



GARDINER ROBERTS

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File No.: 96289

July 23, 2012

E-FILED

Ms. Kirsten Walli
Secretary
Ontario Energy Board
Suite 2700, 2300 Yonge Street (27th Floor)
P.O. Box 2319
Toronto, ON
M4P 1E4

Dear Ms. Walli,

**Re: Application by Hydro One Networks Inc. (“Hydro One”)
for Orders Approving Revenue Requirement in Rates for 2013, 2014;
Board File No. EB-2012-0031**

Under paragraph 1 of Procedural Order No. 1 (“**PO1**”) in this matter, Goldcorp requests the Board to add the following issue (“**Interim Rate Issue**”) to the Draft Issues List in Appendix B of that order:

9.2 Should the Board establish an interim rate for Goldcorp in order to recover any bypass compensation due in an appropriate amount over the remaining life of the Red Lake Transformer Station (“**RLTS**”)?

(Goldcorp would expect that the Board would determine an interim rate for it that would recover any such bypass compensation. The rate would be interim because it would last only until the amount of bypass compensation as determined by the Board was paid off. Goldcorp would then revert to being a General Service Demand Billed customer at approved rates.)

Goldcorp asks the Board to add the Interim Rate Issue to the Draft Issues List for the reasons set out below:

REASONS

1. Goldcorp submits that the Board will be able to provide a final order that would satisfy the terms of Goldcorp’s CCRA with Hydro One.
2. Goldcorp submits that customers are entitled to transparency, basic supporting evidence, and a fair opportunity to challenge assumptions when a transmitter seeks compensation under section 6.7 of the Transmission System Code (“**TSC**”).

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3. Goldcorp wishes to adduce additional evidence to demonstrate that GL-1 will result in positive benefits to Hydro One's customers and the Ontario Electricity System which the Board should consider in determining the costs to be recovered in the requested Interim Rate.

Background

In March 2010, Goldcorp and Hydro One began negotiating bypass compensation with respect to the proposed new 10.7 km, 115 kV transmission line from a point near Harry's Corner to Goldcorp's Balmer Complex Transformer Station in the Municipality of Red Lake ("GL-1"). Those discussions continued until the end of August 2011. The new line was approved under EB-2011-0106 to be built and paid for by Goldcorp and then transferred at no cost to Hydro One. Hydro One claimed bypass compensation from \$8 million to \$11 million, an unexplained variation of approximately 30%. This difference serves to highlight an inconsistency in Hydro One's application of the TSC.

CCRA

In February 2012, Goldcorp and Hydro One executed a Connection and Cost Recovery Agreement (CCRA-Load for the Red Lake's Goldmine Supply System Expansion, "CCRA"). The terms of Goldcorp's CCRA with Hydro One state: *The Customer shall pay bypass compensation in accordance with the methodology set out in Section 6.7 of the Transmission System Code unless a final order of the OEB or a court of competent jurisdiction states that the Customer shall not be required to pay the said bypass compensation.* If the Board adds the Interim Rate Issue to the Draft Issues List in this hearing, the Board will be able to provide a final order that would satisfy the terms of the CCRA. A copy of that Agreement is attached.

Positive Benefits to the Rate Base

As Goldcorp established in its EB-2011-0106 Application, the need for new transmission capacity in the Red Lake area has been clear for several years:

The Ontario Power Authority, the IESO and the Board share responsibility for transmission adequacy in Ontario. In the record of the Ontario Power Authority's 2007 Integrated Power System Plan there is a reference to electricity needs in the Red Lake Area in a letter from the Municipality of Red Lake that expressed a concern with "... insufficient capacity for current and future growth" (EB-2007-070711/135/1). In the IESO's most recent 18-Month Outlook, the area served by Ear Falls is identified as having "no margin to support expected local growth." (*Exhibit B, Tab 1, Schedule 3, lines 15-21*).

Even with these recognized needs and system shortfalls, neither Hydro One nor the OPA (due to a withdrawal of IPSP 1 & 2) have completed any formal public regional planning to address these issues. Without its GL-1 initiative, Goldcorp submits that an overloading situation would develop at RLTS. Quite simply, GL-1 represented the most cost effective solution to the efficient connection of new load in the region. A schematic map of the Red Lake Area Transmission and Distribution Circuit Layout is enclosed.



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Goldcorp has spent over \$15 million to build GL-1, spent millions more on further improvements to Hydro One's system and on studies of how to integrate GL-1 into that system. Goldcorp has agreed to transfer ownership of GL-1 to Hydro One prior to commissioning, at no cost to Hydro One, and Goldcorp has paid for all the studies Hydro One required to ensure that it was built to Hydro One's standards.

These circumstances raise a legitimate question as to whether Hydro One's demand for bypass compensation is reasonable. First, Goldcorp will simply be transferring load from Hydro One's existing distribution lines to Hydro One's own newly built GL-1 transmission line and not to a transmission line owned by Goldcorp or another person. That transfer does not appear to trigger section 6.7.6 of the TSC which reads as follows:

Subject to sections 6.7.2, 6.7.7 and 6.7.8, for all or a portion of existing load a load customer may bypass a transmitter-owned connection facility with its own connection facility or the connection facility of another person, provided that the load customer compensates the transmitter.

Second, Goldcorp believes that the ownership circumstances, additional load, system benefits, utilization of Hydro One's facilities and improvements to them described above will increase Hydro One's revenues and mitigate the need for bypass compensation.

These benefits along with Hydro One's accounting deficiencies need to be taken into account. As part of the Interim Rate Issue, Goldcorp would submit evidence to demonstrate the GL-1 has resulted in positive benefits to Hydro One's system including:

- an increase in the available capacity of Hydro One's existing transformation and distribution system in the Red Lake area to service new load demand;
- an improvement in the overall electricity service in the Red Lake area;
- additional transmission and/or distribution revenues to Hydro One;
- a net reduction in the region's line losses;
- a deferred need for a planned fourth 44 kV circuit (M5) to relieve and balance loads on M6; and,
- a deferred need for a costly third transformer at RLTS.

Transparency and Right to Challenge Assumptions

Goldcorp submitted information requests to discover the basis of Hydro One's calculation, but Hydro One's response is incomplete, flawed, and conflicting with other data sources. For these reasons, the calculations have been challenged by Goldcorp. Hydro One's calculation may be seen in Goldcorp's Application in EB-2012-0361.



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Goldcorp submits that Load Customers should be entitled to transparency and basic supporting evidence when a Transmitter carries out the requirements of section 6.7 of the TSC. If the Board accepts the Interim Rate Issue as an issue in this proceeding, it would enable Goldcorp to obtain the information required to understand/justify Hydro One's bypass compensation estimate, and challenge Hydro One's calculations.

Goldcorp further submits that it should be allowed to adduce evidence that the GL-1 facilities will be owned by Hydro One and not by Goldcorp and that such facilities were urgently required to address a looming power supply crisis in the region. Goldcorp's evidence would also show that GL-1 provides efficiency improvements to the regional electricity system and enhances Hydro One's ability to connect remote First Nations and other growing loads in the region.

Goldcorp has made all these points to Hydro One and requested information required to test the bypass compensation request, all to no avail. Goldcorp submits that, if it is to pay bypass compensation, it should be entitled to full and transparent disclosure of information and the right to test and challenge Hydro One's estimate. Goldcorp submits that the best way to provide those rights is to hear the Interim Rate Issue in this proceeding.

The EB-2011-0361 Application

On October 17, 2011 Goldcorp filed that Application in Board File No. EB-2011-0361. In that Application Goldcorp is seeking an order declaring that sections 4.13, 6.7.6, 6.7.7 and 11.2 of the TSC are *ultra vires* the *Ontario Energy Board Act*, 1998 ("**The Act**"). Goldcorp filed that application because i) it believed that it was not obligated to pay bypass compensation under the terms of section 6.7.6 of the Transmission System Code ("**TSC**"), ii) it was unfair of Hydro One to demand bypass compensation in the circumstances of GL-1, iii) it was concerned about the size of and analytical and accounting deficiencies in the amounts demanded by Hydro One, and it could find no other Board process that would enable Goldcorp to review and challenge Hydro One's claim to bypass compensation and the appropriate amount.

In its Decision of January 23, 2012, the Board suggested that Goldcorp could pursue any one of three other alternative procedures:

1. bring a motion to review the Board's Decision in EB-2011-0106, which granted Goldcorp leave to build GL-1;
2. bring an Application to review and amend Hydro One's Electricity Transmission Licence to exempt Hydro One from having to comply with the requirements of the bypass compensation sections of the TSC; or,
3. bring an Application to amend the TSC by deleting the bypass compensation section altogether.

Goldcorp is not necessarily interested in challenging the TSC, rather the company is seeking a fair and transparent process to challenge Hydro One's Bypass Compensation calculation for the reasons outlined above. If Goldcorp is to be required to pay bypass compensation, then it would submit that it should be recoverable by Hydro One through an interim rate order. That is



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why it is requesting the Board to state the Interim Rate Issue. If the Board agrees, it will not be necessary for Goldcorp to continue with its EB-2011-0361 Application.

SUBMISSIONS

Goldcorp submits that this proceeding is about establishing Hydro One's rates. Goldcorp is asking the Board to set a new interim rate for Hydro One and, if necessary, determine which costs ought to be fairly recovered in it. That request is a legitimate rates-hearing issue that would satisfy the terms of the CCRA, and finally provide a means for transparent and fair challenge of Hydro One's bypass compensation calculation.

Goldcorp appreciates that the Board's has limited time at its disposal and will not want this issue to take up undue hearing time, but submits that the issue could largely be dealt with in writing. In that way, the Board could fully address both whether it is reasonable for Hydro One to expect Goldcorp to pay bypass compensation under the circumstances and, if so, what the appropriate quantum should be, and whether compensation found due would be recovered over time in the interim rate.

One of the options given to Goldcorp in the January 23 Decision in EB-2011-0361 was to bring an application to amend Hydro One's Electricity Transmission Licence to exempt Hydro One from having to comply with the requirements of the bypass compensation provisions of the TSC. Adding the Interim Rate Issue to the Draft Issues List in this proceeding would effectively be bringing that application, but without the need to deploy the additional resources required for a new and separate proceeding. Goldcorp hopes that the Board will agree that its request for an interim rate is a legitimate and relevant hearing issue.

Process

Goldcorp recommends the following process for consideration:

1. this issue would be added to the Issues List;
2. Hydro One would then file its written evidence on this issue;
3. following the Board's timetable, Goldcorp would submit written interrogatories and information requests to Hydro One;
4. Goldcorp and other parties would then file their written evidence on the bypass compensation issue by September 5th, 2012;
5. issue would be joined between Goldcorp and the others in final argument, and the Board could then render its decision on whether any bypass compensation is payable and, if so, how much; and,
6. Goldcorp would then expect the Board to set an interim rate to recover any bypass compensation determined by the Board appropriately payable Hydro One over the remaining life of the RLTS.



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All of which is respectfully submitted.

Yours truly,

Gardiner Roberts LLP

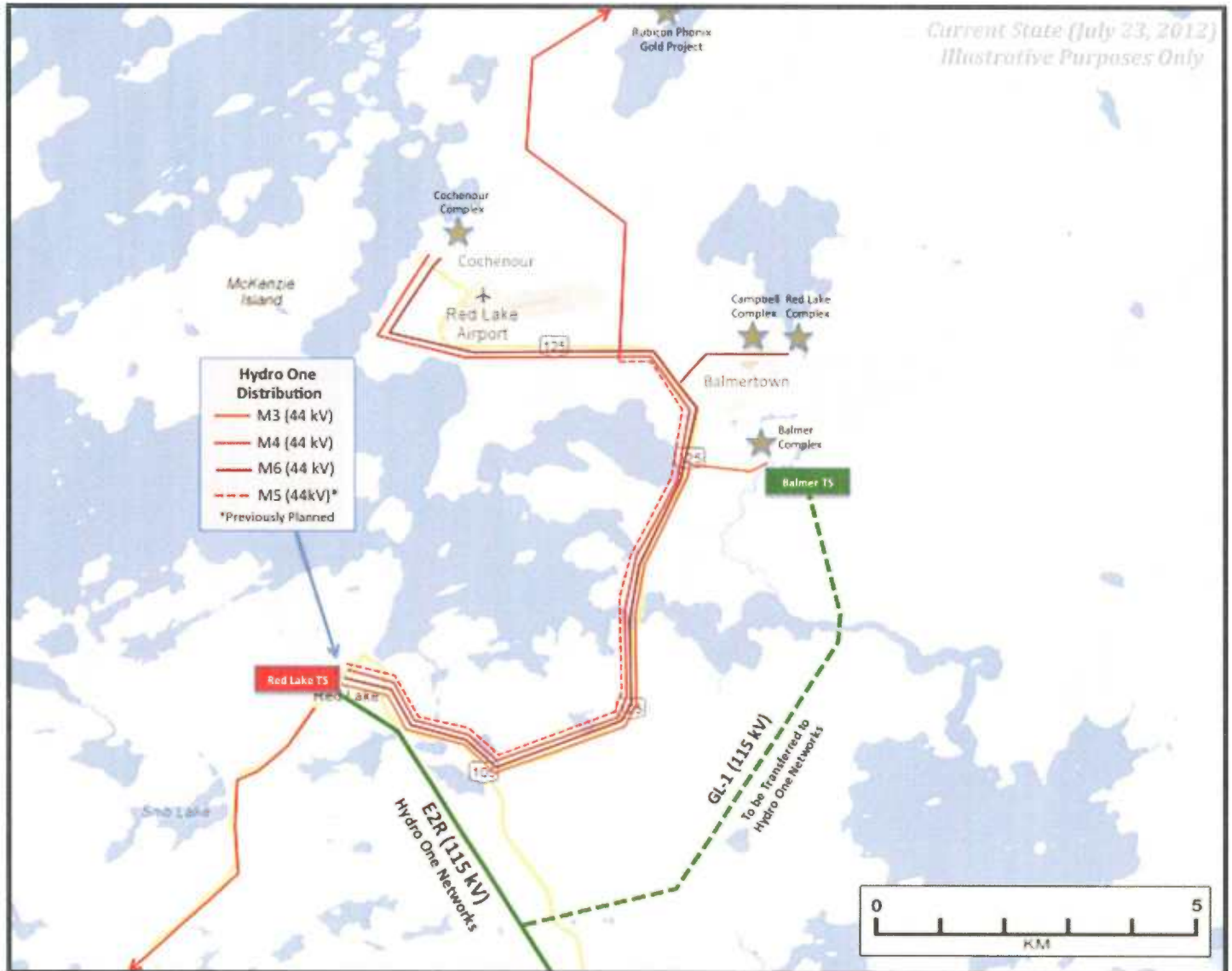
A handwritten signature in blue ink, appearing to read 'Ian Blue'. The signature is written in a cursive, flowing style. Below the signature, the name 'Ian A. Blue' is printed in a standard, sans-serif font.

cc: Hydro One Counsel and Representatives
cc: Intervenors Counsel and Representatives

Attachments

1. Schematic map of transmission and Distribution Circuit layout – Red Lake area
2. CCRA - Load for the Red Lake's Goldmine Supply System Expansion

Red Lake Area Transmission and Distribution Circuit Layout



Note: GI-1 will free up capacity on M3 & M6

For Illustrative Purposes Only



CONNECTION AND COST RECOVERY AGREEMENT (CCRA) - LOAD

between

Goldcorp Inc.

and

Hydro One Networks Inc.

for

Red Lake Gold Mines Supply System Expansion

CONNECTION AND COST RECOVERY AGREEMENT (CCRA) – LOAD

Goldcorp Inc. (the "Customer") has requested and **Hydro One Networks Inc.** ("Hydro One") has agreed to arrange for a 115 kV electrical supply to Balmer CTS a new Customer-owned transformer station (the "Project") on the terms and conditions set forth in this Agreement dated _____ day of _____, 20____ (the "Agreement"), the attached Standard Terms and Conditions for Load Customer Transmission Customer Connection Projects V3 9-2007 (the "Standard Terms and Conditions" or "T&C") and the attached Terms and Conditions for Contestable Work December 2011 (the "Contestable T&C"). Schedules "A" and "B" attached hereto, the Standard Terms and Conditions and the Contestable T&C are to be read with and form part of this Agreement.

