

COVER TERMS AND CONDITIONS

Part A: Commissioning Work and COVER Work

1. Definitions

In these COVER Terms and Conditions, unless the context otherwise requires, terms which appear therein without definition, shall have the meanings respectively ascribed thereto in the Transmission System Code and unless there is something in the subject matter or context inconsistent therewith, the following words shall have the following meanings:

"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 government department, commission board, court authority or agency.

"Commissioning Work" means the work to be performed by Hydro One in respect of the Customer's Confirmation of Verification Evidence Report and which may also include: (i) a Design Compatibility Review; and (ii) Hydro One witnessing the commissioning of the connection of new or modified Customer's Facilities to Hydro One's transmission system.

"Connection Agreement" means the form of connection agreement appended to the Transmission System Code as Appendix 1, Version A.

"Connection Point" means the point where the Customer's Facilities are connected or the new or modified Customer's Facilities are proposed to be connected to Hydro One's transmission system, as the case may be.

"COVER Work" means the work required to be performed by the Customer during the final commissioning stage of the proposed connection of new or modified Customer's Facilities to Hydro One's transmission system in order to submit a complete Confirmation of Verification Evidence Report in a form acceptable to Hydro One including, but not limited to, the performance of a number of industry accepted functional tests and where applicable and confirmation of receipt of any required approvals of the Electrical Safety Authority.

"Customer" means the person who is issuing the purchase order to Hydro One for the Commissioning Work who wishes to connect the new or modified Customer's Facilities to Hydro One's transmission system under these COVER Terms and Conditions.

"Customer's Facilities" has the meaning set forth in the Transmission System Code.

"Customer's Property(ies)" means any lands owned by the Customer in fee simple or where the Customer has easement rights.

"Design Compatibility Review" means a review of the Customer's design and protection documentation performed by Hydro One for the purpose of ensuring that the Customer's new or modified Customer's Facilities do not adversely impact the transmission system and that the Customer's new or modified Customer's Facilities meets minimum requirements.

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

"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 performance of the Commissioning Work.

"Force Majeure Event" has the meaning ascribed thereto in the Connection Agreement.

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

"Hydro One" means Hydro One Networks Inc., a licenced transmitter.

"IESO" means the Independent Electricity System Operator continued under the Electricity Act, 1998.

"Market Rules" rules made under section 32 of the *Electricity Act, 1998* (Ontario), including, but not limited to Chapter 6 thereof.

"OEB" means the Ontario Energy Board.

"OEB-Approved Connection Procedures" means Hydro One's connection procedures as approved by the OEB from time to time.

"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 originally issued by the OEB on July 14, 2000, as it may be amended, revised or replaced in whole or in

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part from time to time in accordance with the Section 70.2 and 70.3 of the *Ontario Energy Board Act*.

2. The Customer and Hydro One shall perform their respective obligations outlined in these COVER Terms and Conditions in a manner consistent with Good Utility Practice and the Transmission System Code, in compliance with all Applicable Laws, including, but not limited to the requirements of the Electrical Safety Authority, and using duly qualified and experienced people.

3. The Customer is responsible for:

- (a) obtaining any and all permits, certificates, reviews and approvals required under any Applicable Laws with respect to the new or modified Customer's Facilities;
- (b) performing the COVER Work at its own expense;
- (c) installing equipment and facilities such as protection and control equipment to protect its own property, including, but not limited to the Customer's Facilities;
- (d) providing Hydro One with data required by Hydro One, including, but not limited to: (i) the same technical information that the Customer provided the IESO during any connection assessment and facility registration process associated with the new or modified 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 Customer's Facilities;
- (e) ensuring that if Hydro One decides to participate in the commissioning, inspection or testing of the new or modified Customer Facilities, that same is performed at a time that is mutually agreed by Hydro One and the Customer and that the work performed by the Customer and others required for successful commissioning, inspection or testing of protective equipment is completed as required to enable Hydro One to witness and test to confirm satisfactory performance of such systems;
- (f) providing Hydro One with test certificates certifying that the 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;
- (g) providing Hydro One with access to the Customer's Facilities for the purposes of performing the Commissioning Work and the Customer acknowledges and agrees that Section 27.13 of the Connection Agreement shall govern such access and is hereby incorporated in its entirety by reference into, and forms an integral part of these COVER Terms and Conditions. All references to "this Agreement" in Section 27.13 of the Connection Agreement shall be deemed to be a reference to these COVER Terms and Conditions;

