto as Schedule "F" for the property(ies) described as the Generator Customer Easement Lands and/or the Third Party Easement Lands in Schedule "D" of the Agreement (hereinafter referred to as the "Easement") by no later than the date specified in the Agreement as Generator Customer Easement Date and/or Third Party Easement Date with good and marketable title thereto, free of all encumbrances, first in priority except as noted herein, and in registerable form, in consideration of the sum of \$2.00.

The above Easement shall be for the Easement Term specified in Schedule "D" of the Agreement provided that in the event that Hydro One removes the asset that is the subject of the Easement during the Easement Term, Hydro One shall surrender the Easement at that time. Subject to the foregoing, the Easement shall survive the termination of the Agreement.

Events of Default

18. Each of the following events shall constitute an "Event of Default" under the Agreement:

- (a) failure by the Generator Customer to pay any amount due under the Agreement within the time stipulated for payment;
- (b) breach by the Generator Customer or Hydro One of any term, condition or covenant of the Agreement;
- (c) the making of an order or resolution for the winding up of the Generator Customer or of its operations or the occurrence of any other dissolution, liquidation, bankruptcy or reorganization proceeding instituted by or against the Generator Customer or by or against Hydro One; and
- (d) any other Events of Default specified in Schedule "D" of the Agreement.

For greater certainty, a Dispute (as that term is defined in Section 25 hereof) will not be considered an Event of Default under the Agreement. However, a Party's failure to comply with the terms of a settlement or resolution of a dispute by the OEB will be considered an Event of Default under the Agreement.

19. In the Event of Default by the Generator Customer (other than the Event of Default specified in Subsection 18(c) of the Terms and Conditions, for which no notice is required to be given by Hydro One), Hydro One shall give the Generator Customer written notice of the Event of Default and allow the Generator Customer 30 days from the date of receipt of the notice to rectify the Event of Default, at the Generator Customer's sole expense. If such Event of Default is not cured to Hydro One's reasonable

satisfaction within the 30-day period, Hydro One may, in its sole discretion, exercise the following remedy in addition to any remedies that may be available to Hydro One under the terms of the Agreement, at common law or in equity: deem the Agreement to be repudiated and, after giving the Generator Customer at least 10 days' prior written notice thereof, recover, as liquidated damages and not as a penalty, the amounts payable by the Generator Customer pursuant to Sections 12.1, 12.5, 13 or 14 hereof.

20. In the Event of Default by Hydro One (other than the Event of Default specified in Subsection 18(c) of the Agreement, for which no notice is required to be given by the Generator Customer), the Generator Customer shall give Hydro One written notice of the Event of Default and shall allow Hydro One 30 days from the date of receipt of the notice to rectify the Event of Default at Hydro One's sole expense. If such Event of Default is not cured to the Generator Customer's reasonable satisfaction within the 30-day period, the Generator Customer may pursue any remedies available to it at law or in equity.

21. All rights and remedies of Hydro One and the Generator Customer provided herein are not intended to be exclusive but rather are cumulative and are in addition to any other right or remedy otherwise available to Hydro One and the Generator Customer respectively at law or in equity, and any one or more of Hydro One's and the Generator Customer's rights and remedies may from time to time be exercised independently or in combination and without prejudice to any other right or remedy Hydro One or the Generator Customer may have or may have exercised. The parties further agree that where any of the remedies provided for and elected by the non-defaulting party are found to be unenforceable, the non-defaulting party shall not be precluded from exercising any other right or remedy available to it at law or in equity.

Invoices and Interest

22. Invoiced amounts are due 30 days after invoice issuance. All overdue amounts including, but not limited to amounts that are not invoiced but required under the terms of this Agreement to be paid in a specified time period, shall bear interest at 1.5% per month compounded monthly (19.56 percent per year) for the time they remain unpaid.

Liability and Force Majeure

23. PART III: LIABILITY AND FORCE MAJEURE and Sections 1.1.12 and 1.1.17 of the Connection Agreement are hereby incorporated in their entirety by reference into, and form an integral part of the Agreement. Unless the context otherwise requires, all references in PART III: LIABILITY AND FORCE

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MAJEURE TO “this Agreement” shall be deemed to be a reference to the Agreement and all references to the “the Transmitter” shall be deemed to be a reference to Hydro One.