Project Summary

Goldcorp is currently supplied from Red Lake TS at 44 kV and they are planning to expand the electricity supply to their existing facilities by building a new 115/44 kV transformer station (Balmer CTS). Balmer CTS would be supplied from a new 10.65 km tap line from Hydro One owned existing 115 kV line E2R. The tap point for the new line would be at Harry's Corner which is approximately 5 km south of the existing Red Lake TS. The Customer will build the 10.65 km of transmission line and plans to transfer ownership to Hydro One under the Terms and Conditions for Contestable work. The connection of the new tap line to E2R including the tap structure is non-contestable work and will be constructed by Hydro One.

Term: The term of this Agreement commences on the date first written above and terminates on the 15th anniversary of the In Service Date.

Special Circumstances

In addition to the circumstances described in Section 5 of the Standard Terms and Conditions, the Ready for Service Date is subject to the Customer executing and delivering this Agreement to Hydro One by no later than the 2ND day of February, 2012 (the "**Execution Date**").

The Customer shall pay bypass compensation in accordance with the methodology set out in Section 6.7 of the Transmission System Code unless a final order of the OEB or a court of competent jurisdiction states that the Customer shall not be required to pay the said bypass compensation.

Standard Terms and Conditions Amendments:

The second line of Section 30 of the Standard Terms and Conditions is hereby amended by deleting the words "(with the exception of Section 15.5 thereof)".

The first sentence of Section 19 of the Standard Terms and Conditions is hereby deleted and is replaced with the following:

19. In the event that the Customer sells, leases or otherwise transfers or disposes of the Customer's Facilities to a third party during the Term of the Agreement, the Customer shall cause the purchaser, lessee or other third party to whom the Customer's Facilities are transferred or disposed to enter into an

**CONNECTION AND COST RECOVERY
AGREEMENT (CCRA) – LOAD**

assumption agreement with Hydro One to assume all of the Customer's obligations in the Agreement; and notwithstanding such assumption agreement unless:

- (i) Hydro One agrees otherwise, in writing; or
- (ii) the purchaser, lessee or other third party at time of transfer or disposition has a medium-low risk classification or better risk classification under the then-current Code requirements,

the Customer shall remain obligated under Sections 10.1 12, 15.1 and 16 hereof.

Subject to Section 31 of the Standard Terms and Conditions, this Agreement constitutes the entire agreement between the parties with respect to the subject matter of this Agreement and supersedes all prior oral or written representations and agreements concerning the subject matter of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by the signatures of their proper authorized signatories, as of the day and year first written above.

GOLDCORP INC.



Name: Curtis Pedwell
Title: Maintenance Manager, Red Lake Gold Mines
I have the authority to bind the Corporation

HYDRO ONE NETWORKS INC.



Name: Myles D'Arcey
Title: Senior V.P., Customer Operations
Execution Date:
I have the authority to bind the Corporation

**CONNECTION AND COST RECOVERY
AGREEMENT (CCRA) – LOAD**

Schedule “A” Red Lake Gold Mines Supply System Expansion

PROJECT SCOPE

New or Modified Connection Facilities: New 10.65 km, 115 kV transmission line between Customer-owned Balmer CST and Hydro One's tap point on the E2R line at Harry's Corner. Hydro One will connect the Contestable Work Assets to Hydro One's E2R circuit at Harry's Corner.

Connection Point: Goldcorp Junction

Ready for Service Date: June 15, 2012

HYDRO ONE CONNECTION WORK

Part 1: Transformation Connection Pool Work

Hydro One will:

Not Applicable

NOTES:

Part 2: Line Connection Pool Work

Hydro One will:

Provide project management, engineering, equipment and materials, construction, commissioning and energization for all Line Connection Pool Work. Hydro One, or its agents, will supply and install all materials and equipment not specifically described herein that is required or may be necessary to complete the all Line Connection Pool Work.

All materials and equipment removed will be scrapped at site unless specifically stated otherwise.

Hydro One will perform the following work:

The work required to connect the Contestable Work Assets to Hydro One's E2R Circuit at Harry's Corner, including, but not limited to the construction of a line tap from Hydro One's E2R circuit to the circuit switch terminal. Furthermore, perform all work required to accommodate the connections of the Contestable Work Assets and the Customer's Blamer CTS.

Lines

Install 3-pole DE structure on both sides of the E2R ROW immediately south of structure 458. Fly tap to the main line and dead end on the Customer's A-Frame structure and provide mid

CONNECTION AND COST RECOVERY AGREEMENT (CCRA) – LOAD

span openers in between the Connection Point for the Contestable Work Assets and Hydro One's E2R transmission circuit.

The specific work will cover the following activities/deliverables:

- Prepare engineering specification for construction.
- Prepare structural drawings if applicable
- Prepare insulator and hardware drawings if applicable
- Update existing drawings.
- Order engineering materials
- Technical support during construction
- Participation in project meetings
- Update records and SAP registrations

Construction

The specific work will cover the following activities/deliverables:

- Carry out a field verification to verify plan and profile data for the E2R from structure 457 to 459.
- Install two 3-pole DE structures, one on each side of the E2R ROW 3m south of structure 458.
- Fly tap the tap conductors to the main line.
- Dead-end the tap conductors to Customer's A-Frame structure.
- Install 1 MSO on each phase of the tap line between the last 3-pole DE structure and Customer's A-Frame structure.
- Install modems at the Kenora hubsite.
- Provide DC power and required wiring to equipment.

Protection:

Provide protection changes at Ear Falls TS to accommodate new line tap to Balmer CTS. The specific engineering work will cover the following activities/deliverables:

- Revise existing 'A' and 'B' line protections for M3E/E2R relay modules.
- Review/comment and provide comments for the Customer's 115 kV motorized disconnect switch which will be transferred to Hydro One after completion of project.
- Review/comment and provide comments in respect of Balmer CTS.
- Issue protection settings in PCMIS.
- Update new settings in PSDB.
- Issue Protection Description document.
- Co-ordinate between relaying, control, metering, drafting, Stations P&C and construction.
- Provide technical support to field P&C.

Control

Ear Falls TS

- Accommodate any new changes to SCADA points due to protection modifications via existing station RTU

Balmer CTS

CONNECTION AND COST RECOVERY AGREEMENT (CCRA) – LOAD

- Perform Customer support Activities, including, point review/validation, NMS submission and Testing

The specific engineering work will cover the following activities/deliverables:

Ear Falls TS

- Design and Modification of drawings – Electrical Arrangements, Elementary Wiring Diagrams, and Connection Wiring Diagrams.
- Update Station Tabulation of Functions
- Provide Hubsite support and Point Verification Testing
- Preparation of Bill of Materials for new equipment for use in material requisitions
- Provide support for field commissioning staff
- Provide facilitation of SCADA master database changes
- Complete SCADA equipment configuration and settings files
- Submit NMS Template
- meet IESO requirements related to new assets as required.
- Participate in site/project Meetings
- Complete documentation as required: PCMIS, SAP Asset Registry

Balmer CTS

- Attend Customer meetings as required
- Provide facilitation of SCADA master database changes
- Validate and finalize Customer's SCADA points with co-ordination between the Customer and the Hydro One OGCC operators
- Complete documentation as required: assist Customer with determining SCADA points (completing appropriate schedule); Customer Settings Document
- Provide Hubsite support
- Request Hubsite Gateway information/telecom connection
- Provide Point Verification Testing of Customer's SCADA points
- Provide support for field commissioning staff
- Submit Customer NMS Template

Telecom

Order and install two S4T4 circuits at Kenora TS to accommodate communication with the SCADA network for monitoring and control purposes and perform activities required to connect Customer site to the Kenora hubsite.

The specific work will cover the following activities/deliverables:

- Provide assistance in leased circuit provisioning and coordination with the Telco.
- Provide coordination of field activities (construction, inspection, testing and commissioning).
- Participate in project and coordination meetings.
- NOMS Ticket & Xng database update.
- Technical assistance to P&C as required.
- Prepare list/material requisition detailing the equipment to be purchased
- Locate available port(s) on the hubsite getaway
- Send request to NMS database
- Update SharePoint sketches

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- Provide DYMEC's configurations to accommodate new system design
- Modify Gateway configuration at hubsites to accommodate new system design
- Revise existing and produce new drawings as required
- Review and process all field marked prints
- Prepare tail circuit design and drawing package
- Participate in project and coordination meetings and site visits as required.

Procurement

- Procure required materials, equipment and services required, including:
 - preparation of tender packages, obtaining quotes & evaluating quotes;
 - issue purchase orders;
 - Provide contract monitoring; and
 - provide on-site inspection of suppliers (as required), and issue inspection reports, where necessary.

Environmental:

- ensure that the construction of proposed line tap on the E2R circuit by Hydro One will have minimal potential for environmental impacts;
- communicate with Customer on the status of their environmental assessment studies;
- review Customer's environmental assessment reports;
- review Customer's environmental permits and approvals;
- review and perform an assessment of all post-construction environmental; commitments made by the Customer affecting any of the Line Connection Pool Work
- obtaining any necessary environmental permits and approvals if any missed by the Customer;
- Perform an EA Screen out for the tap connection;
- Deliver an environmental specification;
- Perform environmental monitoring; and
- Perform soil testing.

Real Estate

- Review Hydro One's existing land rights concerning the installation of two new 3-pole DE structures and the new line tap;
- and where necessary, obtain all necessary easements and other land rights from third parties as required.

Commissioning

Perform a design compatibility review and perform COVER work for the Line Connection Pool Work, the Contestable Work Assets and the Customer's Balmer CTS, including, but not limited to:

- Perform leased circuit commissioning and standard acceptance tests on the newly installed leased circuits.
- Perform commissioning and Point Verification testing.
- Test and Commission E2R line protections.
- Perform Zone Test Trip for the existing line protections.

CONNECTION AND COST RECOVERY AGREEMENT (CCRA) – LOAD

- Provide FMPs to head office.
- Field P&C to be available on site for duration of configuration downloads, commissioning and PV testing.
- Co-ordinate required outages.

Other:

- Hydro One will notify Ontario Power Generation Inc. (“OPGI”) of added line tap and OPG’s requirement to review line settings on M3E at Manitou Falls GS.
- Review the Customer’s motorized disconnect switch documentation and specs associated with the Contestable Work Assets.

Assumptions:

Hydro One has made the following assumptions:

- the MSO will be located outside the Balmer CTS station fence.
- the Harry’s Corner fence can be moved further away from the ROW if required to provide adequate space for MSO installation.
- access road is available.
- access road to MSO will be provided by the Customer.
- any work to be performed in respect of Hydro One Facilities that are an effect of the Customer’s undertaking are covered under the Customer’s Environmental Assessment approval.
- that the Connection Point is in a reasonable location so as not to trigger other environmental approvals.
- the Customer’s Environmental Assessment Study flags proximity to the homelands of First Nations and describes consultation carried out with First Nations as required.
- the Customer completed an Archaeological Assessment Stage I and any other stages required, including the location of the tap connection.
- the Ministry of Culture accepted the findings for the connection site and in the areas of any new poles/towers.
- new inter-building copper cable infrastructure is not required.
- the Customer will order all S4T4 leased circuits.
- panel space is not required (assuming that existing relays should accommodate new settings).
- Customer does not change its 115 kV breaker (CB) failure protection which is currently configured to open it’s disconnect switch DS1.
- Local RTU TOF file and ConfigPro file reflect actual installation.
- Customer SCADA data is not provided via ICCP.
- Hydro One is able to get outages as required.

Part 3: Network Customer Allocated Work

Hydro One will:

Not Applicable

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Part 4: Network Pool Work (Non-Recoverable from Customer)

Hydro One will:

Not Applicable

Part 5: Work Chargeable to Customer

Not Applicable

Part 6: Scope Change

For the purposes of this Part 6 of Schedule “A”, the term “Non-Customer Initiated Scope Change(s)” means one or more changes that are required to be made to the Project Scope as detailed and documented in Parts 1 to 5 of this Schedule “A” such as a result of any one or more of the following:

- any environmental assessment(s);
- requirement for Hydro One to obtain approval under Section 92 (leave to construct) of the Ontario Energy Board Act if the transmission line route selected by Hydro One is greater than 2 km in length;
- Hydro One having to expropriate property under the Ontario Energy Board Act;
- conditions included by the OEB in any approval issued by the OEB under Section 92 of the Ontario Energy Board Act or any approval issued by the OEB to expropriate under the Ontario Energy Board Act; and
- any IESO requirements identified in the System Impact Assessment or any revisions thereto.