- (i) providing power system components on the Customer's Facilities, including, without limitation, all transformation, switching, metering and auxiliary equipment such as protection and control equipment acceptable to Hydro One with regard to Hydro One's requirements to permit connection of the new or modified Customer's Facilities to Hydro One's transmission system.
- (j) providing adequate protective equipment for the Customer's Facilities that might be adversely affected by the operation of any equipment for automatic reclosing of circuit breakers that Hydro One may have and providing such equipment as may be required from time to time by Hydro One for the prompt disconnection of any of the Customer's apparatus that might affect the proper functioning of Hydro One's reclosing equipment.

4. Hydro One's responsibilities under these COVER Terms and Conditions with respect to the connection of the New or Modified Connection Facilities to Hydro One's transmission system shall be limited to the performance of the Commissioning Work. The Commissioning 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 Customer's side of the Connection Point;
- (ii) review and acceptance of power system components on the Customer's side of the Connection Point;
- (iii) acceptance of the technical specifications (including electrical drawings) for the Customer's Facilities; and
- (iv) participation in the commissioning, inspection and testing of the Customer's Facilities;

are solely for the purpose of Hydro One ensuring that the Customer's Facilities 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.

Part B: Cost of Commissioning Work

5. The Customer shall pay Hydro One's Engineering and Construction Cost (plus applicable Taxes) of the Commissioning Work. Within 180 days after the completion of the Commissioning Work Hydro One shall provide the Customer with an invoice specifying the actual Engineering and Construction Cost of the Commissioning Work (plus applicable Taxes).

Part C: Disputes

6. All disputes, including, but not limited to, disputes related to the Customer's purchase order, these COVER Terms and Conditions, the Commissioning Work and/or the

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

Part D: Incorporation of Liability and Force Majeure Provisions

7. PART III: LIABILITY AND FORCE MAJEURE (with the exception of Section 15.5 thereof) 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 these COVER Terms and Conditions. Unless the context otherwise requires, all references in PART III: LIABILITY AND FORCE MAJEURE TO "this Agreement" shall be deemed to be a reference to these COVER Terms and Conditions and all references to the "the Transmitter" shall be deemed to be a reference to Hydro One.

The aggregate liability of Hydro One under this Section 9 shall at no time exceed the actual Engineering and Construction Cost of the Commissioning Work.

Part E: General

8. These COVER Terms and Conditions are subject to the Transmission System Code and the OEB-Approved Connection Procedures. If any provision of these COVER Terms and Conditions 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;
- (b) OEB-Approved Connection Procedures, the said provision shall be deemed to be amended so as to comply with the OEB-Approved Connection Procedures; or
- (c) Connection Agreement made between the parties, associated with the Customer's Facilities, the Connection Agreement governs.

9. The failure of any party hereto to enforce at any time any of the provisions of these COVER Terms and Conditions 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 these COVER Terms and Conditions or any part hereof or the right of any party to enforce thereafter each and every provision and to exercise any right or option. The waiver of any breach of these COVER Terms and Conditions 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 these COVER Terms and Conditions.

10. Other than as provided in this Agreement, no amendment, modification or supplement to these COVER Terms and Conditions 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 these COVER Terms and Conditions.

11. These COVER Terms and Conditions shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the laws of the Province of Ontario and the laws of Canada applicable therein, and, subject to Section 6, the courts of Ontario shall have exclusive jurisdiction to determine all disputes arising out of these COVER Terms and Conditions.

12. The obligation to pay any amount due and payable hereunder shall survive the termination of the Customer's purchase order in respect of the Commissioning Work

13. Invoiced amounts are due 30 days after invoice issuance. All overdue amounts invoiced by Hydro One in respect of the Commissioning Work shall bear interest at 1.5% per month compounded monthly (19.56 percent per year) for the time they remain unpaid.