

ATTACHMENT 10

SHARE PURCHASE AGREEMENT

**HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO
AS REPRESENTED BY THE MINISTER OF ENERGY**

- and -

BRAMPTON DISTRIBUTION HOLDCO INC.

As Vendor

- and -

HORIZON UTILITIES CORPORATION

- and -

ENERSOURCE HYDRO MISSISSAUGA INC.

- and -

POWERSTREAM INC.

As Purchaser

- regarding -

HYDRO ONE BRAMPTON NETWORKS INC.

SHARE PURCHASE AGREEMENT

March 24, 2016

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SHARE PURCHASE AGREEMENT

THIS SHARE PURCHASE AGREEMENT is dated as of the 24th day of March, 2016.

AMONG:

**HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO
AS REPRESENTED BY THE MINISTER OF ENERGY
(the “Province”)**

- and -

BRAMPTON DISTRIBUTION HOLDCO INC.
a corporation incorporated under the laws of the Province of Ontario;

As Vendor

- and -

HORIZON UTILITIES CORPORATION,
a corporation incorporated under the laws of the Province of Ontario;
(“**Horizon**”)

- and -

ENERSOURCE HYDRO MISSISSAUGA INC.,
a corporation incorporated under the laws of the Province of Ontario;
(“**Enersource**”)

- and -

POWERSTREAM INC.,
a corporation incorporated under the laws of the Province of Ontario;
(“**PowerStream**”)

As Purchaser

RECITALS:

- A. Hydro One Brampton Networks Inc. (the “**Corporation**”) is a corporation incorporated on April 25, 2000 under the *Business Corporations Act* (Ontario) that carries on the business of owning, operating and managing an electricity distribution system and associated facilities within the City of Brampton, Ontario, including related conservation and demand management programs.
- B. Brampton Distribution Holdco Inc. (the “**Vendor**”) owns all of the issued and outstanding shares of the Corporation as at the date hereof.

- C. The Vendor wishes to sell, and Horizon, Enersource and PowerStream, collectively, wish to purchase, following an amalgamation among the three of them pursuant to the *Business Corporations Act* (Ontario), all of the issued and outstanding shares of the Corporation.

THE PARTIES AGREE AS FOLLOWS:

**ARTICLE 1
INTERPRETATION**

1.1 **Definitions.** In this Agreement, including the Recitals to this Agreement, unless the context otherwise requires:

- (1) **“2000 Brampton SPA”** means (a) the share purchase agreement dated October 31, 2000 between the Corporation of the City of Brampton as vendor and Hydro One as purchaser in respect of the purchase and sale of the shares of Brampton Hydro Corporation, as amended by an extension agreement dated May 8, 2001, and (b) the amended and restated letter agreement dated May 8, 2001 from the Corporation of the City of Brampton to Hydro One.
- (2) **“Advance Ruling Certificate”** means an advance ruling certificate issued by the Commissioner pursuant to section 102 of the Competition Act with respect to the Transactions.
- (3) **“Affiliate”** has the meaning attributed to that term in the OBCA.
- (4) **“Agreement”** means this share purchase agreement, the Confidential Disclosure Letter and all other Schedules, Appendices and Exhibits to this share purchase agreement, as amended, supplemented, restated and replaced from time to time in accordance with its provisions.
- (5) **“Applicable Law”** means:
 - (a) any (federal, provincial or municipal) statute, law (including common law), code, ordinance, rule, regulation, order in council, restriction or by-law (zoning or otherwise);
 - (b) any judgment, order, writ, injunction, directive, decision, ruling, decree or award; or
 - (c) any Permit;

of any Governmental Authority (including, without limitation, the OEB and the IESO) or Taxing Authority, in each case binding on or imposing obligations on the Person referred to in the context in which the term is used or binding on or imposing obligations on the property of that Person, and for greater certainty, includes any Privacy Law.

- (6) “**Approvals**” means qualifications, consents, certificates, exemptions, waivers, filings, grants, notifications, privileges, rights, orders, judgments, rulings, directives, Permits, the Competition Approval and OEB Approval.
- (7) “**Approved Capital Expenditures Plan**” means the plan for the conduct of the Business and the Corporation during the Interim Period, attached to this Agreement as Exhibit 1.1(7).
- (8) “**Appurtenances**” means, with respect to any real property:
 - (a) all buildings, structures, fixtures, improvements and appurtenances located on or forming part of that real property, including those under construction; and
 - (b) all rights of way, licences, rights of occupation, easements or other similar rights appurtenant to and for the benefit of that real property.
- (9) “**Assets**” means all property (real and personal, tangible and intangible), assets, rights and interests of the Corporation.
- (10) “**Audited 2015 Financial Statements**” means the audited financial statements of the Corporation as at and for the financial year ended December 31, 2015, consisting of the balance sheet, income statement, cash flow statement and statement of retained earnings and all notes thereto.
- (11) “**Audited Financial Statements**” means the audited financial statements of the Corporation as at and for the financial years ended December 31, 2012, December 31, 2013 and December 31, 2014, consisting of the balance sheet, income statement, cash flow statement and statement of retained earnings and all notes thereto, as have been made available to the Purchaser.
- (12) “**Base Purchase Price**” has the meaning attributed to that term in Section 2.2(1)(a).
- (13) “**Books and Records**” means all books, records, files, instruments, papers or data of the Corporation, including financial statements, Tax Returns and related work papers and letters from accountants, budgets, pricing guidelines, ledgers, journals, deeds, title policies, minute books, stock certificates and books, stock transfer ledgers, Contracts, Permits, computer files and programs, operating data and plans and environmental studies and plans, and, without limiting the generality of the foregoing, records relating to the Corporation’s regulatory obligations.
- (14) “**Business**” means the business carried on currently by the Corporation.
- (15) “**Business Day**” means any working day, Monday to Friday inclusive, but excluding statutory and other holidays, namely: New Year’s Day; Family Day; Good Friday; Easter Monday; Victoria Day; Canada Day; Civic Holiday; Labour Day; Thanksgiving Day; Remembrance Day; Christmas Day; Boxing Day and any other day identified as a “holiday” under Section 88 of the *Legislation Act*, 2006 (Ontario);

- (16) **“Capital Plan Committee”** has the meaning attributed to that term in Section 6.18.
- (17) **“Cash Portion of the Purchase Price”** has the meaning attributed to that term in Section 2.3(1)(a).
- (18) **“Change of Applicable Law”** has the meaning attributed to that term in Section 4.1(1)(h).
- (19) **“Claim”** means any demand, action, investigation, inquiry, suit, proceeding, claim, assessment, judgment, settlement or compromise relating thereto, act, omission or state of facts which may give rise to a right of indemnification under this Agreement.
- (20) **“Closing”** means the completion of the Transactions contemplated by this Agreement.
- (21) **“Closing Adjustments”** means, collectively, the Net Fixed Assets Adjustment and the Working Capital Adjustment.
- (22) **“Closing Date”** means the last Business Day of the month following the date on which the conditions set forth in Sections 4.1 and 4.2 have been satisfied or waived (other than the conditions which by their nature are not capable of being satisfied until the Closing Date), or such earlier or later date as may be agreed to by the Parties in writing.
- (23) **“Closing Financial Statements”** has the meaning attributed to that term in Section 2.4(1)(a).
- (24) **“Closing Statements”** has the meaning attributed to that term in Section 2.4(1).
- (25) **“Collective Agreements”** means the collective agreement between the Corporation and UNIFOR Local 1285, dated March 31, 2014, and the collective agreement between the Corporation and Local Union 636 of the International Brotherhood of Electrical Workers, dated May 5, 2014.
- (26) **“Commercially Reasonable Efforts”** means efforts which are designed to enable a Party, directly or indirectly, to satisfy a condition to, or to otherwise assist in the consummation of, the transactions contemplated by this Agreement or to assist in the performance of that Party’s obligations in this Agreement and which do not require that Party to expend any funds or assume liabilities other than expenditures or liabilities which are reasonable in nature and amount in the context of such transactions or obligations or, where applicable, usual commercial practice.
- (27) **“Commissioner”** means the Commissioner of Competition appointed under the Competition Act or any person duly authorized to exercise the powers and perform the duties of the Commissioner.
- (28) **“Competition Act”** means the *Competition Act* (Canada).

(29) **“Competition Approval”** means:

- (a) the issuance of an Advance Ruling Certificate and that Advance Ruling Certificate has not been rescinded prior to Closing; or
- (b) the Vendor and the Purchaser have given the notice required under section 114 of the Competition Act with respect to the Transactions and the applicable waiting period under section 123 of the Competition Act has expired or has been terminated in accordance with the Competition Act; or
- (c) the obligation to give the requisite notice has been waived pursuant to paragraph 113(c) of the Competition Act;

and, in the case of Sections 1.1(29)(b) and 1.1(29)(c), the Commissioner has issued a No Action Letter.

(30) **“Confidential Disclosure Letter”** means the confidential disclosure letter dated as of the date hereof which the Vendor delivered to the Purchaser on the date hereof.

(31) **“Confidential Information”** has the meaning attributed to that term in Section 9.1(1).

(32) **“Constating Documents”** means, with respect to any Person, its articles or certificate of incorporation, amendment, amalgamation or continuance, by-laws, partnership agreement or other similar document, and all unanimous shareholder agreements, other shareholder agreements, voting trusts, pooling agreements and similar Contracts, arrangements and understandings applicable to the Person’s Equity Interests, all as amended, supplemented, restated and replaced from time to time and, in respect of the Corporation and the Vendor, includes the applicable HOBNI Shareholder Declarations.

(33) **“Contaminant”** means any substance, emission or thing, which has, or would reasonably be expected to have, an adverse effect on the environment, any ecological system or natural resource, or human health or safety, and includes any “contaminant”, “pollutant”, “hazardous material” or any type of “waste”, in each case which is regulated by Environmental Law, including, without limitation, friable asbestos, polychlorinated biphenyls and arsenic.

(34) **“Continuing Service Contracts”** means the Service Contracts listed on Part II of Section 1.1(81) of the Confidential Disclosure Letter.

(35) **“Contract”** means any agreement, contract, indenture, lease, occupancy agreement, deed of trust, license, option, other commitment or obligation, whether oral or written, other than a Permit.

(36) **“Control”** means the holding of beneficial ownership of greater than fifty percent (50%) of the equity and voting stock of a Person, or the ability to cause the nomination and election of a majority of the members of the board of directors (or other governing body) of the Person, or to otherwise direct the business and affairs of a Person.

- (37) “**Corporation**” has the meaning attributed to that term in the Recitals.
- (38) “**CRA**” means the Canada Revenue Agency or any successor agency.
- (39) “**Current Indirect Owners**” has the meaning attributed to that term in Section 6.7(5).
- (40) “**Data Room**” has the meaning attributed to that term in Section 1.13.
- (41) “**De Minimis Loss**” means the total Losses arising from a single event or occurrence or a group of related events or occurrences that give rise to a Claim, where the total of such Losses is less than \$250,000.
- (42) “**Direct Claim**” means any Claim by an Indemnitee against an Indemnitor which does not result from a Third Party Claim.
- (43) “**Easements**” means all rights of way, licences, rights of occupation, easements or other similar non-possessory rights in real property other than rights in fee simple or leased by the Corporation as are required for the conduct of the Business in the Ordinary Course.
- (44) “**Effective Time**” means 12:01 a.m. on the Closing Date.
- (45) “**Electricity Act**” means the *Electricity Act, 1998* (Ontario).
- (46) “**Employee Plans**” has the meaning attributed to that term in Section 5.2(31)(a).
- (47) “**Employees**” means all employees of the Corporation immediately prior to the Effective Time, whether full-time, part-time, salaried, hourly, unionized or non-unionized.
- (48) “**Encumbrance**” means any encumbrance, lien, charge, pledge, mortgage, title retention agreement, security interest of any nature, adverse claim, exception, reservation, restrictive covenant, easement, lease, licence, right of occupation, option, right of pre-emption, privilege or any matter capable of registration against title or any Contract to create any of the foregoing.
- (49) “**Enersource**” has the meaning attributed to that term in the Preamble.
- (50) “**Environmental Laws**” means any and all Applicable Laws relating to: (a) the protection of the environment; (b) the presence, release, discharge, handling, transportation, storage, remediation or disposal of Contaminants; (c) the ownership, occupation, management, transfer or sale of contaminated sites; (d) the exposure of workers to Contaminants in the workplace, and worker right-to-know legislation pertaining thereto; and (e) the manufacture, distribution, labelling, import, export or sale of Contaminants.
- (51) “**Environmental Permit**” means any Permit which is issued under, or pursuant to any Environmental Law.

- (52) **“Equity Interests”** means, with respect to any Person, any and all present and future shares, units, trust units, partnership or other interests, participations or other equivalent rights in that Person’s equity or capital, however designated and whether voting or non-voting.
- (53) **“Estimated Adjustment”** and **“Estimated Adjustments”** have the respective meanings attributed to those terms in Section 2.2(2).
- (54) **“Estimated Purchase Price”** has the meaning attributed to that term in Section 2.2(2).
- (55) **“ETA”** means the *Excise Tax Act* (Canada).
- (56) **“Excluded IP”** means any Trademarks owned by the Province, the Vendor, Hydro One or Hydro One Networks Inc. and any Trademarks incorporating, referencing or combining “Hydro” and “One” or the Hydro One plug.
- (57) **“Fax Transmission”** has the meaning attributed to that term in Section 9.13(1)(c).
- (58) **“Final Determination”** has the meaning attributed to that term in Section 8.9(2)(c).
- (59) **“Financial Statements”** means the Audited Financial Statements and the Unaudited Financial Statements.
- (60) **“Financial Statements Date”** means December 31, 2014.
- (61) **“Fundamental Representations”** means the representations and warranties set out in Sections 5.1(1) (Vendor’s Powers), 5.1(2) (Authorization), 5.1(3) (Enforceability), 5.1(4) (Ownership of Purchased Shares), 5.1(5) (No Other Agreements to Purchase), 5.1(6) (Absence of Conflict), 5.1A(1) (Province’s Powers), 5.1A(2) (Authorization), 5.1A(3) (Enforceability), 5.2(1) (Organization and Status) (insofar as it relates to the due incorporation and organization and the valid existence of the Corporation), 5.2(2) (Corporate Power), 5.2(3) (Authorized and Issued Capital), 5.2(4) (Options) and 5.2(8) (Bankruptcy).
- (62) **“GAAP”**, when used in respect of accounting terms or accounting determinations relating to a Person, means the accounting standards applicable to such Person in effect from time to time in Canada, as published in Part I, II, III or IV of the CPA Canada handbook.
- (63) **“Governmental Authority”** means any domestic or foreign government, whether federal, provincial, state, territorial, local, regional, municipal, or other political jurisdiction, and any agency, authority, instrumentality, court, tribunal, board, commission, bureau, arbitrator, arbitration tribunal or other tribunal, or any quasi-governmental or other entity, body, organization or agency, insofar as it exercises a legislative, judicial, regulatory, administrative or expropriation power or function of or pertaining to government, including without limitation the OEB and the IESO and provided that Governmental Authority does not include a Taxing Authority.
- (64) **“Group Credit Agreement”** has the meaning attributed to that term in Section 1.1(80).

- (65) **“Head Office Property”** has the meaning attributed to that term in Section 6.12.
- (66) **“HOBNI Shareholder Declarations”** means the unanimous shareholder declarations referred to in Section 4.1(1)(i)(iii) and Section 4.1(1)(i)(iv).
- (67) **“Horizon”** has the meaning attributed to that term in the Preamble.
- (68) **“HST”** means all Taxes payable under Part IX of the ETA (including where applicable both the federal and provincial portion of those Taxes) or under any provincial legislation imposing a similar value added or multi-staged tax.
- (69) **“Hydro One”** means Hydro One Inc. and for the purposes of Section 5.2, Section 8.1(d) and Section 9.2, includes any existing or future parent company of Hydro One Inc.
- (70) **“IESO”** means the Independent Electricity System Operator and its predecessors the Ontario Power Authority and the Independent Electricity System Operator.
- (71) **“Indemnification Notice”** means written notice by an Indemnatee to the applicable Indemnitor or Indemnitors of a Third Party Claim or Direct Claim, as the case may be.
- (72) **“Indemnatee”** means the Purchaser, a Purchaser Indemnatee, the Vendor, the Province or a Vendor Indemnatee, as the case may be.
- (73) **“Indemnitor”** means the Vendor or the Purchaser, as the case may be.
- (74) **“Independent Auditor”** has the meaning attributed to that term in Section 2.4(4).
- (75) **“Indicative Net Fixed Assets Calculation”** means the basis and methodology for calculating net fixed assets set forth in Part A of Exhibit 2.4(1), including the illustrative calculation included therein.
- (76) **“Indicative Working Capital Calculation”** means the basis and methodology for calculating working capital set forth in Part B of Exhibit 2.4(1), including the illustrative calculation included therein.
- (77) **“Independent Contractor”** means an individual who is not an employee, officer or director of the Corporation, or any such individual’s personal services corporation, and which individual or personal services corporation receives remuneration from the Corporation pursuant to a Contract for services as a dependent or independent contractor.
- (78) **“Information Technologies”** means:
 - (a) all computer equipment, including desktop and laptop computers, servers, peripheral devices, storage media and other hardware; and
 - (b) all computer software, including operating systems and applications;that is owned, leased, or licensed by the Corporation in connection with the Business.

(79) “**Intellectual Property**” means, individually and collectively, howsoever created and wherever located:

- (a) all domestic and foreign patents and applications thereof and all reissues, divisions, continuations, renewals, extensions and continuations-in-part thereof;
- (b) all inventions (whether patentable or not), invention disclosures, improvements, trade secrets, proprietary information, know-how, technology, technical data, schematics, and all documentation relating to any of the foregoing;
- (c) all copyrights, copyright registrations and applications thereof, and all other rights corresponding thereto throughout the world;
- (d) all trade names, domain names, corporate names, trade dress, distinguishing guises, logos, slogans, brand names, trade-marks (whether registered or common law and whether used with wares or services and including the goodwill attaching to such trade-marks) and registrations and applications for registration thereof (“**Trademarks**”);
- (e) all computer programs, applications, databases and software (both in source code and object code form) and any proprietary rights in those computer programs, applications, databases and software, including documentation and other materials related thereto;
- (f) all integrated circuit design, mask work, or topography registrations or applications thereof;
- (g) all industrial designs and applications for and registration of industrial designs, design patents and industrial design registrations;
- (h) all income, royalties, damages and payments now and hereafter due and/or payable with respect to any of the foregoing, including without limitation, damages, and payments for past, present or future infringements or misappropriations thereof; and
- (i) all rights to sue for past, present and future infringements or misappropriations of any of the foregoing;

that are owned or used by the Corporation in connection with the Business.

(80) “**Intercompany Loans**” means (a) the long term debt owing under a term facility provided by Hydro One to the Corporation, and assigned by Hydro One to the Vendor on August 31, 2015, pursuant to (i) Article 3 of the Hydro One/Brampton Group Credit Agreement (the “**Group Credit Agreement**”) dated August 1, 2001 between Hydro One and Hydro One Brampton Inc., as supplemented by a Group Credit Agreement dated August 1, 2001 between Hydro One, Hydro One Brampton Inc., Hydro One Brampton Network Services Inc. and the Corporation, as assigned to the Corporation by Hydro One Brampton Inc. pursuant to an Assignment and Novation Agreement dated September 21,

2006, (ii) an interest bearing note in the principal amount of \$143,000,000 issued by the Corporation to Hydro One effective as of November 14, 2001, (iii) an interest bearing note dated September 26, 2011 issued by the Corporation to Hydro One in the principal amount of \$20,000,000, (iv) an interest-bearing note dated January 13, 2012 issued by the Corporation to Hydro One in the principal amount of \$20,000,000 and (v) an interest-bearing Note dated June 6, 2014 issued by the Corporation to Hydro One in the principal amount of \$10,000,000; and (b) any other indebtedness of the Corporation to Hydro One, the Vendor, a Subsidiary of Hydro One or the Vendor.

- (81) **“Intercompany Services”** means those services provided to the Corporation by Hydro One or any of its Subsidiaries pursuant to the Services Contracts described in Section 1.1(81) of the Confidential Disclosure Letter.
- (82) **“Interim Period”** means the period from the date hereof to the Closing Date.
- (83) **“Itron 16S Meters”** means the Itron Sentinel 347/600V Form 16s electricity meters.
- (84) **“Leased Property”** has the meaning attributed to that term in Section 5.2(9).
- (85) **“Leases”** has the meaning attributed to that term in Section 5.2(10).
- (86) **“Losses”** means any and all actual loss, liability, obligation, damage, cost, expense, charge, fine, penalty or assessment, suffered or incurred, sustained or required to be paid by the Person seeking indemnification (including reasonable lawyers’, experts’ and consultants’ fees and expenses), directly resulting from or arising out of any Claim, and including the costs and expenses of any action, suit, proceeding, investigation, inquiry, arbitration award, grievance, demand, assessment, judgment, settlement or compromise relating thereto but excluding any loss of profits, indirect, special, punitive and consequential damages.
- (87) **“Market Rules”** means the market rules for the Ontario electricity market made by the IESO pursuant to section 32 of the Electricity Act, as amended and as in effect as at the date hereof.
- (88) **“Material Adverse Change” or “Material Adverse Effect”** means any circumstance, change or effect that individually or in the aggregate is or is reasonably likely to be materially adverse to the Business, the results of operations or condition (financial or otherwise) of the Corporation; except that none of the following, either alone or in combination, shall be considered in determining whether there has been a “Material Adverse Effect” or a breach of a representation, warranty, covenant or agreement or failure of a condition that is qualified by the term “Material Adverse Effect”: (a) any adoption, proposal, implementation or change in applicable accounting principles or change in any Applicable Law (including any enactment, introduction or tabling of any legislation (whether by statute, regulation, order in council or otherwise) and including any Applicable Law in respect of Taxes) or any change in any interpretation of applicable accounting principles or Applicable Law by any Governmental Authority; (b) any change in global, national or regional political or social conditions in Canada, the United States or elsewhere in the world, including armed hostilities, national emergencies or acts of

war (whether or not declared), sabotage or terrorism, changes in government or military actions, or any escalation or worsening of any of the foregoing; (c) any change in financial, securities, commodity (including any increase in the price of raw materials) or credit markets (including any disruption thereof, any decline in the price of any security or any market index and changes in prevailing interest rates or foreign exchange rates) or in general economic, business, regulatory or market conditions in Canada, the United States or elsewhere in the world; (d) any change generally affecting the industries or market sectors in which the Corporation operates in Ontario; (e) any change resulting from or arising out of hurricanes, earthquakes, floods, or other natural disasters or acts of God; (f) the negotiation, execution, announcement or performance of this Agreement or consummation of the transactions contemplated hereby or under the Other Agreements, including the impact thereof on relationships, contractual or otherwise, with arm's length customers, suppliers, distributors, partners, employees (including any employee departures or labor union or labor organization activity), financing sources or Governmental Authorities; (g) any change resulting from the identity of the Purchaser or any communication of the plans or intentions of the Purchaser or its Affiliates (including in respect of employees) with respect to the Corporation or its Businesses; (h) the failure of the Corporation to meet any internal or public projections, forecasts or estimates of performance, revenues or earnings (it being understood that the facts and circumstances that caused such failure that are not otherwise excluded from the definition of Material Adverse Effect may constitute or contribute to a Material Adverse Effect); or (i) any action (or the effects of any action) taken (or omitted to be taken) upon the request or instruction of, or with the consent of, the Purchaser; provided, however, that in the case of clauses (a) (in respect only of a Change of Applicable Law), (b), (c) or (d), any such change, effect, event or condition shall nevertheless be considered as constituting or contributing to a Material Adverse Effect to the extent such change, effect, event or condition, individually or in the aggregate, has a disproportionate, materially adverse effect on the Business, condition (financial or otherwise) or the results of operations of the Corporation relative to other companies operating in Ontario in the same industry as the Corporation.

- (89) “**Material Contract**” has the meaning attributed to that term in Section 5.2(18).
- (90) “**MergeCo**” means the entity resulting from the Merger.
- (91) “**Merger**” means the amalgamation of Horizon, Enersource and PowerStream.
- (92) “**Merger Agreement**” means the merger participation agreement dated March 24, 2016 pursuant to which the Merger will be effected.
- (93) “**Modified IFRS**” means the International Financial Reporting Standards modified by the OEB for regulatory purposes and consistent with the Report of the OEB on Transition to IFRS, July 2009, as amended November 2010 and as further modified by the Addendum to Report of the Board: Implementing IFRS in an Incentive Rate Mechanism Environment dated June 13, 2011 and OEB Accounting Procedures Handbook For Electricity Distributors effective January 1, 2012.

- (94) **“Net Fixed Assets Adjustment”** means an adjustment, calculated without duplication of the Working Capital Adjustment, equal to \$1.50 multiplied by the amount obtained by subtracting the Net Fixed Assets Value from the Net Fixed Assets on Closing, which may be a positive or negative amount provided that there shall be no adjustment if the difference, positive or negative, is less than \$2,000,000 but, for clarity, if the difference is equal to or greater than \$2,000,000, positive or negative, the \$2,000,000 threshold shall be disregarded for the purposes of calculating the adjustment.
- (95) **“Net Fixed Assets on Closing”** has the meaning attributed to that term in Section 2.4(1)(b).
- (96) **“Net Fixed Assets Value”** means \$340,500,000.
- (97) **“No Action Letter”** means a letter from the Commissioner stating that he does not, at that time, intend to make an application under section 92 of the Competition Act.
- (98) [REDACTED]
- (99) **“OBCA”** means the *Business Corporations Act* (Ontario).
- (100) **“Objection Notice”** has the meaning attributed to that term in Section 2.4(3).
- (101) **“OEB”** means the Ontario Energy Board and its successors.
- (102) **“OEB Act”** means the *Ontario Energy Board Act, 1998* (Ontario).
- (103) **“OEB Approval”** means the approval by the OEB of the Merger and of the Transactions contemplated herein pursuant to sections 18, 86(1)(a), 86(1)(c), 86(2)(a) and 86(2)(b) of the OEB Act, respectively.
- (104) **“OEB Licence”** means the electricity distribution licence dated June 27, 2003, bearing license number ED-2003-0038, as amended, issued by the OEB to the Corporation.
- (105) **“OEB Loss Recovery Application”** has the meaning attributed to that term in Section 8.9(2)(b).
- (106) **“Ordinary Course”** means, with respect to an action taken by a Person, that the action is consistent with the past customs and practices of the Person provided, however, that the term “Ordinary Course” shall also include actions expressly required or permitted by this Agreement to be taken or not to be taken in connection with the Transactions, regardless of whether such actions or omissions are consistent with past customs and practices of the Person.
- (107) **“Other Agreements”** has the meaning attributed to that term in Section 9.7.

- (108) “**Outside Date**” has the meaning attributed to that term in Section 4.3(4).
- (109) “**Owned IP**” means, except for the Excluded IP, all Intellectual Property which is owned by the Corporation, including the Intellectual Property set forth in Section 5.2(15) of the Confidential Disclosure Letter. In no event shall “Owned IP” include any Excluded IP.
- (110) “**Parties**” means collectively, the Vendor, the Province and the Purchaser, and “**Party**” means any of them.
- (111) “**Pension Plan**” means the Ontario Municipal Employees Retirement System Primary Pension Plan.
- (112) “**Permits**” means permits, franchises, licences, authorizations, certificates of authorization, registrations and variances obtained from, issued by or required by a Governmental Authority, including without limitation the OEB Licence.
- (113) “**Permitted Encumbrances**” means:
- (a) servitudes, easements, restrictions, rights-of-way and other similar rights in real property or any interest therein, provided that those servitudes, easements, restrictions, rights-of-way and other similar rights are not of such a nature as to materially adversely affect the use of the property subject thereto as such property is used as of the date hereof;
 - (b) liens of any judgment rendered or claim filed against such Person which are being contested in good faith by appropriate proceedings and for which an appropriate reserve has been established in accordance with GAAP;
 - (c) undetermined or inchoate liens, charges and privileges incidental to current construction or current operations, except for liens, charges and privileges related to Taxes;
 - (d) statutory liens, charges, adverse claims, security interests or Encumbrances of any nature whatsoever claimed or held by any Governmental Authority that have not at the time been filed or registered against the title to the asset or served on the Corporation, Hydro One or the Vendor pursuant to Applicable Law or that relate to obligations not due or delinquent, including statutory liens, charges, adverse claims, security interests or Encumbrances related to Taxes;
 - (e) assignments of insurance provided to landlords or their mortgagees pursuant to the terms of any lease and liens, security interests or rights reserved in or granted pursuant to any lease as security for payment of rent or for compliance with the terms of that lease;
 - (f) any by-law violations, encroachments, easements, or discrepancies in title, legal descriptions or possession, and any matters which an up-to-date survey or surveyor’s real property report of any real property may reveal;

- (g) any rights of expropriation, access or use or any other rights or any unregistered liens conferred, reserved or vested by or under any statutes of Canada and Ontario;
 - (h) any encumbrance, lien, pledge, charge, mortgage, license, security interest or adverse claim of any kind for Taxes not yet due or delinquent or being contested in good faith by appropriate proceedings;
 - (i) security given in the Ordinary Course of the Business to any public utility or Governmental Authority in connection with the operations of the Business, other than security for borrowed money; and
 - (j) the reservations in any original grants from the Crown of any Real Property or interest therein and statutory exceptions to title that do not materially detract from the use of the Real Property concerned, as such property is used as of the date hereof.
- (114) **“Permitted Purchaser”** means any Pre-Approved Shareholder (as defined in the Merger Agreement) or Pre-Approved Third Party (as defined in the Merger Agreement) acquiring an indirect Equity Interest in the Purchaser in the circumstances specifically permitted by Section 5.5 of the Merger Agreement and which interest shall not represent a greater than 10% Equity Interest in any Shareholder.
- (115) **“Person”** is to be broadly interpreted and includes an individual, a corporation, a partnership, a joint venture, a trust, an association, a syndicate, an unincorporated organization, a Governmental Authority, an executor or administrator or other legal or personal representative, or any other juridical entity.
- (116) **“Personal Information”** means any information about an identifiable individual that is regulated by Privacy Law and collected, used, disclosed or retained by the Corporation in connection with the Business, unless such information is otherwise excluded from the definition of Personal Information by any applicable Privacy Law.
- (117) **“Personal Property Leases”** has the meaning attributed to that term in Section 5.2(14).
- (118) **“PILs”** means payments required to be made under Part VI of the Electricity Act.
- (119) **“Post-Closing Tax Period”** means any Tax period beginning on or after the Closing Date, and, with respect to a Straddle Period, the portion of such Tax period beginning on the Closing Date.
- (120) **“PowerStream”** has the meaning attributed to that term in the Preamble.
- (121) **“Pre-Closing Tax Period”** means any Tax period ending on or before the day prior to the Closing Date, and, with respect to a Straddle Period, the portion of such Tax period ending on the day prior to the Closing Date.

- (122) **“Pre-Closing Taxes”** means any Taxes of the Corporation required to be paid, collected or remitted by the Corporation for a Pre-Closing Tax Period, other than any Taxes or amounts in respect of Taxes reflected in the calculation of Working Capital on Closing. For purposes of determining Pre-Closing Taxes in respect of a Straddle Period, Taxes shall be allocated in accordance with Section 7.2.
- (123) **“Privacy Law”** means all Canadian federal and provincial Applicable Law that governs the collection, use, disclosure, retention and safeguarding of Personal Information.
- (124) **“Privacy Policies”** means all privacy, data protection and similar policies adopted or used by the Corporation in respect of Personal Information.
- (125) **“Proceeding”** means:
- (a) any suit, action, dispute, investigation, claim, arbitration, order, summons, citation or prosecution, whether legal or administrative; or
 - (b) any appeal or application for review;
- at law or in equity before or by any Governmental Authority.
- (126) **“Province”** has the meaning attributed to that term in the Preamble.
- (127) **“Prudential Support”** means prudential support in respect of the Corporation pursuant to the Market Rules in the form of guarantees, letters of credit or other financial assurances or security as required by the IESO.
- (128) **“Purchase Price”** has the meaning attributed to that term in Section 2.2(1).
- (129) **“Purchased Shares”** means all of the issued and outstanding common shares in the capital of the Corporation.
- (130) **“Purchaser”** means,
- (a) prior to the completion of the Merger, Horizon, Enersource and PowerStream, each severally according to their proportionate interest in this Agreement as set out below and, for clarity, not jointly:

Horizon	23%
Enersource	31%
PowerStream	46%
 - (b) and following the completion of the Merger, MergeCo.
- (131) **“Purchaser Indemnitees”** means the direct shareholders of the Purchaser (in this section, the **“Primary Shareholders”**), the direct shareholders of the Primary Shareholders, the Current Indirect Owners, BPC Energy Corporation (in the event BPC Energy Corporation

ceases to be a Current Indirect Owner), and their respective Representatives, and after the Closing, includes the Corporation.

- (132) **“Purchaser’s Promissory Note”** means the promissory note to be delivered by the Purchaser to the Vendor having a principal amount of \$100 million, and being in the form attached to this Agreement as Exhibit 1.1(132), in partial satisfaction of the Purchase Price.
- (133) **“Real Property”** has the meaning attributed to that term in Section 5.2(9).
- (134) **“Refund”** has the meaning attributed to that term in Section 7.3.
- (135) **“Representatives”** means, with respect to any Party, its Affiliates and, if applicable, its and their respective directors, officers, employees, agents and other representatives and advisors.
- (136) **“Required Permits”** has the meaning attributed to that term in Section 5.2(20).
- (137) **“Resigning Directors and Officers”** has the meaning attributed to that term in Section 4.1(1)(i)(vi)(C).
- (138) **“Section 6.7(1) Letter”** means a letter from a Shareholder or Current Indirect Owner substantially in the form attached hereto as Exhibit 4.2(1)(f)(vi).
- (139) **“Services Contracts”** means all of the Contracts between the Corporation and Hydro One, or any Subsidiary of Hydro One, pursuant to which services are provided by or to the Corporation, all of which are listed in Section 1.1(81) of the Confidential Disclosure Letter.
- (140) **“Settlement Date”** has the meaning attributed to that term in Section 2.5(1).
- (141) **“Shareholder”** means each of Vaughan Holdings Inc., Markham Enterprises Corporation, Barrie Hydro Holdings Inc., Enersource Corporation, St. Catharines Hydro Inc. and Hamilton Utilities Corporation, and collectively the **“Shareholders”**.
- (142) **“Smart Meter Agreement”** means the agreement dated January 1, 2013, as amended August 31, 2015, between Hydro One Networks Inc. and the Corporation in respect of the use of Hydro One Networks Inc.’s smart meter system.
- (143) **“Statutory Plans”** means benefit plans that the Corporation is required by statute to participate in or contribute to in respect of an employee, director or officer of the Corporation or any beneficiary or dependent thereof, including the Canada Pension Plan, and plans administered pursuant to applicable health, Tax, workplace safety insurance, workers’ compensation and employment insurance legislation.
- (144) **“Straddle Period”** means any Tax period that includes the Closing Date, but does not begin on the Closing Date or end on the day prior to the Closing Date.

- (145) “**Subsidiary**” has the meaning attributed to that term in the OBCA.
- (146) “**Target Working Capital**” means \$27,000,000.
- (147) “**Tax Act**” or any reference to a specific provision thereof means the *Income Tax Act* (Canada) and the regulations thereunder and legislation of any legislature of any province or territory of Canada and any regulations thereunder in force of like or similar effect.
- (148) “**Tax Contest**” has the meaning attributed to that term in Section 8.13.
- (149) “**Tax Notice**” has the meaning attributed to that term in Section 8.13.
- (150) “**Tax Returns**” means all returns, declarations, designations, forms, schedules, reports, elections, notices, filings, statements (including withholding tax returns and reports, and information returns and reports) and other documents of every nature whatsoever filed or required to be filed with any Taxing Authority with respect to any Taxes, and in the case of the Corporation includes those required pursuant to Part VI of the Electricity Act, together with all amendments and supplements thereto.
- (151) “**Taxes**” means taxes, duties, premiums, assessments, imposts and levies of any kind whatsoever imposed by any Taxing Authority, including all interest, penalties, fines, additions to tax or other additional amounts imposed in respect thereof (including those levied on, or measured by, or referred to as, income, gross receipts, profits, capital, transfer, land transfer, gains, capital stock, production, gift, wealth, environment, net worth, utility, sales, goods and services, harmonized sales, use, consumption valued-added, excise, withholding, premium, business, franchising, property, employer health, payroll, employment, health, social services, education and social security taxes, surtaxes, customs duties and import and export taxes, development, occupancy, social services, licence and employment insurance, health insurance and Canada and other government pension plan premiums or contributions), and in the case of the Corporation and the Purchaser and its Affiliates includes any PILs payable pursuant to the Electricity Act, and “**Tax**” has a corresponding meaning.
- (152) “**Taxing Authority**” means any government, agency, commission, body, service, bureau, or other entity entitled under Applicable Law to impose, assess or collect Taxes, including without limitation the CRA, Ontario Electricity Financial Corporation, Ministry of Energy (Ontario) and the Ministry of Finance (Ontario).
- (153) “**Third Party Claim**” means any Claim asserted against an Indemnatee by any Person who is not a Party or an Affiliate of a Party.
- (154) “**Threshold**” has the meaning attributed to that term in Section 8.2(1)(c).
- (155) “**Transaction Expenses**” all fees and expenses payable by the Corporation to any Person in connection with the negotiation, execution and delivery of this Agreement and the consummation of the transactions contemplated hereby or under the Other Agreements.