Any change in the Project Scope as detailed and documented in Parts 1 to 5 of this Schedule “A” whether they are initiated by the Customer or are Non-Customer Initiated Scope Changes, may result in a change to the Project costs estimated in Schedule “B” of this Agreement and the Project schedule, including the Ready for Service Date.

All Customer initiated scope changes to this Project must be in writing to Hydro One.

Hydro One will advise the Customer of any cost and schedule impacts of any Customer initiated scope changes. Hydro One will advise the Customer of any Material cost and/or Material schedule impacts of any Non-Customer Initiated Scope Changes.

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

Hydro One will implement all Non-Customer initiated scope changes until the estimate of the Engineering and Construction Cost of all of the Non-Customer initiated scope changes made by Hydro One reaches 10% of the total sum of the estimates of the Engineering and Construction Cost of:

- (i) the Transformation Connection Pool Work,
- (ii) the Line Connection Pool Work;
- (iii) Network Pool Work;
- (iv) Network Customer Allocated Work; and

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(v) The Work Chargeable to Customer.

At that point, no further Non-Customer initiated scope changes 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.

CUSTOMER CONNECTION WORK

The Customer will:

- Construct the Contestable Work Assets in accordance with the terms of the Contestable Terms and Conditions;
- Construct a suitable tapping structure(s) at the E2R Junction (note: for greater certainty, the Customer will not be performing any of this work on the existing Hydro One E2R right of way);
- Provide a suitable transmission line isolation device, Motorized Disconnect Switch, acceptable to Hydro One at the location suitable to Hydro One in the general vicinity of the E2R Junction on the Contestable Line Assets;
- Provide a suitable transmission line isolation device, Mid Span Opener (MSO) and Motorized Disconnect Switch, acceptable to Hydro One at the station entrance structure at the Customer's Balmer CTS;
- Provide easements and land rights for work to be performed by Hydro One to Connect the Contestable Work Assets to Hydro One's E2R; and
- Obtain all environmental assessment approvals, permits and regulatory/ community consultations for Line Connection Pool Work;
- Provide access road to Hydro One tap point;
- ensure that the work being performed in respect of Hydro One Facilities that are an effect of the Customer's undertaking are covered under the Customer's Environmental Assessment approval;
- ensure that the point of connection is in a reasonable location so as not to trigger other environmental approvals;
- the Customer's Environmental Assessment Study shall flag proximity to the homelands of First Nations and describes consultation carried out with First Nations as required.
- the Customer shall complete an Archaeological Assessment Stage I, species at risk assessments and any other stages required, including the location of the tap connection. It is assumed that the Ministry of Culture accepted the findings for the connection site and in the areas of any new poles/towers.
- order and maintain all S4T4 leased circuits associated with the Customer Connection Work;
- install all necessary equipment meeting Hydro One's requirements to be able to provide SCADA data; and
- provide and install IESO compliant revenue metering.

EXISTING LOAD:

	A	B		
Existing Load Facility	Existing Load (MW) ¹	Normal Capacity (MW) ²		
None	Not Applicable	Not Applicable		

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Notes:

1. Existing Load means the Customer's Assigned Capacity at the Existing Load Facility as of the date of this Agreement (Section 3.0.3 of the Transmission System Code).
2. Any station load above the Normal Capacity of the Existing Load Facility (Overload) will be determined in accordance with Section 6.7.9 of the Transmission System Code and Hydro One's Connection Procedures. If the Overload is transferred to the New or Modified Connection Facilities, the Overload will be credited to the Line Connection Revenue, Transformation Connection Revenue or Network Revenue requirement, whichever is applicable.

OTHER RELEVANT CONSIDERATIONS:

NONE

EXCEPTIONAL CIRCUMSTANCES RE. NETWORK CONSTRUCTION OR MODIFICATIONS:

MISCELLANEOUS

Customer Connection Risk Classification: Medium-Low Risk

True-Up Points: Following the third, fifth and tenth anniversaries of the In Service Date

Customer's HST Registration Number: 85 600 078 RT 0001

Documentation required (after In Service Date): As specified in Part A.

Ownership: Hydro One will own all equipment provided by Hydro One as part of the Hydro One Connection Work.

Approval Date (if Section 92 required to be obtained by Hydro One): Not applicable.

Security Requirements: Nil

Security Date: Not applicable.

Easement Required from Customer: None required for Line Connection Pool Work

Easement Date: Not applicable

Easement Lands: Not applicable

Easement Term: Not applicable

Approval Date (for OEB leave to construct): Not Applicable.

Revenue Metering: IESO compliant revenue metering to be provided by the Customer.

Customer Notice Info:

**CONNECTION AND COST RECOVERY
AGREEMENT (CCRA) – LOAD**

**Goldcorp Inc.
Bag 2000
Balmertown, ON
P0V 1C0**

**Attention: Curtis Pedwell, Maintenance Manager
Fax #:**

**CONNECTION AND COST RECOVERY
AGREEMENT (CCRA) – LOAD**

Schedule “B” Red Lake Gold Mines Supply System Expansion

TRANSFORMATION CONNECTION POOL WORK

Estimate of the Engineering and Construction Cost of the Transformation Connection Pool Work: Not Applicable

Estimate of Transformation Connection Pool Work Capital Contribution: Not Applicable

Actual Engineering and Construction Cost of the Transformation Connection Pool Work:
Not applicable

Actual Transformation Connection Pool Work Capital Contribution: Not applicable

Capital Contribution Includes the Cost of Capacity Not Needed by the Customer:
Not Applicable

LINE CONNECTION POOL WORK

Estimate of the Engineering and Construction Cost of the Line Connection Pool Work:
\$913,000 plus HST in the amount of \$118,690.00.

* **Note:** Does not include Transfer Price or Contestable Work Capital Cost.

Estimate of Line Connection Pool Work Capital Contribution: \$6,933,630.00 plus HST in the amount of \$901,371.90.

* **Note:** The Contestable Work Capital Cost (as identified in the Contestable T&C) was used as the Transfer Price for the purposes of the Economic Evaluation. The Economic Evaluation performed for the purposes of determining the Actual Line Connection Pool Work Capital Contribution will use the actual Transfer Price.

Actual Engineering and Construction Cost of the Line Connection Pool Work: To be provided 180 days after the Ready for Service Date.

Actual Line Connection Pool Work Capital Contribution: To be provided 180 days after Ready for Service Date.

Capital Contribution Includes the Cost of Capacity Not Needed by the Customer:
Not Applicable

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NETWORK CUSTOMER ALLOCATED WORK

Estimate of the Engineering and Construction Cost of the Network Customer Allocated Work: Not Applicable

Actual Engineering and Construction Cost of the Network Customer Allocated Work: To be provided 180 days after Ready for Service Date.

NETWORK POOL WORK (NON-RECOVERABLE FROM CUSTOMER):

The estimated Engineering and Construction Cost of the Network Pool Work (Non-Recoverable from Customer) is: Not Applicable.

Subject to Sections 10.3 and 18 of the Standard Terms and Conditions, Hydro One will perform this work at its own expense.

WORK CHARGEABLE TO CUSTOMER

Estimate of the Engineering and Construction Cost of the Work Chargeable To Customer: Not Applicable

Actual Engineering and Construction Cost of the Work Chargeable To Customer: Not Applicable

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**MANNER OF PAYMENT OF THE ESTIMATE OF CAPITAL CONTRIBUTIONS
AND WORK CHARGEABLE TO CUSTOMER**

The Customer shall pay Hydro One the estimate of the Transformation Connection Pool Work Capital Contribution, the Estimate of Line Connection Pool Work Capital Contribution, the estimate of the Network Customer Allocated Work Capital Contribution and the estimate of the Engineering and Construction Cost of the Work Chargeable to Customer by making the progress payments specified below on or before the Payment Milestone Date specified below. Hydro One will invoice the Customer for each progress payment 30 days prior to the Payment Milestone Date.

Payment Milestone Date	Transformation Pool Work Capital Contribution	Line Pool Work Capital Contribution	Network Customer Allocated Work Capital Contribution	Work Chargeable To Customer	Total Payment Required
Execution Date	\$0	\$300,000.00 plus HST in the amount of \$39,000.00	\$0	\$0	\$300,000.00 plus HST in the amount of \$39,000.00
February 29, 2012	\$0	\$300,000.00 plus HST in the amount of \$39,000.00	\$0	\$0	\$300,000.00 plus HST in the amount of \$39,000.00
April 30, 2012	\$0	\$313,000.00 plus HST in the amount of \$40,690.00	\$0	\$0	\$313,000.00 plus HST in the amount of \$40,690.00
Transfer Date (Contestable Work)	\$0	\$6,020,630.00 plus HST in the amount of \$782,681.90*	\$0	\$0	\$6,020,630.00 plus HST in the amount of \$782,681.90

***NOTE:**

The Contestable Work Capital Cost (as identified in the Contestable T&C) was used as the Transfer Price for the purposes of the Economic Evaluation to determine the Estimate of Line Connection Pool Work Capital Contribution. The Economic Evaluation performed for the purposes of determining the Actual Line Connection Pool Work Capital Contribution will use the actual Transfer Price.

**CONNECTION AND COST RECOVERY
AGREEMENT (CCRA) – LOAD**

**TRANSFORMATION CONNECTION REVENUE REQUIREMENTS
AND LOAD FORECAST AT THE NEW OR MODIFIED CONNECTION FACILITIES**

Not Applicable

**LINE CONNECTION REVENUE REQUIREMENTS
AND LOAD FORECAST AT THE NEW OR MODIFIED CONNECTION FACILITIES**

Annual Period Ending On:	New Load** - (MW)	Part of New Load Exceeding Normal Capacity of Existing Load Facilities [C]	Adjusted Load Forecast (MW) [D]
1 st Anniversary of In Service Date	33.3		33.3
2 nd Anniversary of In Service Date	33.5		33.5
3 rd Anniversary of In Service Date	32.1		32.1
4 th Anniversary of In Service Date	29.4		29.4
5 th Anniversary of In Service Date	29.1		29.1
6 th Anniversary of In Service Date	29.0		29.0
7 th Anniversary of In Service Date	29.0		29.0
8 th Anniversary of In Service Date	28.9		28.9
9 th Anniversary of In Service Date	28.9		28.9
10 th Anniversary of In Service Date	28.8		28.8
11 th Anniversary of In Service Date	28.7		28.7
12 th Anniversary of In Service Date	28.7		28.7
13 th Anniversary of In Service Date	28.6		28.6
14 th Anniversary of In Service Date	28.6		28.6
15 th Anniversary of In Service Date	28.5		28.5

**NETWORK REVENUE REQUIREMENTS AND LOAD FORECAST
AT THE NEW OR MODIFIED CONNECTION FACILITIES**

Not Applicable

** New Load based on Customer’s Load Forecast which includes Part of New Load Exceeding Normal Capacity of Existing Load Facilities. “Overload” derived in accordance with Section 6.7.9 of the Transmission System Code and the OEB-Approved Connection Procedures. Any Customer load below the Normal Capacity of the Existing Load Facilities transferred to the New or Modified Facilities will not be credited towards the Transformation Connection Revenue Requirements, Line Connection Revenue Requirements or the Network Connection Revenue Requirements. The discounted cash flow calculation for Network Revenue requirements will be based on Incremental Network Load which is New Load less the amount of load, if any, that has been by-passed by the Customer at any of Hydro One’s connection facilities.

PART A: CONDITIONS PRECEDENT**1. Technical Requirements**

- 1.1 The Customer shall ensure that the Contestable Work Project complies with, and the Contestable Work Assets are constructed in accordance with, Hydro One's requirements, conceptual design, technical standards and specifications, including, but not limited to Hydro One Networks Inc. Technical Requirements for the Design, Supply and Installation of 115 kV Transmission Line Connection to Hydro One Network's Facilities in Ontario R1-2010, and Hydro One Networks Inc. Functional Requirements for 115 kV Goldcorp Line (AR# 19427) January 10 2011 and all requirements, drawings and specifications referred to therein (collectively, the "Technical Standards").
- 1.2 The Customer shall comply with all Applicable Laws pertaining to the Contestable Work Project. Without limiting the generality of the foregoing, the Customer shall strictly conform to all safety requirements, including those legislated or regulated under the Occupational Health and Safety Act (Ontario).
- 1.3 The Customer will not proceed with any plans or changes which could conflict with the Customer's obligation set forth in Section 1.1 above that may affect the Contestable Work Assets without obtaining Hydro One's prior written approval.
- 1.4 **Review of Design, Drawings & Inspection by Hydro One:**
 - (a) Hydro One reserves the right to review the Customer's engineering design and drawings prior to construction. The extent of engineering design and drawings required for review will be determined at a later date.
 - (b) The review does not relieve the Customer from responsibility for errors or omissions in the design documents or from any obligation or liability under these Terms and Conditions for Contestable Work.
 - (c) Hydro One reserves the right to inspect the Contestable Work Assets at any time to ensure compliance with Hydro One's requirements. Furthermore, Hydro One may perform a final inspection and verification test of the Transferable Assets prior to Transfer, the results of which shall be to Hydro One's satisfaction prior to Transfer.
 - (d) Notwithstanding the performance by Hydro One of any reviews or inspections, Hydro One shall not have any legal responsibility or any liability for the accuracy, adequacy, or completeness of the design and construction of the Contestable Work Assets.
- 1.5 The Customer will, at its sole expense, conduct such work as may be required by Hydro One, acting reasonably, to correct to Hydro One's satisfaction, acting reasonably, any deficiencies identified by Hydro One, in writing, prior to Transfer. All deficiencies identified by Hydro One shall include the reference to the Technical Standards or the Applicable Law to which such deficiency relates.
- 1.6 The Customer, on its own behalf and on behalf of Hydro One, shall be responsible for obtaining, from the manufacturer, warranties for a period of two (2) years from the Transfer Date for all equipment that comprises the Contestable Work Assets. The Customer will ensure that all such warranties are transferred to Hydro One with effect on the Transfer Date.