Confidential Information

24. Confidential Information shall at all times be treated as confidential, and shall be prepared, given, and used in good faith. The parties shall use the Confidential Information only for the requirements of the work being performed including, but not limited to, planning or operating the Transmission System, and not for any other purpose, and shall not disclose it to any third party, directly or indirectly, without the prior written consent of the party that provided the Confidential Information, and in such events the third party shall agree to use the Confidential Information solely for the requirements of the work as specified. Confidential Information shall not be used for any commercial purpose of any kind whatsoever other than contemplated herein.

“Confidential Information” does not include:

- (a) information that is in the public domain, provided that specific items of information shall not be considered to be in the public domain merely because more general information is in the public domain and provided that the information is not in the public domain as a result of a breach of confidence by the party seeking to disclose the information or a person to whom it has disclosed the information; and
- (b) information that is, at the time of the disclosure, in the possession of the recipient, provided that it was lawfully obtained either from the other party or from sources, who did not acquire it directly or indirectly from the other party under an obligation of confidence.

Each party shall keep Confidential Information confidential except that Hydro One may disclose the Generator Customer’s Confidential Information in the circumstances described in Section 4.7.2 of the *Transmission System Code*.

Disputes

25. Prior to the existence of OEB-Approved Connection Procedures either party may refer a Dispute to the OEB for a determination. Once there are OEB-Approved Connection Procedures, all disputes including, but not limited to, disputes related to:

- (a) the cost and the allocation of the costs under this Agreement,
- (b) the cost and the allocation of costs of the Hydro One Connection Work and notwithstanding Hydro One’s decision not to allocate or to allocate any part of the costs of this work to the Customer at this time; or
- (c) any other costs and the allocation of any other costs associated with, related to, or arising out of the

connection of the Project to Hydro One’s transmission system or Hydro One’s policies in respect of connections generally,

shall be dealt with in accordance with the dispute resolution procedure set out in the OEB-Approved Connection Procedures.

26. Before and after the existence of OEB-Approved Connection Procedures, if a dispute arises while Hydro One is constructing the New or Modified Connection Facilities, Hydro One shall not cease the work or slow the pace of the work without leave of the OEB.

General

27. The failure of any party hereto to enforce at any time any of the provisions of the Agreement or to exercise any right or option which is herein provided shall in no way be construed to be a waiver of such provision or any other provision nor in any way affect the validity of the Agreement or any part hereof and every provision and to exercise any right or option. The waiver of any breach of the Agreement shall not be held to be a waiver of any other or subsequent breach. Nothing shall be construed or have the effect of a waiver except an instrument in writing signed by a duly authorized officer of the party against whom such waiver is sought to be enforced which expressly waives a right or rights or an option or options under the Agreement.

28. Other than as provided in Sections 12.7 and 30 hereof, no amendment, modification or supplement to the Agreement shall be valid or binding unless set out in writing and executed by the parties with the same degree of formality as the execution of the Agreement.

29. Unless otherwise specified, references in the Agreement to Sections or Schedules are to sections, articles and Schedules of the Agreement. Any reference in the Agreement to any statute, regulation, any OEB approved documents or any section thereof will, unless otherwise expressly stated, be deemed to be a reference to such statute, regulation, document or section as amended, restated or re-enacted from time to time. The insertion of headings is for convenience only, and shall not affect the interpretation of the Agreement. Unless the context requires otherwise, words importing the singular include the plural and vice versa.

30. This Agreement is subject to the *Transmission System Code* and the OEB-Approved Connection Procedures. If any provision of this Agreement is inconsistent with the:

- (a) *Transmission System Code*, the said provision shall be deemed to be amended so as to comply with the *Transmission System Code*;

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- (b) OEB-Approved Connection Procedures the said provision shall be deemed to be amended so as to comply with the OEB-Approved Connection Procedures; and
- (c) Connection Agreement made between the parties, associated with the new customer connection facilities, on the same subject matter, the Connection Agreement governs.