- (156) **“Transactions”** means the purchase and sale of the Purchased Shares and all other transactions contemplated by this Agreement and, for purposes of the Competition Approval, includes the Merger.
- (157) **“Unaudited Financial Statements”** means the unaudited financial statements of the Corporation as at and for the nine (9) month period ended September 30, 2015, copies of which financial statements have been made available to the Purchaser.
- (158) [REDACTED]
- (159) **“Vendor”** has the meaning attributed to that term in the Recitals.
- (160) **“Vendor Indemnitees”** means the Representatives of the Vendor and the Province, and for the purposes of Sections 6.12, 6.13 and 6.14, Hydro One.
- (161) **“Working Capital”** means the working capital of the Corporation at the relevant time calculated in accordance with the Indicative Working Capital Calculation.
- (162) **“Working Capital Adjustment”** means an adjustment, calculated without duplication of the Net Fixed Assets Adjustment, which is \$1.00 multiplied by the amount obtained by subtracting the Target Working Capital from the Working Capital on Closing and which may be a positive or negative amount.
- (163) **“Working Capital on Closing”** has the meaning attributed to that term in Section 2.4(1)(b).

1.2 **Construction.** This Agreement has been negotiated and executed by each Party with the benefit of legal representation, and any Applicable Law, holding or rule of construction to the effect that any ambiguities are to be resolved against the drafting party is hereby waived and does not apply to the construction or interpretation of this Agreement.

1.3 **Certain Rules of Interpretation.** In this Agreement:

- (a) the division into Articles and Sections and the insertion of headings and the Table of Contents, marginal notes and references to them are for convenience of reference only and do not affect the construction or interpretation of this Agreement;
- (b) the Schedules, Confidential Disclosure Letter and Exhibits to this Agreement are an integral part of this Agreement and a reference to this Agreement includes a reference to the Schedules, Confidential Disclosure Letter and Exhibits;
- (c) the expressions “hereof”, “herein”, “hereto”, “hereunder”, “hereby” and similar expressions refer to this Agreement as a whole and not to any particular portion of this Agreement; and

- (d) unless specified otherwise or the context otherwise requires:
- (i) references to any Article, Section, Exhibit or Schedule are references to the Article or Section of, or Exhibit or Schedule to, this Agreement;
 - (ii) “includes” and “including”, whether or not used with the words “without limitation” or “but not limited to” means “including (or includes) but is not limited to” and is not to be construed to limit any general statement preceding it to the specific or similar items or matters immediately following it;
 - (iii) “the aggregate of”, “the total of”, “the sum of”, or a phrase of similar meaning means “the aggregate (or total or sum), without duplication, of”;
 - (iv) references to Contracts are deemed to include all present amendments, supplements, restatements and replacements to those Contracts;
 - (v) references to any legislation, statutory instrument or regulation or a section thereof are references to the legislation, statutory instrument, regulation or section as amended, re-enacted, consolidated or replaced from time to time;
 - (vi) words in the singular include the plural and vice-versa and words in one gender include all genders;
 - (vii) “for clarity”, “for certainty”, “for greater clarity”, “for greater certainty” or similar expressions are used interchangeably and shall be deemed to be without limitation;
 - (viii) where in this Agreement reference is made to a series of sections in the format “Section [■] to [■]”, it shall be deemed to be “Section [■] to [■], inclusive”; and
 - (ix) where in this Agreement a section uses the phrase “without limiting Section [■]”, it shall be deemed to be “without limiting the generality of Section [■]” and “without limiting Section [■] in any way”.

1.4 Knowledge of the Vendor. For the purposes of this Agreement, the term or phrase “**Knowledge of the Vendor**” shall mean to the best of the knowledge, information and belief of Paul Tremblay, President and CEO of the Corporation as of the date hereof and Marc Villett, Vice President, Finance and Administration of the Corporation as of the date hereof (after reasonable inquiry and without personal liability).

1.5 Computation of Time. In this Agreement, unless specified otherwise or the context otherwise requires:

- (a) a reference to a period of days is deemed to begin on the first day after the event that started the period and to end at 5:00 p.m. on the last day of the period, but if

the last day of the period does not fall on a Business Day, the period ends at 5:00 p.m. on the next succeeding Business Day;

- (b) subject to Section 1.8(c), where this Agreement states that an obligation shall be performed “on” a stipulated date, the latest time for performance shall be 5:00 p.m. on that day, or, if that day is not a Business Day, 5:00 p.m. on the next Business Day;
- (c) all references to specific dates (except for references to the Closing Date) mean 11:59 p.m. on the dates;
- (d) all references to specific times are references to Toronto time; and
- (e) with respect to the calculation of any period of time, references to “from” mean “from and excluding” and references to “to” or “until” mean “to and including”.

1.6 Performance on Business Days. If any action is required to be taken pursuant to this Agreement on or by a specified date that is not a Business Day, the action is valid if taken on or by the next succeeding Business Day.

1.7 Calculation of Interest. In calculating interest payable under this Agreement for any period of time, the first day of the period is included and the last day is excluded.

1.8 Currency and Payment. In this Agreement, unless specified otherwise:

- (a) references to dollar amounts or “\$” are to Canadian dollars;
- (b) any payment is to be made by an official bank draft drawn on a Canadian chartered bank, wire transfer or any other method (other than cash payment) that provides immediately available funds; and
- (c) except in the case of any payment due on the Closing Date, any payment due on a particular day must be received and available by 2:00 p.m. on the due date and any payment received and available after that time is deemed to have been made and received on the next succeeding Business Day.

1.9 Accounting Terms. In this Agreement, unless specified otherwise, each accounting term has the meaning assigned to it under GAAP or Modified IFRS, as the case may be.

1.10 Schedules. The following Schedules are attached to and form part of this Agreement:

Schedule 4.1(1)(i)(vi)(C) – Resigning Directors and Officers

1.11 Exhibits. The following Exhibits are attached to and form part of this Agreement:

Exhibit 1.1(7) – Approved Capital Expenditures Plan
Exhibit 1.1(132) – Form of Purchaser’s Promissory Note

Exhibit 2.4(1)	–	Indicative Calculations
Exhibit 4.1(1)(i)(vi)	–	Form of Vendor Release
Exhibit 4.2(1)(f)(iii)	–	Form of Corporation Release
Exhibit 4.2(1)(f)(vi)	–	Section 6.7(1) Letter
Exhibit 5.3(9)	–	Merger Agreement

1.12 **Confidential Disclosure Letter.** The following Schedules form part of the Confidential Disclosure Letter and form part of this Agreement:

Schedule 1.1(81)	–	Intercompany Services
Schedule 5.2(1)	–	Organization and Status
Schedule 5.2(2)	–	Corporate Power
Schedule 5.2(3)	–	Authorized and Issued Capital
Schedule 5.2(4)	–	Options
Schedule 5.2(5)	–	Absence of Conflict
Schedule 5.2(6)	–	Conduct of Business
Schedule 5.2(7)	–	No Subsidiaries
Schedule 5.2(8)	–	Bankruptcy
Schedule 5.2(9)	–	Location of Real Property and Leased Property
Schedule 5.2(10)	–	Real Property Leases
Schedule 5.2(11)	–	Easements
Schedule 5.2(12)	–	Title to Real Property
Schedule 5.2(13)	–	Title to Other Property
Schedule 5.2(14)	–	Personal Property Leases
Schedule 5.2(15)	–	Intellectual Property
Schedule 5.2(16)	–	Information Technologies
Schedule 5.2(17)	–	Insurance
Schedule 5.2(18)	–	Material Contracts and Other Contracts
Schedule 5.2(20)	–	Permits
Schedule 5.2(21)	–	Regulatory and Third Party Approvals
Schedule 5.2(22)	–	Financial Statements
Schedule 5.2(23)	–	Records
Schedule 5.2(24)	–	Undisclosed Liabilities
Schedule 5.2(25)	–	Absence of Changes

Schedule 5.2(26)	–	Taxes
Schedule 5.2(27)	–	Litigation
Schedule 5.2(28)	–	Directors and Officers
Schedule 5.2(29)	–	Non-Arm's Length Transactions
Schedule 5.2(30)	–	Environmental
Schedule 5.2(31)	–	Employee Plans
Schedule 5.2(32)	–	Labour Matters
Schedule 5.2(33)	–	Employees and Others
Schedule 5.2(34)	–	Employee Accruals
Schedule 5.2(36)	–	Ethical Practices
Schedule 5.2(37)	–	Personal Information
Schedule 5.2(38)	–	No Predecessors
Schedule 5.2(39)	–	No Finder's Fees
Schedule 5.2(40)	–	Obligations to the City of Brampton

1.13 **Virtual Data Room.** Any reference to a document or matter being “made available to the Purchaser” or “provided to the Purchaser” in this Agreement (excluding for greater certainty any of the deliverables described in Section 4.1(1)(i)) means, and otherwise includes, the posting of a true and complete copy of such document or matter on the virtual data room as at March 24, 2016 (the “**Data Room**”) managed by RR Donnelly to which the Vendor posted documents and to which the Purchaser has had access.

ARTICLE 2

PURCHASE AND SALE OF PURCHASED SHARES

2.1 **Agreement to Purchase and Sell.** Subject to the terms and conditions of this Agreement, at the Effective Time the Vendor shall sell to the Purchaser and the Purchaser shall purchase from the Vendor, the Purchased Shares, free and clear of all Encumbrances.

2.2 Purchase Price.

(1) Subject to the terms and conditions of this Agreement, the aggregate purchase price (the “**Purchase Price**”) to be paid by the Purchaser to the Vendor for the Purchased Shares shall equal the following:

- (a) \$607,000,000.00 (the “**Base Purchase Price**”);
- (b) plus the Net Fixed Assets Adjustment if the Net Fixed Assets Adjustment is a positive number, or minus the absolute value amount of the Net Fixed Assets Adjustment if the Net Fixed Assets Adjustment is a negative number; and

- (c) plus the Working Capital Adjustment if the Working Capital Adjustment is a positive number, or minus the absolute value amount of the Working Capital Adjustment if the Working Capital Adjustment is a negative number.
- (2) The Parties acknowledge that it is not possible prior to Closing to conclusively determine the Closing Adjustments. Accordingly, the Parties agree that two (2) Business Days prior to the Closing, the Vendor shall cause the Corporation to deliver a certificate to the Purchaser setting forth the good faith estimate of an officer of the Corporation of (a) the Working Capital on Closing, calculated in accordance with the Indicative Working Capital Calculation, and the corresponding Working Capital Adjustment and (b) the Net Fixed Assets on Closing, calculated in accordance with the Indicative Net Fixed Assets Calculation, and the corresponding Net Fixed Assets Adjustment (each such estimated adjustment, an “**Estimated Adjustment**” and collectively the “**Estimated Adjustments**”) and on the basis of the Estimated Adjustments, the good faith estimate of an officer of the Corporation of the Purchase Price (such estimate, the “**Estimated Purchase Price**”). The Estimated Purchase Price shall be equal to:
 - (a) the Base Purchase Price;
 - (b) plus the amount, if any, of the net Estimated Adjustments if the net Estimated Adjustments are positive;
 - (c) minus the absolute value amount, if any, of the net Estimated Adjustments if the net Estimated Adjustments are negative.

2.3 **Payment of Estimated Purchase Price.**

- (1) At the Closing, the Purchaser shall pay:
 - (a) to the Vendor, the amount equal to the Estimated Purchase Price, less the principal amount of the Purchaser’s Promissory Note (the “**Cash Portion of the Purchase Price**”); and
 - (b) by delivery at Closing to the Vendor, the Purchaser’s Promissory Note.

2.4 **Preparation of Closing Statements.**

- (1) Within ninety (90) days following the Closing Date, the Purchaser shall cause the preparation and delivery to the Vendor of the following (collectively, the “**Closing Statements**”):
 - (a) audited financial statements for the Corporation from the period from the Financial Statements Date to the end of the day prior to the Closing Date prepared in accordance with Modified IFRS (the “**Closing Financial Statements**”), together with a reconciliation of the Closing Financial Statements to IFRS;
 - (b) based on the Closing Financial Statements (i) an audited statement of the Corporation’s Working Capital as of the end of the day prior to the Closing Date

prepared in accordance with Modified IFRS and the Indicative Working Capital Calculation (the “**Working Capital on Closing**”) and (ii) an audited statement of the Corporation’s net fixed assets as of the end of the day prior to the Closing Date prepared in accordance with Modified IFRS and the Indicative Net Fixed Assets Calculation, provided that the Net Fixed Assets on Closing shall not include any amount in respect of the Itron 16S Meters (the “**Net Fixed Assets on Closing**”); and

- (c) a calculation of the Closing Adjustments as of the end of the day prior to the Closing Date, determined by reference to the Working Capital on Closing and the Net Fixed Assets on Closing.
- (2) The Vendor and the Purchaser shall co-operate fully with each other in the calculation of the Closing Adjustments and the preparation of the Closing Statements.
- (3) The Vendor shall have sixty (60) days from receipt of the Closing Statements within which to review the Closing Statements. For the purposes of this review, the Purchaser shall permit and shall cause the Corporation and the Corporation’s auditors to permit the Vendor and the Vendor’s authorized Representatives to examine all working papers, schedules, accounting Books and Records and other documents and information used or prepared by the Corporation or the Corporation’s Auditors in connection with the preparation of the Closing Statements and to have reasonable access to appropriate personnel of the Corporation for the Vendor to verify the accuracy and presentation and other matters relating to the preparation of the Closing Statements. The Vendor may dispute any of the items or calculations in the Closing Statements by written notice (an “**Objection Notice**”) to the Purchaser within the same sixty (60) days. If the Vendor has not delivered an Objection Notice to the Purchaser within this sixty (60)-day period, the Vendor shall be deemed to have accepted the Closing Statements. If the Vendor delivers an Objection Notice, the Vendor and the Purchaser shall work expeditiously and in good faith in an attempt to resolve all of the items in dispute within fifteen (15) days of receipt by the Purchaser of the Objection Notice. If all items in dispute are not resolved within this fifteen (15)-day period, the Vendor and the Purchaser shall select a nationally recognized accounting firm to resolve the remaining items in dispute. If the Vendor and the Purchaser are unable to agree on an appropriate accounting firm to resolve the remaining items in dispute, the accounting firm will be appointed by the Ontario Superior Court of Justice on application by either the Vendor or the Purchaser.
- (4) Each Party shall furnish to the firm chosen in accordance with Section 2.4(3) (the “**Independent Auditor**”) those working papers, schedules and other documents, accounting books and records and information relating to the items in dispute, that are available to that Party or its auditors (including, in the case of the Purchaser, the Corporation’s auditors) as the Independent Auditor may require. The Parties shall instruct the Independent Auditor that time is of the essence in proceeding with its determination of any dispute. The decision of the Independent Auditor with respect to any item in dispute is to be in writing and, absent any manifest error, is to be final and binding on the Vendor and the Purchaser with no rights of challenge, review or appeal to the courts in any manner. The Independent Auditor, in making its determination of any

dispute, is acting as an expert and not as an arbitrator and is not required to engage in a judicial inquiry worked out in a judicial manner. In resolving any item in dispute, the Independent Auditor: (a) shall be bound to the principles of this Section 2.4 (including the Indicative Working Capital Calculation and the Indicative Net Fixed Assets Calculation), (b) shall limit its review to matters specifically set forth in the Objection Notice, and (c) shall not assign a value to any item higher than the highest value for such item claimed by either Party or lower than the lowest value for such item claimed by either Party.

- (5) On agreement or decision, as the case may be, with respect to all items in dispute, the Closing Statements and the Closing Adjustments described therein are deemed to be amended as may be necessary to reflect the agreement or the decision, as the case may be. In this event, references in this Agreement to the Closing Statements and the Closing Adjustments will be references to the Closing Statements and the Closing Adjustments as so amended.
- (6) The Purchaser shall be responsible for the audit fees and expenses of the preparation of the Closing Statements.
- (7) The Vendor shall be responsible for one-half of the audit fees and expenses of any Independent Auditor and the Purchaser shall be responsible for one-half of the audit fees and expenses of any Independent Auditor.

2.5 Payment of Purchase Price Adjustments.

- (1) On the fifth (5th) Business Day following the date on which the Closing Statements have been finalized in accordance with Section 2.4 (whether by agreement of the Parties, deemed agreement or by determination made by the Independent Auditor pursuant to Section 2.4(4)) (such date, the “**Settlement Date**”), the payments contemplated by Section 2.5(2) shall be made.
- (2) On the Settlement Date, if the Estimated Purchase Price is less than the Purchase Price, the Purchaser shall pay such surplus amount to the Vendor, or if the Estimated Purchase Price is greater than the Purchase Price, the Vendor shall pay such deficiency to the Purchaser, in each case on a dollar-for-dollar basis.
- (3) The determination and adjustment of the Purchase Price in accordance with the provisions of Section 2.4 and this Section 2.5 will not limit or affect any other rights or causes of action that a Party may have with respect to the representations, warranties, covenants and indemnities in its favour contained in this Agreement.

2.6 Payments. Any reference in this Agreement or in any document delivered pursuant to this Agreement to payment shall mean payment by wire transfer of immediately available funds in Canadian dollars to the bank account or accounts designated by the recipient of such payment in writing to the Purchaser or to the Vendor, as the case may be, not less than two (2) Business Days prior to the date of such payment.

ARTICLE 3 CLOSING ARRANGEMENTS

3.1 **Closing.** Subject to the satisfaction or waiver by the applicable Party of the conditions set out in Article 4, the Parties shall hold the Closing on the Closing Date, at such time as agreed to by the Vendor and the Purchaser and at the offices of Borden Ladner Gervais LLP in Toronto, Ontario or at such other place as agreed to by the Vendor and the Purchaser.

3.2 **Vendor's Closing Deliveries.** At Closing, the Vendor shall deliver or cause to be delivered to the Purchaser all certificates, agreements, documents and instruments as required under Section 4.1(1)(i).

3.3 **Purchaser's Closing Deliveries.** At Closing, the Purchaser shall deliver or cause to be delivered to the Vendor all payments, certificates, agreements, documents and instruments as required under Section 4.2(1)(f).

ARTICLE 4 CONDITIONS OF CLOSING

4.1 Conditions for the Benefit of the Purchaser.

(1) The Purchaser shall be obliged to complete the Transactions only if each of the following conditions precedent has been satisfied in full at or before the time of Closing on the Closing Date:

- (a) each of the representations and warranties of the Vendor set forth in Sections 5.1 and 5.2 shall be true and correct as of the Closing Date, except:
 - (i) for such breaches of representations and warranties that (A) individually or in the aggregate would not have a Material Adverse Effect or (B) resulted from any action taken by or omission of (I) the Vendor or the Corporation specifically permitted by Section 6.4 (excluding for clarity, the general requirement for Ordinary Course operations required pursuant to the introductory paragraph of Section 6.4(a)) or to which the Purchaser consented or (II) any Party as specifically required under this Agreement;
 - (ii) for the representation and warranty at clause (c) of Section 5.2(25), and
 - (iii) for those representations and warranties which are made as of an earlier specific date, which shall be true and correct only as of such date,

and disregarding in each case any limitations as to "material", "materiality" or "Material Adverse Effect" therein except for the usage of the word "Material" in the defined term "Material Contracts", and provided further that notwithstanding the foregoing, the representations and warranties set forth in the Fundamental Representations shall be true and correct in all respects;

- (b) the Vendor has complied with or performed in all material respects all of its covenants and agreements contained in this Agreement to be complied with or performed by the Vendor on or before the Closing Date;
- (c) the Merger has been completed;
- (d) the Competition Approval and all other Approvals described in Section 5.2(21) of the Confidential Disclosure Letter (other than the OEB Approval) have been obtained, in each case in form and substance satisfactory to the Purchaser, acting in a commercially reasonable manner, and are in full force and effect;
- (e) the OEB Approval has been obtained, is in full force and effect, and does not contain terms or provisions that are materially detrimental to the Business as currently conducted or materially detrimental to the value of the Purchased Shares;
- (f) there shall not be in effect on the Closing Date any order or Applicable Law restraining, enjoining or otherwise prohibiting or making illegal the consummation of the Transactions. None of the Parties shall be a defendant or a third party in any Proceeding which, in the opinion of the Purchaser, acting reasonably, could prevent or restrict a Party from performing any of its obligations in this Agreement;
- (g) since the date of this Agreement, a Material Adverse Effect has not occurred;
- (h) since the date of this Agreement no Change of Applicable Law shall have occurred which is continuing, where a “**Change of Applicable Law**” means the enactment, introduction or tabling by the government of Ontario of any Ontario provincial legislation (whether by statute, regulation, order in council or otherwise), where the effect of such Ontario provincial legislation is (or, where not yet enacted, if enacted would be) principally borne by the Corporation, is not at the request of the Purchaser and such action may reasonably be expected as and from the Closing Date to materially increase the costs that the Purchaser or the Corporation would reasonably be expected to incur or materially reduce the revenues that the Corporation would reasonably be expected to generate in respect of the conduct of the Business, provided that notwithstanding the foregoing, the following shall not be a Change of Applicable Law:
 - (i) the introduction of any statute comprising part of Applicable Law that has been introduced as a bill in the Legislative Assembly of Ontario prior to the date of this Agreement in a similar form as such statute takes when it has legal effect, provided that any amendments made to such bill in becoming such statute would not, in and of themselves, be a Change of Applicable Law;
- (i) the Vendor has caused to be delivered to the Purchaser the following:

- (i) certificates representing the Purchased Shares, accompanied by stock transfer powers duly executed in blank or duly executed instruments of transfer, free and clear of all Encumbrances;
- (ii) original share registers, share transfer ledgers, minute books and corporate seals (if any) of the Corporation;
- (iii) an executed copy of a unanimous shareholder declaration signed by the Province as the sole shareholder of the Vendor together with an executed copy of a resolution of the Province authorizing the execution, delivery and performance of this Agreement, all Contracts, agreements, instruments, certificates and other documents required by this Agreement and the Other Agreements to be delivered by the Vendor;
- (iv) an executed copy of a unanimous shareholder declaration signed by the Vendor as the sole shareholder of the Corporation, and an executed copy of a resolution of the Vendor passed pursuant thereto, consenting to the transfer of the Purchased Shares from the Vendor to the Purchaser as contemplated by this Agreement and authorizing the execution, delivery and performance of all Contracts, agreements, instruments, certificates and other documents required by this Agreement and the Other Agreements to be delivered by the Corporation;
- (v) release by the Vendor of the Corporation for all claims and potential claims for the period prior to Closing, substantially in the form attached as Exhibit 4.1(1)(i)(v), provided that such releases shall not limit any rights or claims for indemnification that the Vendor may have under this Agreement or the Other Agreements;
- (vi) in respect of the Corporation:
 - (A) a certificate of status or its equivalent under the laws of the jurisdiction of its incorporation/governing its corporate existence;
 - (B) a certificate of a senior officer certifying the status and Constatng Documents of the Corporation;
 - (C) written resignations of those directors and officers of the Corporation specified by the Purchaser and listed in Schedule 4.1(1)(i)(vi)(C) (collectively, the “**Resigning Directors and Officers**”), in each case with effect from the Effective Time, together with releases by those Persons releasing the Corporation from all claims and potential claims for the period prior to the Closing, other than (x) with respect to any amounts due and owing to such Resigning Director and Officer with respect to any unpaid remuneration or expense reimbursement in connection with their employment or appointment by the Corporation and (y) in accordance with Section 6.8; and

- (D) evidence satisfactory to the Purchaser, acting reasonably, of the termination and release of the HOBNI Shareholder Declarations in respect of the Corporation (provided that the unanimous shareholder declaration referred to in Sections 4.1(1)(i)(iv) shall terminate concurrent with Closing) and of all Services Contracts except for the Continuing Service Contracts;
- (vii) in respect of the Vendor a certificate dated as of the Closing Date and executed by a duly authorized representative of the Vendor confirming the matters set out in Sections 4.1(1)(a) and 4.1(1)(b), and certifying the incumbency and signatures of the individuals executing this Agreement and any other document relating to the Transactions on behalf of the Vendor;
- (viii) evidence satisfactory to the Purchaser, acting reasonably, that all of the Intercompany Loans have been fully paid or otherwise satisfied and indefeasibly discharged and released, without the incurrence of further debt or other obligations by the Corporation other than the issuance of additional common shares of the Corporation to the Vendor in connection with the repayment of the Intercompany Loans;
- (ix) evidence satisfactory to the Purchaser, acting reasonably, that (i) the termination date for the Smart Meter Agreement has been extended to the earlier of six months after the Closing Date and December 31, 2017, or such later date as Hydro One Networks Inc. and the Corporation may mutually agree to, provided that (a) the Smart Meter Agreement shall also have been amended to provide that there shall be no recourse thereunder to Hydro One Networks Inc. for any services provided thereunder for the period on and after the Closing Date (in this Section, the “**Recourse Exemption**”), (b) the Vendor shall have provided an indemnity in favour of the Corporation for any losses suffered by the Corporation as a result of a breach of the Smart Meter Agreement by Hydro One Networks Inc., during the period on and after the Closing Date, which indemnity will be subject to all of the same limitations, benefits and defences that are available to Hydro One Networks Inc. under the Smart Meter Agreement (other than the Recourse Exemption) and the Vendor’s aggregate liability under such indemnity will be limited to an amount equal to the Fees paid by the Corporation to Hydro One Networks Inc. under the Smart Meter Agreement in respect of the period on and after the Closing Date and (c) disclosure of Hydro One Networks Inc. continuing to provide services to the Corporation pursuant to the Smart Meter Agreement has been made in the application provided to the OEB in furtherance of the OEB Approval pursuant to Section 6.6(2), or (ii) the Corporation has entered into alternative arrangements for the provision of smart meter network services equivalent to those provided under the Smart Meter Agreement for a period ending no sooner than December 31, 2017, including service standards and service obligations which, in aggregate, are no less

favorable to the Corporation than the terms and conditions provided for in the Smart Meter Agreement; and

- (x) evidence satisfactory to the Purchaser, acting reasonably, that the Corporation has been released from all of its obligations under the Group Credit Agreement.
- (2) Each of the conditions set out in Section 4.1(1) is for the exclusive benefit of the Purchaser and the Purchaser may waive compliance with any such condition in whole or in part by notice in writing to the Vendor, except that no such waiver operates as a waiver of any other condition.

4.2 Conditions for the Benefit of the Vendor.

- (1) The Vendor shall be obliged to complete the Transactions only if each of the following conditions precedent has been satisfied in full at or before the time of Closing on the Closing Date:
 - (a) each of the representations and warranties of the Purchaser set forth in Section 5.3 shall be true and correct as of the Closing Date, except:
 - (i) for such breaches of representations and warranties that individually or in the aggregate do not have a material adverse effect on the ability of the Purchaser to perform its obligations under this Agreement or the Other Agreements or on the ability of the Purchaser to consummate the transactions contemplated hereunder or thereunder, and
 - (ii) for those representations and warranties which are made as of an earlier specific date, which shall be true and correct only as of such date,and disregarding in each case any limitations as to “material” or “materiality”, and provided further that notwithstanding the foregoing the representations and warranties set forth in Section 5.3(1) (Organization and Corporate Power), Section 5.3(2) (Authorization), Section 5.3(3) (Enforceability), Section 5.3(4) (Bankruptcy), Section 5.3(6) (Absence of Conflict), Section 5.3(7) (Investment Canada), Section 5.3(10) (Tax Residency), 5.3(11) (Owners of the Purchaser) and Section 5.3(12) (Availability of Funds) shall be true and correct in all respects;
 - (b) the Purchaser has complied with or performed in all material respects all of its covenants and agreements contained in this Agreement to be complied with or performed by the Purchaser on or before the Closing Date;
 - (c) the Competition Approval has been obtained, in each case in form and substance satisfactory to the Vendor, acting in a commercially reasonable manner, and are in full force and effect;
 - (d) the OEB Approval has been obtained and is in full force and effect;

- (e) there shall not be in effect on the Closing Date any order or Applicable Law restraining, enjoining or otherwise prohibiting or making illegal the consummation of the Transactions. None of the Parties shall be a defendant or a third party in any Proceeding which, in the opinion of the Vendor, acting reasonably, could prevent or restrict a Party from performing any of its obligations in this Agreement;
- (f) the Purchaser has caused to be delivered to the Vendor the following:
 - (i) a certificate of status of the Purchaser;
 - (ii) a duly executed release by the Corporation releasing the Resigning Directors and Officers, from all claims and potential claims for the period prior to the Closing, provided that such releases shall not limit any rights or claims for indemnification that the Corporation may have under this Agreement or the Other Agreements;
 - (iii) a duly executed release by the Corporation releasing (A) the Vendor and (B) the Province, solely in its capacity as a shareholder of the Vendor, from all claims and potential claims for the period prior to Closing, substantially in the form attached as Exhibit 4.2(1)(f)(iii), provided that such releases shall not limit any rights or claims for indemnification that the Corporation may have under this Agreement or the Other Agreements;
 - (iv) payment of the Cash Portion of the Purchase Price and delivery of the Purchaser's Promissory Note required to be paid on the Closing Date under Section 2.3;
 - (v) a certificate dated as of the Closing Date and executed by a senior officer of the Purchaser confirming the matters set out in Section 4.2(1)(a) and Section 4.2(1)(b); and
 - (vi) Section 6.7(1) Letters executed by each Shareholder and Current Indirect Owner in substantially the form of Exhibit 4.2(1)(f)(vi).
- (2) Each of the conditions set out in Section 4.2(1) is for the exclusive benefit of the Vendor and the Vendor may waive compliance with any such condition in whole or in part by notice in writing to the Purchaser, except that no such waiver operates as a waiver of any other condition.

4.3 Termination Events. By notice given prior to or at Closing, subject to Section 4.5, this Agreement may be terminated as follows:

- (1) by the mutual written agreement of the Purchaser and the Vendor;
- (2) by the Purchaser, if the Purchaser is not in material breach of this Agreement and the Vendor shall have breached any of its representations, warranties, covenants or agreements set forth in this Agreement, which breach (a) would give rise to the failure of

a condition set forth in Section 4.1, and (b) remains uncured on the earlier of (x) the date which is thirty (30) days following the Vendor's receipt of written notice thereof from the Purchaser and (y) the Outside Date;

- (3) by the Vendor, if the Vendor is not in material breach of this Agreement and the Purchaser shall have breached any of its representations, warranties, covenants or agreements set forth in this Agreement, which breach (a) would give rise to the failure of a condition set forth in Section 4.2, and (b) remains uncured on the earlier of (x) the date which is thirty (30) days following the Purchaser's receipt of written notice thereof from the Vendor and (y) the Outside Date; or
- (4) by the Purchaser or the Vendor if the Closing has not occurred before the close of business on December 31, 2016 (the "**Outside Date**") unless, in the case of the Purchaser, such Purchaser's breach of this Agreement results in the failure of the Closing to occur by such date or, in the case of the Vendor, the Vendor's breach of this Agreement results in the failure to close by such date.

4.4 **Notice of Termination.** In the event of termination by any Party pursuant to Section 4.3, written notice setting forth the reasons therefor shall be given by the terminating Party to the other Party and termination of this Agreement shall be effective upon receipt of such notice.

4.5 **Effect of Termination.**

- (1) Each Party's right of termination under Section 4.3 is in addition to any other rights it may have under this Agreement or otherwise, whether at law, in equity or otherwise, and the exercise of that right of termination is not an election of remedies. If this Agreement is terminated pursuant to Section 4.3, all obligations of the Parties under this Agreement will terminate except that the obligations contained in this Section 4.5 and in Article 9 will survive, provided that if this Agreement is terminated pursuant to Section 4.3(2) or 4.3(3), the terminating Party's right to pursue all legal remedies will survive that termination unimpaired.

4.6 **Waiver of Conditions of Closing.** If any of the conditions set forth in Section 4.1 has not been satisfied, the Purchaser may elect in writing to waive the condition and proceed with the completion of the Transactions and, if any of the conditions in Section 4.2 has not been satisfied, the Vendor may elect in writing to waive the condition and proceed with the completion of the Transactions. Any such waiver and election by the Purchaser or the Vendor, as the case may be, will only serve as a waiver of the specific closing condition and the other non-waiving Party will have no liability with respect to the specific waived condition.

ARTICLE 5 REPRESENTATIONS AND WARRANTIES

5.1 **Representations and Warranties of the Vendor.** The Vendor represents and warrants to the Purchaser as of the date hereof as follows, and acknowledges that the Purchaser is relying on these representations and warranties in connection with its purchase of the Purchased Shares:

- (1) Vendor's Powers. It has all necessary power, authority and capacity to own and dispose of the Purchased Shares, to enter into this Agreement and the Contracts, instruments, certificates and other documents required by this Agreement to be delivered by it to the Purchaser at the Closing, and to perform its obligations hereunder and thereunder.
- (2) Authorization. All necessary actions have been taken by it or on its part to authorize its execution and delivery of this Agreement and the Contracts and instruments required by this Agreement to be delivered by it and the performance of its obligations hereunder and thereunder.
- (3) Enforceability. This Agreement has been duly executed and delivered by it and (assuming due execution and delivery by the other Parties) is a legal, valid and binding obligation of it enforceable against it in accordance with its terms, subject to bankruptcy, insolvency, reorganization, moratorium or similar laws now or hereinafter in effect relating to creditors' rights generally, and to the application of equitable principles and except that equitable remedies may be granted only in the discretion of a court of competent jurisdiction. Each of the Contracts, instruments, certificates and other documents required by this Agreement to be delivered by it will at the Closing have been duly executed and delivered by it and (assuming due execution and delivery by the other parties thereto) will at Closing be enforceable against it, subject to bankruptcy, insolvency, reorganization, moratorium or similar laws now or hereinafter in effect relating to creditors' rights generally, to the application of equitable principles and except that equitable remedies may be granted only in the discretion of a court of competent jurisdiction.
- (4) Ownership of Purchased Shares. The Vendor is the registered and beneficial owner of the Purchased Shares, with good and marketable title thereto, free and clear of all Encumbrances, and will have the exclusive right to dispose of the Purchased Shares as provided in this Agreement. None of the Purchased Shares is subject to (a) any Contract or restriction which in any way limits or restricts the transfer to the Purchaser of the Purchased Shares other than the transfer restrictions in the Corporation's articles, or (b) any voting trust, pooling agreement, shareholder agreement (other than the HOBNI Shareholder Declarations), voting agreement or other Contract, arrangement or understanding with respect to the voting of the Purchased Shares. At or prior to the Closing, all those Contracts and restrictions will have been complied with or terminated. On completion of the Transactions, it will have no ownership interest in the Corporation, whether direct or indirect, actual or contingent, and the Purchaser shall have good title to the Purchased Shares, free and clear of all Encumbrances other than Encumbrances granted by the Purchaser.
- (5) No Other Agreements to Purchase. No Person other than the Purchaser has any Contract or any right or privilege capable of becoming a Contract for the purchase or acquisition from the Vendor of any of the Purchased Shares.
- (6) Absence of Conflict. The execution, delivery and performance by it of this Agreement and the completion of the Transactions will not result in:

- (a) the breach or violation of any of the provisions of, or constitute a default under, or conflict with any of its obligations under any Applicable Law to which the Vendor is subject provided the Approvals set forth in Section 5.2(21) of the Confidential Disclosure Letter are obtained, except as would not reasonably be expected to result in a Material Adverse Effect; or
 - (b) the creation or imposition of any Encumbrance over any of the Purchased Shares.
- (7) Litigation. There are no Proceedings against or, to the Knowledge of the Vendor, threatened against it which could affect the Purchased Shares or its ability to perform its obligations under this Agreement.

5.1A Representations and Warranties of the Province. The Province represents and warrants to the Purchaser as of the date hereof as follows, and acknowledges that the Purchaser is relying on these representations and warranties in connection with its purchase of the Purchased Shares:

- (1) Province's Powers. It has all necessary power, authority and capacity to enter into this Agreement and to perform its obligations hereunder.
- (2) Authorization. All necessary actions have been taken by it or on its part to authorize its execution and delivery of this Agreement and the performance of its obligations hereunder.
- (3) Enforceability. This Agreement has been duly executed and delivered by it and (assuming due execution and delivery by the other Parties) is a legal, valid and binding obligation of it enforceable against it in accordance with its terms, except as that enforcement may be limited by the provisions of the *Proceedings Against the Crown Act* (Ontario), subject to bankruptcy, insolvency, reorganization, moratorium or similar laws now or hereinafter in effect relating to creditors' rights generally, to the application of equitable principles and except that equitable remedies may be granted only in the discretion of a court of competent jurisdiction, to section 11.3 of the *Financial Administration Act* (Ontario) and to section 43 of the *Financial Administration Act* (Ontario). The Province is not required to obtain any approval under section 28 of the *Financial Administration Act* (Ontario) in order to enter into this Agreement or for its obligations under this Agreement to be legal, valid and binding on the Province or enforceable against the Province, and the absence of an approval pursuant to section 28 of the *Financial Administration Act* (Ontario) in respect of this Agreement would not bar any future action pertaining to enforcement of this Agreement against the Province.