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2. Land Rights

- 2.1 The Customer shall deliver to Hydro One legal, binding and registrable easements from all legal and beneficial owners of lands traversed by the Contestable Work Assets and/or land use permits for Crown lands traversed by the Contestable Work Assets, satisfactory to and in favour of Hydro One. The transfer of Easement and all ancillary documents necessary to register same on title shall be prepared by and at the expense of the Customer and shall be substantially in the form as the Easement. The Customer shall register the Easement on title to the lands, and Hydro One hereby covenants and agrees to execute such other instruments, plans and documents as may reasonably be required by the Customer to effect registration on the Transfer Date. This obligation shall survive the Transfer.
- 2.2 Nothing in these Terms and Conditions for Contestable Work shall be deemed to authorize the Customer to act as agent for Hydro One in connection with any amendment or alteration to the terms and conditions of the Easement Document unless the prior written authorization for such alterations or amendments has been granted by Hydro One.

PART B: HYDRO ONE CONTESTABLE WORK AND HYDRO ONE'S FEES

- 3.1 Hydro One shall perform the Hydro One Contestable Work 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 Code, and using duly qualified and experienced people.
- 3.2 Hydro One's responsibilities under these Contestable Work Terms and Conditions with respect to the Contestable Work Project shall be limited to the performance of the Hydro One Contestable Work.
- 3.3 The Customer shall pay Hydro One's cost of Hydro One performing the Hydro One Contestable Work in accordance with the invoices issued by Hydro One. Subsection 6.6.2(d) of the Transmission System Code provides that the Customer is required to pay OEB-approved fees for inspection, testing and commissioning by Hydro One (the "**Board Approved Fees**"). Once Hydro One has Board Approved Fees, if the amounts paid by the Customer specifically for inspection, testing and commissioning by Hydro One:
- (i) exceeds the Board Approved Fees, Hydro One shall refund the difference between the cost paid by the Customer specifically for inspection, testing and commissioning by Hydro One and the Board Approved Fees to the Customer (plus applicable taxes); or
 - (ii) are less than the Board Approved Fees, the Customer shall pay the difference between the cost paid by the Customer specifically for inspection, testing and commissioning by Hydro One and the Board Approved Fees to Hydro One (plus applicable taxes) in accordance with the invoice issued by Hydro One.

PART C: TERMS OF TRANSFER

4. **Purchase of Contestable Work Assets.** Upon the conditions precedent in Part A hereof being satisfied, the Customer will Transfer the Contestable Work Assets to Hydro One on the terms set forth in this Part C.

TERMS AND CONDITIONS FOR CONTESTABLE WORK

5. Contestable Work Project Cost Information and Transfer Price

- 5.1 By no later than fifteen (15) days prior to the Transfer Date, the Customer shall provide Hydro One with a breakdown of the cost of the Contestable Work Project in a form acceptable to Hydro One, acting reasonably, together with copies of all documents related to the Contestable Work Project including, but not limited to, all invoices, purchase orders and contracts (including, but not limited to fixed price contracts) related to the design and construction of the Contestable Work Assets and the procurement of transmission line equipment.
- 5.2 Hydro One shall pay the Customer the Transfer Price on the Transfer Date. The Transfer Price will be the lesser of the Customer's cost of the Contestable Work Project identified by the Customer in accordance with Section 5.1 above and the Contestable Work Capital Cost which is identified in Attachment 1 hereto which Hydro One represents to the Customer was prepared in accordance with Good Utility Practice and industry standards. Any revisions required to be made to the Contestable Work Capital Cost as a result of changes to the Customer's plans or to obtain additional design work to enhance the Contestable Work Capital Cost will be provided at cost by Hydro One.
- 5.3 Notwithstanding any other term to the contrary in this Agreement, in addition to the Transfer Price payable by Hydro One to the Customer for and in respect of the Contestable Work Assets, Hydro One shall be liable for and shall pay to the Customer on the Transfer Date any applicable Taxes owing on the Transfer of the Contestable Work Assets.
- 5.4 The Customer acknowledges and agrees that notwithstanding any term to the contrary in the Agreement and provided that the Contestable Work Assets are transferred to Hydro One, the Pool Funded Cost of the Line Connection Pool Work shall also include the Transfer Price and the present value of the projected on-going maintenance and other related incremental costs (including, but not limited to applicable taxes, and net of tax benefits) of the Contestable Work Assets, calculated in accordance with the principles, criteria and methodology set out in Appendices 4 and 5 of the *Transmission System Code*. The final Capital Contribution payable by the Customer for the Line Connection Pool Work will use the actual Transfer Price paid by Hydro One for the Contestable Work Assets.
- 5.5 On the Transfer Date:
- (a) Hydro One shall deliver to the Customer:
 - (i) the Transfer Price; and
 - (ii) an executed counterpart of the General Conveyance and Bill of Sale substantially in the form of the General Conveyance and Bill of Sale attached hereto as Attachment 2; and
 - (iii) a new revised Schedule "B" using the actual Transfer Price as a component of the Line Connection Pool Work and identifying a revised Capital Contribution required to be paid by the Customer.
 - (b) the Customer shall deliver to Hydro One:
 - (i) following receipt of the Transfer Price, an executed counterpart of the General

TERMS AND CONDITIONS FOR CONTESTABLE WORK

Conveyance and Bill of Sale substantially in the form of the General Conveyance and Bill of Sale attached hereto as Attachment 2;

- (ii) evidence of registration of the Contestable Assets Easements;
- (iii) any other documentation, including, but not limited to releases executed by third parties required by Hydro One to ensure that the assets are transferred free and clear of all mortgages, liens, demands, charges, pledges, adverse claims, rights, title, retention agreements, security interests, or other encumbrances of any nature and kind whatsoever; and
- (iv) the documentation described in Section 12.

6. **Audit.**

- 6.1 The Customer shall maintain complete and accurate records for the Contestable Work Project for a period of at least seven (7) years. The records must be able to substantiate the Customer's cost of the Contestable Work Project. The Customer shall file the records with the OEB or provide such records to an OEB inspector at the written request of Hydro One where Hydro One, in its sole discretion, determines that such records are necessary:
- (a) as part of any application brought under Section 86 of the Electricity Act by the Customer to permit the Transfer of the Contestable Work Assets to Hydro One;
 - (b) as part of any OEB hearing or process related to the Contestable Work Assets in particular or related to the transfer of contestable work assets to Hydro One in general; or
 - (c) as part of an inspection related to the Contestable Work Assets in particular or an inspection related to the transfer of contestable work assets by load customers to Hydro One in general.

Hydro One acknowledges that the Customer may request that the OEB hold the record in confidence in accordance with the OEB's "Guidelines for the Treatment of Filings made in Confidence – Phase 1" (effective March 19, 2001), as it may be amended or replaced from time to time by the OEB.

7. Prior to the Transfer, the Customer shall obtain all consents, approvals, orders and authorizations of any persons or governmental authorities in Canada or elsewhere (or registrations, declarations, filings or records with any authorities) including, without limitation, all registrations, recordings and filings with public authorities as may be required in connection with the Transfer and all clearance certificates required pursuant to any applicable retail sales tax legislation.
8. The Customer shall deliver to Hydro One all necessary deeds, conveyances, bills of sale, assurances, transfers, assignments and consents, and any other documents necessary or reasonably required to effectively Transfer the Contestable Work Assets and the Contestable Work Easements to Hydro One on the Transfer Date such that Hydro One purchases the Contestable Work Assets on the Transfer Date:

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- (a) with good and marketable title, free and clear of all mortgages, liens, demands, charges, pledges, adverse claims, rights, title, retention agreements, security interests, or other encumbrances of any nature and kind whatsoever; and
 - (b) free and clear of any work orders, non-compliance orders, deficiency notices or other such notices relative to the Contestable Work Assets or any part thereof which have been issued by any regulatory authority, police or fire department, sanitation, environment, labour, health or other governmental authorities or agencies.
9. The Customer shall deliver to Hydro One at the time of Transfer on the Transfer Date, a certificate from a senior officer of the Customer confirming to the best of his/her knowledge, information and belief after due inquiries, the truth and correctness in all material respects as of the Transfer Date of the following representations and warranties:
- (i) Immediately prior to the Transfer thereof, the Customer is the sole owner of the Contestable Work Assets;
 - (ii) Other than any land use permits for Crown lands traversed by the Contestable Work Assets, the Contestable Work Easements delivered in favour of Hydro One under Section 2.1 are all the land rights and/or easements required in respect of the Contestable Work Assets and have been executed by all necessary and proper parties in compliance with all Applicable Laws;
 - (iii) all warranties associated with the transmission line equipment have been transferred to Hydro One with effect as of the Transfer Date;
 - (iv) the warranties, covenants and agreements of the Customer in these Terms and Conditions for Contestable Work are valid and binding obligations on the Customer;
 - (v) all deficiencies identified by Hydro One in accordance with Section 1.5 above, have been remedied;
 - (vi) the Contestable Work Project has been performed in accordance with, and meets the requirements of the Technical Standard and these Terms and Conditions for Contestable Work and the Contestable Work Assets continue to conform to the Technical Standards;
 - (vii) the Contestable Work Assets, except for the transmission line equipment are free from defect, errors and omissions in design, engineering, materials, construction and workmanship;
 - (viii) the Contestable Work Assets are free and clear of all mortgages, liens, demands, charges, pledges, adverse claims, rights, title, retention agreements, security interests, or other encumbrances of any nature and kind whatsoever;
 - (ix) the Contestable Work Assets are free and clear of any work orders, non-compliance orders, deficiency notices or other such notices relative to the Contestable Work Assets or any part thereof which have been issued by any regulatory authority, police or fire department, sanitation, environment, labour, health or other governmental authorities or agencies;

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- (x) there are no matters under discussion with any regulatory authority, police or fire department, sanitation, environment, labour, health or other governmental authorities or agencies relating to work orders, non-compliance orders, deficiency notices or other such notices pertaining to all or any part of the Contestable Work Assets; and
 - (xi) the transmission line and transmission station equipment purchased by the Customer or its subcontractors for the Contestable Work Project are new and in accordance with these Terms and Conditions for Contestable Work and the Technical Standards.
10. The Customer shall correct any deficient work identified in writing by Hydro One within two (2) years of the Transfer Date. Notwithstanding the foregoing, the warranty period for any deficient work that has been corrected by the Customer shall recommence for a further period of two (2) years.

The Customer shall not be liable for warranty under this Section 10 to the extent that:

- (i) the deficiency is caused by normal wear and tear or by Hydro One's failure to use and maintain the Contestable Work Assets in accordance with Good Utility Practice and all Applicable Laws; or
- (ii) Hydro One is able to recoup monies or replacement equipment under a manufacturer's warranty that was transferred to Hydro One by the Customer using commercially reasonable efforts.

The Customer acknowledges and agrees that Hydro One shall have the right to perform a detailed helicopter inspection of the Contestable Work Assets at the Customer's expense prior to the expiry of the two (2) year period referenced above. The Customer shall pay Hydro One its' actual Engineering and Construction Cost of performing the inspection by no later than 30 days following receipt of Hydro One's invoice therefor.

11. Indemnities and Limitation of Liability

11.1 Notwithstanding Part III of the Connection Agreement which is incorporated into the Connection and Cost Recovery Agreement of which these Contestable Work Terms and Conditions form a part, the Customer shall indemnify and save harmless Hydro One and its successors and assigns, their directors, officers, employees, representatives and agents (the "Indemnitees") from and against all loss, damage or injury to property or persons (including loss of life) and all actions, causes of action, proceedings, suits, claims, demands, losses, damages, penalties, fines, costs, expenses, obligations and liabilities in connection therewith suffered or incurred by any of the Indemnitees arising out of, resulting from, connected with or attributable to:

- (i) a breach by the Customer or its contractors, sub-contractors or agents of any Environmental Law(s) arising out of any act or omission in the performance or purported performance of the Contestable Work Project prior to the Transfer Date;
- (ii) a release or discharge of any Hazardous Substance(s) related to the Contestable Work Assets caused by the Customer or its contractors, sub-contractors or agents prior to the Transfer Date and contamination of the property over which the Contestable Work Assets are located as a result of such release or discharge;

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- (iii) any leaching, migration or seepage onto, across or into the property or premises of any person at any time of any Hazardous Substances caused by the Customer or its contractors, sub-contractors or agents prior to the Transfer Date that is present on, at or under any of the property over which the Contestable Work Assets are located;
- (iv) any fines or Remedial Order(s) of any kind that may be levied or made pursuant to any Environmental Law(s) attributable to a breach by the Customer or its contractors, sub-contractors or agents of any Environmental Law(s) arising out of any act or omission in the performance or purported performance of the Contestable Work Project prior to the Transfer Date;
- (v) a breach of a provision of these Contestable Work Terms and Conditions; and/or
- (vi) non-compliance with or any liability arising out of the provisions of the Bulk Sales Act,

except the Customer shall not indemnify Hydro One in accordance with this Section 11.1 if:

- (a) the contamination or release or discharge of Hazardous Substance(s) is caused by the negligence of Hydro One, and then only to the extent of such negligence; or
- (b) it is satisfactorily shown by the Customer that the Hazardous Substances were not present on or prior to the Transfer Date.

11.2 Notwithstanding Part III of the Connection Agreement which is incorporated into the Connection and Cost Recovery Agreement of which these Contestable Work Terms and Conditions form a part, Hydro One shall indemnify and save harmless the Customer and its successors, its directors, officers, employees, representatives and agents from and against all loss, damage or injury to property or persons (including loss of life) and all actions, causes of action, proceedings, suits, claims, demands, losses, damages, penalties, fines, costs, expenses, obligations and liabilities suffered or incurred by the Customer arising out of, resulting from, connected with or attributable to:

- (a) a breach by Hydro One of a provision of these Terms and Conditions for Contestable Work; and/or
- (b) any circumstance, occurrence, activity, events or state of affairs related to or in any way connected with the Contestable Work Assets on and after the Transfer Date save and except for any circumstance, occurrence, activity, events or state of affairs where the Customer has obligations to Hydro One hereunder that may have to be fulfilled after the Transfer Date, including, but not limited to the obligations in Section 10 hereof.

11.3 It is understood and agreed between the Parties that Hydro One is not assuming and shall not be liable or responsible for any and all liabilities, debts or obligations and demands, direct or indirect, absolute or contingent, of the Customer, whether or not related to, attributable to or in any way connected with the Contestable Work Assets. The Customer shall pay, satisfy, assume, discharge, observe, perform, fulfil, release, and indemnify and save harmless Hydro One and its successors, its directors, officers, employees, representatives and agents from and against such liabilities, debts and obligations and all costs, expenses, debts, demands, proceedings, suits, actions, losses or claims in connection therewith.

Notwithstanding the foregoing, but subject to those obligations and liabilities that the Customer has expressly agreed to perform after the Transfer Date under this Agreement, Hydro One

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hereby acknowledges and agrees that, on and effective as of the completion of the Transfer of the Contestable Work Assets from the Customer to Hydro One, Hydro One shall assume, accept, be bound by and liable and responsible for, and shall undertake to discharge and perform and fulfill all obligations and liabilities, direct or indirect, absolute or contingent, relating to, arising out of or in any way connected with the Contestable Work Assets that arise from and after the Transfer Date and shall be responsible for operating and maintaining Contestable Work Assets from and after the Transfer Date in accordance with the requirements of the Transmissions System Code, all Applicable Laws and any connection agreement which references or includes the Contestable Work Assets.

12. At least sixty (60) days prior to the Transfer Date, the Customer shall deliver to Hydro One all documents (or copies thereof) and other data, technical or otherwise, regardless of format, which relate directly to the Contestable Work Assets and which are necessary or convenient for the ownership, operation or maintenance of the Contestable Work Assets, including, but not limited to the documentation referenced in the Technical Standards and as constructed global positioning system coordinates for each structure forming part of the Contestable Work Assets in accordance with North America Datum (NAD) 83 decimal degrees with an accuracy of +/- 3 meters 99.9% of the time. Notwithstanding the foregoing, the Customer shall not be required to deliver the "as built" documentation described in the Technical Standards on the Transfer Date but shall deliver same on the dates specified therein. The obligation to deliver the "as built" documentation described in the Technical Standards shall survive the Transfer.
13. **Survival.** All representations, warranties, covenants and agreements contained in these Terms and Conditions for Contestable Work on the part of each of the parties shall survive the Transfer, and the execution and delivery of any Contestable Work Easements, the Bill of Sale, assignments or other instruments of transfer of title to the Contestable Work Assets and the payment of the Purchase Price.

Notwithstanding the foregoing and provided that the any defect involved is not a latent defect, the representations and warranties listed in Section 9 (v), (vi) and (vii) to be in the Certificate to be delivered in accordance with Section 9 shall only survive for a period of two (2) years following the Transfer Date.

14. The Customer shall only use the information provided to the Customer by Hydro One under these terms and conditions (the "**Hydro One Information**"), including but not limited to the Technical Standards, for the purposes of the Contestable Work Project and for no other purpose. The Customer acknowledges and agrees that all rights, title and interests, including copyright ownership, to all information and material of any kind whatsoever that may be provided to the Customer by Hydro One shall remain the property of Hydro One.

The Customer shall not do any act that may compromise or diminish Hydro One's interest as aforesaid.

Except in the case of officers, directors or employees of the Customer, the Customer may only disclose to third parties where the Customer has an agreement in place with those third parties sufficient to obligate them to treat the Hydro One Information in accordance with this Section 14. The Customer hereby specifically acknowledges that it shall be solely responsible to ensure that third parties to whom it provides Hydro One Information comply with this Section 14 and that the Customer shall defend, indemnify and hold harmless the disclosing party from and against all

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suits, actions, damages, claims and costs arising out of any breach of this Section 14 by the Customer or any third parties to whom it provides Hydro One Information.

The Customer agrees that Hydro One would be irreparably injured by a breach of this Section 14 and that Hydro One shall be entitled to equitable relief, including a restraining order, injunctive relief, specific performance and/or other relief as may be granted by any court to prevent breaches of this Section 14 and to enforce specifically the terms and provisions hereof in any action instituted in any court having subject matter jurisdiction, in addition to any other remedy to which Hydro One may be entitled at law or in equity in the event of any breach of the provisions hereof. Such remedies shall not be deemed to be the exclusive remedies for a breach of this agreement but shall be in addition to all other remedies available at law or equity.

15. Capitalized words used in these Terms and Conditions for Contestable Work shall have the meaning ascribed to such terms in Appendix "A" of the Standard Terms and Conditions for Load Customer Transmission Customer Connection Projects V3 9-2007. The following definitions used in these Terms and Conditions for Contestable Work shall have the following meanings:

"Contestable Work Assets" means the assets described in Attachment 1 of these Terms and Conditions for Contestable Work.

"Contestable Work Capital Cost" means Hydro One's reasonable capital cost of performing the Contestable Work Project provided to the Customer in accordance with and in the manner prescribed by Subsection 6.6.2(b)(iii) of the Transmission System Code and is set out in Attachment 1 of these Terms and Conditions for Contestable Work.

"Contestable Work Easements" means good, valid, legally binding rights in the nature of easements in perpetuity, running with the land to which they relate, in favour of Hydro One and registered on title to all the lands traversed by the Contestable Work Assets for the purpose of operating, maintaining, repairing and replacing the Contestable Work Assets as required from time to time, and substantially in the form of the Easement Document.

"Contestable Work Project" means the design and construction of the Contestable Work Assets in accordance with the requirements of these Terms and Conditions for Contestable Work.

"Easement Document" means the form of Easement attached as Appendix "B" of the Standard Terms and Conditions for Load Customer Transmission Customer Connection Projects V3 9-2007.

"Environmental Law(s)" means all applicable federal, provincial and local laws, by-laws, rules, regulations, guidelines, codes and judgments relating to the protection of the environment and public health and safety and without restricting the generality of the foregoing, includes without limitation those Environmental Law(s) relating to the storage, transportation, treatment and disposal of Hazardous Substances, employee and product safety and the emission, discharge, release or threatened release of Hazardous Substances into the air, surface water, ground water, land surface, subsurface strata or any building or structure and, in each such case, as such Environmental Law(s) may be amended or supplemented from time to time.

"Hazardous Substance(s)" means any contaminant, pollutant or hazardous substance that is likely to cause immediately, or at some future time, harm or degradation to the environment or

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risk to human health or safety, and without restricting the generality of the foregoing, includes without limitation any pollutant, contaminant, waste, hazardous waste, PCBs, toxic substance or dangerous goods which is defined or identified in any federal or provincial statute, codes or regulations or which is present in the environment in such quantity or state that it contravenes any Environmental Law.

“Hydro One Contestable Work” means the work to be performed by Hydro One related to the Contestable Work Project which is described in Attachment 1 of these Terms and Conditions for Contestable Work.

“Successful Commissioning” means the date that is later of the: (a) Ready for Service Date; and (b) the date that both of the following have occurred: (i) the Contestable Work Assets have been finally connected to Hydro One’s transmission system and (ii) the Customer has remedied to Hydro One’s satisfaction all defects identified by Hydro One.

“Transfer” means the transfer of legal title to the Contestable Work Assets on the Transfer Date in accordance with the these Terms and Conditions for Contestable Work.

“Transfer Date” means the date mutually agreed by Hydro One and the Customer that is not more than ten (10) Business Days following Successful Commissioning.

“Transfer Price” means the actual price paid by Hydro One for the Contestable Work Assets in accordance with Section 5.2 of these Terms and Conditions for Contestable Work.

16. Sections 1, 21 and 30 and Parts J and M of the Standard Terms and Conditions for Load Customer Transmission Customer Connection Projects V3 9-2007 shall also apply to the Contestable Work Project as if they were part of these Terms and Conditions for Contestable Work mutatis mutandis.
17. If there is a conflict between a term of these Terms and Conditions for Contestable Work and the Standard Terms and Conditions for Load Customer Transmission Customer Connection Projects V3 9-2007 , these Terms and Conditions for Contestable Work will govern with respect to the Contestable Work Project.

TERMS AND CONDITIONS FOR CONTESTABLE WORK

Attachment 1

Contestable Work Assets: New 10.65 km, 115 kV transmission line between customer owned Balmer CST and Hydro One tap point on E2R line at Harry's corner.

Contestable Work Capital Cost: 7,258,000.00 plus HST in the amount of \$943,540.00

Hydro One Contestable Work:

Hydro One will:

- inspect the Contestable Work Assets during construction from time to time;
- perform design reviews and reviews of equipment specifications at Hydro One's discretion;
- inspect and witness the commissioning of the Contestable Work Assets; and
- perform the administrative work necessary to incorporate the Contestable Work Assets into Hydro One's business databases.

TERMS AND CONDITIONS FOR CONTESTABLE WORK

Attachment 2: FORM OF GENERAL CONVEYANCE AND BILL OF SALE

THIS GENERAL CONVEYANCE AND BILL OF SALE dated as of the _____ day of _____, 20____ between Goldcorp Inc., a company conducting business in Ontario (“**Transferor**”) and HYDRO ONE NETWORKS INC., a company conducting business in Ontario (“**Transferee**”).

In consideration of payment of the sum of \$_____ plus HST of \$_____ and where applicable, Provincial Sales Tax of \$_____ in Canadian funds by the Transferee to the Transferor, the parties agree as follows:

1. The Transferor does hereby grant, sell convey, assign, transfer and set over unto Transferee, its successors and assigns, all of the Transferor's right, title and interest in the Assets described in Attachment 1 (the “**Assets**”).
2. The Transferee hereby acquires and accepts all the right, title and interest of Transferor in and to the Assets.
3. The Transferor represents and warrants to the Transferee that it has the authority to convey its right, title and interest in the Assets to the Transferee.
4. The Transferee shall immediately upon the execution and delivery of this Bill of Sale by both parties, have possession of and may from time to time and at all times hereafter peaceably and quietly have, hold possess and enjoy the Assets and every part thereof to and for its own use and benefit:
 - (a) with good and marketable title, free and clear of all mortgages, liens, demands, charges, pledges, adverse claims, rights, title, retention agreements, security interests, or other encumbrances of any nature and kind whatsoever; and
 - (b) free and clear of any work orders, non-compliance orders, deficiency notices or other such notices relative to the Assets or any part thereof which have been issued by any regulatory authority, police or fire department, sanitation, environment, labour, health or other governmental authorities or agencies.
5. The parties agree that all covenants and agreements contained in the Connection and Cost Recovery Agreement dated the _____ day of _____, 20____ to be performed after the date first written above and all representations and warranties, including those set out in the certificate from the senior officer of the Transferor delivered to Hydro One in accordance with Section 9 of the Terms and Conditions for Contestable Work forming part of the Connection and Cost Recovery Agreement will survive the grant, sale, conveyance, assignment and transfer of the Assets and the execution and delivery of this General Conveyance and Bill of Sale (the “**Bill of Sale**”) in accordance with the terms of the Connection and Cost Recovery Agreement and will not merger therewith.
6. **Entire Agreement.** This Bill of Sale constitutes the entire agreement between the Transferor and the Transferee with the exception of the Connection and Cost Recovery Agreement referenced in Section 5 above with respect to the matters herein and supersedes all prior oral or written representations and agreements.
7. **Further Assurances.** Each of the Transferor and the Transferee will from time to time execute and deliver all such further documents and instruments and do all acts and things as any other

TERMS AND CONDITIONS FOR CONTESTABLE WORK

party may, reasonably require to effectively carry out or better evidence or perfect the full intent and meaning of this Bill of Sale.

8. **Applicable Law.** This Bill of Sale shall be construed, interpreted and enforced in accordance with, and the respective rights and obligations of the parties shall be governed by, the laws of the Province of Ontario and the federal laws of Canada applicable therein, and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of such province and all courts competent to hear appeals therefrom.
9. **Successors and Assigns.** This Bill of Sale shall enure to the benefit of and shall be binding on and enforceable by the Parties and their respective successors and assigns.
10. **Severability.** If any provisions of this Bill of Sale is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such determination shall not impair or affect any other provisions of this Bill of Sale which are hereby declared to be separate, severable and distinct.
11. **Corporate Authority.** Each of the Transferee and the Transferor represents and warrants that the conveyance of the Assets and the execution and delivery of this General Conveyance and Bill of Sale Agreement have been duly authorized by it and are within its corporate powers.
12. **Entire Agreement; Survival of Terms.** Attachment 1 forms part of this Bill of Sale. the Transferee and the Transferor agree that all provisions of this General Conveyance and Bill of Sale Agreement shall forever survive the execution and delivery hereof and the conveyance of the Assets and not merge on transfer of the Assets.
13. **Counterpart Agreement; Signatures.** This Bill of Sale may be executed in one or more counterparts, each of which will be deemed to be an original copy of this agreement and all of which, when taken together, will be deemed to constitute one and the same instrument. Signed versions of this Bill of Sale delivered by facsimile or other electronic means shall be deemed binding and enforceable for all purposes to the same extent as if delivered in original form.

IN WITNESS WHEREOF, the Transferor and the Transferee have caused this Bill of Sale to be executed by the signature of their proper authorized signatories, as of the day and year first written above.

GOLDCORP INC.

Name:

Title:

I have the authority to bind the Corporation

HYDRO ONE NETWORKS INC.

Name:

Title: **I have the authority to bind the Corporation**

TERMS AND CONDITIONS FOR CONTESTABLE WORK

Attachment 1 to General Conveyance and Bill of Sale dated as of the day of , 20 .
between Goldcorp Inc. and Hydro One Networks Inc.