5.2 Representations and Warranties of the Vendor Relating to the Corporation. The Vendor represents and warrants to the Purchaser as of the date hereof as follows, and acknowledges that the Purchaser is relying on these representations and warranties in connection with its purchase of the Purchased Shares:

- (1) Organization and Status. The Corporation is duly incorporated and organized, and is validly subsisting, under the laws of Ontario and is up-to-date in the filing of all corporate and similar returns under the laws of that jurisdiction. The Corporation is duly registered,

licensed or qualified as an extra-provincial or foreign corporation, is in good standing and up-to-date in the filing of all corporate and similar returns, under the laws of the jurisdictions set out opposite its name in Section 5.2(1) of the Confidential Disclosure Letter. The jurisdictions set out in Section 5.2(1) are the only jurisdictions in which the nature of the Business or the Assets makes such registration, licensing or qualification necessary.

- (2) Corporate Power. The Corporation has all necessary corporate power and authority to own or lease all material tangible personal property of the Corporation used in the conduct of the Business as currently conducted.
- (3) Authorized and Issued Capital. Section 5.2(3) of the Confidential Disclosure Letter sets out the authorized and issued shares of the Corporation, the names of the Persons who are shown on the securities register of the Corporation as the holder and beneficial owner of any of the shares, and the number and class of shares held or owned, as the case may be, by each Person. All of the shares indicated in Section 5.2(3) of the Confidential Disclosure Letter are the only issued and outstanding shares of the Corporation and have been validly issued and are outstanding as fully paid and non-assessable shares, and were not issued in violation of the pre-emptive rights of any Person or any Contract or Applicable Law by which the Corporation was bound as the time of the issuance. There are no shareholders agreements, voting trusts, pooling agreements or other Contracts, arrangements or understandings in respect of the voting of any of the shares of the Corporation, other than the HOBNI Shareholder Declarations. There are no declared but unpaid dividends due on any of the Purchased Shares. True, accurate and complete copies of the Constatting Documents and other organizational documents of the Corporation have been provided to the Purchaser.
- (4) Options. No Person has any Contract or any right or privilege capable of becoming a Contract, including convertible securities, warrants or convertible obligations of any nature, for the purchase, subscription, allotment or issuance of any issued or un-issued shares or other securities of the Corporation.
- (5) Absence of Conflict. Except as set forth in Section 5.2(5) of the Confidential Disclosure Letter, the completion of the Transactions will not result in:
 - (a) the breach or violation of any of the provisions of, or constitute a default which would (whether after the passage of time or notice or both) result in the termination or cancellation of any Material Contract;
 - (b) the breach or violation of any of the provisions of, or constitute a default under, or conflict with any of the obligations of the Corporation under:
 - (i) any provision of the Constatting Documents or resolutions of the board of directors (or any committee thereof) or shareholders of the Corporation;
 - (ii) any material Approval issued to, or held by, the Corporation or held for the benefit of or necessary to the operation of the Corporation or the Business; or

- (iii) any Applicable Law to which the Corporation is subject provided the Approvals set forth in Section 5.2(21) of the Confidential Disclosure Letter are obtained, except as would not result in a Material Adverse Effect;
 - (c) the creation or imposition of any Encumbrance over any of the assets of the Corporation, other than Permitted Encumbrances; or
 - (d) the requirement of any Approval from any of the creditors of the Corporation.
- (6) Conduct of Business. Except as set forth in Section 5.2(6) of the Confidential Disclosure Letter, the Corporation is in compliance in all material respects and has complied in all material respects with the requirements of all Applicable Laws which are binding on or which affect it but excluding Environmental Laws which are covered exclusively by Section 5.2(30), Applicable Laws regarding Taxes which are covered exclusively by Section 5.2(26) and Applicable Laws regarding employment, labour, and benefits matters which are covered exclusively by Sections 5.2(31), 5.2(32), 5.2(33) and 5.2(34).
- (7) No Subsidiaries. The Corporation has no Subsidiaries and does not own and does not have any Contracts of any nature to acquire, directly or indirectly, any Equity Interests in any Person.
- (8) Bankruptcy. The Corporation is not an insolvent Person within the meaning of the *Bankruptcy and Insolvency Act* (Canada) nor has it made an assignment in favour of its creditors or a proposal in bankruptcy to its creditors or any class thereof, and no petition for a receiving order has been presented in respect of it. The Corporation has not initiated any Proceedings with respect to a compromise or arrangement with its creditors or for its winding up, liquidation or dissolution. No receiver or interim receiver has been appointed in respect of the Corporation or any of the Assets and no execution or distress has been levied on any of the Assets, nor have Proceedings been commenced in connection with any of the foregoing.
- (9) Location of Real Property and Leased Property. Section 5.2(9) of the Confidential Disclosure Letter sets out the municipal address or legal description of all real property interests on which are situated the Corporation's office buildings, operations centers and facilities, municipal substations and transformer stations whether owned in fee simple (collectively, the "**Real Property**") or leased, whether as lessor or lessee, in whole or in part by the Corporation (the "**Leased Property**"). The Corporation is not the beneficial or registered owner of, nor has it agreed to acquire a beneficial or registered interest in, any real property or Appurtenances, or any interest in any real property or Appurtenances, in each case which is or would be material to the Business, other than the Easements, the Real Property and the Leased Property.
- (10) Real Property Leases. The Corporation is not a party to, nor has it agreed to enter into, any material lease or agreement in the nature of a lease in respect of any real property or Appurtenances, whether as lessor or lessee, other than the Leases. True, accurate and complete copies of all the leases or Agreements in the nature of a lease for the Leased

Property (the “**Leases**”) have been provided to the Purchaser. Each of the Leases is in full force and effect and unamended.

- (11) Easements. The Corporation holds all of the Easements that are material in the conduct of the Business in the Ordinary Course. All Easements material to the Business are valid, enforceable and in good standing.
- (12) Title to Real Property. The Corporation has the exclusive right to possess, use and occupy, and has good and marketable title in fee simple to all the Real Property material to the Business free and clear of all Encumbrances other than the Permitted Encumbrances. No material part of the Real Property has been taken or expropriated by any competent Governmental Authority nor has any notice in writing or proceeding in respect thereof been given or commenced.
- (13) Title to Other Property. The Corporation has good and marketable title to all material tangible property used in the Business (other than the Leased Property, Easements, the Real Property and the Personal Property Leases which are addressed in Sections 5.2(10), 5.2(11), 5.2(12) and 5.2(14) respectively), free and clear of any and all Encumbrances other than the Permitted Encumbrances. There has been no material change in the condition of the material tangible property used in the Business (other than the Leased Property, Easements, and the Real Property which are addressed in Sections 5.2(10), 5.2(11) and 5.2(12), respectively), since the Vanry Report Date. No Itron 16S Meters are in service or being used by the Corporation or its customers in the Business.
- (14) Personal Property Leases. True, accurate and complete copies of all equipment leases, chattel leases, rental agreements, conditional sales agreements and similar agreements relating to any of the Assets involving payments by the Corporation of more than \$500,000 (the “**Personal Property Leases**”) annually have been provided to the Purchaser. All of the Personal Property Leases were entered into by the Corporation in the Ordinary Course.
- (15) Intellectual Property. There is no material Owned IP that is a pending application or in-force registration. As of the date hereof, except as set forth in Section 5.2(15) of the Confidential Disclosure Letter, to the Knowledge of the Vendor (such knowledge however being without any further inquiry to counsel for analysis or opinion), the Corporation owns or otherwise has the right to use all Intellectual Property that is material and necessary to carry on the Business as currently conducted, and the Intellectual Property used in the Business does not infringe upon or misappropriate any Intellectual Property of any third party in any material respect.
- (16) Information Technologies. Except as set forth in Section 5.2(16) of the Confidential Disclosure Letter, the Information Technologies adequately meet the data processing and storage needs of the Business and the Corporation’s operations and affairs, in each case as presently conducted except for deficiencies the mitigation of which are provided for in the Corporation’s Approved Capital Expenditure Plan. The Corporation has taken reasonable steps to protect against unauthorized access, use, copying, modification, theft and destruction of programs and files used in the Information Technologies.

- (17) Insurance. Section 5.2(17) of the Confidential Disclosure Letter lists, as of the date hereof, all material insurance policies currently in effect that insure the physical properties, business, operations and Assets of the Corporation. Each policy set forth in Section 5.2(17) of the Confidential Disclosure Letter is valid and binding and in full force and effect and except as set out in Section 5.2(17) of the Confidential Disclosure Letter, to the Knowledge of the Vendor there is no material claim pending under any such policies as to which coverage has been questioned, denied or disputed, or basis on which premiums or payments will be materially increased. To the Knowledge of the Vendor, no written notice of cancellation or termination has been received by the Corporation within the preceding three (3) years with respect to any policy which has not been replaced on substantially similar terms prior to the date of such cancellation or termination.
- (18) Material Contracts and Other Contracts. Section 5.2(18) of the Confidential Disclosure Letter contains a list of each currently effective Contract to which the Corporation is party (collectively, “**Material Contracts**”) that:
- (a) provides for the purchase of materials, supplies, Equipment or services which involves payment under that Contract of more than \$500,000;
 - (b) is with any Employee who is an executive of the Corporation, received annual compensation of more than \$100,000 in the fiscal year ended December 31, 2014, or will receive or is reasonably expected to receive annual compensation of more than \$100,000 in the fiscal year ended December 31, 2015 (in each case, other than oral Contracts of indefinite hire terminable by the employer without cause on reasonable notice), or in relation to any Employee Plan, excluding in each case any Employee subject to a Collective Agreement;
 - (c) is an indenture, a loan, mortgage, promissory note or an agreement of guarantee, or assumption of, or a similar commitment with respect to, the obligations, liabilities or indebtedness of any other Person;
 - (d) is a Contract for capital expenditures in excess of \$500,000 in the aggregate, other than those entered into in furtherance of and not exceeding the amounts authorized in the Approved Capital Expenditures Plan;
 - (e) is a Contract for the sale of any of the material tangible property used in the Business, other than in the Ordinary Course;
 - (f) is a confidentiality, secrecy or non-disclosure Contract that restricts the Corporation engaging in the Business;
 - (g) is a Contract to which the Corporation is a party or by which the Corporation is bound, made in the Ordinary Course and which involves the payment to or by the Corporation in excess of \$500,000 during any calendar year that the Contract is in force; or
 - (h) the breach or default of which would reasonably be expected to result in a Material Adverse Effect.

True, accurate and complete copies of all Material Contracts, including all Services Contracts, or, where those Contracts are oral, true, accurate and complete summaries of their terms, have been made available to the Purchaser.

- (19) No Default Under Contracts. The Corporation has duly performed its obligations required to be performed by it and is entitled to all benefits under, and is not in default in respect of any Material Contract. To the Knowledge of the Vendor, there is no material dispute between the Corporation and any other Party under any such Material Contract.
- (20) Permits. Section 5.2(20) of the Confidential Disclosure Letter sets out a true, accurate and complete list of all material Permits issued to or held by or for the benefit of the Corporation and required for the operation of the Business, including the OEB Licence (collectively, the “**Required Permits**”). Each Required Permit is in full force and effect. The Corporation is not in default or in breach of any terms of any Required Permit that would affect its validity or good standing and, to the Knowledge of the Vendor there is no action or proceeding pending or threatened to revoke, suspend or amend any Required Permit. True, accurate and complete copies of all Required Permits set out in Section 5.2(20) of the Confidential Disclosure Letter have been provided to the Purchaser.
- (21) Regulatory and Third Party Approvals. Except as set out in Section 5.2(21) of the Confidential Disclosure Letter, neither the Vendor nor the Corporation has any requirement to make any filing with, give any notice to or obtain any Permit as a condition to the lawful completion of the Transactions contemplated by this Agreement. Except as set out in Section 5.2(21) of the Confidential Disclosure Letter, there is no requirement to give notice or obtain Approval under any Material Contract to which the Corporation is a party or by which any of the Assets is bound or affected as a condition to the lawful completion of the Transactions.
- (22) Financial Statements. The Vendor has made available to the Purchaser prior to the date hereof copies of the Financial Statements. Except as disclosed in Section 5.2(22) of the Confidential Disclosure Letter, (a) the Audited Financial Statements have been prepared in accordance with GAAP and (b) the Unaudited Financial Statements have been prepared in accordance with GAAP, in each case, on a consistent basis throughout the periods covered thereby and fairly and accurately present in all material respects the financial condition of the Corporation as at the dates thereof and the results of operations and changes in cash flows for the respective periods covered thereby, subject to, in the case of any unaudited Financial Statements, the absence of notes and to normal year-end adjustments. When delivered, the Audited 2015 Financial Statements will have been prepared in accordance with IFRS, on a consistent basis throughout the periods covered thereby except due to the Corporation’s conversion to IFRS as of January 1, 2015 and will fairly and accurately present in all material respects the financial condition of the Corporation as at the dates thereof and the results of operations and changes in cash flows for the respective periods covered thereby.
- (23) Records. Except as disclosed in Section 5.2(23) of the Confidential Disclosure Letter, no information, records or systems pertaining to the operation or administration of the

Corporation are in the possession of, recorded, stored or maintained such that the Corporation will not have access to such information, record or system following Closing. The minute books of the Corporation reflect in all material respects true, accurate and complete records of all of its Constatting Documents and of every meeting, resolution and corporate action required in accordance with Applicable Law to be reflected therein.

- (24) Undisclosed Liabilities. Except liabilities that are or will be (a) reflected, accrued or reserved against in the Financial Statements, or the Working Capital on Closing or the Net Fixed Assets on Closing, (b) disclosed in Section 5.2(24) of the Confidential Disclosure Letter, (c) incurred in connection with the transactions contemplated by this Agreement or in connection with any Other Agreement, (d) incurred in the Ordinary Course since the Financial Statements Date or (e) reflected in Section 5.2(29) of the Confidential Disclosure Letter, the Corporation does not have any material liabilities, obligations, indebtedness or commitments, whether accrued, absolute, contingent or otherwise, that is of a type that is required to be reflected on a balance sheet prepared in accordance with GAAP.
- (25) Absence of Changes. Except as set forth in, or permitted by, this Agreement or in Section 5.2(25) of the Confidential Disclosure Letter, since the Financial Statements Date to the date hereof, (a) the business of the Corporation has been conducted in all material respects in the Ordinary Course, (b) neither the Vendor nor the Corporation has taken any action that would constitute a breach of any of the covenants set forth in Section 6.4 (other than Section 6.4(a)(xii)) if such action had been taken after the date hereof, and (c) there has not occurred a Material Adverse Effect.
- (26) Taxes.
 - (a) The Corporation is exempt from Tax under the Tax Act but is required to make PILs payments under the Electricity Act in an amount equal to the Tax that it would be liable to pay under the Tax Act if it were not exempt from Tax under the Tax Act.
 - (b) The Corporation has filed, or caused to be filed, in the prescribed manner and within the prescribed times all material Tax Returns required to be filed by it under Applicable Law before the Closing Date. All such Tax Returns were, when filed, true, complete and, to the Knowledge of the Vendor, materially correct. No Taxing Authority outside Canada has claimed that the Corporation is required to file any Tax Returns with, or is liable to pay or remit Tax in, that jurisdiction. The Corporation has duly and timely paid, or caused to be paid, all Taxes shown as being due and payable by it on such Tax Returns, all assessments and reassessments it has received in respect of all Taxes and all instalments on account of Taxes for its current taxation year that are due and payable before the Closing Date.
 - (c) The Vendor has provided to the Purchaser true, complete and accurate copies of all PILs, payroll and harmonized sales Tax Returns filed by the Corporation in

respect of the last three completed taxation years and all working papers and all communications to or from all Taxing Authorities relating to such Tax Returns and to Taxes of the Corporation for such taxation years. Assessments under the Electricity Act and in respect of the payroll and harmonized sales Tax Returns have been issued to the Corporation covering all periods up to and including its fiscal year ended December 31, 2013. No notices of determination of loss from any Taxing Authority to the Corporation have been requested by or issued to the Corporation. To the Knowledge of the Vendor, the Corporation has not requested, received or entered into any advance Tax rulings or advance pricing agreements from or with any Taxing Authority.

- (d) The Corporation's Financial Statements contain adequate provision in accordance with GAAP for all Taxes payable by the Corporation in respect of each period covered by such Financial Statements and all prior periods to the extent those Taxes have not been paid, whether or not assessed and whether or not shown to be due on any Tax Returns.
- (e) Except as disclosed in Section 5.2(26) of the Confidential Disclosure Letter, there are no audits, reassessments or other Proceedings in progress in respect of any Taxes. Except as disclosed in Section 5.2(26) of the Confidential Disclosure Letter, the Corporation has not received any written communication from any Taxing Authority that an assessment or reassessment is proposed in respect of any Taxes. The Corporation has not acquired property from any Person in circumstances in which the Corporation did or could become liable for any Taxes payable by such Person pursuant to section 160 of the Tax Act.
- (f) There are no agreements, waivers or other arrangements with any Taxing Authority extending the statutory period providing for an extension of time with respect to the issuance of any assessment or reassessment of Taxes, the filing of any Tax Return, or the payment of any Taxes by or in respect of the Corporation. The Corporation is not a party to any agreements or undertakings with any Taxing Authority with respect to Taxes.
- (g) The Corporation has deducted, withheld or collected and remitted in a timely manner to the relevant Taxing Authority all Taxes or other amounts required to be deducted, withheld or collected and remitted by it. The Corporation has not received any requirement from any Taxing Authority pursuant to section 224 of the Tax Act, or other applicable legislation, which remains unsatisfied in any respect.
- (h) No material amount in respect of any outlay or expense that is deductible for the purposes of computing the income of the Corporation has been owing by the Corporation for longer than two (2) years to a Person not dealing at arm's length (for the purposes of the Tax Act) with the Corporation at the time the outlay or expense was incurred.

- (i) The Corporation is a registrant for purposes of the ETA and its registration number is [REDACTED]. All input tax credits claimed by the Corporation pursuant to the ETA have been documented in accordance with the requirements of the Act and regulations thereto.
 - (j) The Corporation keeps its Tax Books and Records in compliance with Applicable Law in respect of Taxes.
- (27) Litigation. Except as described in Section 5.2(27) of the Confidential Disclosure Letter, there are no Proceedings pending or, to the Knowledge of the Vendor, threatened against the Corporation which if determined adversely to the Corporation would reasonably involve the payment of more than half of one percent (.5%) of the Base Purchase Price.
- (28) Directors and Officers. Section 5.2(28) of the Confidential Disclosure Letter is a true, accurate and complete list of the names and titles of all the officers and directors of the Corporation.
- (29) Non-Arm's Length Transactions. The Corporation has not made any payment or loan to, or borrowed any moneys from or is otherwise indebted to, any officer, director, Employee, shareholder or any other Person not dealing at arm's length with the Corporation (within the meaning of the Tax Act), including for purposes of this representation, the Vendor, Hydro One and their respective Subsidiaries, except (a) as disclosed in Section 5.2(29) of the Confidential Disclosure Letter, and (b) for the Intercompany Loans, payments relating to the Intercompany Services, as disclosed in the Financial Statements, and usual employee reimbursements and compensation paid in the Ordinary Course and except for benefits paid in accordance with Employee Plans. Except (i) as disclosed in Section 5.2(29) of the Confidential Disclosure Letter, (ii) for Contracts of employment and Contracts relating to the Intercompany Loans and Intercompany Services, and (iii) for Contracts for the distribution of electricity by the Corporation to Persons for personal or household purposes in the Ordinary Course, the Corporation is not a party to any Contract with any officer, director, Employee, shareholder or any other Person not dealing at arm's length with the Corporation (within the meaning of the Tax Act), or with the Vendor, Hydro One or any of their respective Subsidiaries. For the purposes of this Section 5.2(29), corporations, agencies and other entities owned by the Province (including Governmental Authorities of the Province), excluding Hydro One and its Subsidiaries and the Vendor, are deemed to be dealing at arm's length with the Corporation.
- (30) Environmental.
 - (a) Except as described in Section 5.2(30) of the Confidential Disclosure Letter:
 - (i) The Corporation is in material compliance with all Environmental Laws;
 - (ii) The Corporation has obtained all material Environmental Permits required for the operation of the Business, all of which are set out in Section 5.2(30) of the Confidential Disclosure Letter. Each such Environmental Permit is valid, subsisting and in good standing and the

Corporation is not in material default or breach of any Environmental Permit and no proceeding is pending or, to the Knowledge of the Vendor, threatened to revoke or limit any Environmental Permit;

- (iii) The Corporation has not used or, has not to the Knowledge of the Vendor, permitted any property owned, leased, managed, or controlled by the Corporation for the disposal of Contaminants, except in compliance with Environmental Laws;
 - (iv) The Corporation has not received any notice of, nor is the Corporation being prosecuted for an offence alleging, any material non-compliance with any Environmental Laws;
 - (v) There are no orders or directions issued or pending against the Corporation under Environmental Laws;
 - (vi) To the Knowledge of the Vendor, there has been no release, migration or discharge of any Contaminant at or on any property the Corporation owns, leases, manages or controls with respect to which the Corporation would reasonably be expected to have material liability under Environmental Laws; and
 - (vii) To the Knowledge of the Vendor, there are no underground storage tanks located on the Real Property or the Leased Property, except as would not reasonably be expected to result in a material liability under Environmental Laws.
- (b) Copies of all material environmental audits, site assessments, risk assessments, studies or tests relating to the Corporation or the Business that are in the possession of the Corporation, have been provided to the Purchaser.

(31) Employee Plans.

- (a) Section 5.2(31) of the Confidential Disclosure Letter identifies each deferred compensation, bonus, incentive or other compensation, share option or purchase, severance, termination pay, hospitalization or other medical benefit, life or other insurance, vision, dental, drug, sick leave, disability, salary continuation, vacation, supplemental unemployment benefits, profit sharing, mortgage assistance, employee loan, discount, assistance or counselling, pension or supplemental pension, retirement compensation, group registered retirement savings, deferred profit sharing, employee profit sharing, savings, retirement or supplemental retirement plan, and any other plan, program or arrangement, whether funded or unfunded, including all policies with respect to holidays, sick leave, expense reimbursement, automobile allowances and rights to company-provided automobiles, that is maintained, contributed to, or required to be maintained or contributed to, by the Corporation, or under which the Corporation has any liability or contingent liability, for the benefit of the Corporation's current and former directors, officers, consultants, independent contractors, former

employees or Employees and their respective beneficiaries or dependents, other than Statutory Plans (the “**Employee Plans**”). The Corporation is the only participating employer in each of the Employee Plans, other than the Pension Plan.

- (b) A true, accurate and complete copy of each written Employee Plan, other than the Pension Plan, as amended to date, has been provided to the Purchaser together with true, accurate and complete copies of all material supporting documents relating to each Employee Plan, other than the Pension Plan. All data required for the administration of the Employee Plans is held by or in the possession of the Corporation and, to the Knowledge of the Vendor, will be sufficient in all material respects for the Corporation’s administration of the Employee Plans.
- (c) Each of the Employee Plans, other than the Pension Plan, is and has been established, registered, insured, administered and invested in compliance with:
 - (i) the terms thereof;
 - (ii) all Applicable Laws;
 - (iii) the administrative practices of the CRA, as applicable;
 - (iv) the Collective Agreements, if applicable;

and the Corporation has not received, in the last three years, any notice from any Person questioning or challenging that compliance.

- (d) All obligations of the Corporation due prior to Closing under the Employee Plans and the Statutory Plans (whether pursuant to the terms thereof, the Collective Agreements or any Applicable Law) have been satisfied, and, to the Knowledge of the Vendor, there are no outstanding defaults or violations thereunder by the Corporation. Without limiting the generality of the foregoing, all employer and employee payments, contributions and premiums required to be remitted or paid by the Corporation to or in respect of the Employee Plans and the Statutory Plans have been remitted or paid, in a timely manner to or in respect of the Employee Plans and the Statutory Plans in accordance with the terms thereof, the Collective Agreements and all Applicable Laws.
- (e) Except as disclosed in Section 5.2(31) of the Confidential Disclosure Letter, there are no improvements, increases or changes promised to the benefits provided under the Employee Plans and none of the Employee Plans provide for benefit increases, the making of any payment (including a bonus, golden parachute or other enhanced benefit) or the acceleration of any funding obligations that are contingent on, or will be triggered by, the entering into of this Agreement or the completion of the Transactions.
- (f) There is no claim or Proceeding by any applicable Governmental Authority, including the CRA, or by any Person (other than routine claims for payment of

benefits) pending or, to the Knowledge of the Vendor, threatened in respect of any of the Employee Plans (in the case of the Pension Plan, in relation to the Corporation's participation in such Pension Plan) or their assets and, to the Knowledge of the Vendor, no facts exist which could reasonably be expected to give rise to any such claim or Proceeding (other than routine claims for payment of benefits).

- (g) No material changes have occurred in respect of each of the Employee Plans since the date of its most recent financial, accounting, actuarial or other report, as applicable, filed with the applicable pension regulator, the CRA and any other applicable Governmental Authority (where applicable) in connection with that Employee Plan, nor have there been any events occurring prior to the most recent financial, accounting, actuarial or other report which are not disclosed in that report which could reasonably be expected to materially adversely affect the relevant report (including rendering it misleading in any material respect) or to have materially affected the financial status of that Employee Plan. No Employee Plan is subject to any retroactive adjustment of premiums, contributions or payments.
- (h) Other than as disclosed in Section 5.2(31) of the Confidential Disclosure Letter, the Employee Plans do not provide benefits beyond retirement or other termination of service to the Corporation's current and former directors, officers, shareholders, consultants, independent contractors, former employees or the Employees and their respective beneficiaries or dependents.
- (i) To the Knowledge of the Vendor, each of the Employee Plans (other than the Pension Plan), which purports to qualify as a particular type of plan under the Tax Act or which has or purports to have Tax-favoured treatment, meets all requirements in effect under the Tax Act for such qualification or treatment and has complied with the provisions of the Tax Act applicable to that type of plan or treatment. To the Knowledge of the Vendor, no event has occurred respecting any Employee Plan (other than the Pension Plan) which could reasonably be expected to materially and adversely affect the Tax-favoured status of the Employee Plan or its qualification as a particular type of plan under the Tax Act.
- (j) The Corporation has no obligation to make any contribution, premium or any other payment to the Pension Plan, except the contributions at fixed rates as set out in the Collective Agreements.

(32) Labour Matters.

- (a) Except for the Collective Agreements and as set forth in Section 5.2(32) of the Confidential Disclosure Letter:
 - (i) the Corporation has not entered into, is not a party to (either directly or by operation of law) and has not engaged in the negotiation of any collective agreement, letters of understanding, letters of intent or other written

communication with any trade union or association or organization that may qualify as a trade union or association, contingent or otherwise, which would cover any Employee or dependent contractor of the Corporation; and

- (ii) the Employees or dependent contractors of the Corporation are not subject to any collective agreements or letters of understanding, letters of intent or other written communication with any trade union or association or organization that may qualify as a trade union or association, contingent or otherwise, and are not, in their capacities as Employees, represented by any trade union or association or organization that may qualify as a trade union or association.
 - (b) To the Knowledge of the Vendor, the Corporation is not in any material default under the Collective Agreements or any Contract set out in Section 5.2(32) of the Confidential Disclosure Letter, and is in good standing under the Collective Agreements and all Contracts set out in Section 5.2(32) of the Confidential Disclosure Letter.
 - (c) Except as set forth in Section 5.2(32) of the Confidential Disclosure Letter, to the Knowledge of the Vendor, there are no controversies, labour disturbances, unfair labour complaints, investigations, grievances, Proceedings pending or, to the Knowledge of the Vendor, threatened, by any Governmental Authority or between the Corporation and any Employee or one or more parties representing any of those Employees before any court, arbitrator, officer, inspector, board, commission, tribunal or agency. The Corporation is not liable for any damages, arrears of wages or penalties for failure to comply with any of the foregoing.
 - (d) To the Knowledge of the Vendor, there are no organizational efforts currently being made, threatened by or on behalf of, any trade union or association or organization that may qualify as a trade union or association with respect to the Employees or dependent contractors of the Corporation. The Corporation has not experienced a work stoppage, strike, lock out or other labour disturbance within the past 3 years and there is no work stoppage, strike, lock-out or other labour disturbance currently occurring or threatened.
 - (e) True, accurate and complete copies of the Collective Agreements and all other Contracts set out in Section 5.2(32) of the Confidential Disclosure Letter have been provided to the Purchaser.
- (33) Employees and Others.
- (a) Section 5.2(33) of the Confidential Disclosure Letter contains a true, accurate and complete list of the employment identification numbers of all Persons who are Employees or Independent Contractors of the Corporation specifying:
 - (i) with respect to the unionized Employees, the rate of hourly pay, seniority and date of hire, bonus or other incentive based compensation,

participation in Employee Plans, vacation entitlement and accrual and whether or not the Employee is absent for any reason such as lay off or leave of absence and, in the case of a leave of absence, the reasons for the leave of absence, the receipt of long-term or short-term disability benefits or workplace safety and insurance benefits and the commencement date of such leave of absence; and

- (ii) with respect to non-unionized Employees and Independent Contractors, the length of service, age, title, rate of salary, commission structure, bonus or other incentive based compensation, participation in Employee Plans, vacation entitlement and accrual for each such Employee or Independent Contractor and whether or not the Employee or Independent Contractor is absent for any reason such as lay off, leave of absence and, in the case of a leave of absence, the reasons for the leave of absence, the receipt of long-term or short-term disability benefits or workplace safety and insurance benefits and the commencement date of such leave of absence.
 - (b) To the Knowledge of the Vendor, all Independent Contractors have been properly classified as such under Applicable Laws (including the common law).
 - (c) No notice has been received by the Corporation of any complaint or application filed by any of the Employees or Independent Contractors against the Corporation instituting a proceeding or claiming that the Corporation has violated the *Employment Standards Act, 2000* (Ontario), *Occupational Health and Safety Act* (Ontario), *Pay Equity Act* (Ontario), *Labour Relations Act, 1995* (Ontario) or the *Human Rights Code* (Ontario) (or any applicable employee or human rights or similar legislation in the other jurisdictions in which the Business is conducted or the Corporation operates) or of any complaints or proceedings of any kind involving the Corporation before any labour relations board, except as disclosed in Section 5.2(33) of the Confidential Disclosure Letter.
 - (d) The Corporation is in material compliance with its duties and obligations under all applicable employment-related statutes and laws, including the *Employment Standards Act, 2000* (Ontario), the *Human Rights Code* (Ontario), the *Labour Relations Act, 1995* (Ontario), the *Occupational Health and Safety Act* (Ontario), the *Pay Equity Act* (Ontario) and the *Workplace Safety and Insurance Act, 1997* (Ontario).
 - (e) All costs, charges, experience rating assessments or other assessments or other liabilities, contingent or otherwise, under workers' compensation legislation or other legislation relating to industrial accidents and/or occupational diseases claims applicable to the Corporation have been paid or accrued and there has not been any special or penalty charge or assessment under such legislation against the Corporation that has not been paid.
- (34) Employee Accruals. All accruals for unpaid vacation pay, premiums for employment and parental insurance, health premiums, Canada Pension Plan premiums, accrued wages,

salaries and commissions and Employee Plan payments have been reflected in the Books and Records and Financial Statements. There are no material outstanding agreements, understandings or commitments of the Corporation to the Employees or Independent Contractors with respect to any compensation increases, payments or other rights, including arising from the consummation of the Transactions contemplated by this Agreement.

- (35) Inter-Company Services. Except for the Intercompany Services, there are no material inter-company services provided to the Corporation by the Vendor, Hydro One or any Subsidiary of Hydro One, other than those provided by the Vendor, Hydro One or any Subsidiary of Hydro One, pursuant to the Services Contracts or in their role as Governmental Authorities at the established pricing levels.
- (36) Ethical Practices. The Vendor has not and to the Knowledge of the Vendor, no Representative of the Vendor or of the Corporation has directly or indirectly made or received any contribution, gift, bribe, rebate, payoff, influence payment, kickback, or other payment to or from any Person, private or public, regardless of form, whether in money, property or services in violation of any Applicable Law.
- (37) Personal Information. All of the privacy policies and privacy procedures of the Corporation currently in effect have been made available to the Purchaser.
 - (a) Except as set out in Section 5.2(37) of the Confidential Disclosure Letter:
 - (i) the Corporation has not received any communication from any regulator with respect to issues involving the collection, use, disclosure, retention or destruction of Personal Information by the Corporation, including any claims of unauthorized access or disclosure of such Personal Information;
 - (ii) no complaint against the Corporation alleging non-compliance with any Privacy Law has been found by any Governmental Authority to be well-founded, and no order or judgment has been made against the Corporation by any Governmental Authority based on any finding of non-compliance with any such Privacy Law;
 - (iii) no unresolved complaint or other proceeding against the Corporation relating to any such alleged non-compliance is now pending by or before any Governmental Authority; and
 - (iv) to the Knowledge of the Vendor, no event has occurred that could give rise to any such complaint or proceeding against the Corporation.
 - (b) The Personal Information has not been subject to any loss or unauthorized disclosure or access while under the control of the Corporation or any service provider acting on behalf of the Corporation.
 - (c) There are no consents or approvals required in order for the Corporation to continue to use and disclose the Personal Information following the completion of

the Transaction in a manner consistent with the Corporation's use and disclosure of the Personal Information immediately prior to the completion of the Transaction.

- (38) No Predecessors. Except as set out in Section 5.2(38) of the Confidential Disclosure Letter, no corporation has been merged with the Corporation, by amalgamation, dissolution, arrangement or otherwise, in such a manner that the Corporation is or may become liable for any liabilities (contingent or otherwise) of any kind whatsoever of that corporation.
- (39) No Finder's Fees. Each of the Vendor, Hydro One and the Corporation has not taken and will not take any action that would cause the Purchaser or the Corporation to become liable to any Person for any claim or payments for a brokerage commission, finder's fee or other similar arrangement.
- (40) Obligations to the City of Brampton. Section 5.2(40) of the Confidential Disclosure Letter sets out all of the commitments, undertakings, Contracts, covenants or other obligations of the Corporation to the City of Brampton pursuant to the 2000 Brampton SPA, all of which are in good standing.

5.3 Representations and Warranties of the Purchaser. The Purchaser represents and warrants to the Vendor and the Province as of the date hereof as follows, and acknowledges that the Vendor and the Province are relying on these representations and warranties in connection with the sale by the Vendor of the Purchased Shares:

- (1) Organization and Corporate Power. The Purchaser is a corporation duly incorporated or amalgamated and validly subsisting under the laws of the Province of Ontario and is up-to-date in the filing of all corporate and similar returns under the laws of that jurisdiction. The Purchaser has all necessary corporate power and authority to acquire the Purchased Shares, to enter into this Agreement and to perform its obligations hereunder.
- (2) Authorization. All necessary corporate action has been taken by or on the part of the Purchaser to authorize its execution and delivery of this Agreement and the contracts, agreements and instruments required by this Agreement to be delivered by it and the performance of its obligations hereunder and thereunder.
- (3) Enforceability. This Agreement has been duly executed and delivered by the Purchaser and (assuming due execution and delivery by the other Parties) is a legal, valid and binding obligation of the Purchaser enforceable against it in accordance with its terms, except as that enforcement may be limited by bankruptcy, insolvency and other laws affecting the rights of creditors generally and except that equitable remedies may be granted only in the discretion of a court of competent jurisdiction. Each of the contracts, agreements and instruments required by this Agreement to be delivered by the Purchaser will at the Closing have been duly executed and delivered by it and (assuming due execution and delivery by the other parties thereto) will be enforceable against it in accordance with its terms, except as that enforcement may be limited by bankruptcy, insolvency and other laws affecting the rights of creditors generally and except that

equitable remedies may be granted only in the discretion of a court of competent jurisdiction.

- (4) Bankruptcy. The Purchaser is not an insolvent person within the meaning of the *Bankruptcy and Insolvency Act* (Canada) and has not made an assignment in favour of its creditors or a proposal in bankruptcy to its creditors or any class thereof, and no petition for a receiving order has been presented in respect of it. The Purchaser has not initiated proceedings with respect to a compromise or arrangement with its creditors or for its winding up, liquidation or dissolution. No receiver or interim receiver has been appointed in respect of it or any of its undertakings, property or assets and no execution or distress has been levied on any of its undertakings, property or assets, nor have any proceedings been commenced in connection with any of the foregoing.
- (5) Consents and Approvals. Except for the Competition Approval and the OEB Approval, there is no requirement for the Purchaser to make any filing with or give any notice to any Governmental Authority or to obtain any Permit, as a condition to the lawful completion of the Transactions. No Approvals (except for those already obtained) are required from any Current Indirect Owner, any Shareholder, or any Affiliate of the Purchaser in order for the Purchaser to complete the Merger or the Transactions.
- (6) Absence of Conflict. The execution, delivery and performance by the Purchaser of this Agreement and the completion of the Transactions will not (whether after the passage of time or notice or both) result in:
 - (a) the breach or violation of any of the provisions of, or constitute a default under, or conflict with or cause the acceleration of any of its obligations, under any provision of its Constatting Documents or resolutions of its board of directors (or any committee thereof) or shareholders;
 - (b) the breach or violation of any of the provisions of, or constitute a default under, or result in the termination or cancellation of any material Contract to which it is a party or by which it may be bound;
 - (c) the breach or violation of any of the provisions of, or constitute a default under, or conflict with any of its obligations under any Applicable Law to which the Purchaser is subject provided that the Competition Approval and the OEB Approval are obtained, in each case except for those which would not result in a material adverse effect; or
 - (d) the requirement for any Approval from any of its creditors.
- (7) Investment Canada. The Purchaser is a Canadian within the meaning of the *Investment Canada Act* (Canada).
- (8) No Finder's Fees. The Purchaser has not taken, and will not take, any action that would cause the Vendor to become liable to any claim for a brokerage commission, finder's fee or other similar arrangement.