Description of Assets

Standard Terms and Conditions for Load Customer Transmission Customer Connection Projects

1. Each party represents and warrants to the other that:
 - (a) it is duly incorporated, formed or registered (as applicable) under the laws of its jurisdiction of incorporation, formation or registration (as applicable);
 - (b) it has all the necessary corporate power, authority and capacity to enter into the Agreement and to perform its obligations hereunder;
 - (c) the execution, delivery and performance of the Agreement by it has been duly authorized by all necessary corporate and/or governmental and/or other organizational action and does not (or would not with the giving of notice, the lapse of time or the happening of any other event or condition) result in a violation, a breach or a default under or give rise to termination, greater rights or increased costs, amendment or cancellation or the acceleration of any obligation under (i) its charter or by-law instruments; (ii) any Material contracts or instruments to which it is bound; or (iii) any laws applicable to it;
 - (d) any individual executing this Agreement, and any document in connection herewith, on its behalf has been duly authorized by it to execute this Agreement and has the full power and authority to bind it;
 - (e) the Agreement constitutes a legal and binding obligation on it, enforceable against it in accordance with its terms;
 - (f) it is registered for purposes of Part IX of the *Excise Tax Act* (Canada). The GST registration number for Hydro One is 87086-5821 RT0001 and the GST registration number for the Customer is as specified in Schedule "A" of the Agreement; and
 - (g) no proceedings have been instituted by or against it with respect to bankruptcy, insolvency, liquidation or dissolution.
- (b) the Customer shall perform the Customer Connection Work, at its own expense;
- (c) except as specifically provided in the Agreement, the Customer is responsible for obtaining any and all permits, certificates, reviews and approvals required under any Applicable Laws with respect to the Customer Connection Work and those required for the construction, Connection and operation of the Customer's Facilities including, but not limited to, where applicable, leave to construct pursuant to Section 92 of the *Ontario Energy Board Act, 1998*;
- (d) the 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 Customer's Facilities;
- (e) the Customer shall provide Hydro One with Project 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 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;
- (f) Hydro One may participate in the commissioning, inspection or testing of the Customer's Connection Facilities at a time that is mutually agreed by Hydro One and the Customer and the Customer shall ensure 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 witnessing and testing to confirm satisfactory performance of such systems;
- (g) unless otherwise provided herein, Hydro One's responsibilities under the Agreement 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 Hydro One Connection Work;
- (h) Hydro One is not permitted to Connect any new, modified or replacement Customer's Facilities unless any 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;
- (i) Hydro One may require that the Customer provide 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

Part A: Hydro One Connection Work and Customer Connection Work

2. The Customer and Hydro One shall perform their respective obligations outlined in the Agreement in a manner consistent with Good Utility Practice and the Transmission System Code, in compliance with all Applicable Laws, and using duly qualified and experienced people.

3. The parties acknowledge and agree that:

(a) Hydro One is responsible for obtaining any and all permits, certificates, reviews and approvals required under any Applicable Laws with respect to the Hydro One Connection Work and those required for the construction, Connection and operation of the New or Modified Connection Facilities;

Laws, including, but not limited to any certificates of inspection that may be required by the Ontario Electrical Safety Authority;

(j) in addition to the Hydro One Connection Work described in Schedule "A", Hydro One shall: provide the Customer with such technical parameters as may be required to assist the Customer in ensuring that the design of the 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; and

(k) if Hydro One requires access to the Customer's Facilities for the purposes of performing the Hydro One Connection Work or the Customer requires access to Hydro One's Facilities for the purposes of the Customer Connection Work, the parties agree 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 the Agreement. All references to "this Agreement" in Section 27.13 shall be deemed to be a reference to the Agreement;

(l) the Customer shall enter into a Connection Agreement with Hydro One or amend its existing Connection Agreement with Hydro One at least 14 calendar days prior to the Connection;

(m) Hydro One shall use commercially reasonable efforts to ensure that any applications required to be filed to obtain any permits or approvals required under Applicable Laws for the Hydro One Connection Work are filed in a timely manner; and

(n) the Customer shall use commercially reasonable efforts to ensure that any applications required to be filed to obtain any permits or approvals required under Applicable Laws for the Customer Connection Work or for the construction, Connection and operation of the Customer's Facilities are filed in a timely manner.

4. The following aspects of the Hydro One Connection Work and Hydro One's rights and requirements hereunder are solely for the purpose of Hydro One ensuring that the Customer Facilities to be connected to Hydro One's transmission system do 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, Hydro One's:

- (i) specifications of the protection equipment on the Customer's side of the Connection Point;
- (ii) 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/or the Customer Connection Work; and
- (iv) participation in the commissioning, inspection or testing of the Customer's Facilities,

The 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 Customer's Facilities.

5. Hydro One shall use commercially reasonable efforts to complete the Hydro One Connection Work by the Ready for Service Date specified in Schedule "A" provided that:

- (a) the Customer is in compliance with its obligations under the Agreement;
- (b) any work required to be performed by third parties has been performed in a timely manner and in a manner to the satisfaction of Hydro One, acting reasonably;
- (c) there are no delays resulting from Hydro One not being able to obtain outages from the IESO required for any portion of the Hydro One Connection Work or from the IESO making changes to the Hydro One Connection Work or the scheduling of all or a portion of the Hydro One Connection Work ;
- (d) Hydro One does not have to use its employees, agents and contractors performing the Hydro One Connection Work or the Network Pool Work elsewhere on its transmission system or distribution system due to an Emergency (as that term is defined in the *Transmission System Code*) or a Force Majeure Event;
- (e) Hydro One is able to obtain the materials and labour required to perform the Hydro One Connection Work with the expenditure of Premium Costs where required;
- (f) where Hydro One needs to obtain leave to construct pursuant to Section 92 of the *Ontario Energy Board Act, 1998*, such leave is obtained on or before the date specified as the Approval Date in Schedule "A" of the Agreement;
- (g) where applicable, Hydro One received the easement described in Section 24 hereof by the Easement Date specified in Schedule "A" of the Agreement;
- (h) Hydro One has received or obtained prior to the dates upon which Hydro One requires any or one or more of the following under Applicable Laws in order to perform all or any part of the Hydro One Connection Work:
 - (i) environmental approvals, permits or certificates;
 - (ii) land use permits from the Crown; and
 - (iii) building permits and site plan approvals;
- (j) Hydro One is able, using commercially reasonable efforts, to obtain all necessary land rights on terms substantially similar to the form of the easement that

is attached hereto as Appendix "B" of these Standard Terms and Conditions for the Project, prior to the dates upon which Hydro One needs to commence construction of the Hydro One Connection Work in order to meet the Ready for Service Date;

- (k) there are no delays resulting from Hydro One being unable to obtain materials or equipment required from suppliers in time to meet the project schedule for any portion of the Hydro One Connection Work provided that such delays are beyond the reasonable control Hydro One; and
- (l) the Customer executed the Agreement on or before the date specified as the Execution Date.

The Customer acknowledges and agrees that the Ready for Service Date may be materially affected by difficulties with obtaining or the inability to obtain all necessary land rights and/or environmental approvals, permits or certificates.

6. Upon completion of the Hydro One Connection Work:

- (a) Hydro One shall own, operate and maintain all equipment specified in Schedule "A" of the Agreement under the heading "Ownership"; and
- (b) other than equipment referred to in (a) above that shall be owned, operated and maintained by Hydro One, all other equipment provided by Hydro One as part of the Hydro One Connection Work or provided by the Customer as part of the Customer Connection Work shall be owned, operated and maintained by the Customer.

The Customer acknowledges that:

- (i) ownership and title to the equipment referred to in (a) above shall throughout the Term and thereafter remain vested in Hydro One and the Customer shall have no right of property therein; and
- (ii) any portion of the equipment referred to in (a) above that is located on the Customer's property shall be and remain the property of Hydro One and shall not be or become fixtures and/or part of the Customer's property.

7. The Customer acknowledges and agrees that Hydro One is not responsible for the provision of power system components on the Customer's Facilities, including, without limitation, all transformation, switching, metering and auxiliary equipment such as protection and control equipment.

All of the power system components on the Customer's side of the Connection Point including, without limitation, all transformation, switching and auxiliary equipment such as protection and control equipment shall be subject to the acceptance of Hydro One with

regard to Hydro One's requirements to permit Connection of the New or Modified Connection Facilities to Hydro One's transmission system, and shall be installed, maintained and operated in accordance with all Applicable Laws, codes and standards, including, but not limited to, the *Transmission System Code*, at the expense of the Customer.

8. Where Hydro One has equipment for automatic reclosing of circuit breakers after an interruption for the purpose of improving the continuity of supply, it shall be the obligation of the Customer to provide adequate protective equipment for the Customer's facilities that might be adversely affected by the operation of such reclosing equipment. The Customer shall provide 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.

9. The Customer shall provide Hydro One with copies of the documentation specified in Schedule "A" of the Agreement under the heading "Documentation Required", acceptable to Hydro One, within 120 calendar days after the Ready for Service Date. The Customer shall ensure that Hydro One may retain this documentation for Hydro One's ongoing planning, system design, and operating review. The Customer shall also maintain and revise such documentation to reflect changes to the Customer's Facilities and provide copies to Hydro One on demand and as specified in the Connection Agreement.

Part B: Transformation Connection Pool Work and/or Line Connection Pool Work and/or Network Customer Allocated Work

10.1 To the extent that the Pool Funded Cost of the Hydro One Connection Work is not recoverable by Transformation Connection Revenue for the Transformation Connection Pool Work and/or Line Connection Revenue for the Line Connection Pool Work and/or Network Revenue for the Network Customer Allocated Work during the Economic Evaluation Period, the Customer agrees to pay Hydro One a Capital Contribution towards the Pool Funded Cost of the Transformation Connection Pool Work and/or a Capital Contribution towards the Pool Funded Cost of the Line Connection Pool Work and/or a Capital Contribution towards the Pool Funded Cost of the Network Customer Allocated Work and any amounts payable to Hydro One under Subsection 12 (a) (i) hereof.

An estimate of the Engineering and Construction Cost (not including Taxes) of the Transformation Connection Pool Work and/or Line Connection Pool Work and/or Network Customer Allocated Work is provided in Schedule "B" of the Agreement.

An estimate of the Capital Contribution for each of the Transformation Connection Pool Work, the Line Connection Pool Work and the Network Customer Allocated Work is specified in Schedule "B" of the Agreement (plus Taxes). The Customer shall pay Hydro One the estimated Capital Contribution(s) in the manner specified in Schedule "B" of the Agreement.

Within 180 calendar days after the Ready for Service Date, Hydro One shall provide the Customer with a new Schedule "B" to replace Schedule "B" of the Agreement attached hereto which shall identify the following:

- (i) the actual Engineering and Construction Cost of the Transformation Connection Pool Work;
- (ii) the actual Engineering and Construction Cost of the Line Connection Pool Work;
- (iii) the actual Engineering and Construction Cost of the Network Customer Allocated Work;
- (iv) the actual Engineering and Construction Cost of the Work Chargeable to Customer;
- (v) the actual Capital Contribution required to be paid by the Customer for each of the Transformation Connection Pool Work, the Line Connection Pool Work and the Network Customer Allocated Work; and
- (vi) the revised Transformation Connection Revenue and/or Line Connection Revenue requirements and/or Network Revenue requirements based on the Load Forecast or the Adjusted Load Forecast, whichever is applicable.

The new Schedule "B" shall be made a part hereof as though it had been originally incorporated into the Agreement.

If an estimate of a Capital Contributions paid by the Customer exceeds the actual Capital Contribution required to be paid by the Customer for any or all of the Transformation Connection Pool Work, the Line Connection Pool Work and the Network Customer Allocated Work, Hydro One shall refund the difference to the Customer (plus Taxes) within 30 days following the issuing of the new Schedule "B". If the estimate of a Capital Contribution paid by the Customer is less than the actual Capital Contributions required to be paid by the Customer for any or all of the Transformation Connection Pool Work, the Line Connection Pool Work and the Network Customer Allocated Work, the Customer shall pay Hydro One the difference (plus Taxes) within 30 days following the issuing of the new Schedule "B".

10.2 Hydro One shall not include the following amounts in the Capital Contributions referenced in Section 10.1, any capital contribution for:

- (a) a Connection Facility that was otherwise planned by Hydro One except for advancement costs;

- (b) capacity added to a Connection Facility in anticipation of future load growth not attributable to the Customer; or
- (c) the construction of or modifications to Hydro One's Network Facilities that may be required to accommodate the New or Modified Connection other than Network Customer Allocated Work unless Hydro One has indicated in Schedule "A" of the Agreement that exceptional circumstances exist so as to reasonably require the Customer to make a Capital Contribution.

10.3 Notwithstanding Sub-section 10.2(c) above, if Hydro One indicates in Schedule "A" of the Agreement that exceptional circumstances exist so as to reasonably require the Customer to make a Capital Contribution towards the Network Pool Work, Hydro One shall not, without the prior written consent of the Customer, refuse to commence or diligently perform the Network Pool Work pending direction from the OEB under section 6.3.5 of the *Transmission System Code* provided that the Customer provides Hydro One with a security deposit in accordance with Section 20 of these Standard Terms and Conditions.

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

10.4 If the Customer has made a Capital Contribution under Section 10.1 hereof and where this Capital Contribution includes the cost of capacity on the Connection Facility not needed by the Customer as indicated in Schedule "B" of the Agreement, Hydro One shall provide the Customer with a refund, calculated in accordance with Section 6.2.25 of the *Transmission System Code* if that capacity is assigned to another Load Customer within five (5) years of the In Service Date.

11. Hydro One shall perform a True-Up, based on Actual Load:

- (a) at the True-Up Points specified in Schedule "A" of the Agreement; and
- (b) the time of disconnection where the Customer voluntarily and permanently disconnects the Customer's Facilities from Hydro One's transmission facilities and the prior to the final True-Up Point identified in (a) above.

For True-Up purposes, if the Customer does not pay a Capital Contribution, Hydro One shall provide the Customer with an Adjusted Load Forecast.

Hydro One shall perform True-Ups in a timely manner. Within 30 calendar days following completion of each of the True-Ups referred to in 11(a), Hydro One shall provide the Customer with the results of the True-Up.

12(a) If the result of a True-Up performed in accordance with Section 11 above is that the Actual Load and Updated Load Forecast is:

- (i) less than the load in the Load Forecast or the Adjusted Load Forecast, whichever is applicable, and therefore does not generate the forecasted Transformation Connection Revenue and/or Line Connection Revenue and/or Network Revenue required for the Economic Evaluation Period, the Customer shall pay Hydro One an amount equal to the shortfall adjusted to reflect the time value of money within 30 days after the date of Hydro One's invoice therefor; and
- (ii) more than the load in the Load Forecast or the Adjusted Load Forecast, whichever is applicable, and therefore generates more than the forecasted Transformation Connection Revenue and/or Line Connection Revenue and/or Network Revenue required for the Economic Evaluation Period, Hydro One shall post the excess Transformation Connection Revenue and/or Line Connection Revenue and/or Network Revenue as a credit to the Customer in a notional account. Hydro One shall apply this credit against any shortfall in subsequent True-Up calculations. Where the Customer paid a Capital Contribution in accordance with Section 10.1 hereof, Hydro One shall rebate the Customer an amount that is the lesser of the credit balance in the notional account adjusted to reflect the time value of money, and the Capital Contribution adjusted to reflect the time value of money by no later than 30 days following the final True-Up calculation.

12(b) All adjustments to reflect the time value of money to be performed under Subsection 12(a) above shall be performed in accordance with the OEB-Approved Connection Procedures. As of the date of this Agreement, the time value of money is determined using Hydro One's after-tax cost of capital as used in the original economic evaluation performed in accordance with the requirements of the *Transmission System Code*.

13.1 With respect to the installation of embedded generation (as determined in accordance with Section 11.1 of the *Transmission System Code*) during the applicable True-Up period Hydro One shall comply with the requirements of Section 6.5.8 of the *Transmission System Code* when carrying out True-Up calculations if the Customer is a Distributor or the requirements of Section 6.5.9 of the *Transmission System Code* when carrying out True-Up calculations if the Customer is a Load Customer other than a Distributor.

13.2 With respect to energy conservation, energy efficiency, load management or renewable energy activities that occurred during the applicable True-Up period Hydro One shall comply with the requirements of Section 6.5.10 of the *Transmission System Code* when carrying out True-Up calculations provided that the Customer demonstrates to the reasonable satisfaction of Hydro One (such as by means of an energy study or audit) that the amount of any reduction in the Customer's load has resulted from energy conservation, energy efficiency, load management or renewable energy activities that occurred during the applicable True-Up period.

14. Hydro One shall provide the Customer with all information pertaining to the calculation of all Engineering and Construction Costs, Capital Contributions and True-Ups that the Customer is entitled to receive in accordance with the requirements of the *Transmission System Code*.

Part C: Work Chargeable to Customer, Network Pool Work and Premium Costs

15.1 The Customer shall pay Hydro One's Engineering and Construction Cost (plus Taxes) of the Hydro One Connection Work described as Work Chargeable to Customer in Schedule "A" of the Agreement which is estimated to be the amounts specified in Schedule "B" of the Agreement in the manner specified in Schedule "B" of the Agreement.

Hydro One shall identify the actual Engineering and Construction Cost of the Work Chargeable to Customer in the revised Schedule "B" provided to the Customer in accordance with Section 10.1 of this Agreement. Any difference between the Engineering and Construction Cost of the Work Chargeable to Customer (plus Taxes) and the amount already paid by the Customer shall be paid within 30 days after the issuance of the revised Schedule "B" by:

- (a) Hydro One to the Customer, if the amount already paid by the Customer exceeds the Engineering and Construction Cost of the Work Chargeable to Customer (plus Taxes); or
- (b) the Customer to Hydro One, if the amount already paid by the Customer is less than the Engineering and Construction Cost of the Work Chargeable to Customer (plus Taxes).

15.2 Subject to Sections 10.3 and 18 hereof, Hydro One shall perform the Hydro One Connection Work described as Network Pool Work in Part 3 of Schedule "A" of the Agreement at Hydro One's sole expense.

16. As the Project is schedule-driven and as the estimated costs specified in Schedule "B" of the

Agreement are based upon normal timelines for delivery of material and performance of work, in addition to the amounts that the Customer is required to pay pursuant to Section 10.1 and 15.1 above, the Customer agrees to pay Hydro One's Premium Costs if the Customer causes or contributes to any delays, including, but not limited to, the Customer failing to execute the Agreement by the Execution Date specified in Schedule "A" of the Agreement.

Hydro One shall obtain the Customer's approval prior to Hydro One authorizing the purchase of materials or the performance of work that attracts Premium Costs. The Customer acknowledges that its failure to approve an expenditure of Premium Costs may result in further delays and Hydro One shall not be liable to the Customer as a result thereof. Hydro One shall invoice the Customer for expenditures of Premium Costs approved by the Customer within 180 calendar days after the Ready for Service Date.

Part D: Right of Customer to By-Pass Existing Load Facilities

17.1 Obligation to Notify Hydro One of Customer's Intent to Bypass an Existing Load Facility: If the Customer chooses to exercise its rights under the *Transmission System Code* and the Agreement to bypass the Existing Load Facility, the Customer shall notify Hydro One, in writing, at least 30 days prior to transferring load from the Existing Load Facility Hydro One will then proceed in accordance with Section 6.7 of the *Transmission System Code*.

17.2 Hydro One has not received a Notice of Customer Intent to Bypass an Existing Load Facility and Customer has Transferred Existing Load: Where Hydro One determines that the Customer has transferred load from the Existing Load Facility without notifying Hydro One or the OEB, Hydro One will notify the Customer, all other load customers served by the connection facility and the OEB of a potential by-pass situation in accordance with the OEB-Approved Connection Procedures. If the Customer does not intend to by-pass the Existing Load Facility, the Customer must in accordance with the OEB-Approved Connection Procedures:

- i. notify Hydro One and the OEB within 30 days of receiving Hydro One's notification of potential by-pass, that it has no intention of bypassing Hydro One's Existing Load Facility;
- ii. transfer the load back to the Existing Load Facility within an agreed time period; and
- iii. compensate Hydro One for the lost revenues.

17.3 The Customer agrees that Sections 17.1 and 17.2 above shall also be a term of the Connection Agreement.

Part E: Cancellation or Termination of Project and Early Termination of Agreement for Breach

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

If the Customer provides written notice to Hydro One that it is cancelling the Project, Hydro One shall have 10 Business Days to provide written notice to the Customer listing the individual items listed as materials which it agrees to purchase. Hydro One shall deduct the actual cost of those individual items of materials being purchased by Hydro One from the Engineering and Construction Costs referred to above.

If Hydro One does not require all or part of the materials, the Customer may exercise any of the following options or a combination thereof:

- (i) where materials have been ordered but all or part of the materials have not been received by Hydro One, the Customer shall have the right to require Hydro One, at the Customer's sole expense, to continue with the purchase of the materials and transfer title to those materials on an "as is, where is basis" to the Customer upon the Customer paying Hydro One's Engineering and Construction Costs (plus Taxes) provided that the Customer exercises this option within 15 Business Days of the termination or cancellation; or
- (ii) where all or part of the materials have been received by Hydro One but have not been installed, the Customer shall have the right to require Hydro One, at the Customer's sole expense, to transfer title to the materials on an "as is, where is basis" to the Customer upon the Customer paying Hydro One's Engineering and Construction Costs (plus Taxes) provided that the Customer exercises this option within 15 Business Days of the termination or cancellation. The Customer shall also be responsible for any warehousing costs associated with the storage of the materials to the date of transfer; or

(iii) where all or part of the materials have been received by Hydro One and have been installed, the Customer shall have the right to require Hydro One, at the Customer's sole expense, to: transfer title to the materials on an "as is, where is basis" to the Customer upon the later of (A) the Customer paying Hydro One's Engineering and Construction Costs (plus Taxes); and (B) the date that Hydro One removes the materials from its property at the risk of the Customer; provided that the Customer exercises this option within 15 Business Days of the termination or cancellation. The Customer shall also be responsible for any Engineering and Construction Costs (plus Taxes) associated with the removal of the materials that have been installed by Hydro One.

The Customer shall pay Hydro One's Engineering and Construction Costs (plus Taxes) which become payable under this Section 18 within 30 calendar days after the date of invoice.

Part F: Sale, Lease, Transfer or Other Disposition of Customer's Facilities

19. In the event that the Customer sells, leases or otherwise transfers or disposes of the Customer's Facilities to a third party during the Term of the Agreement, the Customer shall cause the purchaser, lessee or other third party to whom the Customer's Facilities are transferred or disposed to enter into an assumption agreement with Hydro One to assume all of the Customer's obligations in the Agreement; and notwithstanding such assumption agreement unless Hydro One agrees otherwise, in writing, the Customer shall remain obligated under Sections 10.1, 12, 15.1 and 16 hereof. The Customer further acknowledges and agrees that in the event that all or a portion of the Customer's Facilities are shut down, abandoned or vacated for any period of time during the Term of the Agreement, the Customer shall remain obligated under Sections 10.1, 12, 15.1 and 16 for the said time period.

Part G: Security Requirements

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

- (i) security deposits in the form of cash shall be returned to the Customer, together with interest, less the amount of any Capital Contribution owed by the Customer once the 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 Customer once the 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 and to the extent that the 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.

Part H: Disputes

21. 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.

22. 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.

23. 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.

Part I: Easement

24. If specified in Schedule "A" that an easement(s) is required from the Customer, the Customer shall grant an easement to Hydro One substantially in the form of the easement attached hereto as Appendix "B" of these

Standard Terms and Conditions for the property(ies) described as the Easement Lands in Schedule "A" on or before the date specified as the Easement Date in Schedule "A" (hereinafter referred to as the "Easement") 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.

Part J: Events of Default

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

- (a) failure by the Customer to pay any amount due under the Agreement, including any amount payable pursuant to Sections 10.1, 12, 15.1, 16 or 18 within the time stipulated for payment;
- (b) breach by the Customer or Hydro One of any Material term, condition or covenant of the Agreement; or
- (c) the making of an order or resolution for the winding up of the Customer or Hydro One or of their respective operations or the occurrence of any other dissolution, bankruptcy or reorganization or liquidation proceeding instituted by or against the Customer or Hydro One.

For greater certainty, a dispute shall not be considered an Event of Default under this Agreement. However, a Party's failure to comply, within a reasonable period of time, with the terms of a determination of such a dispute by the OEB or with a decision of a court of competent jurisdiction with respect to a determination made by the OEB shall be considered an Event of Default under the Agreement.

26. Upon the occurrence of an Event of Default by the Customer hereunder (other than those specified in Section 25(c) of the Agreement, for which no notice is required to be given by Hydro One), Hydro One shall give the Customer written notice of the Event of Default and allow the Customer 30 calendar days from the date of receipt of the notice to rectify the Event of Default, at the Customer's sole expense. If such Event of Default is not cured to Hydro One's reasonable satisfaction within the 30 calendar 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 Customer at least 10 calendar days' prior written notice thereof, recover, as liquidated damages and not as a penalty, the following:

- (i) the sum of the amounts payable by the Customer pursuant to Sections 10.1, 12, 15.1 and where applicable, Section 16 less any amounts already paid by the Customer in accordance with Section 10.1, 12,

15.1 and 16 if this clause is invoked after the In-Service Date; or

- (ii) the amounts payable under Section 16 and 18 less any amounts already paid by the Customer in accordance with Sections 10.1, 15.1 and 16 if this clause is invoked prior to the In-Service Date.

27. Upon the occurrence of an Event of Default by Hydro One hereunder (other than those specified in Section 25(c), the Customer shall give Hydro One written notice of the Event of Default and shall allow Hydro One 30 calendar 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 Customer's reasonable satisfaction within the 30 calendar day period, the Customer may pursue any remedies available to it at law or in equity, including at its option the termination of the Agreement.

28. All rights and remedies of Hydro One and the 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 Customer respectively at law or in equity, and any one or more of Hydro One's and the 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 Customer may have or may not 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.

Part K: Changes to Transmission Rates

29. In the event that the Transformation Connection Service Rate, the Line Connection Service Rate or the Network Service Rate is rescinded or the methodology of determination or components is materially changed, the Parties agree to negotiate a new mechanism for the purposes of the Agreement, provided that such new mechanism will not result in an increase in the amounts of Capital Contribution or Security Deposits payable by the Customer to Hydro One hereunder. The Parties shall have 90 calendar days from the effective date of rescission or fundamental change of the Transformation Connection Service Rate, the Line Connection Service Rate or the Network Service Rate to agree to a new mechanism that is, to the extent possible, fair to the parties and constitutes a reasonably comparable replacement for the Transformation Connection Service Rate, the Line Connection Service Rate or the Network Service Rate. If the Parties are unable to successfully negotiate a replacement within that 90 calendar day period, this shall be considered a dispute under the terms

of this Agreement and the parties shall follow the dispute resolution procedure set out in the OEB-Approved Connection Procedures.

Any settlement on a new mechanism pursuant to this Section 29 shall apply retroactively from the date on which the Transformation Connection Service Rate, the Line Connection Service Rate or the Network Service Rate was rescinded or fundamentally changed. Until such time as a new mechanism is determined hereunder, any amounts to be paid by the Customer under the Agreement shall be based on the Transformation Connection Service Rate, the Line Connection Service Rate or the Network Service Rate in effect prior to the effective date of any such changes.

Part L: Incorporation of Liability and Force Majeure Provisions

30. 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 the Agreement. 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 the Agreement and all references to the "the Transmitter" shall be deemed to be a reference to Hydro One.

For the purposes of this Section 30, the Parties agree that the reference to:

- (i) the Transmitter in lines 3 and 4 of Section 15.1 means the Transmitter or any party acting on behalf of the Transmitter such as contractors, subcontractors, suppliers, employees and agents; and
- (ii) the Customer in lines 3 and 4 of Section 15.2 means the Customer or any party acting on behalf of the Customer such as contractors, subcontractors, suppliers, employees and agents.

Part M: General

31. 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*;
- (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.

32. The failure of either 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 or the right of either party to enforce thereafter each 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.

33. Other than as specifically provided in the Agreement, 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.

34. Any written notice required by the Agreement shall be deemed properly given only if either mailed or delivered to the Secretary, Hydro One Networks Inc., 483 Bay Street, North Tower, 15th Floor, Toronto, Ontario M5G 2P5, fax no: (416) 345-6240 on behalf of Hydro One, and to the person at the address specified in Schedule "A" of the Agreement on behalf of the Customer.

A faxed notice shall be deemed to be received on the date of the fax if received before 3 p.m. on a business day or on the next business day if received after 3 p.m. or a day that is not a business day. Notices sent by courier or registered mail shall be deemed to have been received on the date indicated on the delivery receipt. The designation of the person to be so notified or the address of such person may be changed at any time by either party by written notice.

35. The Agreement 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.

36. The Agreement may be executed in counterparts, including facsimile counterparts, each of which shall be deemed an original, but all of which shall together constitute one and the same agreement.

37. The Customer shall provide Hydro One with a copy of the Customer's final monthly bills associated

with the transmission of electricity from the Existing Load Facilities and/or the Customer's Facilities or authorize the IESO to provide Hydro One with same. Hydro One agrees to use this information solely for the purpose of the Agreement.