- (9) Merger Agreement. A true, complete and accurate copy of the Merger Agreement is attached as Exhibit 5.3(9).
- (10) Tax Residency. The Purchaser is not a non-resident of Canada for purposes of the Tax Act. At no time prior to Closing has the Purchaser or MergeCo been a person that is not described in any of paragraphs 149(1)(d) to (d.6) of the Tax Act.
- (11) Owners of the Purchaser. On the date hereof, the Current Indirect Owners indirectly own all of the shares of the Purchaser, and on the Closing Date, the Current Indirect Owners and/or one or more Permitted Purchasers will indirectly own all of the shares of the Purchaser. The Shareholders own, directly or indirectly, all of the shares of the Purchaser.
- (12) Availability of Funds. The Purchaser will have at Closing immediately available funds necessary to consummate the Transactions, including payment of the Purchase Price.

5.4 Survival of Representations, Warranties and Covenants of the Vendor and the Province. The representations and warranties of the Vendor and the Province and, to the extent that they have not been fully performed or waived at or prior to the Effective Time, the covenants and other obligations of the Vendor and the Province, in each case contained in this Agreement survive Closing and shall continue in full force and effect as follows for the benefit of the Purchaser notwithstanding the Closing, any investigation made by or on behalf of the Purchaser or any knowledge of the Purchaser, provided that:

- (a) the Fundamental Representations (and the corresponding deemed representation in Section 8.1(a)) and the representations and warranties of the Province survive and continue in full force and effect without limitation of time;
- (b) the representations and warranties set out in Section 5.2(31) (Employee Plans), Section 5.2(32) (Labour Matters) and Section 5.2(33) (Employees and Others) (and the corresponding deemed representation in Section 8.1(a)) shall survive Closing and continue in full force and effect until, but not beyond, the second anniversary of the Closing Date;
- (c) the representations and warranties set out in Section 5.2(30) (Environmental) (and the corresponding deemed representation in Section 8.1(a)) shall survive Closing and continue in full force and effect until, but not beyond, the fifth anniversary of the Closing Date;
- (d) the representations and warranties set out in Section 5.2(26) (Taxes) shall not survive Closing and will expire and be terminated on the Closing Date;
- (e) the remainder of the representations and warranties set out in Sections 5.1 and 5.2 (and the corresponding deemed representation in Section 8.1(a)) shall survive Closing and continue in full force and effect until, but not beyond, the date that is eighteen (18) months after the Closing Date;

- (f) except as otherwise expressly provided in this Agreement, all covenants and agreements of the Vendor and the Province contained in this Agreement shall survive the Closing and continue without time limit; and
- (g) notwithstanding Sections 5.4(a) through 5.4(f), a claim for any breach by the Vendor or the Province of any of the representations, warranties and covenants contained in this Agreement based on fraud, intentional misrepresentation or deliberate or wilful breach may be made at any time following the Closing Date, subject only to applicable limitation periods imposed by Applicable Law.

5.5 Survival of the Representations, Warranties and Covenants of the Purchaser. The representations and warranties of the Purchaser and, to the extent that they have not been fully performed or waived at or prior to Closing, the covenants and other obligations of the Purchaser, contained in this Agreement survive Closing and continue in full force and effect as follows for the benefit of the Vendor notwithstanding the Closing, any investigation made by or on behalf of the Vendor or any knowledge of the Vendor, provided that:

- (a) the representations and warranties set out in Section 5.3(5) (Consents and Approvals), 5.3(6) (Absence of Conflict), 5.3(7) (Investment Canada), 5.3(8) (No Finder's Fees), 5.3(9) (Merger Agreement) and 5.3(12) (Availability of Funds) survive Closing and continue in full force and effect until, but not beyond, the date that is 18 months after of the Closing Date;
- (b) the remainder of the representations and warranties set out in Section 5.3 (and the corresponding representations and warranties set out in the certificates to be delivered pursuant to Section 4.2(1)(f)(v)) survive Closing and continue in full force and effect without limitation of time;
- (c) except as otherwise expressly provided in this Agreement, all covenants and agreements of the Purchaser contained in this Agreement shall survive the Closing and continue without time limit; and
- (d) notwithstanding Section 5.5(a) through 5.5(c), a claim for any breach by the Purchaser of any of its representations, warranties and covenants contained in this Agreement based on fraud, intentional misrepresentation or deliberate or wilful breach may be made at any time following the Closing Date, subject only to applicable limitation periods imposed by Applicable Law.

5.6 Termination of Liability.

- (1) No Party or other Person is entitled to indemnification pursuant to this Agreement unless the Party or other Person has given written notice of its Claim for indemnification pursuant to Article 8 prior to the expiry of the relevant survival period prescribed by Sections 5.4 and 5.5 and in that event, only on and subject to the terms and conditions of and to the extent provided for in Article 8, provided that this Section 5.6(1) shall not derogate from the right of the Purchaser to enforce the obligations of the Province under Section 9.16.

- (2) This Agreement constitutes a “business agreement” under the *Limitations Act 2002* (Ontario) and to the extent that the provisions of this Agreement are found to be an agreement to vary or exclude, or suspend or extend, a limitation period prescribed under such legislation, that limitation period will be deemed to be varied or excluded, or suspended or extended, as the case may be, to the extent necessary to give full force and effect to the provisions of this Agreement.

ARTICLE 6 COVENANTS

6.1 **Exclusive Dealings.** During the Interim Period, the Vendor shall not, and shall cause the Corporation not to, take any action, directly or indirectly, to encourage, initiate or engage in discussions or negotiations with, or provide any information to, or enter into any agreement or arrangement or understanding with, any Person, other than the Purchaser and its designated and authorized Representatives, concerning any sale, transfer or assignment of the Purchased Shares, or, except as permitted by Section 6.4, any portion of the Business or the Assets.

6.2 Transfer of Documentation.

- (1) The Purchaser shall, and shall cause the Corporation to, preserve and keep the Books and Records held by them at the Closing Date for a period of seven years from the Closing Date (or longer if required by Applicable Law) and shall make such records and personnel reasonably available to the Vendor and the Province (including the right to make copies thereof), at the Vendor’s and the Province’s own cost and expense, as may be reasonably required by the Vendor or the Province in connection with the Vendor’s or the Province’s performance of its obligations under this Agreement and the Other Agreements or under Applicable Law or in relation to any Tax matters (including, without limitation, related to any Tax audit of the Corporation, any Tax assessment, reassessment or proceedings involving the Corporation, the entitlement to any Refund involving the Corporation or any matter that may give rise to a claim under the Tax indemnity under this Agreement); provided that the foregoing access, disclosure or copying shall take place during regular business hours and the same shall not (a) unduly disrupt the conduct of the operations of the Purchaser or the Corporation, (b) violate any Applicable Law, Contract or Permit applicable to the Corporation, (c) jeopardize any attorney-client privilege or (d) entitle the Vendor or the Province or their respective Representatives to conduct any invasive, intrusive or destructive inspections or testing of the Real Property (provided that, in the case of clause (b) or (c), the Purchaser and the Corporation shall use Commercially Reasonable Efforts to obtain any necessary consents or waivers to permit such disclosure and/or disclose such information in a way that would not violate such Applicable Law, Contract or Permit or jeopardize such privilege), and subject to a customary confidentiality and non-disclosure undertaking. Such access, disclosure or copying shall, at the Purchaser’s option, be in the company of one or more Representatives of the Corporation or the Purchaser. The Purchaser shall not be responsible or liable to the Vendor or the Province for, or as a result of, any loss or destruction of or damage to any such documents and other data unless that destruction, loss or damage is caused by the Purchaser’s negligence or willful misconduct. The Vendor and the Province shall be responsible for all reasonable out-of-pocket costs and

expenses incurred, directly or indirectly, by the Purchaser in connection with any access contemplated by this Section 6.2(1).

- (2) Notwithstanding Section 6.2(1), the Vendor shall be entitled to retain copies of any Books and Records provided that such Books and Records are reasonably required and only used or relied on by the Vendor to perform their obligations under this Agreement or under Applicable Law or in relation to any Tax matters (including, without limitation, related to any Tax audit of the Corporation, any Tax assessment, reassessment or proceeding involving the Corporation, the entitlement to any Refund involving the Corporation or any matter that may give rise to a Claim under the Tax indemnity under this Agreement.) The Vendor shall retain any documents or data which relate to the Business and which are retained by the Vendor pursuant to this Section 6.2(2) in strict confidence and shall not use or otherwise disclose the data or information contained therein except as permitted by Section 9.1(3).

6.3 **Investigation.**

- (1) During the Interim Period, the Vendor shall, and shall cause the Corporation and its Representatives to, permit the Purchaser and its authorized Representatives to, at the sole cost and expense of the Purchaser, review and inspect (or have access to, in the case of clause (f)) (a) all documents relating to information scheduled or required to be disclosed under this Agreement, (b) the Books and Records, (c) the Information Technologies, (d) the Contracts, (e) the Real Property and the Leased Property, (f) the Employees, (g) records regarding suppliers, customers and regulators, (h) all environmental reports, surveys, "as built" plans, drawings for buildings on the Real Property, inspection reports, internal audits, manifests, incident reports and any and all correspondence with Governmental Authorities or third parties in respect of environmental matters pertaining to the Corporation and the Business, and (i) all other reports (including title opinions) prepared by advisors of the Corporation, and any of their predecessor companies, in connection with the Corporation and any of its predecessor companies, the Business and the Assets, and the Vendor shall cause the Corporation and its Representatives to provide photocopies to the Purchaser of all such written information and documents as reasonably requested by the Purchaser, provided that the foregoing review, inspection and access shall take place during regular business hours and the same does not (i) unduly disrupt the conduct of the operations of the Corporation, (ii) violate any Applicable Law, Contract or Permit applicable to the Corporation, (iii) jeopardize any attorney-client privilege of the Province or of the Vendor, or result in a waiver of any cabinet privilege of the Province or (iv) entitle the Purchaser or its Representatives to conduct any invasive, intrusive or destructive inspections or testing of the Real Property (provided that, in the case of clause (ii), the Vendor and the Corporation shall, upon receipt of written request from the Purchaser and at the sole cost and expense of the Purchaser, use Commercially Reasonable Efforts to obtain any necessary consents or waivers to permit such disclosure and/or disclose such information in a way that would not violate such Applicable Law, Contract or Permit). Such review, inspection and access shall, at the Corporation's option, be in the company of one or more Representatives of the Corporation. To the extent that any documents or other physical disclosures or deliveries of the Corporation are subject to legal privilege, the Parties confirm that they have a

common interest in the privilege in connection with the transactions contemplated by this Agreement.

- (2) The Parties acknowledge that Personal Information is required for the operation of the Business and that the collection, use, disclosure, storage and destruction of Personal Information by the Corporation for the purposes of the Business are subject to the Privacy Policies. If this Agreement is terminated as provided herein or otherwise, the Purchaser shall return and/or destroy the Personal Information in its possession in accordance with the terms of the Non-Disclosure Agreement. This Section 6.3(2) survives the termination of this Agreement for any reason.
- (3) The exercise of any rights of inspection by or on behalf of the Purchaser under this Section 6.3 does not mitigate or otherwise affect the representations and warranties of the Vendor under this Agreement, which continue in full force and effect as provided in Section 5.4.

6.4 Conduct Prior to Closing. Without in any way limiting any other obligations of the Vendor hereunder, during the Interim Period, the Vendor shall:

- (a) cause the Corporation to conduct the Business and the operations and affairs of the Corporation only in the Ordinary Course and in accordance with the Approved Capital Expenditures Plan and the Vendor shall cause the Corporation not to, other than in accordance with, or in the furtherance of, but not exceeding the amounts authorized in, the Approved Capital Expenditures Plan, except amounts in respect of expenditures approved in accordance with Section 6.18, or with the prior written consent of the Purchaser:
 - (i) amalgamate, merge or consolidate with or acquire or agree to acquire all or substantially all of the shares or assets of any Person, or acquire or lease or agree to acquire or lease any business operations or any Equity Interests in any other Person, acquire or agree to acquire any legal or beneficial interest in any real property for an amount greater than \$1,000,000, and occupy, lease, manage or control or agree to occupy, lease or manage or control any facility or property which requires an expenditure of more than \$1,000,000 annually;
 - (ii) do any act or thing that would give rise to a breach of the representations and warranties contained in Sections 5.2(25) or 5.2(29);
 - (iii) enter into any compromise or settlement of any material litigation, proceeding or government investigation requiring payment by or to the Corporation in excess of \$1,000,000, except that the Corporation may settle its existing litigation in respect of the Itron 16S Meters without the consent of the Purchaser;
 - (iv) make any material modification to its usual sales, human resource, accounting, software, or management practices, processes or systems;

- (v) terminate or modify in any material respect any Material Contract, except for any Service Contract that is not a Continuing Service Contract;
- (vi) move any material part of the Business to any other location from which the Corporation does not carry on the Business at the date hereof;
- (vii) knowingly take any action, or omit to take any action, that would result in the Corporation being in violation of any Privacy Law;
- (viii) make any change to its Constatting Documents;
- (ix) change its taxation year;
- (x) change its methods of accounting in effect except as required by changes in GAAP, except for changes relating to the Corporation's obligation to switch to IFRS starting in the 2015 fiscal year and any change as approved by the Purchaser;
- (xi) sell or otherwise dispose of Assets during the Interim Period with an aggregate value in excess of \$1 million, other than asset dispositions as part of the Corporation's standard practice of replacing aging or failed assets;
- (xii) enter into or renew any Contracts or commitments during the Interim Period which would impose aggregate liabilities on the Corporation in excess of \$1 million other than the renewal or replacement of expiring Contracts, except where such action of the Vendor or the Corporation is specifically permitted by this Section 6.4 (excluding for clarity, the general requirement for Ordinary Course operations required pursuant to the introductory paragraph of Section 6.4(a)), provided that the Corporation shall discuss the renewal or replacement of any such expiring Contract with the Capital Plan Committee and shall consider any recommendations received from the Capital Plan Committee with respect thereto. The final decision as to the renewal or replacement of any such expiring Contract (including the terms of any renewal or replacement Contract) shall be at the sole discretion of the Corporation provided that if the Corporation renews or replaces such expiring Contract notwithstanding the recommendations of the Capital Plan Committee, the Corporation shall ensure such renewal or replacement Contract is terminable on thirty days' notice, subject to payment of reasonable termination costs and fees;
- (xiii) undertake any action that could result in a change in the compensation paid to executives and Employees (other than Ordinary Course changes), or enter into a new collective agreement or a change to any collective agreement to which the Corporation is a party;

- (xiv) undertake any refinancing of its existing indebtedness without the prior written consent of the Purchaser, provided that the Corporation may borrow from the Vendor or a third party financial institution so long as all such indebtedness is fully paid, satisfied and indefeasibly discharged and released prior to the Closing Date without the incurrence of further debt or other obligations by the Corporation other than the issuance of additional common shares of the Corporation to the Vendor in connection with the repayment of the Intercompany Loans; and
- (xv) make an application to the OEB with respect to any matter, except as required by the OEB;
- (b) cause the Corporation not to change any method of Tax accounting, make or change any material Tax election, file any materially amended Tax Return, settle or compromise any material Tax liability, agree to an extension or waiver of the statute of limitations with respect to the assessment or determination of Taxes, enter into any agreement with respect to any Tax or surrender any right to claim a material Tax refund, except in each case in the Ordinary Course or as required by Applicable Law;
- (c) cause the Corporation to maintain material insurance policies with coverages commensurate with the coverages listed in the material insurance policies disclosed in Section 5.2(17) of the Confidential Disclosure Letter to the extent required by the Corporation in the Ordinary Course;
- (d) cause the Corporation to take out, at the expense of the Purchaser, such additional insurance as may be reasonably requested by the Purchaser;
- (e) cause the Corporation to report all material claims or known circumstances or events which may give rise to a claim to its insurers under the Insurance Policies in a due and timely manner to the Closing Date and provide copies of those reports to the Purchaser;
- (f) cause the Corporation to meet the Prudential Support requirements required pursuant to the Market Rules;
- (g) cause the Corporation to preserve intact, the Business and the Assets and to carry on the Business and the affairs of the Corporation in the Ordinary Course, consistent with past practice, including, maintaining capital spending in accordance with the Approved Capital Expenditures Plan attached as Exhibit 1.1(7), as the same may be amended from time to time in the manner contemplated by Section 6.18;
- (h) cause the Corporation to pay and discharge the liabilities and Taxes of the Corporation in the Ordinary Course in accordance and consistent with the previous practice of the Corporation, except those contested in good faith by the Corporation;

- (i) take all necessary action, steps and proceedings to approve or authorize, validly and effectively, the execution and delivery of this Agreement and the Other Agreements and to complete the transfer of the Purchased Shares to the Purchaser;
- (j) cause the Corporation to take all necessary corporate action, steps and proceedings to authorize, consent and otherwise complete the transfer of the Purchased Shares to the Purchaser and to cause all necessary meetings of directors and shareholders of the Corporation to be held for that purpose;
- (k) cause the Corporation to periodically report, to the Purchaser as it may reasonably request concerning the state of the Corporation, the Business and the Assets;
- (l) cause the Corporation to cooperate generally with the Purchaser in connection with the Purchaser's efforts to finalize its financing arrangements pertaining to the Transactions, as reasonably requested by the Purchaser provided that the Corporation shall not be obligated to engage in such cooperation if, in the Corporation's sole discretion, the Corporation concludes that such cooperation would result in the Corporation incurring costs which will not be reimbursed by the Purchaser or would adversely impact the Business and provided further that non-compliance or non-performance by the Vendor with this Section 6.4(l) shall not be taken into account for the purposes of Section 4.1(1)(b); and
- (m) use Commercially Reasonable Efforts to satisfy the conditions contained in Section 4.1.

6.5 Notification of Certain Matters.

- (1) During the Interim Period, the Vendor shall give prompt notice in writing to the Purchaser of:
 - (a) the occurrence, or failure to occur, of any event, which occurrence or failure would be likely to cause any of the representations or warranties of the Vendor contained in this Agreement to be untrue or inaccurate during the Interim Period;
 - (b) any notice or communication from any Person alleging that the consent of such Person is or may be required in connection with the Transactions except for consents already disclosed to the Purchaser;
 - (c) any material notice or material communication from any Governmental Authority in connection with the Transactions;
 - (d) any Proceeding commenced or threatened against the Corporation or the Vendor challenging the Transactions; and
 - (e) any failure by the Vendor to comply with or satisfy any covenant, condition or agreement to be complied with or satisfied under this Agreement.

- (2) Except to the extent required to maintain cabinet privilege of the Province, the Vendor shall, and shall cause the Corporation to, notify the Purchaser of any emergency or other change in the Ordinary Course that could reasonably be expected to cause a Material Adverse Effect, and will keep the Purchaser fully informed of such events and permit the Representatives of the Purchaser reasonable access to all materials prepared in connection therewith. The Purchaser shall, promptly following the date hereof, designate three (3) individuals from any of whom the Vendor or the Corporation may seek consent to undertake any actions not permitted to be taken under Section 6.4 without the Purchaser's prior written consent and shall ensure that such individuals will respond in writing, on behalf of the Purchaser, to such requests in an expeditious manner, and in any event within five (5) Business Days of such request; provided, that if such request relates to a time sensitive urgent matter of material importance to the Business such that a reasonable person would deem it unreasonable not to respond to such request within a shorter timeframe and the Vendor or the Corporation has made such request by telephone and email and informed the Purchaser of the critical nature of such request at the time such request was made, the Purchaser shall ensure that one of such individuals will respond in writing, on behalf of the Purchaser, to such request within three (3) Business Days of such request, or such earlier time as agreed to by Purchaser and Vendor.
- (3) The giving of any notice under this Section 6.5 does not in any way change or modify the representations and warranties of the Vendor, or the conditions to the obligations of the Purchaser, contained in this Agreement or otherwise affect the remedies available to the Purchaser under this Agreement.

6.6 Regulatory Approvals.

- (1) The Vendor and the Purchaser shall proceed diligently, in coordinated fashion, to apply for, and obtain Competition Approval. More specifically, the Purchaser will submit to the Commissioner a request for an Advance Ruling Certificate within forty five (45) days from the date of this Agreement and, at the request of the Vendor or the Province, acting reasonably, the Parties will file merger notifications under Part IX of the Competition Act as promptly as reasonably practicable. The Vendor shall furnish to the Purchaser such necessary information in its possession and shall provide such reasonable assistance as the Purchaser may request in connection with its preparation of any filing that the Vendor, the Province and Purchaser determine are necessary under the Competition Act, and the Purchaser shall pay all filing fees in connection with the application. The Purchaser shall provide the Vendor and the Province with a copy of the request for an Advance Ruling Certificate, any merger notifications under Part IX of the Competition Act and all related documents for its approval, prior to the filing of such request. The Vendor and the Purchaser shall keep each other apprised of the status of any communication with and any inquiries or requests for additional information from the Competition Bureau and shall comply promptly with any such inquiry or request and shall promptly provide any supplemental information requested in connection with the filings or submissions made under the Competition Act pursuant to this Section 6.6(1). Copies of all written communications and information filed or provided by a Party to the Competition Bureau shall simultaneously be provided to the other Parties. With respect to information which the Vendor, the Province or the Purchaser,

acting reasonably, considers highly confidential and competitively sensitive, such information shall only be provided to the Competition Bureau or outside counsel of the other Party on a confidential and, if applicable, privileged, basis.

- (2) The Purchaser shall proceed diligently to obtain the OEB Approval as soon as reasonably possible, including by filing or causing to be filed with the OEB, no later than forty five (45) days following the date of this Agreement, an application for the OEB Approval, using the applicable forms, provided that the Purchaser shall, prior to filing such application with the OEB, deliver such application to the Vendor and the Province and allow the Vendor and the Province at least thirty (30) days to review and comment on the application; provided further that the Purchaser shall consider and use Commercially Reasonable Efforts to consider and incorporate the comments of the Vendor and the Province into the application prior to filing the application with the OEB. Without limiting the foregoing, the Purchaser shall comply promptly with any requests or inquiries for additional information from the OEB, including to any interrogatories from intervenors, and shall participate in any required hearings and shall make all other filings required in connection with obtaining the OEB Approval. The Vendor, when requested by the Purchaser, shall use Commercially Reasonable Efforts to support the Purchaser in respect of the application. The Purchaser shall be responsible for all costs and expenses it incurs in connection with its application for the OEB Approval and the Vendor shall be responsible for all costs and expenses it incurs in providing reasonable support to the Purchaser in respect of the application. The Purchaser shall keep the Vendor and the Province informed and updated as to the progress of obtaining the OEB Approval and will reasonably take into consideration any input the Vendor and the Province may have as to how to conduct or advance the process of obtaining the OEB Approval. Without limiting the Vendor's or the Province's other obligations under this Agreement, the Vendor and/or the Province shall be permitted to intervene in any proceeding (either written or oral) conducted in respect of the application. In seeking to obtain the OEB Approval, the Purchaser agrees to accept any terms or conditions the OEB requires in connection with granting the OEB Approval that are not materially detrimental to the Business as currently conducted or materially detrimental to the value of the Purchased Shares.

6.7 Conduct Following the Closing.

- (1) During the period of five years following the Closing Date, MergeCo shall not, directly or indirectly, sell, transfer, or assign, or agree to sell, transfer or assign, whether by conveyance, transfer, lease, or otherwise and whether in one or a series of transactions, all or substantially all of the (a) business carried on by the Corporation immediately prior to Closing, as that business is conducted at the relevant time, whether it is conducted by the Corporation, MergeCo or one of MergeCo's Affiliates or (b) the assets of the business described in clause (a), regardless of whether those assets are then owned by the Corporation, MergeCo or one of MergeCo's Affiliates, to any Person except to any Person that is (i) an Affiliate of MergeCo as of the Closing Date or (ii) an Affiliate of MergeCo following the Closing Date which is directly or indirectly wholly-owned by one or more of the Current Indirect Owners, except to the extent of any indirect ownership of such Affiliate by a Permitted Purchaser who holds such ownership interest solely through

holding no greater than a 10% Equity Interest in any Shareholder (collectively, “**Permitted Affiliates**”), in each case solely in connection with a bona fide reorganization of MergeCo and involving no Person other than MergeCo, the Corporation and Permitted Affiliates and provided further that such Person agrees directly in favour of the Vendor in advance of such sale, transfer or assignment to be similarly bound by the provisions of this Section 6.7(1) from and after such sale, transfer or assignment as if it were a direct party to this Agreement except that MergeCo shall, without the consent of the Vendor, be entitled, acting in good faith, to grant security over that business or those assets to an arm’s length third party lender, and the Purchaser shall not be considered to be in breach of this covenant as a result of any sale, assignment, transfer or conveyance effected by such lender in connection with the realization of such security.

(2) During the period of three (3) years following the Closing Date:

- (a) no Shareholder or Current Indirect Owner, whether alone or in combination with any other Shareholder or Current Indirect Owner, shall either:
 - (i) directly or indirectly sell, transfer or assign or agree to directly or indirectly sell, transfer or assign, or
 - (ii) permit the direct or indirect sale, transfer or assignment of, or permit to be entered into an agreement with respect to the direct or indirect sale, transfer or assignment of,

securities carrying voting rights or Equity Interests in MergeCo if, after giving effect to the direct or indirect sale, transfer or assignment, one or more Persons other than the Current Indirect Owners and Persons that are directly and indirectly controlled and wholly-owned by one or more Current Indirect Owners would collectively own securities carrying more than forty-nine percent (49%) of the aggregate voting rights or more than forty-nine percent (49%) of the aggregate Equity Interest in MergeCo;

- (b) MergeCo shall not issue to any Person who is not a Shareholder securities carrying greater than forty-nine percent (49%) of the aggregate voting rights or forty-nine percent (49%) of the Equity Interest in respect of MergeCo and the Shareholders and Current Indirect Owners shall not issue or permit MergeCo to issue securities to any Person if, after giving effect to the issuance, one or more Persons other than the Current Indirect Owners and Persons that are directly and indirectly controlled and wholly-owned by one or more Current Indirect Owners would collectively own securities carrying more than forty-nine percent (49%) of the aggregate voting rights or more than forty-nine percent (49%) of the aggregate Equity Interest in MergeCo; and
- (c) MergeCo shall not enter into an agreement in respect of, or complete, and the Shareholders and Current Indirect Owners shall not permit MergeCo to enter into an agreement in respect of, or complete, any merger, amalgamation, arrangement or other business combination of MergeCo if securities carrying greater than

forty-nine percent (49%) of the aggregate voting rights or more than forty-nine percent (49%) of the aggregate Equity Interest in the surviving entity would be held by Persons other than the Current Indirect Owners and Persons that are directly and indirectly controlled and wholly-owned by one or more Current Indirect Owners;

except (i) that a Shareholder shall, without the consent of the Vendor, be entitled, acting in good faith, to grant security over any or all of the securities in the capital of MergeCo held by such Shareholder to an arm's length third party lender to MergeCo, and the Purchaser shall not be considered to be in breach of this covenant as a result of any sale, assignment, transfer or conveyance of such securities effected by such lender in connection with the realization of such security and (ii) in any case with the consent of the Vendor, which consent the Vendor may withhold in its sole discretion.

- (3) None of MergeCo, any Current Indirect Owner or any Shareholder shall indirectly take any action which would not be permitted to be taken directly by Section 6.7(1) or Section 6.7(2) and each of them agrees to act in good faith with respect to the application of the provisions of this Section 6.7.
- (4) For greater certainty, it shall be a breach of Section 6.7(2) if at any time during the period of three years following the Closing Date, securities carrying more than forty-nine percent (49%) of the voting rights or Equity Interests in MergeCo are directly or indirectly owned by Persons other than the Current Indirect Owners, except with the consent of the Vendor, which consent the Vendor may withhold in its sole discretion, and except as a result of realization by a third party lender upon security granted as permitted by Section 6.7(1) and/or Section 6.7(2).
- (5) The "**Current Indirect Owners**" are the Corporation of the City of Vaughan, the Corporation of the City of Barrie, the Corporation of the City of Markham, the Corporation of the City of Mississauga, BPC Energy Corporation (for so long as it is owned by OMERS Administration Corporation), the Corporation of the City of St. Catharines and the City of Hamilton.

6.8 **Officers' and Directors' Insurance and Indemnification.**

- (1) The Vendor may, or may cause the Corporation to purchase, or at the Vendor's option, the Corporation shall arrange prior to the Closing to purchase, and in each case the Purchaser shall pay for, for the period from the Closing Date until seven (7) years after the Closing Date, a tail directors' and officers' liability insurance policy providing coverage for the present and former directors and officers of the Corporation with respect to any claims arising from facts or events that occurred on or prior to the Closing (including in connection with this Agreement or the transactions contemplated hereby or under the Other Agreements) on terms comparable to those contained in the current insurance policy of the Corporation or under which the present and former directors and officers of the Corporation are covered, provided that the premiums payable for such insurance do not exceed \$75,000 for such directors' and officers' liability insurance; provided, further, that in the event such premiums exceed \$75,000 the Purchaser shall or

shall cause the Corporation, or, at the Vendor's option, the Corporation shall arrange prior to the Closing, to purchase such insurance up to the amount that can be purchased with a premium of \$75,000.

- (2) From and after the Closing Date, the Purchaser shall cause the Corporation (or any successor(s)) to, until the seventh (7th) anniversary of the Closing Date (or, in the case of clause (b), for so long thereafter as any claim for indemnification asserted on or prior to such date has not been finally adjudicated) (a) maintain and not amend, modify or repeal any provision of any current indemnity agreements in place for the current directors and officers of the Corporation, (b) indemnify the current and former directors and officers of the Corporation to the fullest extent to which the Corporation is permitted to indemnify such officers and directors under Applicable Law and the organizational documents of the Corporation with respect to any claims arising from facts or events that occurred on or prior to the Closing (including in connection with this Agreement or the transactions contemplated hereby or under the Other Agreements), and (c) except to the extent required by Applicable Law, not take any action so as to amend, modify or repeal the provisions for indemnification of directors, officers or employees contained in the Constatng Documents in such a manner as would adversely affect the rights of any individual who served as a director or officer of the Corporation prior to the Closing to be indemnified by the Corporation in respect of having served in such capacity.
- (3) The provisions of this Section 6.8 shall survive the consummation of the transactions contemplated by this Agreement and the Other Agreements until the seventh (7th) anniversary of the Closing Date.
- (4) If the Corporation or any of its respective successors or assigns shall (a) amalgamate, consolidate with or merge or wind up into any other Person and shall not be the continuing or surviving entity, or (b) transfer all or substantially all of its assets to any Person, then, and in each such case, the Purchaser shall cause proper provisions to be made so that the successors and assigns of the Purchaser and the Corporation, as applicable, shall assume all of the obligations set forth in this Section 6.8.

6.9 Merger Agreement Amendment. The Purchaser shall not amend any of the closing conditions in the Merger Agreement, or any other provision of the Merger Agreement if the amendment would reasonably be expected to hinder or delay the satisfaction of the condition set forth in Section 4.1(1)(c), except with the prior written consent of the Vendor, which consent shall not be unreasonably withheld, conditioned or delayed.

6.10 Completion of the Transactions. Without limiting any other provision of this Agreement, the Purchaser shall use Commercially Reasonable Efforts to satisfy the conditions set forth in Section 4.2.

6.11 Creation of MergeCo and Completion of the Merger. Horizon, PowerStream and Enersource shall each comply with the Merger Agreement and use its best efforts to cause the completion of the Merger in accordance with the terms of the Merger Agreement, provided each of them shall be entitled to exercise any rights of termination available to it under the Merger Agreement in accordance with its terms, except any right to terminate on the mutual agreement

of the parties to the Merger Agreement. Horizon, Enersource and PowerStream shall cause MergeCo to be formed by way of an amalgamation pursuant to the OBCA such that at the time of amalgamation, Horizon, Enersource and PowerStream continue as one corporation that possesses all of the property, rights, privileges and franchises and is subject to all liabilities and all contracts (including this Agreement), liabilities and debts of each of Horizon, Enersource and PowerStream. Without limiting foregoing, if any closing condition in the Merger Agreement cannot be satisfied and the effect of waiving that closing condition (where permitted by Applicable Law) would have, in the aggregate, an immaterial impact both on the value of the interests of the Shareholders in MergeCo and on the business of MergeCo, then each of Horizon, PowerStream and Enersource agree to waive that closing condition.

6.12 Emergency Operations Centre. The Purchaser shall maintain the space and telecommunication requirements in effect as of the date of this Agreement for the Emergency Operations Centre, as provided for in the Corporation of the City of Brampton's Emergency Preparedness Plan, at the Real Property known municipally as 175 Sandalwood Parkway West, Brampton, Ontario L7A 1E8 (the "**Head Office Property**"). If the Purchaser wishes to terminate its obligations under this Section 6.12 with respect to the Head Office Property, it shall provide the Corporation of the City of Brampton not less than twenty-four (24) months' notice and either (a) pay to the Corporation of the City of Brampton the amount of the Corporation of the City of Brampton's actual costs to replace the Emergency Operations Centre on an ongoing basis (including lease payments if relocated to leased premises) or (b) provide to the Corporation of the City of Brampton the use of facilities no less favourable to the Corporation of the City of Brampton (determined by the Corporation of the City of Brampton in its absolute discretion) for use by the Corporation of the City of Brampton as an Emergency Operations Centre. If the Purchaser makes the choice contemplated by Clause (a) above, the Purchaser shall work with the Corporation of the City of Brampton to obtain cost estimates for the Corporation of the City of Brampton's replacement plans. If the Purchaser elects Subsection (b) above, this Section 6.12 shall apply, with necessary changes.

6.13 Aesthetics for Future Line Construction. The Purchaser shall ensure that the Corporation and any other Person carrying on the Business or any part thereof on its behalf:

- (a) adopt (if applicable), maintain and comply with Policy No. E-104 – Aesthetics for Future Line Construction of Networks;
- (b) comply with obligations imposed from time to time by the Corporation of the City of Brampton in its Official Plan, standard conditions of draft plan approval, standard subdivision agreement, road design, utility location and construction standards, and by the Corporation's policies, all of which require an underground electrical distribution to serve all new development in the City of Brampton; and
- (c) not amend any policy referred to in this Section 6.13 without the approval of the Corporation of the City of Brampton.

At the request of the Corporation of the City of Brampton, the Purchaser will, or will cause the Corporation to, consider in good faith any proposals from the Corporation of the City of Brampton to participate in any special undergrounding projects from time to time.

6.14 Community Involvement, Local Economic Development and Facility and Event Sponsorship.

The Purchaser will seek to be an integral participant and play a significant role in the City of Brampton and will strive to be a good corporate citizen and a facilitator of economic development in the City of Brampton as it will do throughout the local communities in which the Purchaser and its subsidiaries will operate but not in a way that would favour one community over another.

6.15 Name Change. Within five (5) Business Days following the Closing Date, the Purchaser shall cause the Corporation to change its legal and operating names to name(s) that do not include any reference to any Excluded IP or that incorporates, references or combines “Hydro” and “One”. The Purchaser and MergeCo further each covenants and agrees to, at all times following the Closing Date, refrain from using the Excluded IP.

6.16 Audited 2015 Financial Statements. On or prior to March 31, 2016, the Vendor shall deliver to the Purchaser the Audited 2015 Financial Statements provided that Closing has not already occurred.

6.17 Discussions Regarding Risks To Closing. Notwithstanding Section 4.3(4), if any Party to this Agreement reasonably determines that it is likely that one or more of the conditions outlined in Section 4.1 or Section 4.2 will not be attained and notifies the other Parties of such determination, the Parties agree to discuss in good faith their collective view as to whether Closing is likely to be achieved and possible alternatives including termination of this Agreement. For clarity, nothing in this Section 6.17 requires a Party to agree to a termination of this Agreement.

6.18 Capital Plan Committee. The Approved Capital Expenditure Plan attached as Exhibit 1.1(7) provides quarterly forecasts for the Corporation’s capital expenditures for the period from January 1, 2016 to December 31, 2016, inclusive. The Purchaser and the Vendor shall establish a joint committee (the “**Capital Plan Committee**”) to oversee and monitor the Approved Capital Expenditures Plan in accordance with this Section 6.18. The Capital Plan Committee shall be comprised of six representatives, with three of such representatives being designated by each of the Purchaser and the Vendor. The Corporation is permitted to make capital expenditures as provided for in the Approved Capital Expenditure Plan, including making capital expenditures whether provided for in respect of the quarter at hand or provided for in a future quarter covered by the Approved Capital Expenditure Plan provided that the aggregate capital expenditures in a quarter do not exceed the aggregate total capital expenditures for that quarter provided for in the Approved Capital Expenditures Plan. The Corporation may also make capital expenditures not specifically provided for in the Approved Capital Expenditures Plan if those expenditures are either (I) approved by the Capital Plan Committee or (II) are the subject of a mandatory legal or contractual commitment which is contemplated by and provided for in the Approved Capital Expenditure Plan, and in each case provided that the aggregate capital expenditures in a quarter do not exceed the aggregate total capital expenditures for that quarter provided for in the Approved Capital Expenditures Plan. Notwithstanding the foregoing, the Corporation shall also be permitted to undertake Mandatory Expenditures not otherwise permitted by this Section 6.18. For purposes of this provision, “Mandatory Expenditures” shall mean those reasonable expenditures which are immediately required to respond to an imminent or existing situation, event or condition beyond the Corporation’s control which in the reasonable judgment of

management of the Corporation requires prompt action in order to: (i) maintain a condition of safety; (ii) safeguard life, property or the environment; (iii) maintain the supply of electricity to its customers; or (iv) otherwise comply with non-discretionary requirements of Applicable Laws, provided that reasonable efforts will be made to minimize expenditures associated with such compliance with Applicable Laws (having regard to the circumstances), and that compliance initiatives will be undertaken only when specifically required, and not accelerated. The Corporation shall provide monthly updates for the Approved Capital Expenditure Plan on a rolling three-quarter basis, however such updates shall not amend the Approved Capital Expenditure Plan unless (y) in respect of amendments up to an aggregate maximum of \$2,000,000, agreed to by written resolution of the Capital Plan Committee, and (z) thereafter, agreed to in writing by the Purchaser and the Vendor. Decisions of the Capital Plan Committee may be effected by a resolution in writing signed by a majority of the members of the Capital Plan Committee, or by the affirmative vote of not less than a majority of the members of the Capital Plan Committee at a meeting attended by not less than a majority of such members and called for purposes of making the relevant decision put to a vote.