38. **Invoices and Interest:** 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.

39. The obligation to pay any amount due hereunder, including, but not limited to, any amounts due under Sections 10.1, 12, 15.1, 16, 18 or 23 shall survive the termination of the Agreement.

Appendix "A": Definitions

In the Agreement, 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:

"Actual Load" means the actual load delivered by Hydro One to the Customer up to the True-Up Point in excess of the Normal Capacity of the Existing Load Facilities.

"Assigned Capacity" is calculated in accordance with Section 6.2.2 of the *Transmission System Code*.

"Adjusted Load Forecast" means a Load Forecast that has been adjusted to the point where the present value of the Transformation Connection Revenue and/or Line Connection Revenue and/or Network Revenue equals the present value of the Pool Funded Cost of the Transformation Connection Pool Work and/or the Pool Funded Cost of the Line Connection Pool Work and/or the Pool Funded Cost of the Network Customer Allocated Work.

"Agreement" means the Connection Cost Recovery Agreement, Schedules "A" and "B" attached thereto and these Standard Terms and Conditions.

"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, court authority or agency.

"Approval Date" means for the purpose of Subsection 5(f) of the Terms and Conditions, the date specified in Schedule "A" of the Agreement.

"Capital Contribution" means a capital contribution calculated using the economic evaluation methodology set out in the *Transmission System Code*.

"Connect and Connection" has 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 1.

"Connection Facilities" has the meaning set forth in the *Transmission System Code*.

"Connection Point" has the meaning set forth in the *Transmission System Code* and for this project, is as specified in Schedule "A" of the Agreement.

"Customer Connection Work" means the work to be performed by the Customer, at its sole expense, which is described in Schedule "A" of the Agreement.

"Customer Connection Risk Classification" is as specified in Schedule "A" of the Agreement.

"Customer's Facilities" has the meaning set forth in the *Transmission System Code*, and includes, but is not limited to any new, modified or replaced Customer's Facilities.

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

"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.

"Distributor" has the meaning set forth in the *Transmission System Code*.

"Economic Evaluation Period" means the period of five (5) years for high risk connection, ten (10) years for a medium-high risk connection, fifteen (15) years for a medium-low risk connection and twenty-five years for a low risk connection commencing on the In Service Date whichever is applicable to the Customer as specified in Schedule "A" of the Agreement.

"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.

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

"Existing Load" in relation to the Customer and each of the Existing Load Facilities is equal to the Customer's Assigned Capacity at each of the Existing Load Facilities on the date of this Agreement.

"Existing Load Facility or Existing Load Facilities" means the connection facility(ies) owned by Hydro One

as specified in the Existing Load Table in Schedule "A" of the Agreement where the Customer has Existing Load.

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

"GST" means the Goods and Services Tax.

"Hydro One Connection Work" means the work to be performed by Hydro One, which is described in Schedule "A" of the Agreement.

"Hydro One Facilities" means Hydro One's structures, lines, transformers, breakers, disconnect switches, buses, voltage/current transformers, protection systems, telecommunication systems, cables and any other auxiliary equipment used for the purpose of transmitting electricity.

"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.

"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*.

"Incremental Network Load" means the Customer's New Load less the amount of load, if any, that has been bypassed by the Customer at any of Hydro One's connection facilities.

"Interest" means the interest rates specified by the OEB to be applicable to security deposits in the form of cash as specified in Subsection 6.3.11(b) in the *Transmission System Code*.

"Line Connection Pool Work" means the Hydro One Connection Work specified in Schedule "A" of the Agreement under the heading "Line Connection Pool Work".

"Line Connection Revenue" means the amount of line connection revenue attributable to that part of the Customer's New Load to be received by Hydro One through the monthly collection of the Line Connection Service Rate during the Economic Evaluation Period.

"Line Connection Service Rate" means the line connection service rate approved by the OEB in Hydro One's Rate Order from time to time, or any mechanism instituted in accordance with Section 29.

"Load Customer" has the meaning set forth in the *Transmission System Code*.

"Load Forecast" means the initial load forecast of the New Load in excess of the Normal Capacity of the Existing Load Facilities used in the initial economic evaluation for the Economic Evaluation Period.

"Material" relates to the essence of the contract, more than a mere annoyance to a right, but an actual obstacle preventing the performance or exercise of a right.

"Network Customer Allocated Work" means the construction of or modifications to Network Facilities specified in Schedule "A" of the Agreement under the heading "Network Customer Allocated Work" that are minimum connection requirements.

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

"Network Pool Work" means the Hydro One Connection Work specified in Schedule "A" of the Agreement under the heading "Network Pool Work".

"Network Revenue" means the amount of network revenue attributable to the Incremental Network Load to be received by Hydro One through the monthly collection of the Network Service Rate during the Economic Evaluation Period.

"Network Service Rate" means the network service rate approved by the OEB in Hydro One's Rate Order from time to time, or any mechanism instituted in accordance with Section 29.

"New Load" means the load at the New or Modified Connection Facility that is in excess of, for each of the Existing Load Facilities, the lesser of the Existing Load or the Normal Capacity.

"New or Modified Connection Facilities" means the facilities owned by Hydro One as specified in Schedule "A" of the Agreement.

"Normal Capacity" means, where the Customer is:

- (a) the only Load Customer supplied by an Existing Load Facility, the total normal supply capacity of the Existing Load Facility as determined in accordance with the OEB-Approved Connection Procedures; and
- (b) one of two or more Load Customers served by an Existing Load Facility, the Customer's pro-rated share of the total normal supply capacity of the Existing Load Facility as determined in accordance with the OEB-Approved Connection Procedures.

"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.

“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.

“Pool-Funded Cost” means the present value of the Engineering and Construction Cost and projected ongoing maintenance and other related incremental costs (including, but not limited to applicable taxes, and net of tax benefits), of each of the Transformation Connection Pool Work, the Line Connection Pool Work and/or the Network Customer Allocated Work calculated in accordance with the principles, criteria and methodology set out in Appendices 4 and 5 of the Transmission System Code.

“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.

“Rate Order” has the meaning ascribed thereto in the *Transmission System Code*.

“Ready for Service Date” means the date upon which the Hydro One Connection Work is fully and completely constructed, installed, commissioned and energised to the Connection Point. The Customer’s disconnect switches must be commissioned prior to this date in order to use them as isolation points.

“Standard Terms and Conditions” means these Standard Terms and Conditions for Low Risk Transmission Customer Connection Projects and Appendices “A” and “B” attached hereto.

“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).

“Transformation Connection Pool Work” means the Hydro One Connection Work specified in Schedule “A” of the Agreement under the heading “Transformation Connection Pool Work”.

“Transformation Connection Revenue” means the amount of transformation connection revenue attributable to that part of the Customer’s New Load to be received by Hydro One through the monthly collection of the

Transformation Connection Service Rate during the Economic Evaluation Period.

“Transformation Connection Service Rate” means the line connection service rate approved by the OEB in Hydro One’s Rate Order from time to time, or any mechanism instituted in accordance with Section 29.

“Transmission System Code” or **“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.

“Transmitter’s Facilities” has the meaning ascribed thereto in the *Transmission System Code*.

“True-Up” means the calculation to be performed by Hydro One, as a transmitter, at each True-Up Point in accordance with the requirements of Subsection 6.5.4 of the *Transmission System Code*.

“True-Up Point” means the points of time based upon the Customer Connection Risk Classification when Hydro One is required to perform a True-Up as described in Section 11 of these Terms and Conditions.

“Updated Load Forecast” means the load forecast of the New Load in excess of the Normal Capacity of the Existing Load Facilities for the remainder of the Economic Evaluation Period.

“Work Chargeable to Customer” means the Hydro One Connection Work specified in Part 4 of Schedule “A” of the Agreement under the heading “Work Chargeable to Customer”.

Standard Terms and Conditions for Load Customer Transmission Customer Connection Projects

Appendix "B": Form of Easement

INTEREST / ESTATE TRANSFERRED

The Transferor is the owner in fee simple and in possession of _____
_____ (the "Lands").

The Hydro One Networks Inc, its successors and assigns (collectively, the "Transferee") has erected, or is about to erect, certain Works (as more particularly described in paragraph 1(a) hereof) in, through, under, over, across, along and upon the Lands.

1. The Transferor hereby grants and conveys to the Transferee the rights and easement, free from all encumbrances and restrictions, the following unobstructed and exclusive rights, easements, rights-of-way, covenants, agreements and privileges in perpetuity (the "Rights") in, through, under, over, across, along and upon that portion of the Lands of the Transferor described herein and shown highlighted on Schedule "A" hereto annexed (the "Strip") for the following purposes:

- (a) To enter and lay down, install, construct, erect, maintain, open, inspect, add to, enlarge, alter, repair and keep in good condition, move, remove, replace, reinstall, reconstruct, relocate, supplement and operate and maintain at all times in, through, under, over, across, along and upon the Strip an electrical transmission system and telecommunications system consisting in both instances of a pole structures, steel towers, anchors, guys and braces and all such aboveground or underground lines, wires, cables, telecommunications cables, grounding electrodes, conductors, apparatus, works, accessories, associated material and equipment, and appurtenances pertaining to or required by either such system (all or any of which are herein individually or collectively called the "Works") as in the opinion of the Transferee are necessary or convenient thereto for use as required by Transferee in its undertaking from time to time, or a related business venture.
- (b) To enter on and selectively cut or prune, and to clear and keep clear, and remove all trees (subject to compensation to Owners for merchantable wood values), branches, bush and shrubs and other obstructions and materials in, over or upon the Strip, and without limitation, to cut and remove all leaning or decayed trees located on the Lands whose proximity to the Works renders them liable to fall and come in contact with the Works or which may in any way interfere with the safe, efficient or serviceable operation of the Works or this easement by the Transferee.
- (c) To conduct all engineering, legal surveys, and make soil tests, soil compaction and environmental studies and audits in, under, on and over the Strip as the Transferee in its discretion considers requisite.
- (d) To erect, install, construct, maintain, repair and keep in good condition, move, remove, replace and use bridges and such gates in all fences which are now or may hereafter be on the Strip as the Transferee may from time to time consider necessary.
- (e) Except for fences and permitted paragraph 2(a) installations, to clear the Strip and keep it clear of all buildings, structures, erections, installations, or other obstructions of any nature (hereinafter collectively called the "obstruction") whether above or below ground, including removal of any materials and equipment or plants and natural growth, which in the opinion of the Transferee, endanger its Works or any person or property or which may be likely to become a hazard to any Works of the Transferee or to any persons or property or which do or may in any way interfere with the safe, efficient or serviceable operation of the Works or this easement by the Transferee.
- (e) To enter on and exit by the Transferor's access routes and to pass and repass at all times in, over, along, upon and across the Strip and so much of the Lands as is reasonably required, for the Transferee, its respective officers, employees, agents, servants, contractors, subcontractors, workmen and permittees with or without all plant machinery, material, supplies, vehicles and equipment for all purposes necessary or convenient to the exercise and enjoyment of this easement.
- (f) To remove, relocate and reconstruct the Works on or under the Strip.

2. The Transferor agrees that:

- (a) It will not interfere with any Works established on or in the Strip and shall not, without the Transferee's consent in writing, erect or cause to be erected or permit in, under or upon the Strip any obstruction or plant or permit any trees, bush, shrubs, plants or natural growth which does or may interfere with the Rights granted herein. The Transferor agrees it shall not, without the Transferee's consent in writing, change or permit the existing configuration, grade or elevation of the Strip to be changed and the Transferor further agrees that no excavation or opening or work which may disturb or interfere with the existing surface of the Strip shall be done or made unless consent therefore in writing has been obtained from Transferee, provided however, that the Transferor shall not be required to obtain such permission in case of emergency. Notwithstanding the foregoing, in cases where in the reasonable discretion of the Transferee, there is no danger or likelihood of danger to the Works of the Transferee or to any persons or property and the safe or serviceable operation of this easement by the Transferee is not interfered with, the Transferor may at its expense and with the prior written approval of the Transferee, construct and maintain roads, lanes, walks, drains, sewers, water pipes, oil and gas pipelines, fences (not to exceed 2 metres in height) and service cables on or under the Strip (the "Installation") or any portion thereof; provided that prior to commencing such Installation, the Transferor shall give to the Transferee thirty (30) days notice in writing thereof to enable the Transferee to have a representative present to inspect the proposed Installation during the performance of such work, and provided further that Transferor comply with all instructions given by such representative and that all such work shall be done to the reasonable satisfaction of such representative. In the event of any unauthorised interference aforesaid or contravention of this paragraph, or if any authorised interference, obstruction or Installation is not maintained in accordance with the Transferee's instructions or in the Transferee's reasonable opinion, may subsequently interfere with the Rights granted herein, the Transferee may at the Transferor's expense, forthwith remove, relocate, clear or correct the offending interference, obstruction, Installation or contravention complained of from the Strip, without being liable for any damages caused thereby.
- (b) notwithstanding any rule of law or equity, the Works installed by the Transferee shall at all times remain the property of the Transferee, notwithstanding that such Works are or may become annexed or affixed to the Strip and shall at anytime and from time to time be removable in whole or in part by Transferee.
- (c) no other easement or permission will be transferred or granted and no encumbrances will be created over or in respect to the Strip, prior to the registration of a Transfer of this grant of Rights.
- (d) the Transferor will execute such further assurances of the Rights in respect of this grant of easement as may be requisite.
- (e) the Rights hereby granted:
 - (i) shall be of the same force and effect to all intents and purposes as a covenant running with the Strip.
 - (ii) is declared hereby to be appurtenant to and for the benefit of the Works and undertaking of the Transferee described in paragraph 1(a).

- 3. The Transferee covenants and agrees to obtain at its sole cost and expense all necessary postponements and subordinations (in registrable form) from all current and future prior encumbrancers, postponing their respective rights, title and interests to the Transfer of Easement herein so as to place such Rights and easement in first priority on title to the Lands.
- 4. The Lands shall be used by the Transferee, or other persons using or accessing the Lands pursuant to the rights or easement of the Transferee herein, in accordance with and subject to all applicable laws.
- 5. There are no representations, covenants, agreements, warranties and conditions in any way relating to the subject matter of this grant of Rights whether expressed or implied, collateral or otherwise except those set forth herein.