ARTICLE 7 TAX MATTERS

7.1 Preparation and Filing of Tax Returns. Following the Closing, the Purchaser shall cause to be prepared and timely filed all Tax Returns required to be filed by the Corporation after the Closing Date other than Tax Returns that relate to or include a Pre-Closing Tax Period. For any Tax Return that relates to or includes a Pre-Closing Tax Period, the Vendor will prepare such Tax Return in accordance with Applicable Law and in a manner consistent with past practice of the Corporation. For greater certainty, Tax Returns that relate to or include any Straddle Period are Tax Returns that relate to or include a Pre-Closing Tax Period and shall be prepared by the Vendor. The Purchaser shall, and shall cause the Corporation to, fully cooperate with and assist the Vendor (including allowing access to the Vendor and its Representatives to the Corporation's Books and Records and allowing the Vendor (and its Representatives) to make copies thereof) in connection with the preparation of any such Tax Returns, and the Vendor (and its Representatives) shall not be charged with any cost or expense for the assistance rendered by the Purchaser or the Corporation in connection therewith. The Vendor shall provide the Purchaser with a copy of each such Tax Return that relates to or includes a Pre-Closing Tax Period at least thirty (30) days (or, in the case of debt retirement charges or HST, ten (10) days) prior to the last date for timely filing such Tax Return. The Vendor shall permit the Purchaser to review, comment on and suggest changes and corrections to each such Tax Return that relates to a Pre-Closing Tax Period (and, for greater certainty, includes any Straddle Period). The Vendor shall reasonably and in good faith consider such revisions to such Tax Returns as are requested. In the event of any dispute regarding the matters set forth in this Section 7.1, the Purchaser shall provide the Vendor with written notice thereof within fourteen (14) days (or, in the case of an HST Tax return or debt retirement charge, five (5) days) of its access to such Tax Returns, and the Parties shall act in good faith to resolve such dispute. If the Parties cannot resolve such dispute within fourteen (14) days (or in the case of an HST Tax return or debt retirement charge, five (5) days) of notice thereof, the Purchaser may file such Tax Return with the appropriate Taxing Authority in such form determined by the Purchaser in its discretion, provided that such filing shall be without prejudice to the Vendor's right to contest any Claim made by the Purchaser for the payment of Pre-Closing Taxes with respect to such Tax Return under this

Section 7.1 or Section 8.1(c). The Purchaser shall timely file all Tax Returns that relate to or include a Pre-Closing Tax Period that are prepared by the Vendor. The Vendor shall pay or cause to be paid any Pre-Closing Taxes shown as being payable on such Tax Returns, and the Purchaser shall pay or cause to be paid all other Taxes shown as being payable on such Tax Returns. The Vendor shall have no liability for any Taxes, interest or penalties arising solely as a result of such Tax Returns not being filed by the due date.

7.2 Allocation of Taxes for Straddle Periods. All Taxes and Tax liabilities with respect to the Corporation that relate to a Straddle Period shall be apportioned between the Pre-Closing Tax Period and the Post-Closing Tax Period on the basis that the Straddle Period consisted of two (2) taxable periods, one that ended at the close of business on the day immediately before the Closing Date and the other that began on the Closing Date, and such Taxes shall be allocated between such two (2) periods in the following manner: (a) in the case of Taxes imposed on a periodic basis (such as real or personal property Taxes), the amount of Tax allocable to a portion of the Straddle Period shall be the total amount of such Tax for the entire Straddle Period multiplied by a fraction, the numerator of which is the number of days in such portion of such Straddle Period and the denominator of which is the total number of days in such Straddle Period, and (b) in the case of any other Taxes (such as Taxes based upon or measured by net income or gain, activities, events, transfers or supplies), the amount of such Tax that is allocable to the portion of such Straddle Period that ends on the day immediately before the Closing Date shall be deemed to be equal to the amount that would be payable if the relevant Straddle Period had ended at the close of business on the day immediately before the Closing Date. For greater certainty, the Tax benefit of all items described in the definition of Transaction Expenses, whether relating to a Pre-Closing Tax Period or a Post-Closing Tax Period, shall be for the sole benefit of the Vendor. Notwithstanding the preceding as it pertains to the allocation of Taxes and Tax liabilities of the Corporation, any interest and penalties levied on the Corporation due to the late filing of Tax Returns required in respect of a Straddle Period, the late remittance of a Tax payment required in respect of a Straddle Period or the remittance of an insufficient Tax installment amount in respect of a Straddle Period shall be reasonably allocated (i) to the Pre-Closing Tax Period to the extent that such amount is attributable to an action or omission of the Corporation that occurred prior to the Closing Date, and (ii) otherwise to the Post-Closing Tax Period. All Tax Returns relating to a Pre-Closing Tax Period contemplated by Section 7.1 and all determinations necessary to give effect to or relevant to Sections 7.1 or 7.3 or the foregoing allocations (including amortization and depreciation deductions) will be made in a manner consistent with prior practice of the Corporation and Applicable Law.

7.3 Refunds of Taxes. If a refund of Taxes (to the extent not reflected in the calculation of the Working Capital on Closing) (the “**Refund**”) is received by or credited to the account of the Corporation in respect of any Pre-Closing Tax Period (other than in respect of any Tax losses carried back from any period commencing on or after the Closing Date), the Purchaser shall, or shall cause the Corporation to, pay the amount of the Refund to the Vendor. For purposes of this Section 7.3, “Refund” shall include actual receipt of a refund or interest, as well as a credit or offset of or against any other actual Tax liability or any interest or penalties on such Tax liability. The Purchaser shall promptly inform the Vendor of any such refunds or credits to which the Vendor may be entitled hereunder and shall pay to the Vendor an amount equal to the amount of any such refunds or credits within thirty calendar days following the date such refunds or credits were paid or credited by the relevant Taxing Authority to the Corporation (or its successors or

assigns). If the Corporation receives a reassessment notice or other correspondence issued by a Taxing Authority to repay the Refund, then, subject to the Vendor exercising its contest rights under Section 8.13, the Vendor shall forthwith repay or reimburse to the Corporation the affected amount. Any amounts payable under this Section 7.3 shall constitute an adjustment in the Purchase Price.

7.4 Actions after Closing. The Purchaser shall not, and shall cause the Corporation (and its successors and assigns) not to (except with the prior written consent of the Vendor, which consent shall not be unreasonably withheld, conditioned or delayed), change any method of Tax accounting, make or change any material Tax election, file any materially amended Tax Return, settle or compromise any material Tax liability, agree to an extension or waiver of the statute of limitations with respect to the assessment or determination of Taxes, enter into any agreement with respect to any Tax or surrender any right to claim a material Refund or otherwise take any action after the Closing Date which may result in an increase in any Pre-Closing Taxes or reduction in the amount of any Refund.

7.5 Notification Requirements. The Purchaser shall promptly forward to the Vendor all written notifications and other written communications from any Taxing Authority received by the Purchaser or the Corporation relating to Taxes of the Corporation for all Pre-Closing Tax Periods, and shall promptly inform the Vendor of any audit proposed to be undertaken and any adjustment proposed in writing to be made by any Taxing Authority in respect of a Pre-Closing Tax Period. Notwithstanding the obligation of the Purchaser to give prompt notice as required above, the failure of the Purchaser to give that prompt notice does not relieve the Vendor of its obligations under Section 8.1(c) except to the extent (if any) that the Vendor has been prejudiced thereby.

7.6 Co-operation on Tax Matters. The Vendor and the Purchaser shall cooperate fully with each other (and following Closing, the Purchaser shall cause the Corporation to cooperate fully with the Vendor) and shall make available to each other in a timely fashion such data and other information as may reasonably be required for the preparation and filing of all Tax Returns, in connection with any Tax audit and in order to contest any Tax Contest or to pursue any refund, objection or appeal. Such cooperation shall include the retention and (upon the other Party's request) the provision of records and information that are reasonably relevant to any such audit, litigation or other proceeding and making employees available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder.

ARTICLE 8 INDEMNIFICATION

8.1 Indemnification by the Vendor. Subject to the terms and conditions of this Article 8, the Vendor shall indemnify and hold harmless the Purchaser and, to the extent named or involved in any Third Party Claim, the Purchaser Indemnitees from any Losses which are sustained or suffered by the Purchaser or the Purchaser Indemnitees, as a result of or arising from:

- (a) a breach of any representation or warranty made by the Vendor or the Province in this Agreement and the Other Agreements, excluding those provided in Section

5.2(26) (Taxes), provided that for this purpose the Vendor is deemed to have also made as of the Closing Date (and for greater certainty, disregarding the phrase “as of the date hereof” in the first sentence of each of Sections 5.1 and 5.2), all of the representations and warranties of the Vendor set forth in Sections 5.1 and 5.2, excluding those provided in Section 5.2(26) (Taxes), except (a) that those representations and warranties which are made as of an earlier specific date (excluding for greater certainty the phrase “as of the date hereof” in the first sentence of each of Sections 5.1 and 5.2) shall be deemed to be have been made only as of such date and (b) for any breaches of those representations and warranties which resulted from any action or omission of (i) the Vendor or the Corporation specifically permitted by Section 6.4 (excluding for clarity, the general requirement for Ordinary Course operations required pursuant to the introductory paragraph of Section 6.4(a)) or to which the Purchaser consented or (ii) any Party as specifically required by this Agreement;

- (b) to the extent not performed or waived prior to Closing, any breach or non-performance by the Vendor or the Province of any covenant or other obligation contained in this Agreement or in any Other Agreement;
- (c) Pre-Closing Taxes;
- (d) any Claims by or amounts owed to employees that are seconded to the Corporation from Hydro One or any of Hydro One’s Subsidiaries to perform services for the Business;
- (e) any Claims arising from or relating to billing and account management issues in connection with the billing, account management system and customer information system procured by Hydro One and/or the Corporation on or around May 2013, and including the response of Hydro One and/or the Corporation to issues arising from problems with such systems and whether such Claims are made in contract or tort or for unjust enrichment, including the claims asserted by (i) the Notice of Action dated July 22, 2015 between Paul Foster, as plaintiff, and Hydro One, the Corporation, Hydro One Remote Communities Inc. and Norfolk Power Distribution Inc., as defendants (bearing Court File No. CV-15-532973-00CP), (ii) the Notice of Action dated July 24, 2015 between Paul Foster, as plaintiff, and Hydro One, the Corporation, Hydro One Remote Communities Inc., Norfolk Power Distribution Inc., and Hydro One Networks Inc., as defendants (bearing Court File No. CV-15-533137-00CP) and (iii) the Statement of Claim dated September 9, 2015 between Bill Bennett, as plaintiff, and Hydro One, the Corporation, Hydro One Remote Communities Inc. and Norfolk Power Distribution Inc., as defendants (bearing Court File No. CV-15-535019-00CP), and including any Claims in respect thereof or related thereto for which the Purchaser or the Corporation may be responsible pursuant to the indemnity provisions set out or described in Section 6.8; and
- (f) Claims with respect to non-compliance by the Corporation with the PCB Regulations promulgated pursuant to the *Canadian Environmental Protection Act*,

1999 (Canada) as notified in the written warning dated December 5, 2013 from Environment Canada to the Corporation, and any acts or omissions by the Corporation relating to the foregoing.

8.2 **Thresholds and Limitations on Amount of Indemnification by Vendor.**

- (1) Notwithstanding anything provided in this Agreement to the contrary, the obligations of the Vendor to indemnify the Purchaser and the Purchaser Indemnitees pursuant to Section 8.1 shall be limited as follows:
 - (a) no indemnification shall be payable by the Vendor pursuant to Section 8.1 with respect to any Claim asserted by the Purchaser or a Purchaser Indemnitee unless the Purchaser has given written notice of its Claim for indemnification pursuant to Article 8, on its own behalf or on behalf of a Purchaser Indemnitee, prior to the expiry of the survival period, if any, prescribed for the relevant representation, warranty, covenant or agreement referenced in Section 5.4;
 - (b) Subject to Section 8.2(1)(e), the Purchaser and the Purchaser Indemnitee shall not be entitled to Claim indemnification under Section 8.1 for any De Minimis Loss;
 - (c) Subject to Section 8.2(1)(e), no indemnification shall be payable by the Vendor under Section 8.1 unless the aggregate of all Losses suffered or incurred by the Purchaser and the Purchaser Indemnitees (including any Loss under the threshold described in Section 8.2(1)(b) but excluding any Loss for which indemnification is provided under Section 8.1(e) or Section 8.1(f)) is in excess of 0.5% of the Base Purchase Price (the “**Threshold**”). Subject to the balance of this Section 8.2, if the aggregate of all Losses incurred by the Purchaser and the Purchaser Indemnitees exceeds the Threshold, the Purchaser and the Purchaser Indemnitees shall then only be entitled to recover the amount of such Losses in excess of the Threshold;
 - (d) the maximum aggregate liability of the Vendor to the Purchaser and Purchaser Indemnities for Losses pursuant to Section 8.1:
 - (i) shall not exceed 100% of the Base Purchase Price, for all Claims for indemnification for Losses resulting or arising from inaccuracies or breaches of Fundamental Representations or any representation or warranty made by the Province;
 - (ii) shall not exceed 100% of the Base Purchase Price, for all Losses subject to indemnification pursuant to Section 8.1(e);
 - (iii) shall not exceed 15% of the Base Purchase Price, for all other Losses, including for all Losses subject to indemnification pursuant to Section 8.1(f); and
 - (iv) in any event shall not exceed 100% of the Base Purchase Price, in the aggregate;

- (e) Losses which are subject to indemnification pursuant to Section 8.1(e) and Section 8.1(f) shall not be subject to Section 8.2(1)(b) and Section 8.2(1)(c); and
- (f) the Vendor shall not be liable under this Agreement (including this Article 8) with respect to any Losses for which dollar amounts are specifically accrued or provided for in the Working Capital on Closing or in the Net Fixed Assets on Closing.

8.3 Indemnification by the Purchaser. Subject to the terms and conditions of this Article 8, the Purchaser shall indemnify and hold harmless the Vendor and the Province and, to the extent named or involved in any Third Party Claim, the Vendor Indemnitees from any Losses which are sustained or suffered by the Vendor, the Province or the Vendor Indemnitees, as a result of or arising from:

- (a) a breach of any representation or warranty made by the Purchaser in this Agreement and the Other Agreements, provided that for the purposes of determining any such breach, each of the representations and warranties of the Purchaser set forth in Section 5.3 shall be required to be true and correct as of the Closing Date (and for greater certainty, disregarding the phrase “as of the date hereof” in the first sentence of Section 5.3), except that those representations and warranties which are made as of an earlier specific date (and for greater certainty, disregarding the phrase “as of the date hereof” in the first sentence of Section 5.3) shall be required to have been true and correct only as of such date; and
- (b) to the extent not performed or waived prior to Closing, any breach or non-performance by the Purchaser of any covenant or obligations contained in this Agreement or in any Other Agreement (excluding breach or non-performance by any party to a Section 6.8 Letter other than the Purchaser).

8.4 Thresholds and Limitations on Amount of Indemnification by Purchaser.

- (1) Notwithstanding anything provided in this Agreement to the contrary, the obligations of the Purchaser to indemnify the Vendor, the Province and the Vendor Indemnitees pursuant to Section 8.3 shall be limited as follows:
 - (a) no indemnification shall be payable by the Purchaser pursuant to Section 8.3 with respect to any claim asserted by the Vendor, the Province or a Vendor Indemnatee unless the Vendor or the Province, as the case may be, has given written notice of its Claim for indemnification pursuant to Article 8, on its own behalf or on behalf of a Vendor Indemnatee, prior to the expiry of the survival period, if any, prescribed for the relevant representation, warranty, covenant or agreement referenced in Section 5.5; and
 - (b) the maximum aggregate liability of the Purchaser to the Vendor, the Province and the Vendor Indemnitees for Losses pursuant to Section 8.3 shall not exceed 100% of the Base Purchase Price.

8.5 Notice of Claim.

- (1) Except in the case of any Claim relating to Pre-Closing Taxes or with respect to any Tax Contest (which are governed by Section 8.13), an Indemnatee, promptly on becoming aware of any act, omission, state of facts or circumstances that have given or could give rise to a Third Party Claim or a Direct Claim, shall give an Indemnification Notice of such act, omission, state of facts or circumstances to the applicable Indemnitor. The Indemnification Notice will specify whether the Losses arise as a result of a Third Party Claim or a Direct Claim, and will also specify with reasonable particularity (to the extent the information is available) the factual basis for the Claim and the amount of the Losses, if known.
- (2) Provided that the Indemnatee gives an Indemnification Notice of the Claim to the Indemnitor on or prior to the expiry of the applicable time period prescribed for the relevant representation or warranty, covenant or agreement referenced in Section 5.4 or Section 5.5, as applicable, the liability of the Indemnitor for that representation, warranty or covenant will continue in full force and effect until the final determination of that Claim.
- (3) In addition, the Indemnatee shall provide to the Indemnitor all existing written information and documentation in the possession or under the control of the Indemnatee reasonably necessary to support and verify any Losses which the Indemnatee believes gives rise to a Claim for indemnification hereunder (including any demand letters and statements of claim), and shall give the Indemnitor reasonable access to all premises, books, records and personnel in the possession or under the control of the Indemnatee which would have bearing on such Claim, provided that the foregoing deliveries, access and disclosure shall, to the extent relevant, take place during regular business hours and the same shall not (a) unduly disrupt the conduct of the operations of the Purchaser or the Corporation, (b) violate any Applicable Law, Contract or Permit applicable to the Corporation, or (c) jeopardize any attorney-client privilege (or cabinet privilege in the case of the Province) (provided that, in the case of clause (b) or (c), the Purchaser and the Corporation shall use Commercially Reasonable Efforts to obtain any necessary consents or waivers to permit such disclosure and/or disclose such information in a way that would not violate such Applicable Law, Contract or Permit or jeopardize such privilege), and be subject to a customary confidentiality and non-disclosure undertakings from the Indemnitor. The failure to give, or delay in giving, an Indemnification Notice or any of the information, documents or access referred to in this Section 8.5(3) does not relieve the Indemnitor of its obligations except and only to the extent of any prejudice caused to the Indemnitor by the failure or delay.

8.6 Third Party Claims.

- (1) Except in the case of any Claim relating to Pre-Closing Taxes or with respect to any Tax Contest (which are governed by Section 8.13), in the case of a Third Party Claim, the Indemnitor shall have the right, by notice to the applicable Indemnatee given not later than thirty (30) days after receipt of the Indemnification Notice of such Third Party Claim, to assume control of the defence, compromise or settlement of the Third Party Claim provided that the Third Party Claim involves only money damages and does not seek any injunctive relief or specific performance.

- (2) On the assumption of control of a Third Party Claim by the Indemnitor:
- (a) the Indemnitor will actively and diligently proceed with the defence, compromise or settlement of the Third Party Claim at the Indemnitor's sole cost and expense, including the retaining of counsel reasonably satisfactory to the Indemnatee;
 - (b) the Indemnitor will keep the Indemnatee fully advised with respect to the defence, compromise or settlement of the Third Party Claim (including supplying copies of all relevant documents promptly as they become available) and will arrange for its counsel to inform the Indemnatee on a regular basis of the status of the Third Party Claim;
 - (c) the Indemnatee may retain separate co-counsel at its sole cost and expense and participate in the defence of the Third Party Claim (provided the Indemnitor shall continue to control that defence);
 - (d) the Indemnitor will not consent to the entry of any judgment or enter into any settlement with respect to the Third Party Claim unless consented to by the Indemnatee (which consent may not be unreasonably or arbitrarily withheld, delayed or conditioned), unless the settlement includes a complete release of the Indemnatee with respect to the claim and does not involve any admission of fault on the part of the Indemnatee; and
 - (e) the Indemnatee shall, at the expense of the Indemnitor, co-operate with the Indemnitor and use Commercially Reasonable Efforts to make available to the Indemnitor all relevant information in its possession or under its control (provided that it does not cause the Indemnatee to breach any confidentiality obligations or jeopardize any attorney-client privilege, or cabinet privilege in the case of the Province) and will take such other steps as are, in the reasonable opinion of counsel for the Indemnitor, necessary to enable the Indemnitor to conduct that defence, provided always that:
 - (i) the Indemnatee shall take no action or make any admissions or statements not required by Applicable Law which would adversely affect the defense of any such Claim;
 - (ii) no admission of fault may be made by or on behalf of the Purchaser or any Purchaser Indemnatee without the prior written consent of the Purchaser; and
 - (iii) no admission of fault may be made by or on behalf of the Vendor, the Province or any Vendor Indemnatee without the prior written consent of the Vendor and the Province.
- (3) If (a) the Indemnitor does not give the Indemnatee the notice provided in Section 8.6(1), or (b) the Indemnitor breaches any of its obligations under Section 8.6(2), the Indemnatee may assume control of the defence, compromise or settlement of the Third Party Claim as in its sole discretion may appear advisable, and is entitled to retain counsel as in its sole

discretion may appear advisable, the whole at the Indemnitor's sole cost and expense, provided that the Indemnitee shall not settle such Third Party Claim without the consent of the Indemnitor, which consent shall not be unreasonably withheld, conditioned or delayed. The Indemnitor will, at its sole cost and expense, cooperate fully with the Indemnitee and use Commercially Reasonable Efforts to make available to the Indemnitee all relevant information in its possession or under its control (provided it does not cause the Indemnitor to breach any confidentiality obligations or jeopardize any attorney-client privilege or cabinet privilege in the case of the Province) and will take such other steps as are, in the reasonable opinion of counsel for the Indemnitee, necessary to enable the Indemnitee to conduct the defence.

8.7 Direct Claims. Following receipt of an Indemnification Notice in respect of a Direct Claim, the Indemnitor shall have sixty (60) days from receipt of the Indemnification Notice thereof to make such investigation of the Direct Claim as is considered by the Indemnitor as necessary or desirable. For the purpose of that investigation, the Indemnitee shall make available to the Indemnitor the information relied on by the Indemnitee to substantiate the Direct Claim, together with such information as the Indemnitor may reasonably request. If the Parties agree at or prior to the expiry of such sixty (60)-day period (or prior to the expiry of any extension of such period agreed to by the Parties) as to the validity and amount of that Direct Claim, the validity and amount of the Direct Claim shall be deemed to be conclusively established for the purposes of this Section 8.7, failing which the Parties may pursue any remedies available to them at law or equity.

8.8 Duty to Mitigate and Subrogation.

- (1) Nothing in this Agreement in any way restricts or limits the general obligation under Applicable Law of an Indemnitee to mitigate any loss which it may suffer or incur by reason of a breach by an Indemnitor of any representation, warranty, covenant or obligation of the Indemnitor under this Agreement or in any Contract, instrument, certificate or other document delivered pursuant to this Agreement or any Taxes in respect of which a Claim for indemnification may be made under this Agreement. The Indemnitee shall take all reasonable steps to mitigate any Tax cost incurred in respect of the receipt of any indemnity payment or increased indemnity payment (including the making of any available Tax elections). To the extent the Indemnitee shall fail to take such steps, then the Indemnitor shall not be required to indemnify any Indemnitee for the Tax cost to the extent Tax cost would have been avoided if the Indemnitee had taken such steps.
- (2) The Indemnitee shall, to the extent permitted by Applicable Law, subrogate its rights relating to any Third Party Claim to the Indemnitor and shall make all counterclaims and implead all third Persons as may be reasonably required by the Indemnitor, the whole at the cost and expense of the Indemnitor.

8.9 **Right to Recover.**

(1) Insurance

The amount of any and all Losses under this Article 8 are to be determined net of any amounts recovered or recoverable by the Indemnatee under insurance policies, indemnities, reimbursement arrangements or similar contracts with respect to those Losses. The Indemnatee shall make Commercially Reasonable Efforts to enforce that recovery. Each Party waives, to the extent permitted under its applicable insurance policies, any subrogation rights that its insurer may have with respect to any indemnifiable Losses.

(2) Application to OEB for Loss Recovery

- (a) Before seeking recovery from the Vendor in respect of a Claim under any indemnity granted to the Purchaser under this Article 8, the Purchaser shall first make Commercially Reasonable Efforts to seek relief from the OEB to recover any Losses (including for greater certainty any Pre-Closing Taxes) associated with that Claim through any applicable regulatory means including an application to the OEB, including a rate recovery application and/or an application for a variance or deferral account, provided however that the Purchaser shall only be required to pursue such an application as a pre-condition to recovery where it is reasonable to expect that Losses associated with such an application would be recoverable within sixty (60) months of commencing the application, and provided further that in no event shall the Purchaser or the Corporation be required to file an application for re-basing in order to obtain such relief.
- (b) Where an application to the OEB to recover any Losses associated with a Claim would be reasonable in accordance with Section 8.9(2)(a), the Purchaser shall, as soon as would be commercially reasonable after the delivery by the Purchaser of the Indemnification Notice in respect of the Claim, make Commercially Reasonable Efforts to apply, or to cause the Corporation to apply, to the OEB for recovery of any Losses incurred or to be incurred by the Purchaser in connection with the Claim (the “**OEB Loss Recovery Application**”), including without limitation the costs associated with making such OEB Loss Recovery Application; provided that the Purchaser shall, prior to filing the OEB Loss Recovery Application with the OEB, deliver the OEB Loss Recovery Application to the Vendor and allow the Vendor at least thirty (30) days to review and comment on the OEB Loss Recovery Application; provided further that the Purchaser shall consider and use Commercially Reasonable Efforts to incorporate the comments of the Vendor into the OEB Loss Recovery Application prior to filing the OEB Loss Recovery Application with the OEB.
- (c) The Purchaser in consultation with the Vendor and acting reasonably may appeal, or cause the Corporation to appeal, any decision of the OEB or seek a review of the decision relating to an OEB Loss Recovery Application, and further appeal any appellate decision of a court of competent jurisdiction in respect of the OEB

Loss Recovery Application, until a final determination of the OEB Loss Recovery Application has been made and all periods in which an application could be filed by any Person for the judicial review or appeal of such final determination have expired (a “**Final Determination**”).

- (d) Upon obtaining a Final Determination of the OEB Loss Recovery Application, the Purchaser shall promptly deliver a notice to the Vendor setting out: (i) the Claim to which the notice relates; (ii) the final outcome of the OEB Loss Recovery Application and any reviews or appeals thereof; (iii) any additional facts or circumstances pertaining to the Claim which were not set out in the original Indemnification Notice; and (iv) the amount of the Losses arising out of the Claim, including without limitation the costs associated with the OEB Loss Recovery Application, if known.
- (e) The Vendor’s liability for Losses in respect of a Claim for which a Final Determination has been received shall be reduced by the amount of any costs recovered or recoverable by the Purchaser or the Corporation pursuant to such Final Determination.
- (f) The indemnification liability of the Vendor to the Purchaser under this Article 8 in respect of a Claim that is subject to the OEB Loss Recovery Application procedure set out in this Section 8.9 shall, for greater certainty, include any lawyers’, experts’ and consultants’ fees and expenses incurred by the Purchaser on the OEB Loss Recovery Application.
- (g) Upon obtaining a Final Determination of the OEB Loss Recovery Application, the Vendor shall immediately pay to the Indemnitee the full amount, if any, by which the Losses arising out of the original Claim required to be indemnified by the Vendor pursuant to, and in accordance with, this Article 8, exceed the value of the Final Determination of the OEB Loss Recovery Application.

(3) **Tax Benefits and Costs**

- (a) Any amounts payable by an Indemnitor to or on behalf of an Indemnitee with respect to any Loss or Taxes pursuant to this Article 8 shall be (i) increased to take account of any net Tax cost incurred by the Indemnitee arising from the receipt of indemnity payments hereunder (grossed up for such increase), and (ii) reduced to take account of the present value of any net current or future Tax benefit realized by the Corporation or the Indemnitee or any of their affiliates arising from the incurrence or payment of any such Loss or Taxes or as a result of the matter giving rise to such Loss or Taxes.

8.10 Exclusivity. Unless otherwise provided in this Agreement, including remedies pursuant to Section 9.16 which are expressly permitted, or any Other Agreement, the provisions of this Article 8 constitute the sole remedy available to the Vendor and the Purchaser for any Claim for breach of covenants, representation, warranty or other obligation or provision of this Agreement (including by the Province) or any Other Agreement, (other than, subject to the *Proceedings*

Against the Crown Act (Ontario), a Claim for specific performance or injunctive relief) and for any and all other indemnities provided in this Agreement or in any Other Agreement.

8.11 **Set-Off.** A Party is entitled to set-off any Losses subject to Indemnification under this Agreement or in any Contract, instrument, certificate or other document delivered pursuant to this Agreement against any other amounts payable by the Party to another party whether under this Agreement or otherwise.

8.12 **Trust and Agency.** The Purchaser accepts each indemnity in favour of any of the Purchaser Indemnitees that is not a Party as agent and trustee of that Purchaser Indemnitee and may enforce any such indemnity in favour of that Purchaser Indemnitee on behalf of that Purchaser Indemnitee. The Vendor accepts each indemnity in favour of any of the Vendor Indemnitees as agent and trustee of that Vendor Indemnitee and may enforce any such indemnity in favour of that Vendor Indemnitee on behalf of that Vendor Indemnitee.

8.13 **Tax Contests.** If a Purchaser Indemnitee receives a notice of assessment or reassessment, a written proposal for an assessment or reassessment, a notice of confirmation of an assessment or reassessment, or a similar document (a “**Tax Notice**”) from any Taxing Authority for any Pre-Closing Taxes in respect of which a claim may be made for indemnification under Section 8.1(c), the Purchaser shall cause such Purchaser Indemnitee to promptly (but in any event within thirty (30) days of receipt) deliver a copy of the Tax Notice to the Vendor, together with all correspondence and any other documents received by any Purchaser Indemnitee with respect to such Tax Notice. The Purchaser and the Vendor agree to cooperate, and to cause their Affiliates to cooperate, with each other to the extent reasonably required after the Closing Date in connection with any submissions in respect of such Tax Notice and any objection or appeal or similar process in respect of such Tax Notice (each a “**Tax Contest**”). Except as otherwise provided in this Section 8.13, if the Vendor’s Tax liability or the Vendor’s right to a Refund could be affected by the Tax Contest or if the Vendor could have an indemnification obligation under this Agreement in respect of the Tax Contest, the Vendor shall have the right to conduct, control, defend, settle or compromise the defence of the Tax Contest at its own expense, whether the Tax Contest began before or after the Closing. The Vendor shall have the right to determine whether or not any Purchaser Indemnitee shall agree to any settlement or compromise of a Tax Contest in respect of which the Vendor may have an indemnification obligation under this Agreement; provided that such settlement or compromise shall require the written consent of the Purchaser, such consent not to be unreasonably withheld, conditioned or delayed. The Purchaser and its Affiliates shall provide the Vendor with all necessary powers of attorney and other necessary documents and assistance to allow the Vendor to effectively conduct and control such defence. The Purchaser will have the right to participate in the conduct of such Tax Contest at its sole expense. The Purchaser agrees to cooperate (and, following Closing, to cause each Purchaser Indemnitee (including the Corporation) to cooperate) with the Vendor in connection with all aspects of the proper prosecution of any Tax Contest (including reasonable cooperation with respect to production and delivery of documents, examinations for discovery, preparation of undertakings and selection and making reasonable efforts to secure attendance of appropriate witnesses for discoveries and hearing). Such cooperation shall include (a) allowing the Indemnitor and its Representatives to investigate the fact, matter, event or circumstance alleged to give rise to the Tax Contest and using Commercially Reasonable Efforts to make available to the Indemnitor, its and the Corporation’s

then current officers, directors and employees to act as witnesses (including interviews, the preparation and submission of witness statements and the giving of evidence at any related hearing) (all at the expense of the Indemnitor); (b) promptly furnishing all material relating to the Tax Contest; (c) preserving all material evidence relating to the Tax Contest; and (d) providing reasonable access to the Representatives of the Purchaser Indemnitee and the Corporation as reasonably needed; provided that, in each case, such cooperation shall not unduly interfere with the operation of the Purchaser Indemnitee's business. Other than as provided in this Section 8.13, the Vendor shall not be responsible for any Pre-Closing Taxes to the extent attributable to any action taken by any Purchaser Indemnitee with respect to any Tax Contest without the prior written consent of the Vendor (such consent not to be unreasonably withheld, conditioned or delayed), unless such action is specifically authorized by this Agreement. The Vendor shall not be required to make any payment on account of Taxes for which the Vendor is required to indemnify the Purchaser Indemnitees hereunder until final determination (from which no appeal may be instituted) of any Tax Contest in respect of such Taxes, unless the relevant Taxing Authority is entitled to take collection action in respect of such Taxes, notwithstanding the Tax Contest relating thereto, in which case the Vendor shall pay such Taxes or the portion thereof that are subject to immediate collection action by the relevant Taxing Authority within the time required by Applicable Law (and with the Vendor responsible only for such costs related to addressing or defending any collection action by the relevant Taxing Authority). The Vendor and the Purchaser Indemnitee shall jointly conduct and control the defence of a Tax Contest where the Tax Contest relates to a Straddle Period and the amount of Taxes in dispute includes items for which the Vendor may be responsible. The failure by any Party to notify any other Party or to keep such other Party informed and involved, or to deliver any documents as provided in this Section 8.13 shall not relieve the Party otherwise entitled to such notice, or to be kept informed and involved, of the indemnification obligations contained in this Agreement except to the extent such failure materially prejudices such other Party. Notwithstanding anything contained in this Agreement to the contrary, (i) no claim may be made in respect any Tax indemnity in respect of any particular Taxes unless notice of the claim is delivered to the Vendor prior to thirty (30) days following the expiration of the period within which the relevant Taxing Authority may assess or reassess or otherwise assert a claim in respect of such Taxes, and (ii) the amount of any Pre-Closing Taxes in respect of which the Vendor is required to indemnify the Purchaser Indemnitee under this Agreement shall be reduced by the amount of any item of loss, deduction, credit or other Tax asset or attribute arising in or attributable to any Pre-Closing Tax Period available to reduce such Pre-Closing Taxes. This Section 8.13 shall govern the control of Tax Contests.

ARTICLE 9

GENERAL

9.1 Confidentiality of Information.

- (1) For the purposes of this Section 9.1, "**Confidential Information**" of a Party at any time means all information relating to that Party which at the time is of a confidential nature (whether or not specifically identified as confidential), is known or should be known by the other relevant Party or its Representatives as being confidential, and has been or is from time to time made known to or is otherwise learned by the relevant other Party or

any of its Representatives as a result of the matters provided for in this Agreement, and includes:

- (a) a Party's business records;
- (b) all Books and Records and all other information and documentation with respect to the Corporation, the Business and the Assets provided by the Vendor and the Corporation to the Purchaser and its Representatives, including all notes, analyses, compilations, studies, summaries and other material prepared by the Purchaser and its Representatives as a result of the Books and Records, information or documentation; and
- (c) all copies of documents and data retained by the Vendor pursuant to Section 6.2(2).

Notwithstanding the foregoing, Confidential Information does not include any information that at the time has become generally available to the public other than as a result of a disclosure by the other Party or any of its Representatives, any information that was available to the other Party or its Representatives on a non-confidential basis before the date of this Agreement or any information that becomes available to the other Party or its Representatives on a non-confidential basis from a Person (other than the Party to which the information relates or any of its Representatives) who is not, to the knowledge of the other Party or its Representatives, otherwise bound by confidentiality obligations to the Party to which the information relates in respect of the information or otherwise prohibited from transmitting the information to the other Party or its Representatives.

- (2) Each Party shall (and shall cause each of its Representatives to) hold in strictest confidence and not use in any manner, other than as expressly contemplated by this Agreement, all Confidential Information of the other Parties.
- (3) Section 9.1(2) shall not apply to the disclosure of any Confidential Information where that disclosure is required by Applicable Law, including (a) by the *Freedom of Information and Protection of Privacy Act* (Ontario) or other freedom of information legislation affecting the Vendor or the Province, and, in this case, the Party required to disclose (or whose Representative is required to disclose) shall, as soon as possible in the circumstances, notify the other Parties of the requirement of the disclosure including the nature and extent of the disclosure and the provision of Applicable Law pursuant to which the disclosure is required, and (b) the sharing and disclosure of information to the Legislative Assembly of Ontario and officers of the Legislative Assembly of Ontario, and any ministry or agency of the Province of Ontario and their respective employees, agents, consultants and advisors. To the extent possible, the Party required to make the disclosure shall, before doing so, provide to the other Parties the text of any disclosure. On receiving the notification, the other Parties may take any reasonable action to challenge the requirement, and the affected Party shall (or shall cause the applicable Representative to), at the expense of the other Parties, assist the other Parties in taking that reasonable action.

- (4) Following the termination of this Agreement in accordance with the provisions of Section 4.3, each Party shall (and shall cause each of its Representatives to) promptly, on a request from any other Party, return to the requesting Party all copies of any tangible items (other than this Agreement), if any, that are or that contain Confidential Information of the requesting Party, except that if the Party so obligated to return Confidential Information or its Representatives have prepared notes, analyses, compilations, studies or summaries containing or concerning any Confidential Information, then that Party may, instead of returning the notes, analyses, compilations, studies or summaries, destroy them and provide a certificate to that effect to the requesting Party. For clarity, each Party may retain information that is stored in its electronic data storage facilities making return or destruction not feasible and each Party may retain information required for such Party to comply with Applicable Law, including the Party's policies governing document retention and destruction (provided, for clarity, that all such information remains subject to the other provisions of Section 9.1).

9.2 Public Announcements.

- (1) No Party shall make any public statement or issue any press release concerning the Transactions except as agreed by the Parties acting reasonably or as may be necessary, in the opinion of counsel to the Party making that disclosure, to comply with the requirements of all Applicable Law. Subject to and without limiting, in any manner, the rights of the Vendor under Section 9.2(2), if any public statement or release is so required, the Party making the disclosure shall consult with the other Parties before making that statement or release, and the Parties shall use Commercially Reasonable Efforts to agree on a text for the statement or release that is satisfactory to the Parties.
- (2) Notwithstanding anything in this Section 9.2, nothing herein shall prevent the Province, the Vendor or Hydro One from:
- (a) making public announcements and disclosures regarding the Agreement and the Transaction, provided that, to the extent possible and subject to Applicable Law, the Province or the Vendor, as the case may be, gives notice to the Purchaser prior to such announcements and disclosures and shall reasonably consider such changes or modifications as the Purchaser may reasonably request;
 - (b) disclosing the terms of this Agreement in the prospectus for the contemplated initial public offering of the common shares of Hydro One (or an Affiliate of Hydro One) or otherwise to the extent any of them believes in good faith that the disclosure is required by Applicable Law or the rules, regulations or policies of any securities exchange or automated securities quotation system on which the securities of Hydro One (or an Affiliate of Hydro One) may be listed or traded. The Province or the Vendor, as the case may be, will, to the extent permitted by Applicable Law or any such rules, regulations or policies, use Commercially Reasonable Efforts to provide advance notice of the disclosure to the Purchaser and to reflect any reasonable comments of the Purchaser;

- (c) sharing and disclosing information regarding the Purchaser, the Agreement and the Transaction with its authorized representatives and agents, or to the Legislative Assembly of Ontario and officers of the Legislative Assembly of Ontario, and any ministry or agency of the Province of Ontario and their respective employees, agents, consultants and advisors;
 - (d) disclosing information pertaining to the Purchaser and its agents and representatives in connection with the Agreement and the Transaction in accordance with the *Freedom of Information and Protection of Privacy Act* (Ontario) and as otherwise required by Applicable Law;
 - (e) in the case of the Province or the Vendor, making public (including on websites) a copy of this Agreement redacted to exclude information that would be exempt from disclosure under the *Freedom of Information and Protection of Privacy Act* (Ontario), provided that prior to making public pursuant to this subsection, the Purchaser will be provided with a copy of the proposed disclosure and an opportunity to comment; and
 - (f) responding to media inquiries regarding the Purchase Agreement.
- (3) Notwithstanding anything in Section 9.1 or Section 9.2, nothing herein shall prevent the Purchaser from sharing and disclosing information regarding the Vendor, the Agreement or the Transaction with its authorized representatives and agents, its shareholders (direct and indirect), the OEB, in connection with any approval required by this Agreement (including the Competition Approval and OEB Approval), any third party providing financing for or in respect of the Transaction and any such party's syndicate members and all of their respective employees, agents, consultants and advisors provided that any such recipient (except for the OEB or Competition Bureau) shall have agreed in advance to be bound by the Non-Disclosure Agreement in accordance with its terms.

9.3 Non-Disclosure Agreement. Each of the Parties agrees that it has been provided with a copy of the Non-Disclosure Agreement and agrees to be bound by the terms of the Non-Disclosure Agreement as if it was an original party thereto. In case of any conflict between the Non-Disclosure Agreement and Sections 9.1, 9.2 or 9.4 of this Agreement, the provisions of Sections 9.1, 9.2 or 9.4 of this Agreement, as applicable, shall prevail.

9.4 Disclosure and Consultation.

The Vendor and the Purchaser shall consult with each other concerning the manner by which the Corporation shall be permitted to disclose the Transactions to the Employees, customers, suppliers and other Persons having dealings with the Corporation.

9.5 Expenses. Each Party shall pay all expenses (including Taxes imposed on those expenses) it incurs in the authorization, negotiation, preparation, execution and performance of this Agreement and the Transactions, including all fees and expenses of its legal counsel, bankers, investment bankers, brokers, accountants or other representatives or consultants, except as otherwise provided in this Agreement.

9.6 **No Third Party Beneficiary.** Except as provided for in Section 8.12, this Agreement is solely for the benefit of the Parties and no third party accrues any benefit, claim or right of any kind pursuant to, under, by or through this Agreement.

9.7 **Entire Agreement.** This Agreement together with the other agreements to be entered into as contemplated by this Agreement or in any agreement, instrument or certificate delivered pursuant to this Agreement, including the Section 6.7(1) Letters (the “**Other Agreements**”) constitute the entire agreement between the Parties pertaining to the subject matter of this Agreement and the Other Agreements and supersede all prior correspondence, agreements, negotiations, discussions and understandings, written or oral, except the Non-Disclosure Agreement which shall remain in force and effect. Except as specifically set out in this Agreement or the Other Agreements, there are no representations, warranties, conditions or other agreements or acknowledgements, whether direct or collateral, express or implied, written or oral, statutory or otherwise, that form part of or affect this Agreement or the Other Agreements or which induced any Party to enter into this Agreement or the Other Agreements. No reliance is placed on any representation, warranty, opinion, advice or assertion of fact made either prior to, concurrently with, or after entering into, this Agreement or any Other Agreement, or any amendment or supplement hereto or thereto, by any Party to this Agreement or any Other Agreement or its Representatives, to any other Party or its Representatives, except to the extent the representation, warranty, opinion, advice or assertion of fact has been reduced to writing and included as a term in this Agreement or that Other Agreement, and none of the parties to this Agreement or any Other Agreement has been induced to enter into this Agreement or any Other Agreement or any amendment or supplement by reason of any such representation, warranty, opinion, advice or assertion of fact. There is no liability, either in tort or in contract, assessed in relation to the representation, warranty, opinion, advice or assertion of fact, except as contemplated in this Section 9.7.

9.8 **Time of Essence.** Time is of the essence of this Agreement.

9.9 **Amendment.** This Agreement may be supplemented, amended, restated or replaced only by written agreement signed by each Party.

9.10 **Waiver of Rights.** Any waiver of, or consent to depart from, the requirements of any provision of this Agreement is effective only if it is in writing and signed by the Party giving it, and only in the specific instance and for the specific purpose for which it has been given. No failure on the part of any Party to exercise, and no delay in exercising, any right under this Agreement operates as a waiver of that right. No single or partial exercise of any such right precludes any other or further exercise of that right or the exercise of any other right.

9.11 **Jurisdiction.** The Parties irrevocably and unconditionally attorn to the exclusive jurisdiction of the courts of the province of Ontario sitting in Toronto in respect of all disputes arising out of, or in connection with, this Agreement, or in respect of any legal relationship associated with it or derived from it.

9.12 **Governing Law.** This Agreement is governed by, and interpreted and enforced in accordance with, the laws of the Province of Ontario and the laws of Canada applicable in that province, excluding the choice of law rules of that province.

9.13 **Notices.**

- (1) Any notice, demand or other communication (in this Section 9.13, a “**notice**”) required or permitted to be given or made under this Agreement must be in writing and is sufficiently given or made if:
- (a) delivered in person and left with a receptionist or other responsible employee of the relevant Party at the applicable address set forth below;
 - (b) sent by prepaid courier service or (except in the case of actual or apprehended disruption of postal service) mail; or
 - (c) sent by facsimile transmission, with confirmation of transmission by the transmitting equipment (a “**Fax Transmission**”);

in the case of a notice to the Vendor or the Province, addressed to it at:

Ministry of Energy
5th Floor
56 Wellesley Street West
Toronto, ON M7A 2E7
Attention: Legal Director, Legal Services Branch serving the Minister of Energy
Facsimile No.: 416-325-1781

with a copy (not constituting notice) to:

Torys LLP
79 Wellington Street West, Suite 3000
Box 270, TD South Tower
Toronto, ON M5K 1N2

Attention: Aaron Emes and Konata Lake
Fax: 416-865-7380
E-mail: aemes@torys.com and klake@torys.com

and in the case of a notice to the Purchaser, addressed as follows:

PowerStream Inc.
161 Cityview Blvd.
Vaughan, Ontario
L4H 0A9

Attention: EVP Corporate Services and Secretary
Fax No: 905.532.4616
E-mail: dennis.nolan@PowerStream.ca

Enersource Corporation

2185 Derry Road West
Mississauga, Ontario
L5N 7A6

Attention: Peter Gregg, President and Chief Executive Officer
Fax No: (905) 819-1850
E-mail: pgregg@enersource.com

Horizon Utilities Inc.
55 John Street North
Hamilton, Ontario
L8R 3M8

Attention: Max A. Cananzi, President and CEO
Fax No: 905.522.0119
E-mail: max.cananzi@horizonutilities.com

with a copy (not constituting notice) to:

Stikeman Elliott LLP
5300 Commerce Court West
199 Bay Street
Toronto, Ontario M5L 1B9

Attention: Jim Harbell
Facsimile No.: (416) 947-0866

Borden Ladner Gervais LLP
Scotia Plaza
40 King Street West
44th Floor
Toronto, Ontario M5H 3Y4

Attention: Mark Rodger
Facsimile No.: (416) 367-6749

Gowling LaFleur Henderson LLP
1 First Canadian Place
100 King Street West, Suite 1600
Toronto, Ontario M5X 1G5

Attention: Robert Hull
Facsimile No.: (416) 862-7661

(2) Any notice sent in accordance with this Section 9.13 is deemed to have been received:

- (a) if delivered prior to or during normal business hours on a Business Day in the place where the notice is received, on the date of delivery;
- (b) if sent by mail, on the fifth (5th) Business Day after mailing in the place where the notice is received, or, in the case of disruption of postal service, on the fifth (5th) Business Day after cessation of that disruption;
- (c) if sent by facsimile during normal business hours on a Business Day in the place where the Fax Transmission is received, on the same day that it was received by Fax Transmission, on production of a Fax Transmission report from the machine from which the facsimile was sent which indicates that the facsimile was sent in its entirety to the relevant facsimile number of the recipient; or
- (d) if sent in any other manner, on the date of actual receipt;

except that any notice delivered in person or sent by Fax Transmission not on a Business Day or after normal business hours on a Business Day, in each case in the place where the notice is received, is deemed to have been received on the next succeeding Business Day in the place where the notice is received.

(3) Any Party may change its address for notice by giving notice to the other Parties.

9.14 **Assignment.** No Party hereto shall sell, pledge, assign or otherwise transfer all or any part of its rights or obligations under this Agreement without the prior written consent of the other Parties and any attempt to do so shall be void.

9.15 **Further Assurances.** Each Party shall, at the cost of the requesting party, promptly do, execute, deliver or cause to be done, executed or delivered all further acts, documents and matters in connection with this Agreement that any other Party may reasonably require, for the purposes of giving effect to this Agreement.

9.16 **The Province as Party to this Agreement.** The Province agrees that it will cause the Vendor to comply with all of its obligations under this Agreement, including for greater certainty obligations arising both before and after Closing, in each case in accordance with the terms of this Agreement, and agrees that it will be liable to the Purchaser to the extent of a failure by the Vendor to comply with its obligations under this Agreement in accordance with the terms of this Agreement. In the event of a breach by the Vendor, the Purchaser shall not be required to exhaust its recourse against the Vendor as a condition to seeking recovery from the Province hereunder. For clarity, the Province's liability under this Section 9.16 will be subject to all of the same limitations (including pursuant to Section 8.2), benefits (including pursuant to Section 8.9(2)) and defences that the Vendor has under this Agreement.

9.17 **Severability.** If, in any jurisdiction, any provision of this Agreement or its application to any Party or circumstance is restricted, prohibited or unenforceable, that provision will, as to that jurisdiction, be ineffective only to the extent of that restriction, prohibition or unenforceability without invalidating the remaining provisions of this Agreement, without affecting the validity or

enforceability of that provision in any other jurisdiction and, if applicable, without affecting its application to the other Parties or circumstances. The Parties shall engage in good faith negotiations to replace any provision which is so restricted, prohibited or unenforceable with an unrestricted and enforceable provision, the economic effect of which comes as close as possible to that of the restricted, prohibited or unenforceable provision which it replaces.


9.18 **Successors.** This Agreement is binding on, and enures to the benefit of, the Parties and their respective successors.


9.19 **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together constitute one agreement. Delivery of an executed counterpart of this Agreement by facsimile or transmitted electronically in legible form, including in a tagged image format file (TIFF) or portable document format (PDF), shall be equally effective as delivery of a manually executed counterpart of this Agreement.

9.20 **Several Obligations.** The obligations of the parties comprising the Purchaser are several, and not joint. The several obligations of such parties are allocated in accordance with the percentage interests listed in Section 1.1(130).

IN WITNESS WHEREOF, the Parties have duly executed this Agreement on the date first above written.

**BRAMPTON DISTRIBUTION HOLDCO
INC.**

By: 
Name:
Title:

By: 
Name:
Title:

**HER MAJESTY THE QUEEN IN RIGHT
OF ONTARIO, as represented by the
MINISTER OF ENERGY**

By:


A handwritten signature in dark ink, appearing to read 'Bob Chiarelli', written over a horizontal line.

Name: Bob Chiarelli

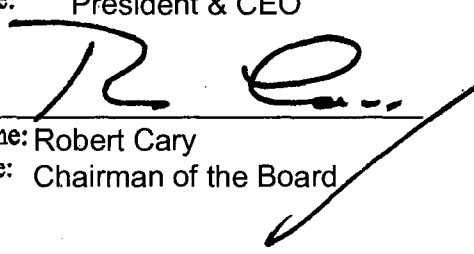
Title: Minister of Energy

HORIZON UTILITIES CORPORATION

By:


Name: Max Cananzi
Title: President & CEO

By:


Name: Robert Cary
Title: Chairman of the Board

**ENERSOURCE HYDRO MISSISSAUGA
INC.**

**Kimberly Boyle
Vice President,**

**People & Corporate Relations
Enersource Hydro Mississauga Inc.**

By:



Name:

Title:

By:


Name:

Title:


**Chris Hudson
Vice President
Asset Operations**

POWERSTREAM INC.

By:


Name: Brian Bentz
Title: President and Chief Executive Officer

By:


Name: Dennis Nolan BA, LLB
Title: EVP Corporate Services & Secretary
PowerStream Inc.

SCHEDULE 4.1(1)(I)(VI)(C)
RESIGNING DIRECTORS AND OFFICERS

All of the directors of the Corporation immediately prior to Closing.

EXHIBIT 1.1(7)

APPROVED CAPITAL EXPENDITURES PLAN

Exhibit 1.1(7)
APPROVED CAPITAL EXPENDITURES PLAN

2016 Quarterly Capital Expenditure Plan for Hydro One Brampton Networks Inc.

(\$)	Q1 2016	Q2 2016	Q3 2016	Q4 2016	2016 TOTAL
Gross Capital Expenditure - Non-Discretionary	3,722,598	11,849,975	10,062,240	11,226,236	36,861,048
Capital Contributions	(1,202,853)	(3,388,191)	(3,543,843)	(4,444,783)	(12,579,670)
Total MIFRS CAPEX Non-Discretionary	2,519,745	8,461,784	6,518,397	6,781,453	24,281,379

					2016 TOTAL
Discretionary CAPEX	-	-	450,000	1,350,000	1,800,000
Total MIFRS CAPEX with Discretionary	2,519,745	8,461,784	6,968,397	8,131,453	26,081,379

IFRS CAPEX Plan	3,722,598	11,849,975	10,512,240	12,576,236	38,661,048
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EXHIBIT 1.1(132)

FORM OF PURCHASER'S PROMISSORY NOTE

PROMISSORY NOTE

Amount: Cdn\$100,000,000

Date:

WHEREAS pursuant to a share purchase agreement dated as of March 24, 2016 (the “**Purchase Agreement**”) among Horizon Utilities Corporation, Enersource Hydro Mississauga Inc., PowerStream Inc., Brampton Distribution Holdco Inc. (the “**Vendor**”) and Her Majesty the Queen in Right of Ontario, as represented by the Minister of Energy, the Vendor agreed to sell to MergeCo (as defined in the Purchase Agreement), and MergeCo agreed to purchase from the Vendor, all of the issued and outstanding shares in the capital of Hydro One Brampton Networks Inc. (the “**Corporation**”);

AND WHEREAS, except as set forth herein, capitalized terms used in this promissory note (the “**Note**”) but not defined herein have the meaning attributed to them in the Purchase Agreement;

AND WHEREAS this Note is being provided pursuant to Section 2.3(1)(b) of the Purchase Agreement to evidence the unpaid portion of the Purchase Price;

FOR VALUE RECEIVED, MergeCo **PROMISES TO PAY** to or to the order of the Vendor, the Principal Amount in lawful money of Canada as set forth below, with interest on such amount at the rate, calculated in the manner and payable at the times, and in the manner, specified in this Note.

1. Definitions

“**Accountant**” has the meaning attributed to that term in Section 9(a).

“**Adjusted Tax Payment Amount**” has the meaning attributed to that term in Section 4(b).

“**Applicable Taxation Year**” means the first taxation year of the Corporation ending after Closing.

“**Asset Transfer**” means one or more transfers by the Corporation, after Closing and in the Applicable Taxation Year, of all or substantially all of the assets owned by the Corporation on the Closing, to MergeCo or the Partnership.

“**Business Day**” has the meaning attributed to that term in Section 7.

“**Corporation**” has the meaning attributed to that term in the recitals hereto.

“**Event of Default**” has the meaning attributed to that term in Section 6.

“**Financial Corporation**” means the Ontario Electricity Financial Corporation.

“**Initial Principal Amount**” means \$100,000,000.

“**Issue Date**” means the date hereof.

“Maturity Date” means the second (2nd) Business Day immediately following the date that is two (2) months following the Closing Date (to illustrate the meaning of this expression in this definition and elsewhere in this Note, if the Closing Date is March 15, the Maturity Date will be the second (2nd) Business Day immediately following May 15), subject to extension if there is an adjustment in the Reduction Amount as contemplated in Section 4(e).

“MOF” means the Ministry of Finance (Ontario).

“Note” has the meaning attributed to that term in the recitals hereto.

“Objection Notice” has the meaning attributed to that term in Section 9(a).

“Partnership” means a partnership the sole partners of which are any of the following entities: (i) MergeCo, (ii) the Corporation, and (iii) one or more of MergeCo’s direct or indirect wholly-owned subsidiaries that collectively have a partnership interest equal to or less than 0.01%.

“PILs” means payments required to be made under section 93 of Part VI of the Electricity Act.

“PILs Credits” means the amounts that may be claimed by a municipal corporation or municipal electricity utility, because of the payment of PILs, to reduce its liability for transfer tax under the Electricity Act as provided in subsections 94(3) to (6.1) of the Electricity Act.

“Principal Amount” means (a) subject to paragraph (b), the Initial Principal Amount, or (b) if MergeCo exercises its rights pursuant to Section 4(a), the amount, if any, by which the Initial Principal Amount exceeds the Reduction Amount (for clarity, in no circumstances may the Principal Amount of the Note be less than zero).

“Purchase Agreement” has the meaning attributed to that term in the recitals hereto.

“Reduction Amount” means an amount equal to the lesser of (a) the Adjusted Tax Payment Amount, and (b) the Tax Liability Amount.

“Tax Liability Amount” means the amount of PILs payable by the Corporation to the Financial Corporation solely in connection with and as a result of the Asset Transfer.

“Tax Payment Amount” means the amount of PILs, if any, actually paid by the Corporation to (and not refunded or credited by) the Financial Corporation solely in connection with and as a result of the Asset Transfer.

“Taxes” has the meaning attributed to that term in the Purchase Agreement except that the term shall, in all cases, include PILs, transfer tax and other amounts under Parts V.1 and VI of the Electricity Act.

“Transfer Account” means the bank account designated from time to time by the Vendor for the purposes of receiving payments on behalf of the Vendor on account of amounts payable to the Vendor under this Note.

“Vendor” has the meaning attributed to that term in the recitals hereto.

2. Maturity

- (a) Subject to the remaining terms and conditions of this Note including, without limitation, Section 4, MergeCo shall pay the Principal Amount to the Vendor on the Maturity Date by wire transfer of immediately available funds to the Transfer Account.
- (b) No later than two (2) Business Days prior to the Maturity Date, the Corporation shall pay to the Financial Corporation the Tax Liability Amount.

3. Calculation and Payment of Interest

The Principal Amount remaining from time to time unpaid and outstanding shall bear interest from the second (2nd) Business Day immediately following the date that is two (2) months following the Closing Date to the date of the repayment in full of the Principal Amount at a rate of 5% per annum, compounded annually. Interest at such rate (A) shall accrue daily and be calculated on the basis of the actual number of days elapsed in a year of 365 days or 366 days, as the case may be, and (B) shall be payable as hereinafter set forth in this Section 3. All interest payable on this Note shall be payable by MergeCo to the Vendor along with payment of the Principal Amount. Interest payable hereunder shall be paid in cash to the Transfer Account on behalf of the Vendor by wire transfer of immediately available funds.

4. Adjustment of Principal Amount

- (a) As of the Issue Date, MergeCo shall have the right, exercisable no later than two (2) Business Days prior to the Maturity Date, by written notice to the Vendor, to reduce the Principal Amount to an amount, subject to the balance of this Section 4, equal to the amount by which the Initial Principal Amount exceeds the Reduction Amount. Any such reduction of the Principal Amount shall be deemed to be effective as of and with effect from the Issue Date.
- (b) For purposes of determining the Principal Amount and the Reduction Amount, the Tax Payment Amount shall be reduced to the extent of:
 - (i) any reduction or refund of the Tax Payment Amount arising from the use of any amount of loss, deduction, credit or other Tax asset or attribute of any Person in or from any Tax period, and
 - (ii) any amount by which the Tax liability of the Corporation or MergeCo or any of their direct or indirect shareholders (or any Affiliates of or group of corporations including the foregoing or any partnership or trust of which any of the foregoing is directly or indirectly a member, partner or beneficiary) is reduced (including without limitation, by deduction, reduction of income, entitlement to refund or credit or otherwise) in any Tax period, plus any related interest received from any relevant Taxing Authority, by virtue of the Tax Payment Amount,

and the Tax Payment Amount reduced to take account of the foregoing shall be referred to as the “**Adjusted Tax Payment Amount**”.

- (c) For purposes of Section 4(b)(ii), the Tax liability of a Person shall be considered (i) to have been reduced by virtue of the Tax Payment Amount only to the extent that the reduction of the Tax liability would not have arisen but for the Tax Payment Amount, (ii) for greater certainty, not to have been reduced by the amount of PILs Credits that would have existed absent the Tax Payment Amount, and (iii) for greater certainty, not to have been reduced merely by virtue of increased capital cost allowance or cumulative eligible capital amounts arising directly from the Asset Transfer.
- (d) MergeCo shall provide or cause to be provided such supporting information as the Vendor may reasonably request for purposes of determining the amounts to be paid by MergeCo pursuant to Sections 2(a) and (b).
- (e) If, on any date after the Maturity Date, the Reduction Amount is determined to be less than the amount paid pursuant to Section 2(b), the Principal Amount of the Note shall be increased by the amount of the difference effective from and after the Issue Date. To the extent that any such increase in the Principal Amount is attributable to an overpayment of the Tax Liability Amount, any such increase in the Principal Amount shall be due and payable to the Vendor by wire transfer to the Transfer Account as if the Maturity Date with respect to such increased portion of the Principal Amount were the second (2nd) Business Day after the date of the refund or crediting by any Taxing Authority (including the Financial Corporation and the MOF) of such overpayment, together with interest on such increased portion of the Principal Amount as if such increased portion of the Principal Amount had been outstanding from the second (2nd) Business Day immediately following the date that is two (2) months following the Closing Date and, notwithstanding Section 3, calculated at a rate so that the interest amount equals the amount of any interest received from or credited by any Taxing Authority (including the Financial Corporation and the MOF) in respect of such overpayment (such amount being determined on an after-Tax basis taking into account any Tax on such refund or credited interest (but only to the extent such Tax is paid to (and not refunded or credited by) the Financial Corporation) and any amount deductible in respect of interest on such increased portion of the Principal Amount). The balance of any such increase in the Principal Amount shall be immediately due and payable to the Vendor by wire transfer to the Transfer Account as if the Maturity Date with respect to such increased portion of the Principal Amount were two (2) Business Days after the date of such determination of such increase in the Principal Amount, together with interest calculated in accordance with Section 3 on such increased portion of the Principal Amount as if such increased portion of the Principal Amount had been outstanding from the second (2nd) Business Day immediately following the date that is two (2) months following the Closing Date.

- (f) If, on any date after the Maturity Date, the Reduction Amount is determined to be greater than the amount paid pursuant to Section 2(b), then the Principal Amount of the Note shall be decreased by the amount of the difference effective from and after the Issue Date. To the extent that any such decrease in the Principal Amount is attributable to a deficiency in the payment of the Tax Liability Amount, any such decrease in the Principal Amount shall be refunded by the Vendor to MergeCo, by wire transfer to a bank account designated by MergeCo, not later than the second (2nd) Business Day after the date of the payment by the Corporation (or MergeCo as its successor) to the Financial Corporation of such deficiency, together with interest on such refund from the second (2nd) Business Day immediately following the date that is two (2) months following the Closing Date and, notwithstanding Section 3, calculated at a rate so that such interest amount equals the amount of any interest or penalties paid by (and not refunded or credited to) the Corporation (or MergeCo as its successor) to the Financial Corporation in respect of such deficiency in the payment of the Tax Liability Amount (such amount being determined on an after-Tax basis taking into account any Tax on such refund interest (but only to the extent such Tax is paid to (and not refunded or credited by) the Financial Corporation) and any amount deductible in respect of interest or penalties with respect to the deficiency in the Tax Liability Amount). With respect to the balance of any such decrease in the Principal Amount, the Vendor shall forthwith, and in any event within two (2) Business Days after the date of such determination, refund the amount of such decrease (without interest) to MergeCo by wire transfer to a bank account designated by MergeCo.
- (g) Where, on any date, there has been a new determination of the Reduction Amount pursuant to Section 4(e) or (f) above, Sections 4(e) and (f) shall, from and after the date of such determination, apply on the basis that the amount paid pursuant to Section 2(b) was the Reduction Amount as determined after the application of Section 4(e) or (f), as the case may be, and the Maturity Date (as referred to in the first line of Sections 4(e) and (f)) was the date of such determination. This provision shall apply iteratively through multiple applications of Sections 4(e) and (f).
- (h) MergeCo hereby consents, and shall cause the Corporation and all Affiliates of MergeCo to consent, to the Vendor having access to any Tax Returns of any Person referred to in Section 4(b)(ii) filed with any Taxing Authority (including the Financial Corporation and the MOF) in order to confirm any of the matters described in this Section 4.
- (i) To the extent the amount of an increase in the Principal Amount that is due and payable to the Vendor (and interest thereon) (each as contemplated in the second (2nd) sentence of Section 4(e)) equals the amount of a refund by the Financial Corporation (and interest thereon) (each as contemplated in the second (2nd) sentence of Section 4(e)), the Corporation and MergeCo each hereby authorize the Financial Corporation to pay such amount of such refund (and interest thereon) to the Vendor in satisfaction of an equal amount of the increase in the Principal

Amount (and interest thereon) (and to retain the Tax applicable to such refund interest as contemplated in the second (2nd) sentence of Section 4(e)). To the extent that interest to be paid to the Vendor pursuant to the second (2nd) sentence of Section 4(e) is computed, in part, by reference to Tax paid amounts and amounts deductible, payments of such interest can be based on the tax paid amounts and amounts deductible as known at the time of the making of the applicable payment and equitable adjustments shall be made as such Tax paid amounts and amounts deductible are finally determined.

- (j) To the extent the amount of a decrease in the Principal Amount is to be refunded by the Vendor (and interest thereon) (each as contemplated in the second (2nd) sentence of Section 4(f)) equals the amount of a deficiency to be paid by the Corporation (or MergeCo as its successor) (and interest and penalties thereon) (each as contemplated in the second (2nd) sentence of Section 4(f)), the Corporation and MergeCo each hereby authorize the Vendor to pay such amount of such refund (and interest thereon) to the Financial Corporation in satisfaction of an equal amount of the deficiency (and interest and penalties thereon) (and the Tax applicable to interest on the refund as contemplated in the second (2nd) sentence of Section 4(f)). To the extent the Financial Corporation does not accept such amount of such refund in satisfaction of an equal amount of the deficiency, the amount of the refund owing by the Vendor shall be determined as if the Financial Corporation had accepted such amount of such refund in satisfaction of an equal amount of the deficiency. To the extent that interest to be paid by the Vendor pursuant to the second (2nd) sentence of Section 4(f) is computed, in part, by reference to Tax paid amounts and amounts deductible, payments of such interest can be based on the tax paid amounts and amounts deductible as known at the time of the making of the applicable payment and equitable adjustments shall be made as such Tax paid amounts and amounts deductible are finally determined.

5. Prepayments

MergeCo shall have the right and privilege of prepaying the whole or any portion of the Principal Amount of this Note from time to time remaining unpaid and outstanding at any time or times specified by MergeCo. The recording by the Vendor in its accounts of principal amounts owing by MergeCo and repayments shall, in the absence of manifest mathematical error, be *prima facie* evidence of the same; provided that the failure of the Vendor to record the same shall not affect the obligation of MergeCo to pay such amounts to the Vendor.

6. Events of Default

If an Event of Default (as hereinafter defined) occurs and is continuing, then the whole of the Principal Amount remaining unpaid, and all accrued and unpaid interest thereon and all amounts due under Section 8 of this Note shall be immediately due and payable upon demand by the Vendor. The occurrence of any of the following events shall constitute an “**Event of Default**” for purposes of this Note:

- (a) MergeCo fails to pay any amount due to the Vendor under this Note when such amount becomes due and payable and such failure to pay such amount remains unremedied for two (2) Business Days;
- (b) MergeCo (i) becomes insolvent or generally not able to pay its debts as they become due, (ii) admits in writing its inability to pay its debts generally or makes a general assignment for the benefit of creditors, (iii) institutes or has instituted against it any proceeding seeking (A) to adjudicate it a bankrupt or insolvent, (B) liquidation, winding up, reorganization, arrangement, adjustment, protection, relief or composition of it or its debts under any law relating to bankruptcy, insolvency, reorganization or relief of debtors including, but not limited to, any plan of compromise or arrangement or other corporate proceeding involving its creditors, or (C) the entry of an order for relief or the appointment of a receiver, receiver-manager, custodian, trustee or other similar official for it or for any substantial part of its properties and/or assets, and in the case of any such proceeding instituted against it (but not instituted by it), either the proceeding remains undismissed or unstayed for a period of thirty (30) calendar days or more, or any of the actions sought in such proceeding (including, but not limited to, the entry of an order for relief against it or the appointment of a receiver, receiver-manager, trustee, custodian or other similar official for it or for any substantial part of its properties and assets) occurs, or (iv) takes any corporate action to authorize any of the above actions.

7. Payment on Business Day

Whenever any payment or performance under or in connection with this Note would otherwise be due on a day other than a Business Day (as hereinafter defined), such payment or performance shall, as applicable, be made or effected on the next following Business Day. As used in this Note, “**Business Day**” means any working day, Monday to Friday inclusive, but excluding statutory and other holidays, namely: New Year’s Day; Family Day; Good Friday; Easter Monday; Victoria Day; Canada Day; Civic Holiday; Labour Day; Thanksgiving Day; Remembrance Day; Christmas Day; Boxing Day and any other day which the Government of Ontario has elected to be closed for business identified as a holiday under section 88 of the *Legislation Act*, 2006 (Ontario).

8. Certain Expenses

MergeCo agrees to pay all reasonable expenses, including reasonable legal fees, incurred by the Vendor in collecting or attempting to collect any amounts payable hereunder.

9. Determination by Accountant of Adjustment to Principal Amount

- (a) In the event that the parties are unable to agree on an adjustment to the Principal Amount as set out in section 4, either party may request that the matters in dispute (as reflected in an “**Objection Notice**”) be referred to a partner (the “**Accountant**”) of a nationally recognized accounting firm. If the parties are unable to agree on an Accountant to determine the matters identified in the

Objection Notice, the Accountant will be appointed by the Ontario Superior Court of Justice on application by either the Vendor or MergeCo.

- (b) Each party shall furnish to the Accountant its written statement as well as any other relevant schedules and other documents relating to the Objection Notice. The parties shall instruct the Accountant that time is of the essence in proceeding with its determination of the matter. The determination of the Accountant with respect to any item is to be in writing and, absent any manifest error, is to be final and binding on the Vendor and MergeCo with no rights of challenge, review or appeal to the courts in any manner. The Accountant in making its determination of any item in dispute, is acting as an expert and not as an arbitrator and is not required to engage in a judicial inquiry worked out in a judicial manner. In making its determination, the Accountant (a) shall limit its review to the matters specifically set forth in the Objection Notice, and (b) shall not assign a value to any item higher than the highest value for such item claimed by either party or lower than the lowest value for such item claimed by either party. On agreement or determination, as the case may be, with respect to all matters referred to the Accountant, the Principal Amount is deemed to be adjusted as may be necessary to reflect the agreement or the decision, as the case may be.
- (c) The Vendor shall be responsible for one-half of the audit fees and expenses of any Accountant and MergeCo shall be responsible for one-half of the audit fees and expenses of any Accountant.
- (d) Notwithstanding anything to the contrary, the matters that are the subject of objection or determination pursuant to this Section 9 shall be limited to any computations required under this Note and shall not extend to any determinations regarding the Tax liability of any Person, the Tax Liability Amount, the Tax Payment Amount, the Adjusted Tax Payment Amount, any determinations arising pursuant to Sections 10(a) or 10(b), or any other matters regarding Taxes.

10. Determination of Tax Matters

- (a) Notwithstanding anything to the contrary, nothing in this Note is binding on any Taxing Authority (including the Financial Corporation and the MOF), including as to the Tax Liability Amount or the Tax Payment Amount or the cost or cost amount of any assets to any Person.
- (b) The Tax Liability Amount is subject to adjustment on any assessment or reassessment of the Corporation (or its successors or assigns) pursuant to the provisions of the Electricity Act and any applicable Tax legislation as made applicable for purposes of the Electricity Act.
- (c) For purposes of the adjustments contemplated in Sections 4(e) and (f), from and after the issuance by a Taxing Authority (including the Financial Corporation and the MOF) of a notice of assessment, reassessment or additional assessment or other recognized document assessing a liability for Tax or notice that no Tax is

payable for the Applicable Taxation Year, the Tax Liability Amount shall be such amount as is reflected in the most recent relevant and applicable notice of assessment, reassessment or additional assessment or other recognized document assessing a liability for Tax or notice that no Tax is payable issued by a Taxing Authority (including the Financial Corporation and the MOF).

11. Waivers

MergeCo waives presentment for payment, notice of non-payment, protest and notice of protest of and in respect of this Note, diligence in collection or bringing suit, and agrees and consents to all extensions of time, waivers or renewals of this Note, as the case may be, without notice.

12. Successors and Assigns

This Note shall be binding upon and enure to the benefit of the Vendor and MergeCo and their respective successors and permitted assigns. MergeCo may not assign its obligations under this Note without the prior written consent of the Vendor. The Vendor may assign its rights under this Note in whole or in part without the consent of MergeCo.

13. Statutory References

References to any legislation, statutory instrument or regulation or a section thereof are references to the legislation, statutory instrument, regulation or section as amended, re-enacted, consolidated or replaced from time to time. Unless otherwise indicated, all references in this Agreement to any statute include the regulations thereunder, in each case as amended, re-enacted, consolidated or replaced from time to time and also include, unless the context otherwise requires, all applicable guidelines, bulletins or policies made in connection therewith.

14. Computation of Time In this Note, unless specified otherwise or the context otherwise requires:

- (a) a reference to a period of days is deemed to begin on the first day after the event that started the period and to end at 5:00 p.m. on the last day of the period, but if the last day of the period does not fall on a Business Day, the period ends at 5:00 p.m. on the next succeeding Business Day;
- (b) subject to Section 15, where this Note states that an obligation shall be performed “on” a stipulated date, the latest time for performance shall be 5:00 p.m. on that day, or, if that day is not a Business Day, 5:00 p.m. on the next Business Day;
- (c) all references to specific dates (except for references to the Closing Date) mean 11:59 p.m. on the dates;
- (d) all references to specific times are references to Toronto time; and
- (e) with respect to the calculation of any period of time, references to “from” mean “from and excluding” and references to “to” or “until” mean “to and including”.

15. Payment

Any payment due on a particular day must be received and available by 2:00 p.m. on the due date and any payment received and available after that time is deemed to have been made and received on the next succeeding Business Day.

16. Governing Law

This Note shall be governed by and interpreted and enforced in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

17. Survival

The terms of this Note shall survive indefinitely, notwithstanding the payment by MergeCo of the Principal Amount and all accrued interest.

IN WITNESS WHEREOF MergeCo and the Vendor have each executed this Note as of the date first written above.

[MERGECO]

By: _____
Name:
Title:

[the Vendor]

By: _____
Name:
Title:

EXHIBIT 2.4(1)
INDICATIVE CALCULATIONS

Exhibit 2.4(1) - Indicative Calculations

Part A - Net Fixed Assets Calculation as of September 30, 2015

\$ Millions	
Fixed Assets in Service	356.1
Intangible Assets	23.2
Future Use Components & Spares	5.1
Subtotal- Gross Fixed Assets	384.4
Accumulated Depreciation - Fixed Assets	(20.4)
Accumulated Amortization - Intangibles	(1.8)
Subtotal - Accumulated Depreciation	(22.2)
Deferred Revenue	(21.9)
Net Fixed Assets	340.3

Notes

1. Fixed Assets in Service includes Distribution Plant & General Plant consistent with the Ontario Energy Board Accounting Procedures Handbook for Electricity Distributors issued December 2011 and effective January 1, 2012 (“**Accounting Procedures Handbook**”).
2. Intangible Assets represent an identifiable non-monetary asset without physical substance.
3. Future Use Components & Spares includes the original cost of electric plant owned and held for future use.
4. Accumulated Depreciation - Fixed Assets includes Accumulated Depreciation on Distribution Plant & General Plant as required by OEB in accordance with in the Accounting Procedures Handbook.
5. Accumulated Amortization - Intangibles includes Accumulated Amortization on Intangible Plant as required by OEB in accordance with in the Accounting Procedures Handbook.
6. Deferred revenue includes amounts related to contributions or grants received in aid of construction or acquisition of fixed assets. A detailed description of this account is found in the Accounting Procedures Handbook.
7. Construction in Progress (CIP) is excluded from the Net Fixed Assets calculation.

Part B - Working Capital Calculation as of September 30, 2015

\$ Millions	
Current Assets	
Cash	20.48
Accounts Receivable	91.84
Materials and Supplies	1.22
	113.54

Current Liabilities	
Bank Indebtedness	-
Accounts Payable	73.89
Accrued Interest (2)	4.05
	77.94

Working Capital	35.60
------------------------	-------

Notes

1. For clarity, the following terms also include the respective items set out next to each such term below:
2. Per the terms of the Agreement, the Intercompany Loans and all interest related thereto are to be paid prior to Closing. For the purposes of illustrating working capital as of September 30, 2015, interest related to the Intercompany Loans is included in the Accrued Interest.

Account	Description
Current Assets	
Cash	Includes cash funds which are held in banks or on hand for deposit in banks, special deposits of immediately available funds, short term investments and any cash advanced to officers, agents or employees by way of loan
Accounts Receivable	Includes amounts due from customers for billings rendered, for distributions services provided on behalf of others (i.e., retailers), amount of revenue for power/ services consumed prior to the utility's year end but not billed until the following year, and amounts representing prepayments of all types including, insurance, rents, taxes, interest and miscellaneous items.
Materials and Supplies	Includes the cost of materials purchased primarily for use in the utility business for construction, operation and maintenance purposes. It also includes the book cost of materials recovered in connection with construction, maintenance or retirement of property
Current Liabilities	
Bank Indebtedness	Includes the face value of all notes, drafts, acceptances, temporary bank loans and advances, or other similar evidences of indebtedness, payable on demand or within a time not exceeding one year from date of issue, to other than associated companies.

Account	Description
Accounts Payable	Includes all amounts payable by the Corporation within one year, all customer credit balances arising from an "equalized billing plan", and deposits expected to be refunded in the next year.
Accrued Interest	Includes accrued interest on long term debt for the current year's operations.

EXHIBIT 4.1(1)(I)(VI)

FORM OF RELEASE

TO: HYDRO ONE BRAMPTON NETWORKS INC. (the "Corporation")

RE: Share Purchase Agreement (the "Purchase Agreement") dated March 24, 2016 among Her Majesty the Queen in right of Ontario as represented by the Minister of Energy, Brampton Distribution Holdco Inc., Horizon Utilities Corporation, Enersource Hydro Mississauga Inc., and PowerStream Inc.

DATED: ●

All capitalized terms used but not defined herein shall have the meanings attributed to them in the Purchase Agreement.

For value received and for other good and valuable consideration, (the receipt and sufficiency of which are acknowledged), the undersigned hereby unconditionally and irrevocably releases and forever discharges the Corporation and its officers, directors, employees, agents and other representatives and advisors (collectively, the "Releasees") from any and all actions, causes of action, claims, demands, covenants, obligations, contracts, liabilities, penalties, expenses, charges, costs and damages, whether absolute or contingent and of any nature whatsoever, at law or in equity (collectively, "Claims"), which the undersigned now has or ever had or hereafter may have, against the Corporation by reason of or in any way arising out of any cause, matter or thing whatsoever during the period prior to the Closing, provided however, that this release shall not limit any rights or claims for indemnification which the undersigned may have under or pursuant to the Purchase Agreement or the Other Agreements.

The undersigned has not filed any claim or complaints with any court, administrative body or tribunal or any other body or entity that relates in any way to the matters being herein released and the undersigned hereby covenants and agrees never to file any such claim or complaint.

The undersigned agrees not to make any claim, complaint or take any proceeding, including third party proceedings or cross-claims, against any Person with respect to any matters that have arisen between the undersigned and the Releasees on which any Claim could arise against the Corporation for contribution or indemnity or other relief, in respect of causes, matters or things which are released or forever discharged by the undersigned herein.

The undersigned covenants, warrants and represents that the undersigned has not assigned to any Person any of the Claims which the undersigned is releasing in this release.

The provisions of this release shall enure to the benefit of and be enforceable by the successors and assigns of the Corporation and shall be binding on the successors and assigns of the undersigned. This release is governed by, and interpreted and enforced in accordance with, the laws of the Province of Ontario and the federal laws of Canada applicable in the Province of Ontario.

**BRAMPTON DISTRIBUTION HOLDCO
INC.**

By: _____
Name:
Title:

EXHIBIT 4.2(1)(f)(iii)

FORM OF RELEASE

TO: BRAMPTON DISTRIBUTION HOLDCO INC. (the "Vendor"); and

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO AS
REPRESENTED BY THE MINISTER OF ENERGY

RE: Share Purchase Agreement (the "Purchase Agreement") dated March 24,
2016 among Her Majesty the Queen in right of Ontario as represented by the
Minister of Energy, the Vendor, Horizon Utilities Corporation, Enersource
Hydro Mississauga Inc., and PowerStream Inc.

DATED: •

All capitalized terms used but not defined herein shall have the meanings attributed to them in the Purchase Agreement.

For value received and for other good and valuable consideration, (the receipt and sufficiency of which are acknowledged), the undersigned hereby unconditionally and irrevocably releases and forever discharges the (A) the Vendor and (B) the Province, solely in its capacity as a shareholder of the Vendor, and their respective officers, directors, employees, agents and other representatives and advisors (collectively, the "Releasees") from any and all actions, causes of action, claims, demands, covenants, obligations, contracts, liabilities, penalties, expenses, charges, costs and damages, whether absolute or contingent and of any nature whatsoever, at law or in equity (collectively, "**Claims**"), which the undersigned now has or ever had or hereafter may have, against the Vendor by reason of or in any way arising out of any cause, matter or thing whatsoever during the period prior to the Closing, provided however, that this release shall not limit any rights or claims for indemnification which the undersigned may have under or pursuant to the Purchase Agreement or the Other Agreements.

The undersigned has not filed any claim or complaints with any court, administrative body or tribunal or any other body or entity that relates in any way to the matters being herein released and the undersigned hereby covenants and agrees never to file any such claim or complaint.

The undersigned agrees not to make any claim, complaint or take any proceeding, including third party proceedings or cross-claims, against any Person with respect to any matters that have arisen between the undersigned and the Releasees on which any Claim could arise against the Vendor or the Province for contribution or indemnity or other relief, in respect of causes, matters or things which are released or forever discharged by the undersigned herein.

The undersigned covenants, warrants and represents that the undersigned has not assigned to any Person any of the Claims which the undersigned is releasing in this release.

The provisions of this release shall enure to the benefit of and be enforceable by the successors and assigns of the Vendor and the Province, as the case may be, and shall be binding on the successors and assigns of the undersigned. This release is governed by, and interpreted and enforced in accordance with, the laws of the Province of Ontario and the federal laws of Canada applicable in the Province of Ontario.

**HYDRO ONE BRAMPTON NETWORKS
INC.**

By: _____

Name:

Title:

EXHIBIT 4.2(1)(f)(vi)
SECTION 6.7 LETTER

[Insert Shareholder or Current Indirect Owner Letterhead]

■

Confidential

Her Majesty the Queen
in Right of Ontario, as represented by
the Minister of Energy
c/o Ministry of Energy
5th Floor
56 Wellesley Street West
Toronto, ON M7A 2E7

Attention: Legal Director, Legal Services Branch serving the Minister of Energy

Brampton Distribution Holdco Inc.
c/o Ministry of Energy
5th Floor
56 Wellesley Street West
Toronto, ON M7A 2E7

Attention: Legal Director, Legal Services Branch serving the Minister of Energy

Dear Sirs and Madames:

Reference is made to the Share Purchase Agreement dated as of March 24, 2016 among Her Majesty the Queen in Right of Ontario, as represented by the Minister of Energy (the “**Province**”), Brampton Distribution Holdco Inc. (the “**Vendor**”), Horizon Utilities Corporation (“**Horizon**”), Enersource Hydro Mississauga Inc. (“**Enersource**”) and PowerStream Inc. (“**PowerStream**”) (the “**SPA**”) regarding the sale of all of the issued and outstanding shares of Hydro One Brampton Networks Inc. (“**HOBNI**”) to the entity formed by the amalgamation among Horizon, Enersource, PowerStream pursuant to the *Business Corporations Act* (Ontario). Capitalized terms used but not defined herein have the meanings ascribed to such terms in the SPA.

For good and valuable consideration, the receipt of which by ■ is hereby acknowledged, [Insert Shareholder or Current Indirect Owner] (the “Undersigned”) agrees that it will comply with the obligations of a [Shareholder/Current Indirect Owner] as set out in Section 6.7 of the SPA as if the Undersigned were a direct party to the SPA, and that it will exercise its voting rights and other ownership rights attributable to its direct and indirect equity and security holdings of MergeCo, and will exercise any direct or indirect contractual rights it

may have in respect of MergeCo, in a manner which is consistent with compliance by MergeCo of its obligations under Section 6.7 of the SPA. Your rights under this letter will not be assignable.

[Remainder of page intentionally left blank]

Yours very truly,

**[SHAREHOLDER OR CURRENT
INDIRECT OWNER]**

By: _____
Authorized Signatory

By: _____
Authorized Signatory

Agreed to and accepted as of this _____ day of _____

**BRAMPTON DISTRIBUTION HOLDCO
INC.**

By: _____
Name:
Title:

By: _____
Name:
Title:

**HER MAJESTY THE QUEEN IN
RIGHT OF ONTARIO, as represented
by the MINISTER OF ENERGY**

By: _____
Name:
Title:

By: _____
Name:
Title:

EXHIBIT 5.3(9)
MERGER AGREEMENT

CONFIDENTIAL DISCLOSURE LETTER

to

SHARE PURCHASE AGREEMENT

between

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO

AS REPRESENTED BY THE MINISTER OF ENERGY

- and -

BRAMPTON DISTRIBUTION HOLDCO INC.

As Vendor

- and -

HORIZON UTILITIES CORPORATION

- and -

ENERSOURCE HYDRO MISSISSAUGA INC.

- and -

POWERSTREAM INC.

As Purchaser

- regarding -

HYDRO ONE BRAMPTON NETWORKS INC.

Dated as of March 24, 2016

The Confidential Disclosure Letter, dated as of March 24, 2016, is being delivered by the Vendor pursuant to the Share Purchase Agreement, dated as of March 24, 2016, between the Vendor and the Purchaser (the “**Agreement**”). Capitalized terms used herein but not otherwise defined shall have the meanings set forth in the Agreement.

The disclosure of any item in the Confidential Disclosure Letter is a disclosure of that item for all purposes for which such disclosure is required under the Agreement and is disclosure in respect of all appropriate sections of the Confidential Disclosure Letter.

The Confidential Disclosure Letter is qualified in its entirety by reference to provisions of the Agreement, and is not intended to constitute, and shall not be construed as constituting, representations or warranties of the Vendor, except and to the extent expressly provided in the Agreement.

The mere inclusion of an item in a section to the Confidential Disclosure Letter as an exception to a representation or warranty shall not be deemed an admission by the Vendor that such item represents an exception or material fact, event or circumstance, or that such item has had or is reasonably likely to have a Material Adverse Effect or that such item meets or exceeds a dollar threshold specified for disclosure in the Agreement, except in each case to the extent expressly provided in the Agreement. Further, (a) no disclosure in the Confidential Disclosure Letter relating to any possible breach or violation of any Contract, Applicable Law or any potential adverse contingency shall be construed as an admission or indication that any such breach or violation exists or has actually occurred or that such adverse contingency will actually occur, (b) any disclosures contained in the Confidential Disclosure Letter which refer to a document are qualified in their entirety by reference to the text of such document, (c) the Confidential Disclosure Letter may include items or information that the Vendor is not required to disclose under the Agreement, and disclosure of such items or information or any items or information shall not affect (directly or indirectly) the interpretation of the Agreement or the scope of the disclosure obligations thereunder and do not constitute a determination by the Vendor that such item or information is material and shall not be deemed to establish a standard of materiality, (d) nothing in the Confidential Disclosure Letter shall expand the scope or effect of the representations and warranties set forth in the Agreement and the Confidential Disclosure Letter and the information and disclosures contained in the Confidential Disclosure Letter are intended only to qualify and limit the representations, warranties, covenants and agreements of the Vendor contained in the Agreement and shall not be deemed to expand in any way the scope or effect of any of such representations, warranties, covenants or agreements and (e) headings and introductory language have been inserted in the sections of the Confidential Disclosure Letter for convenience of reference only and are not intended to limit the effect of the disclosures contained in the Confidential Disclosure Letter or to expand the scope of the information required to be disclosed in the Confidential Disclosure Letter.

The Confidential Disclosure Letter may not be amended, supplemented or otherwise modified except by written agreement signed by the Vendor and the Purchaser.

Sections

Section 1.1(81)	Intercompany Services
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Section 5.2(2)	Corporate Power
Section 5.2(3)	Authorized and Issued Capital
Section 5.2(4)	Options
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Section 5.2(9)	Location of Real Property and Leased Property
Section 5.2(10)	Real Property Leases
Section 5.2(11)	Easements
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Section 5.2(14)	Personal Property Leases
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Sections

Section 5.2(32)	Labour Matters
Section 5.2(33)	Employees and Others
Section 5.2(34)	Employee Accruals
Section 5.2(36)	Ethical Practices
Section 5.2(37)	Personal Information
Section 5.2(38)	No Predecessors
Section 5.2(39)	No Finder's Fees
Section 5.2(40)	Obligations to the City of Brampton

Section 1.1(81)

Intercompany Services

“Intercompany Services” means those services provided to the Corporation by Hydro One or any of its Subsidiaries pursuant to the Services Contracts described in Section 1.1(81) of the Confidential Disclosure Letter.

“Services Contracts” means all of the Contracts between the Corporation and Hydro One, or any Subsidiary of Hydro One, pursuant to which services are provided by or to the Corporation, all of which are listed in Section 1.1(81) of the Confidential Disclosure Letter.

“Contract” means any agreement, contract, indenture, lease, occupancy agreement, deed of trust, license, option, other commitment or obligation, whether oral or written, other than a Permit.

Part 1 - Non-Continuing Services Agreements

- (a) Agreement dated January 1, 2015 between Hydro One Inc. and Hydro One Brampton Networks Inc., in respect of general counsel and secretary services, president/CEO/chairman services, CFO services and use of certain assets
- (b) Agreement dated January 1, 2015 between Hydro One Networks Inc. and Hydro One Brampton Networks Inc., in respect of general counsel and secretary services, financial services, corporate services, telecommunication services and other services
- (c) Agreement dated January 1, 2013, as amended August 31, 2015, between Hydro One Networks Inc. and Hydro One Brampton Networks Inc. in respect of use of smart meter system (Document 3.8.1.3 in the Data Room)
- (d) Secondment agreement dated September 26, 2014 between Hydro One Networks Inc., Hydro One Brampton Networks Inc. and [REDACTED] in respect of secondment of [REDACTED] (Document 3.9.2.5 in the Data Room)
- (e) Secondment agreement dated January 13, 2014 between Hydro One Networks Inc., Hydro One Brampton Networks Inc. and [REDACTED] in respect of secondment of [REDACTED] (Document 3.9.2.3 in the Data Room)
- (f) License agreement dated August 31, 2015 between Hydro One Inc. and Hydro One Brampton Networks Inc. for use of Hydro One name (the “**License Agreement**”)
- (g) Agreement dated January 1, 2015 between Hydro One Networks Inc. and Hydro One Brampton Networks Inc. in respect of disability management services (WSIB claims management, care management, long-term disability, ergonomic assessments)
- (h) Side Letter Agreement dated August 31, 2015 between Hydro One Inc. and Hydro One Brampton Networks Inc. with respect to obligations of the Corporation under the License Agreement

- (i) Irrevocable Standby Letter of Credit No. 10003734 dated September 2, 2015 by Hydro One Brampton Networks Inc. in favour of Independent Electricity System Operator
- (j) Certain employees and consultants of Hydro One Inc. serve as directors of Hydro One Brampton Networks Inc.

Part 2 - Continuing Service Agreements

- (a) CDM Services Agreement dated October 1, 2011 between Hydro One Brampton Networks Inc. and Hydro One Networks Inc. in respect of conservation and demand management services for the implementation of the residential and low income CDM program, as amended (Documents 3.8.1.1, 3.8.1.15 in the Data Room)
- (b) Station Unaccompanied Access Agreement for Customers dated April 12, 2010 between Hydro One Brampton Networks Inc. and Hydro One Networks Inc. (Document 3.4.4.73 in the Data Room)
- (c) Transmission Connection Agreement dated June 10, 2002 between Hydro One Networks Inc. and Hydro One Brampton Networks Inc. (Document 3.6.9.1 in the Data Room)
- (d) Connection and Cost Recovery Agreement dated January 18, 2008 between Hydro One Networks Inc. and Hydro One Brampton Networks Inc. (Document 3.8.1.1.2 in the Data Room)
- (e) Connection and Cost Recovery Agreement dated November 23, 2006 between Hydro One Networks Inc. and Hydro One Brampton Networks Inc. (Document 3.8.1.1.1 in the Data Room)
- (f) Agreement for Licensed Occupancy of Power Utility Distribution Poles dated January 1, 2005 between Hydro One Networks Inc. and Hydro One Brampton Networks Inc. (Document 3.8.1.9 in the Data Room)
- (g) License for Antenna Site Installation dated May 1, 2011 between Hydro One Brampton Networks Inc. and Hydro One Telecom Inc. (Document 3.4.12.1 in the Data Room)
- (h) Co-Location Agreement dated November 18, 2002 between Hydro One Brampton Networks Inc. and Hydro One Telecom Inc., as amended (Document 3.4.5.1 in the Data Room)
- (i) Purchase Order 31171 dated August 26, 2015 between ABB Inc. and Hydro One Brampton Networks Inc. in respect of the refurbishment of MS 14 and MS 22 (Document 3.8.2.23 in the Data Room)

Section 5.2(1)

Organization and Status

(1) Organization and Status. The Corporation is duly incorporated and organized, and is validly subsisting, under the laws of Ontario and is up-to-date in the filing of all corporate and similar returns under the laws of that jurisdiction. The Corporation is duly registered, licensed or qualified as an extra-provincial or foreign corporation, is in good standing and up-to-date in the filing of all corporate and similar returns, under the laws of the jurisdictions set out opposite its name in Section 5.2(1) of the Confidential Disclosure Letter. The jurisdictions set out in Section 5.2(1) are the only jurisdictions in which the nature of the Business or the Assets makes such registration, licensing or qualification necessary.

Hydro One Brampton Networks Inc. – Ontario

Section 5.2(2)

Corporate Power

(2) Corporate Power. *The Corporation has all necessary corporate power and authority to own or lease all material tangible personal property of the Corporation used in the conduct of the Business as currently conducted.*

Nil.

Section 5.2(3)**Authorized and Issued Capital**

(3) *Authorized and Issued Capital. Section 5.2(3) of the Confidential Disclosure Letter sets out the authorized and issued shares of the Corporation, the names of the Persons who are shown on the securities register of the Corporation as the holder and beneficial owner of any of the shares, and the number and class of shares held or owned, as the case may be, by each Person. All of the shares indicated in Section 5.2(3) of the Confidential Disclosure Letter are the only issued and outstanding shares of the Corporation and have been validly issued and are outstanding as fully paid and non-assessable shares, and were not issued in violation of the pre-emptive rights of any Person or any Contract or Applicable Law by which the Corporation was bound as the time of the issuance. There are no shareholders agreements, voting trusts, pooling agreements or other Contracts, arrangements or understandings in respect of the voting of any of the shares of the Corporation, other than the HOBNI Shareholder Declarations. There are no declared but unpaid dividends due on any of the Purchased Shares. True, accurate and complete copies of the Constatting Documents and other organizational documents of the Corporation have been provided to the Purchaser.*

Entity	Authorized Share Capital	Issued and Outstanding Share Capital
Hydro One Brampton Networks Inc.	An unlimited number of common shares	2,357 common shares registered in the name of Brampton Distribution Holdco Inc.

Section 5.2(4)

Options

(4) *Options. No Person has any Contract or any right or privilege capable of becoming a Contract, including convertible securities, warrants or convertible obligations of any nature, for the purchase, subscription, allotment or issuance of any issued or un-issued shares or other securities of the Corporation.*

Nil.

Section 5.2(5)

Absence of Conflict

(5) *Absence of Conflict. Except as set forth in Section 5.2(5) of the Confidential Disclosure Letter, the completion of the Transactions will not result in:*

(a) *the breach or violation of any of the provisions of, or constitute a default which would (whether after the passage of time or notice or both) result in the termination or cancellation of any Material Contract;*

(b) *the breach or violation of any of the provisions of, or constitute a default under, or conflict with any of the obligations of the Corporation under:*

(i) *any provision of the Constatting Documents or resolutions of the board of directors (or any committee thereof) or shareholders of the Corporation;*

(ii) *any material Approval issued to, or held by, the Corporation or held for the benefit of or necessary to the operation of the Corporation or the Business; or*

(iii) *any Applicable Law to which the Corporation is subject provided the Approvals set forth in Section 5.2(21) of the Confidential Disclosure Letter are obtained, except as would not result in a Material Adverse Effect;*

(c) *the creation or imposition of any Encumbrance over any of the assets of the Corporation, other than Permitted Encumbrances; or*

(d) *the requirement of any Approval from any of the creditors of the Corporation.*

(a)

In connection with the completion of the Transactions, Approvals are required pursuant to each of the agreements listed in Section 5.2(21) (Regulatory and Third Party Approvals) of this Confidential Disclosure Letter.

The following agreements will be terminated on or prior to Closing:

1. The Services Agreements listed in Part 1 of Section 1.1(81) (Intercompany Services) of this Confidential Disclosure Letter (except for the Smart Meter Agreement, as contemplated in the Agreement).
2. Loan Agreement dated August 31, 2015 between the Corporation and the Royal Bank of Canada for a revolving credit facility of up to \$50,000,000.

(b)

Nil.

(c)

Nil.

(d)

Nil.

Section 5.2(6)

Conduct of Business

(6) *Conduct of Business. Except as set forth in Section 5.2(6) of the Confidential Disclosure Letter, the Corporation is in compliance in all material respects and has complied in all material respects with the requirements of all Applicable Laws which are binding on or which affect it but excluding Environmental Laws which are covered exclusively by Section 5.2(30), Applicable Laws regarding Taxes which are covered exclusively by Section 5.2(26) and Applicable Laws regarding employment, labour, and benefits matters which are covered exclusively by Sections 5.2(31), 5.2(32), 5.2(33) and 5.2(34).*

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Section 5.2(7)

No Subsidiaries

(7) *No Subsidiaries. The Corporation has no Subsidiaries and does not own and does not have any Contracts of any nature to acquire, directly or indirectly, any Equity Interests in any Person.*

Nil.

Section 5.2(8)

Bankruptcy

(8) *Bankruptcy. The Corporation is not an insolvent Person within the meaning of the Bankruptcy and Insolvency Act (Canada) nor has it made an assignment in favour of its creditors or a proposal in bankruptcy to its creditors or any class thereof, and no petition for a receiving order has been presented in respect of it. The Corporation has not initiated any Proceedings with respect to a compromise or arrangement with its creditors or for its winding up, liquidation or dissolution. No receiver or interim receiver has been appointed in respect of the Corporation or any of the Assets and no execution or distress has been levied on any of the Assets, nor have Proceedings been commenced in connection with any of the foregoing.*

Nil.

Section 5.2(9)**Location of Real Property and Leased Property**

(9) *Location of Real Property and Leased Property. Section 5.2(9) of the Confidential Disclosure Letter sets out the municipal address or legal description of all real property interests on which are situated the Corporation's office buildings, operations centers and facilities, municipal substations and transformer stations whether owned in fee simple (collectively, the "Real Property") or leased, whether as lessor or lessee, in whole or in part by the Corporation (the "Leased Property"). The Corporation is not the beneficial or registered owner of, nor has it agreed to acquire a beneficial or registered interest in, any real property or Appurtenances, or any interest in any real property or Appurtenances, in each case which is or would be material to the Business, other than the Easements, the Real Property and the Leased Property.*

Part 1 - Real Property:

	Property	Legal Description
1.	North half of 175 Sandalwood Parkway West, Brampton, Ontario PIN 14249-0053 (LT))	Part of lot 13, concession 1 WHS Chinguacousy PT on plan 43R-16689; Brampton
2.	South half of 175 Sandalwood Parkway West, Brampton, Ontario PIN 14249-0055 (LT))	Part of lot 5, plan 43M-766 designated as parts 1, 2 and 3 on plan 43R-18018, subject to easement LT766081; S/T LT764729, LT786235; BRAMPTON
3.	South Half Municipal Substation 1 & 13 - 8 Elizabeth St. N.- East side of Elizabeth St. N., 100' north of Queen St. W. (PIN 14123-0282 (LT))	PT LT 16 & 17 BLK 2 BR-4 BRAMPTON E OF ELIZABETH ST AS IN BR9777 ; TW VS252238 ; BRAMPTON
4.	Municipal Substation 2 - 44 Church St. W. - 146m west of Thomas St.; 35m east of Mill Street North	Part of Lot D, on Reg. Plan BR-4 Brampton south of Market St. as in BR22147; Brampton
5.	Municipal Substation 3 - 67 Eastern Ave.; adjacent to Bldg. #69	Part of Blk C, registered plan 518 Brampton, described as Part 1 on 43R-3149, together with VS129324, VS160380 and VS172339, if any; Brampton
7.	Municipal Substation 6 170 Kennedy Rd. South - 297m east of Kennedy Rd. South	Part of West ½ of lot 2 Concession 2, EHS., formerly in the Township of Chinguacousy, County of Peel as in VS31881; City of Brampton
8.	Municipal Substation 7 - West side of Heart Lake Rd. behind 265/267 Archdekin Drive	Block D on Registered Plan 911; Brampton
9.	Municipal Substation 10 - 10 230 Steeles	Part of east ½ of lot 1, Conc. 1 WHS, as in

	Ave. W. North side of Steeles Ave., W., 1868' west of Hurontario St.	VS185791; Brampton
10.	Municipal Substation 11 - 212 Rutherford Rd. S. – East side of Rutherford R. S., 10m North of Stafford Drive	Part of Lot 3 Conc. 2 EHSCH. Part1,2, 3 on RD-116 Subject to BR40459, S/T CH245, VS107392 and VS92805; Brampton
11.	Municipal Substation 12 – 149 Hanson Rd. N. - West of Hansen Rd. N., 430.15' south of Vodden St.	Part of Block H on PL. 889 Brampton, as in VS151677 subject to VS151678; City of Brampton
12.	Municipal Substation 14 - 8057 McLaughlin Rd. S. – East side of McLaughlin Rd. S., 550' north of Steeles Ave., West	Part of West ½ of lot 1 concession 1 WHS. Part 1 on Reg. Plan 43R-3209; Brampton
13.	Municipal Substation 17 – 398 Orenda Rd. - North side of Orenda Rd., 195' west of Bramalea Road	Block “E” on registered plan 636. Chinguacousy; Brampton
14.	Municipal Substation 18 - 6 Easton Place - Lot #5 east side of Bramalea Road., South of Clark Blvd.	Lot 5 Plan 765 Chinguacousy; and part of Block X Plan 765 Chinguacousy as in R01028230 ; subject to VS34167; Brampton
15.	Municipal Substation 19 – 9066 Dixie Rd. West side of Dixie Rd., 150' south of Hazelwood Dr.	Part of Lot 6, Conc. 3 EHS; Chinguacousy parts 1,2,3, on registered plan 43R-1776; Brampton
16.	Municipal Substation 20 - 18 Grassmere Cres. - Lot #'s 136 & 137 Grassmere Cres., East side of Bramalea Rd., north of Central Park Dr.	The whole of lots 136 & 137 on registered Plan 861; Brampton
17.	Municipal Substation 21 - 29 Coventry Rd. - 466' south of Coventry Rd. & 560' west of Airport Rd.	Part of Block “E”, Registered plan 977; and part 1 on plan 43R-2293 subject to RO828984 and VS355103; Brampton
18.	Jim Yarrow Transformer Station at 1100 Steeles Ave. W. (PIN 14086-0267 (LT))	PT LT 1 CON 3 WHS DES PTS 2,3 PL 43R24785 SAVE & EXCEPT PT LT 1 CON 3 WHS DES PT 20 PL 43R25388, PTS 2,4 PL 43R25445 T/W R0638767 ; SUBJECT TO AN EASEMENT IN GROSS OVER PTS 34, 35 PL 43R-33257 AS IN PR2177731 ; SUBJECT TO AN EASEMENT IN GROSS OVER PT 33 PL 43R-33257 AS IN PR2177732 ; CITY OF BRAMPTON
19.	North Half Municipal Substation 1 - 8 Elizabeth St. N.- East side of Elizabeth St. N., 100' north of Queen St. W. (PIN	PT LT 15 BLK 2 PL BR-4 BRAMPTON E OF ELIZABETH ST; PT LT 16 BLK 2 PL BR-4 BRAMPTON E OF ELIZABETH ST

	14123-0086 (LT))	AS IN BR20680 ; BRAMPTON
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No occupancy agreement exists in respect of Municipal Substation 22 located at 125 Team Canada Drive (Southwest corner of Team Canada Drive & Knightsbridge Rd.) Hydro One Brampton Networks Inc.'s predecessor attempted unsuccessfully to negotiate a lease for this property as recently as 2000. However, Hydro One Brampton Networks Inc.'s occupancy of the property has been undisturbed since purchase of the utility by Hydro One Inc.

Part 2 - Leased Property:

	Property	Lessor	Lessee
1.	Antenna at 175 Sandalwood Parkway West, Brampton, Ontario, L7A 1E8	Hydro One Brampton Networks Inc.	Hydro One Telecom Inc.
2.	175 Sandalwood Parkway West, Brampton, Ontario, L7A 1E8	Hydro One Brampton Networks Inc.	Hydro One Telecom Inc.

Section 5.2(10)

Real Property Leases

*(10) Real Property Leases. The Corporation is not a party to, nor has it agreed to enter into, any material lease or agreement in the nature of a lease in respect of any real property or Appurtenances, whether as lessor or lessee, other than the Leases. True, accurate and complete copies of all the leases or Agreements in the nature of a lease for the Leased Property (the “**Leases**”) have been provided to the Purchaser. Each of the Leases is in full force and effect and unamended.*

The agreements in respect of the Leased Property listed in Part 2 of Section 5.2(9) (Location of Real Property and Leased Property) of this Confidential Disclosure Letter.

Section 5.2(11)

Easements

(11) Easements. The Corporation holds all of the Easements that are material in the conduct of the Business in the Ordinary Course. All Easements material to the Business are valid, enforceable and in good standing.

Nil.

Section 5.2(12)

Title to Real Property

(12) *Title to Real Property. The Corporation has the exclusive right to possess, use and occupy, and has good and marketable title in fee simple to all the Real Property material to the Business free and clear of all Encumbrances other than the Permitted Encumbrances. No material part of the Real Property has been taken or expropriated by any competent Governmental Authority nor has any notice in writing or proceeding in respect thereof been given or commenced.*

Nil.

Section 5.2(13)

Title to Other Property

(13) *Title to Other Property. The Corporation has good and marketable title to all material tangible property used in the Business (other than the Leased Property, Easements, the Real Property and the Personal Property Leases which are addressed in Sections 5.2(10), 5.2(11), 5.2(12) and 5.2(14) respectively), free and clear of any and all Encumbrances other than the Permitted Encumbrances. There has been no material change in the condition of the material tangible property used in the Business (other than the Leased Property, Easements, and the Real Property which are addressed in Sections 5.2(10), 5.2(11) and 5.2(12), respectively), since the Vanry Report Date.*

Nil.

Section 5.2(14)

Personal Property Leases

(14) *Personal Property Leases. True, accurate and complete copies of all equipment leases, chattel leases, rental agreements, conditional sales agreements and similar agreements relating to any of the Assets involving payments by the Corporation of more than \$500,000 (the “**Personal Property Leases**”) annually have been provided to the Purchaser. All of the Personal Property Leases were entered into by the Corporation in the Ordinary Course.*

Nil.

Section 5.2(15)

Intellectual Property

(15) Intellectual Property. There is no material Owned IP that is a pending application or in-force registration. As of the date hereof, except as set forth in Section 5.2(15) of the Confidential Disclosure Letter, to the Knowledge of the Vendor (such knowledge however being without any further inquiry to counsel for analysis or opinion), the Corporation owns or otherwise has the right to use all Intellectual Property that is material and necessary to carry on the Business as currently conducted, and the Intellectual Property used in the Business does not infringe upon or misappropriate any Intellectual Property of any third party in any material respect.

Nil.

Section 5.2(16)

Information Technologies

(16) *Information Technologies. Except as set forth in Section 5.2(16) of the Confidential Disclosure Letter, the Information Technologies adequately meet the data processing and storage needs of the Business and the Corporation's operations and affairs, in each case as presently conducted except for deficiencies the mitigation of which are provided for in the Corporation's Approved Capital Expenditure Plan. The Corporation has taken reasonable steps to protect against unauthorized access, use, copying, modification, theft and destruction of programs and files used in the Information Technologies.*

[REDACTED]

Section 5.2(17)**Insurance**

(17) *Insurance.* Section 5.2(17) of the Confidential Disclosure Letter lists, as of the date hereof, all material insurance policies currently in effect that insure the physical properties, business, operations and Assets of the Corporation. Each policy set forth in Section 5.2(17) of the Confidential Disclosure Letter is valid and binding and in full force and effect and except as set out in Section 5.2(17) of the Confidential Disclosure Letter, to the Knowledge of the Vendor there is no material claim pending under any such policies as to which coverage has been questioned, denied or disputed, or basis on which premiums or payments will be materially increased. To the Knowledge of the Vendor, no written notice of cancellation or termination has been received by the Corporation within the preceding three (3) years with respect to any policy which has not been replaced on substantially similar terms prior to the date of such cancellation or termination.

POLICY NAME	INSURER	POLICY NUMBER
[REDACTED]	[REDACTED] [REDACTED] [REDACTED]	[REDACTED]
[REDACTED]	[REDACTED] [REDACTED] [REDACTED] [REDACTED]	[REDACTED]
[REDACTED] [REDACTED]	[REDACTED] [REDACTED] [REDACTED]	[REDACTED] [REDACTED]
[REDACTED]	[REDACTED] [REDACTED]	[REDACTED]
[REDACTED]	[REDACTED] [REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Section 5.2(18)

Material Contracts and Other Contracts

(18) Material Contracts and Other Contracts. Section 5.2(18) of the Confidential Disclosure Letter contains a list of each currently effective Contract to which the Corporation is party (collectively, “**Material Contracts**”) that:

(a) provides for the purchase of materials, supplies, Equipment or services which involves payment under that Contract of more than \$500,000;

(b) is with any Employee who is an executive of the Corporation received annual compensation of more than \$100,000 in the fiscal year ended December 31, 2014, or will receive or is reasonably expected to receive annual compensation of more than \$100,000 in the fiscal year ended December 31, 2015 (in each case, other than oral Contracts of indefinite hire terminable by the employer without cause on reasonable notice), or in relation to any Employee Plan, excluding in each case any Employee subject to a Collective Agreement;

(c) is an indenture, a loan, mortgage, promissory note or an agreement of guarantee, or assumption of, or a similar commitment with respect to, the obligations, liabilities or indebtedness of any other Person;

(d) is a Contract for capital expenditures in excess of \$500,000 in the aggregate, other than those entered into in furtherance of and not exceeding the amounts authorized in the Approved Capital Expenditures Plan;

(e) is a Contract for the sale of any of the material tangible property used in the Business, other than in the Ordinary Course;

(f) is a confidentiality, secrecy or non-disclosure Contract that restricts the Corporation engaging in the Business;

(g) is a Contract to which the Corporation is a party or by which the Corporation is bound, made in the Ordinary Course and which involves the payment to or by the Corporation in excess of \$500,000 during any calendar year that the Contract is in force; or

(h) *the breach or default of which would reasonably be expected to result in a Material Adverse Effect.*

True, accurate and complete copies of all Material Contracts, including all Services Contracts, or, where those Contracts are oral, true, accurate and complete summaries of their terms, have been made available to the Purchaser.

(a)

5



-
- | Row | Bar Length (approx. %) |
|-----|------------------------|
| 1 | 55 |
| 2 | 55 |
| 3 | 65 |
| 4 | 60 |
| 5 | 45 |
| 6 | 35 |
| 7 | 60 |
| 8 | 55 |
| 9 | 65 |
| 10 | 80 |
| 11 | 55 |
| 12 | 55 |
| 13 | 55 |
| 14 | 35 |
| 15 | 55 |
| 16 | 55 |
| 17 | 50 |
| 18 | 50 |
| 19 | 30 |
| 20 | 35 |
| 21 | 60 |
| 22 | 100 |
| 23 | 40 |
| 24 | 65 |
| 25 | 65 |

Government	Percentage
Current government	85%
Previous government	15%

(b)

Government	Percentage
Current government	55%
Previous government	45%

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

(c)

1. Loan Agreement between the Corporation and the Royal Bank of Canada for a revolving credit facility of up to \$50,000,000 dated August 31, 2015.

(d)

■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(e)

Nil.

(f)

Nil.

(g)

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

(h)

Nil.

Section 5.2(20)**Permits**

(20) ***Permits.** Section 5.2(20) of the Confidential Disclosure Letter sets out a true, accurate and complete list of all material Permits issued to or held by or for the benefit of the Corporation and required for the operation of the Business, including the OEB Licence (collectively, the “Required Permits”). Each Required Permit is in full force and effect. The Corporation is not in default or in breach of any terms of any Required Permit that would affect its validity or good standing and, to the Knowledge of the Vendor there is no action or proceeding pending or threatened to revoke, suspend or amend any Required Permit. True, accurate and complete copies of all Required Permits set out in Section 5.2(20) of the Confidential Disclosure Letter have been provided to the Purchaser.*

Permit/License Identifier	Issued by:	Scope
██████████	Ontario Energy Board	Electricity Distribution Licence
██████████ ██████████	Ministry of Environment	Waste registration at: 175 Sandalwood Pkwy W, Brampton
██████████████████	Ministry of Environment	Certificate of Approval (Air/Noise) No. ██████████
██████████████████ ██████████████	Technical Standards & Safety Authority	Two Elevating Devices at 175 Sandalwood Parkway West
██████████████████	Ministry of Environment	PCB Storage Site # ██████████ Permit/Document: ██████████
██████████████████ ██████████	Ministry of Environment	Equivalency Certificate for Transporting PCBs
██████████████	Ministry of Transportation	Authorizing movement of utility pole(s) carried on an extendable trailer drawn by a commercial motor vehicle.
██████████████	Ministry of Transportation	Authorizing movement of utility pole(s) carried on an extendable trailer drawn by a commercial motor vehicle.
██████	Region of Peel	Excess Load Moving Permit

Section 5.2(21)

Regulatory and Third Party Approvals

(21) Regulatory and Third Party Approvals. Except as set out in Section 5.2(21) of the Confidential Disclosure Letter, neither the Vendor nor the Corporation has any requirement to make any filing with, give any notice to or obtain any Permit as a condition to the lawful completion of the Transactions contemplated by this Agreement. Except as set out in Section 5.2(21) of the Confidential Disclosure Letter, there is no requirement to give notice or obtain Approval under any Material Contract to which the Corporation is a party or by which any of the Assets is bound or affected as a condition to the lawful completion of the Transactions.

The following Approvals are required in connection with the Transactions:

1. Competition Approval
2. OEB Approval
3. Notice pursuant to the collective bargaining agreement between Hydro One Brampton Networks Inc. and UNIFOR Local 1285 effective April 1, 2014 to March 31, 2017
4. Notice pursuant to the collective bargaining agreement between Hydro One Brampton Networks Inc. and Local Union 636 of the International Brotherhood of Electrical Workers effective April 1, 2014 to March 31, 2017

The following agreements will be terminated on or prior to Closing:

1. The Services Agreements listed in Part 1 of Section 1.1(81) (Intercompany Services) of this Confidential Disclosure Letter (except for the Smart Meter Agreement, as contemplated in the Agreement).
2. Loan Agreement dated August 31, 2015 between the Corporation and the Royal Bank of Canada for a revolving credit facility of up to \$50,000,000.

Section 5.2(22)

Financial Statements

(22) *Financial Statements. The Vendor has made available to the Purchaser prior to the date hereof copies of the Financial Statements. Except as disclosed in Section 5.2(22) of the Confidential Disclosure Letter, (a) the Audited Financial Statements have been prepared in accordance with GAAP and (b) the Unaudited Financial Statements have been prepared in accordance with GAAP, in each case, on a consistent basis throughout the periods covered thereby and fairly and accurately present in all material respects the financial condition of the Corporation as at the dates thereof and the results of operations and changes in cash flows for the respective periods covered thereby, subject to, in the case of any unaudited Financial Statements, the absence of notes and to normal year-end adjustments. When delivered, the Audited 2015 Financial Statements will have been prepared in accordance with IFRS, on a consistent basis throughout the periods covered thereby except due to the Corporation's conversion to IFRS as of January 1, 2015 and will fairly and accurately present in all material respects the financial condition of the Corporation as at the dates thereof and the results of operations and changes in cash flows for the respective periods covered thereby.*

Nil.

Part 1

Nil.

Part 2

Nil.

Section 5.2(23)

Records

(23) Records. Except as disclosed in Section 5.2(23) of the Confidential Disclosure Letter, no information, records or systems pertaining to the operation or administration of the Corporation are in the possession of, recorded, stored or maintained such that the Corporation will not have access to such information, record or system following Closing. The minute books of the Corporation reflect in all material respects true, accurate and complete records of all of its Constatng Documents and of every meeting, resolution and corporate action required in accordance with Applicable Law to be reflected therein.

Nil.

Section 5.2(24)

Undisclosed Liabilities

(24) *Undisclosed Liabilities. Except liabilities that are or will be (a) reflected, accrued or reserved against in the Financial Statements, or the Working Capital on Closing or the Net Fixed Assets on Closing, (b) disclosed in Section 5.2(24) of the Confidential Disclosure Letter, (c) incurred in connection with the transactions contemplated by this Agreement or in connection with any Other Agreement, (d) incurred in the Ordinary Course since the Financial Statements Date or (e) reflected in Section 5.2(29) of the Confidential Disclosure Letter, the Corporation does not have any material liabilities, obligations, indebtedness or commitments, whether accrued, absolute, contingent or otherwise, that is of a type that is required to be reflected on a balance sheet prepared in accordance with GAAP.*

Nil.

Section 5.2(25)

Absence of Changes

(25) *Absence of Changes. Except as set forth in, or permitted by, this Agreement or in Section 5.2(25) of the Confidential Disclosure Letter, since the Financial Statements Date to the date hereof, (a) the business of the Corporation has been conducted in all material respects in the Ordinary Course, (b) neither the Vendor nor the Corporation has taken any action that would constitute a breach of any of the covenants set forth in Section 6.4 (other than Section 6.4(a)(xii)) if such action had been taken after the date hereof, and (c) there has not occurred a Material Adverse Effect.*

6.4 Conduct Prior to Closing. *Without in any way limiting any other obligations of the Vendor hereunder, during the Interim Period, the Vendor shall:*

(a) *cause the Corporation to conduct the Business and the operations and affairs of the Corporation only in the Ordinary Course and in accordance with the Approved Capital Expenditures Plan and the Vendor shall cause the Corporation not to, other than in accordance with, or in the furtherance of, but not exceeding the amounts authorized in, the Approved Capital Expenditures Plan, except amounts in respect of expenditures approved in accordance with Section 6.18, or with the prior written consent of the Purchaser;*

(i) *amalgamate, merge or consolidate with or acquire or agree to acquire all or substantially all of the shares or assets of any Person, or acquire or lease or agree to acquire or lease any business operations or any Equity Interests in any other Person, acquire or agree to acquire any legal or beneficial interest in any real property for an amount greater than \$1,000,000, and occupy, lease, manage or control or agree to occupy, lease or manage or control any facility or property which requires an expenditure of more than \$1,000,000 annually;*

(ii) *do any act or thing that would give rise to a breach of the representations and warranties contained in Sections 5.2(25) or 5.2(29);*

(iii) *enter into any compromise or settlement of any material litigation, proceeding or government investigation requiring payment by or to the Corporation in excess of \$1,000,000, except that the Corporation may settle its existing litigation in respect of the Itron 16S Meters without the consent of the Purchaser;*

(iv) *make any material modification to its usual sales, human resource, accounting, software, or management practices, processes or systems;*

(v) *terminate or modify in any material respect any Material Contract, except for any Service Contract that is not a Continuing Service Contract;*

(vi) *move any material part of the Business to any other location from which the Corporation does not carry on the Business at the date hereof;*

- (vii) knowingly take any action, or omit to take any action, that would result in the Corporation being in violation of any Privacy Law;*
- (viii) make any change to its Constatng Documents;*
- (ix) change its taxation year;*
- (x) change its methods of accounting in effect except as required by changes in GAAP, except for changes relating to the Corporation's obligation to switch to IFRS starting in the 2015 fiscal year and any change as approved by the Purchaser;*
- (xi) sell or otherwise dispose of Assets during the Interim Period with an aggregate value in excess of \$1 million, other than asset dispositions as part of the Corporation's standard practice of replacing aging or failed assets;*
- (xii) enter into or renew any Contracts or commitments during the Interim Period which would impose aggregate liabilities on the Corporation in excess of \$1 million other than the renewal or replacement of expiring Contracts, except where such action of the Vendor or the Corporation is specifically permitted by this Section 6.4 (excluding for clarity, the general requirement for Ordinary Course operations required pursuant to the introductory paragraph of Section 6.4(a)), provided that the Corporation shall discuss the renewal or replacement of any such expiring Contract with the Capital Plan Committee and shall consider any recommendations received from the Capital Plan Committee with respect thereto. The final decision as to the renewal or replacement of any such expiring Contract (including the terms of any renewal or replacement Contract) shall be at the sole discretion of the Corporation provided that if the Corporation renews or replaces such expiring Contract notwithstanding the recommendations of the Capital Plan Committee, the Corporation shall ensure such renewal or replacement Contract is terminable on thirty days' notice, subject to payment of reasonable termination costs and fees;*
- (xiii) undertake any action that could result in a change in the compensation paid to executives and Employees (other than Ordinary Course changes), or enter into a new collective agreement or a change to any collective agreement to which the Corporation is a party;*
- (xiv) undertake any refinancing of its existing indebtedness without the prior written consent of the Purchaser, provided that the Corporation may borrow from the Vendor or a third party financial institution so long as all such indebtedness is fully paid, satisfied and indefeasibly discharged and released prior to the Closing Date without the incurrence of further debt or other obligations by the Corporation other than the issuance of additional common shares of the Corporation to the Vendor in connection with the repayment of the Intercompany Loans; and*
- (xv) make an application to the OEB with respect to any matter, except as required by the OEB;*

- (b) cause the Corporation not to change any method of Tax accounting, make or change any material Tax election, file any materially amended Tax Return, settle or compromise any material Tax liability, agree to an extension or waiver of the statute of limitations with respect to the assessment or determination of Taxes, enter into any agreement with respect to any Tax or surrender any right to claim a material Tax refund, except in each case in the Ordinary Course or as required by Applicable Law;*
- (c) cause the Corporation to maintain material insurance policies with coverages commensurate with the coverages listed in the material insurance policies disclosed in Section 5.2(17) of the Confidential Disclosure Letter to the extent required by the Corporation in the Ordinary Course;*
- (d) cause the Corporation to take out, at the expense of the Purchaser, such additional insurance as may be reasonably requested by the Purchaser;*
- (e) cause the Corporation to report all material claims or known circumstances or events which may give rise to a claim to its insurers under the Insurance Policies in a due and timely manner to the Closing Date and provide copies of those reports to the Purchaser;*
- (f) cause the Corporation to meet the Prudential Support requirements required pursuant to the Market Rules;*
- (g) cause the Corporation to preserve intact, the Business and the Assets and to carry on the Business and the affairs of the Corporation in the Ordinary Course, consistent with past practice, including, maintaining capital spending in accordance with the Approved Capital Expenditures Plan attached as Exhibit 1.1(7), as the same may be amended from time to time in the manner contemplated by Section 6.18;*
- (h) cause the Corporation to pay and discharge the liabilities and Taxes of the Corporation in the Ordinary Course in accordance and consistent with the previous practice of the Corporation, except those contested in good faith by the Corporation;*
- (i) take all necessary action, steps and proceedings to approve or authorize, validly and effectively, the execution and delivery of this Agreement and the Other Agreements and to complete the transfer of the Purchased Shares to the Purchaser;*
- (j) cause the Corporation to take all necessary corporate action, steps and proceedings to authorize, consent and otherwise complete the transfer of the Purchased Shares to the Purchaser and to cause all necessary meetings of directors and shareholders of the Corporation to be held for that purpose;*
- (k) cause the Corporation to periodically report, to the Purchaser as it may reasonably request concerning the state of the Corporation, the Business and the Assets;*
- (l) cause the Corporation to cooperate generally with the Purchaser in connection with the Purchaser's efforts to finalize its financing arrangements pertaining to the Transactions, as reasonably requested by the Purchaser provided that the Corporation*

shall not be obligated to engage in such cooperation if, in the Corporation's sole discretion, the Corporation concludes that such cooperation would result in the Corporation incurring costs which will not be reimbursed by the Purchaser or would adversely impact the Business and provided further that non-compliance or non-performance by the Vendor with this Section 6.4(l) shall not be taken into account for the purposes of Section 4.1(1)(b); and

(m) use Commercially Reasonable Efforts to satisfy the conditions contained in Section 4.1.

1. On August 31, 2015:
 - a) The Corporation issued 357 common shares to Hydro One in exchange for proceeds of \$53,000,000.
 - b) The Corporation used a portion of these proceeds to repay all amounts owing under the intercompany short term loan facility between Hydro One as lender and the Corporation as borrower.
 - c) All of the common shares of the Corporation held by Hydro One were then paid to the Province as a dividend-in-kind and directed by the Province to the Vendor.
 - d) The Intercompany Loans were transferred by Hydro One to the Vendor as directed by the Province as part of a return of capital to the Vendor.
2. On September 1, 2015, the Corporation entered into a Loan Agreement with the Royal Bank of Canada for a revolving credit facility of up to \$50,000,000.
3. The Corporation filed its 2016 Incentive Rate Mechanism (IRM) application with the OEB on August 17, 2015 for approval of its proposed distribution rates and other charges. The Corporation filed such application based on the 4th Generation Incentive Rate-setting (Price Cap IR) methodology for rates effective January 1, 2016. On December 10, 2015 the OEB approved the Corporation's rate application.
4. In 2015, the Corporation replaced and disposed of 6,521 Itron 16S smart meters which had an original cost of \$2.6 million and a net book value of \$1.75 million at the time of disposal. The Itron 16S meters were replaced with General Electric KV2C meters.
5. Since the Financial Statements Date, Hydro One Brampton Networks Inc. undertook a review of its accounting methodology for recognizing accounts receivable associated with capital contributions and recoverable work. As a result of this review, Hydro One Brampton Networks Inc. has changed its practice from recognizing accounts receivable for capital contributions and recoverable work based upon the cost of the work in progress at the end of each month to doing so only when the project has been completed and an invoice has been issued to the customer.

6. The Province executed a unanimous shareholder declaration as the sole shareholder of the Vendor and an accompanying resolution authorizing the Vendor to cause the Corporation to pay the remuneration of Carmine Marcello for his role as a director of the Vendor.
7. The Province executed a unanimous shareholder declaration as the sole shareholder of the Vendor and an accompanying resolution authorizing the Vendor to cause the Corporation to pay the remuneration of John Wiersma and Tom Moss for their roles as a directors of the Vendor.

Section 5.2(26)

Taxes

(26) Taxes.

(a) *The Corporation is exempt from Tax under the Tax Act but is required to make PILs payments under the Electricity Act in an amount equal to the Tax that it would be liable to pay under the Tax Act if it were not exempt from Tax under the Tax Act.*

(b) *The Corporation has filed, or caused to be filed, in the prescribed manner and within the prescribed times all material Tax Returns required to be filed by it under Applicable Law before the Closing Date. All such Tax Returns were, when filed, true, complete and, to the Knowledge of the Vendor, materially correct. No Taxing Authority outside Canada has claimed that the Corporation is required to file any Tax Returns with, or is liable to pay or remit Tax in, that jurisdiction. The Corporation has duly and timely paid, or caused to be paid, all Taxes shown as being due and payable by it on such Tax Returns, all assessments and reassessments it has received in respect of all Taxes and all instalments on account of Taxes for its current taxation year that are due and payable before the Closing Date.*

(c) *The Vendor has provided to the Purchaser true, complete and accurate copies of all PILs, payroll and harmonized sales Tax Returns filed by the Corporation in respect of the last three completed taxation years and all working papers and all communications to or from all Taxing Authorities relating to such Tax Returns and to Taxes of the Corporation for such taxation years. Assessments under the Electricity Act and in respect of the payroll and harmonized sales Tax Returns have been issued to the Corporation covering all periods up to and including its fiscal year ended December 31, 2013. No notices of determination of loss from any Taxing Authority to the Corporation have been requested by or issued to the Corporation. To the Knowledge of the Vendor, the Corporation has not requested, received or entered into any advance Tax rulings or advance pricing agreements from or with any Taxing Authority.*

(d) *The Corporation's Financial Statements contain adequate provision in accordance with GAAP for all Taxes payable by the Corporation in respect of each period covered by such Financial Statements and all prior periods to the extent those Taxes have not been paid, whether or not assessed and whether or not shown to be due on any Tax Returns.*

(e) *Except as disclosed in Section 5.2(26) of the Confidential Disclosure Letter, there are no audits, reassessments or other Proceedings in progress in respect of any Taxes. Except as disclosed in Section 5.2(26) of the Confidential Disclosure Letter, the Corporation has not received any written communication from any Taxing Authority that an assessment or reassessment is proposed in respect of any Taxes. The Corporation has not acquired property from any Person in circumstances in which the Corporation did or could become liable for any Taxes payable by such Person pursuant to section 160 of the Tax Act.*

(f) *There are no agreements, waivers or other arrangements with any Taxing Authority extending the statutory period providing for an extension of time with respect to the issuance of any assessment or reassessment of Taxes, the filing of any Tax Return, or the payment of any Taxes by or in respect of the Corporation. The Corporation is not a party to any agreements or undertakings with any Taxing Authority with respect to Taxes.*

(g) *The Corporation has deducted, withheld or collected and remitted in a timely manner to the relevant Taxing Authority all Taxes or other amounts required to be deducted, withheld or collected and remitted by it. The Corporation has not received any requirement from any Taxing Authority pursuant to section 224 of the Tax Act, or other applicable legislation, which remains unsatisfied in any respect.*

(h) *No material amount in respect of any outlay or expense that is deductible for the purposes of computing the income of the Corporation has been owing by the Corporation for longer than two (2) years to a Person not dealing at arm's length (for the purposes of the Tax Act) with the Corporation at the time the outlay or expense was incurred.*

(i) *The Corporation is a registrant for purposes of the ETA and its registration number is 86 486 7635 RT0001. All input tax credits claimed by the Corporation pursuant to the ETA have been documented in accordance with the requirements of the Act and regulations thereto.*

(j) *The Corporation keeps its Tax Books and Records in compliance with Applicable Law in respect of Taxes.*

(e)

The Ontario Ministry of Finance has completed the audit of the Corporation for the 2012 to 2014 years. A notice of re-assessment is expected to be issued to increase current taxes by \$2,260 and interest expense by \$253.

Section 5.2(27)

Litigation

(27) Litigation. Except as described in Section 5.2(27) of the Confidential Disclosure Letter, there are no Proceedings pending or, to the Knowledge of the Vendor, threatened against the Corporation which if determined adversely to the Corporation would reasonably involve the payment of more than half of one percent (.5%) of the Base Purchase Price.

1. [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

[REDACTED]

■

[REDACTED]

Section 5.2(28)**Directors and Officers**

(28) *Directors and Officers. Section 5.2(28) of the Confidential Disclosure Letter is a true, accurate and complete list of the names and titles of all the officers and directors of the Corporation.*

NAME	TITLE
Directors:	
Carmine Marcello	Director
Serge Imbrogno	Director and Chair
Krishnan Iyer	Director
Paul Tremblay	Director
John Wiersma	Director
Tom Moss	Director
Officers:	
Paul Tremblay	President and CEO
Heidi Kritschgau	Secretary
Marc Villett	Vice President, Finance and Administration

Section 5.2(29)

Non-Arm's Length Transactions

(29) *Non-Arm's Length Transactions. The Corporation has not made any payment or loan to, or borrowed any moneys from or is otherwise indebted to, any officer, director, Employee, shareholder or any other Person not dealing at arm's length with the Corporation (within the meaning of the Tax Act), including for purposes of this representation, the Vendor, Hydro One and their respective Subsidiaries, except (a) as disclosed in Section 5.2(29) of the Confidential Disclosure Letter, and (b) for the Intercompany Loans, payments relating to the Intercompany Services, as disclosed in the Financial Statements, and usual employee reimbursements and compensation paid in the Ordinary Course and except for benefits paid in accordance with Employee Plans. Except (i) as disclosed in Section 5.2(29) of the Confidential Disclosure Letter, (ii) for Contracts of employment and Contracts relating to the Intercompany Loans and Intercompany Services, and (iii) for Contracts for the distribution of electricity by the Corporation to Persons for personal or household purposes in the Ordinary Course, the Corporation is not a party to any Contract with any officer, director, Employee, shareholder or any other Person not dealing at arm's length with the Corporation (within the meaning of the Tax Act), or with the Vendor, Hydro One or any of their respective Subsidiaries. For the purposes of this Section 5.2(29), corporations, agencies and other entities owned by the Province (including Governmental Authorities of the Province), excluding Hydro One and its Subsidiaries and the Vendor, are deemed to be dealing at arm's length with the Corporation.*

1. Each of the agreements listed in Section 1.1(80) (Intercompany Services) of this Confidential Disclosure Letter.
2. P.O. 30410 with Hydro One Networks Inc. in respect of smart metering operation costs
3. P.O. 30411 with Hydro One Networks Inc. in respect of smart metering meter shop/reading
4. P.O. 30510 with Hydro One Networks Inc. in respect of smart metering communication costs
5. P.O. 30818 with Hydro One Telecom Inc. in respect of Scada Network Enhancement
6. P.O. 27410 with Hydro One Telecom Inc. in respect of 50M internet connection/corporate internet services
7. Agreement with Hydro One Networks Inc. in respect of Peaksaver Program Service
8. In the past three years, Hydro One Brampton Networks Inc. has paid the following dividends to Hydro One Inc., as shareholder:
 - a) \$8.3 million in 2014
 - b) \$14.3 million in 2013

c) \$12.9 million in 2012

Section 5.2(30)**Environmental****(30) Environmental.**

(a) *Except as described in Section 5.2(30) of the Confidential Disclosure Letter:*

(i) *The Corporation is in material compliance with all Environmental Laws;*

(ii) *The Corporation has obtained all material Environmental Permits required for the operation of the Business, all of which are set out in Section 5.2(30) of the Confidential Disclosure Letter. Each such Environmental Permit is valid, subsisting and in good standing and the Corporation is not in material default or breach of any Environmental Permit and no proceeding is pending or, to the Knowledge of the Vendor, threatened to revoke or limit any Environmental Permit;*

(iii) *The Corporation has not used or, has not to the Knowledge of the Vendor, permitted any property owned, leased, managed, or controlled by the Corporation for the disposal of Contaminants, except in compliance with Environmental Laws;*

(iv) *The Corporation has not received any notice of, nor is the Corporation being prosecuted for an offence alleging, any material non-compliance with any Environmental Laws;*

(v) *There are no orders or directions issued or pending against the Corporation under Environmental Laws;*

(vi) *To the Knowledge of the Vendor, there has been no release, migration or discharge of any Contaminant at or on any property the Corporation owns, leases, manages or controls with respect to which the Corporation would reasonably be expected to have material liability under Environmental Laws; and*

(vii) *To the Knowledge of the Vendor, there are no underground storage tanks located on the Real Property or the Leased Property, except as would not reasonably be expected to result in a material liability under Environmental Laws.*

(b) *Copies of all material environmental audits, site assessments, risk assessments, studies or tests relating to the Corporation or the Business that are in the possession of the Corporation, have been provided to the Purchaser.*

Permit	Issued by:	Scope
██████████ ██████████	Ministry of Environment	Waste registration at: 175 Sandalwood Parkway West, Brampton ON.

[illegible]

- [REDACTED]
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Section 5.2(31)

Employee Plans

(31) Employee Plans.

(a) Section 5.2(31) of the Confidential Disclosure Letter identifies each deferred compensation, bonus, incentive or other compensation, share option or purchase, severance, termination pay, hospitalization or other medical benefit, life or other insurance, vision, dental, drug, sick leave, disability, salary continuation, vacation, supplemental unemployment benefits, profit sharing, mortgage assistance, employee loan, discount, assistance or counselling, pension or supplemental pension, retirement compensation, group registered retirement savings, deferred profit sharing, employee profit sharing, savings, retirement or supplemental retirement plan, and any other plan, program or arrangement, whether funded or unfunded, including all policies with respect to holidays, sick leave, expense reimbursement, automobile allowances and rights to company-provided automobiles, that is maintained, contributed to, or required to be maintained or contributed to, by the Corporation, or under which the Corporation has any liability or contingent liability, for the benefit of the Corporation's current and former directors, officers, consultants, independent contractors, former employees or Employees and their respective beneficiaries or dependents, other than Statutory Plans (the "**Employee Plans**"). The Corporation is the only participating employer in each of the Employee Plans, other than the Pension Plan.

(b) A true, accurate and complete copy of each written Employee Plan, other than the Pension Plan, as amended to date, has been provided to the Purchaser together with true, accurate and complete copies of all material supporting documents relating to each Employee Plan, other than the Pension Plan. All data required for the administration of the Employee Plans is held by or in the possession of the Corporation and, to the Knowledge of the Vendor, will be sufficient in all material respects for the Corporation's administration of the Employee Plans.

(c) Each of the Employee Plans, other than the Pension Plan, is and has been established, registered, insured, administered and invested in compliance with:

- (i) the terms thereof;
- (ii) all Applicable Laws;
- (iii) the administrative practices of the CRA, as applicable;
- (iv) the Collective Agreements, if applicable;

and the Corporation has not received, in the last three years, any notice from any Person questioning or challenging that compliance.

(d) All obligations of the Corporation due prior to Closing under the Employee Plans and the Statutory Plans (whether pursuant to the terms thereof, the Collective

Agreements or any Applicable Law) have been satisfied, and, to the Knowledge of the Vendor, there are no outstanding defaults or violations thereunder by the Corporation. Without limiting the generality of the foregoing, all employer and employee payments, contributions and premiums required to be remitted or paid by the Corporation to or in respect of the Employee Plans and the Statutory Plans have been remitted or paid, in a timely manner to or in respect of the Employee Plans and the Statutory Plans in accordance with the terms thereof, the Collective Agreements and all Applicable Laws.

(e) Except as disclosed in Section 5.2(31) of the Confidential Disclosure Letter, there are no improvements, increases or changes promised to the benefits provided under the Employee Plans and none of the Employee Plans provide for benefit increases, the making of any payment (including a bonus, golden parachute or other enhanced benefit) or the acceleration of any funding obligations that are contingent on, or will be triggered by, the entering into of this Agreement or the completion of the Transactions.

(f) There is no claim or Proceeding by any applicable Governmental Authority, including the CRA, or by any Person (other than routine claims for payment of benefits) pending or, to the Knowledge of the Vendor, threatened in respect of any of the Employee Plans (in the case of the Pension Plan, in relation to the Corporation's participation in such Pension Plan) or their assets and, to the Knowledge of the Vendor, no facts exist which could reasonably be expected to give rise to any such claim or Proceeding (other than routine claims for payment of benefits).

(g) No material changes have occurred in respect of each of the Employee Plans since the date of its most recent financial, accounting, actuarial or other report, as applicable, filed with the applicable pension regulator, the CRA and any other applicable Governmental Authority (where applicable) in connection with that Employee Plan, nor have there been any events occurring prior to the most recent financial, accounting, actuarial or other report which are not disclosed in that report which could reasonably be expected to materially adversely affect the relevant report (including rendering it misleading in any material respect) or to have materially affected the financial status of that Employee Plan. No Employee Plan is subject to any retroactive adjustment of premiums, contributions or payments.

(h) Other than as disclosed in Section 5.2(31) of the Confidential Disclosure Letter, the Employee Plans do not provide benefits beyond retirement or other termination of service to the Corporation's current and former directors, officers, shareholders, consultants, independent contractors, former employees or the Employees and their respective beneficiaries or dependents.

(i) To the Knowledge of the Vendor, each of the Employee Plans (other than the Pension Plan), which purports to qualify as a particular type of plan under the Tax Act or which has or purports to have Tax-favoured treatment, meets all requirements in effect under the Tax Act for such qualification or treatment and has complied with the provisions of the Tax Act applicable to that type of plan or treatment. To the Knowledge of the Vendor, no event has occurred respecting any Employee Plan (other than the Pension Plan) which could reasonably be expected to materially and adversely affect the

Tax-favoured status of the Employee Plan or its qualification as a particular type of plan under the Tax Act.

(j) The Corporation has no obligation to make any contribution, premium or any other payment to the Pension Plan, except the contributions at fixed rates as set out in the Collective Agreements.

(a)

- [REDACTED]
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(e)

[REDACTED]

(h)

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Section 5.2(32)

Labour Matters

(32) Labour Matters.

(a) *Except for the Collective Agreements and as set forth in Section 5.2(32) of the Confidential Disclosure Letter:*

(i) *the Corporation has not entered into, is not a party to (either directly or by operation of law) and has not engaged in the negotiation of any collective agreement, letters of understanding, letters of intent or other written communication with any trade union or association or organization that may qualify as a trade union or association, contingent or otherwise, which would cover any Employee or dependent contractor of the Corporation; and*

(ii) *the Employees or dependent contractors of the Corporation are not subject to any collective agreements or letters of understanding, letters of intent or other written communication with any trade union or association or organization that may qualify as a trade union or association, contingent or otherwise, and are not, in their capacities as Employees, represented by any trade union or association or organization that may qualify as a trade union or association.*

(b) *To the Knowledge of the Vendor, the Corporation is not in any material default under the Collective Agreements or any Contract set out in Section 5.2(32) of the Confidential Disclosure Letter, and is in good standing under the Collective Agreements and all Contracts set out in Section 5.2(32) of the Confidential Disclosure Letter.*

(c) *Except as set forth in Section 5.2(32) of the Confidential Disclosure Letter, to the Knowledge of the Vendor, there are no controversies, labour disturbances, unfair labour complaints, investigations, grievances, Proceedings pending or, to the Knowledge of the Vendor, threatened, by any Governmental Authority or between the Corporation and any Employee or one or more parties representing any of those Employees before any court, arbitrator, officer, inspector, board, commission, tribunal or agency. The Corporation is not liable for any damages, arrears of wages or penalties for failure to comply with any of the foregoing.*

(d) *To the Knowledge of the Vendor, there are no organizational efforts currently being made, threatened by or on behalf of, any trade union or association or organization that may qualify as a trade union or association with respect to the Employees or dependent contractors of the Corporation. The Corporation has not experienced a work stoppage, strike, lock out or other labour disturbance within the past 3 years and there is no work stoppage, strike, lock-out or other labour disturbance currently occurring or threatened.*

(e) True, accurate and complete copies of the Collective Agreements and all other Contracts set out in Section 5.2(32) of the Confidential Disclosure Letter have been provided to the Purchaser.

(a)

[REDACTED]

[REDACTED]

[REDACTED]

(c)

[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

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[REDACTED]

Section 5.2(33)

Employees and Others

(33) Employees and Others.

(a) *Section 5.2(33) of the Confidential Disclosure Letter contains a true, accurate and complete list of the employment identification numbers of all Persons who are Employees or Independent Contractors of the Corporation specifying:*

(i) *with respect to the unionized Employees, the rate of hourly pay, seniority and date of hire, bonus or other incentive based compensation, participation in Employee Plans, vacation entitlement and accrual and whether or not the Employee is absent for any reason such as lay off or leave of absence and, in the case of a leave of absence, the reasons for the leave of absence, the receipt of long-term or short-term disability benefits or workplace safety and insurance benefits and the commencement date of such leave of absence; and*

(ii) *with respect to non-unionized Employees and Independent Contractors, the length of service, age, title, rate of salary, commission structure, bonus or other incentive based compensation, participation in Employee Plans, vacation entitlement and accrual for each such Employee or Independent Contractor and whether or not the Employee or Independent Contractor is absent for any reason such as lay off, leave of absence and, in the case of a leave of absence, the reasons for the leave of absence, the receipt of long-term or short-term disability benefits or workplace safety and insurance benefits and the commencement date of such leave of absence.*

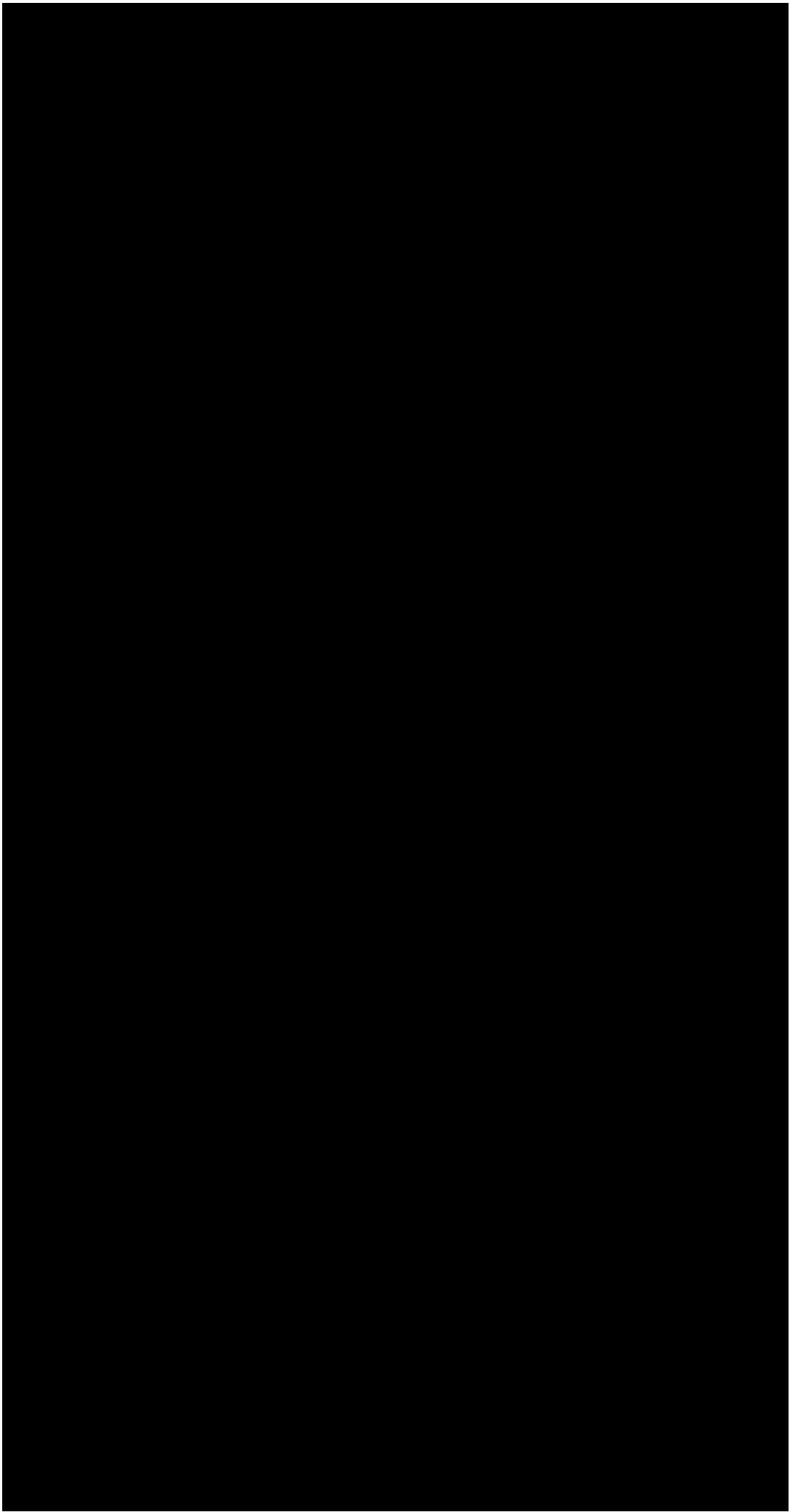
(b) *To the Knowledge of the Vendor, all Independent Contractors have been properly classified as such under Applicable Laws (including the common law).*

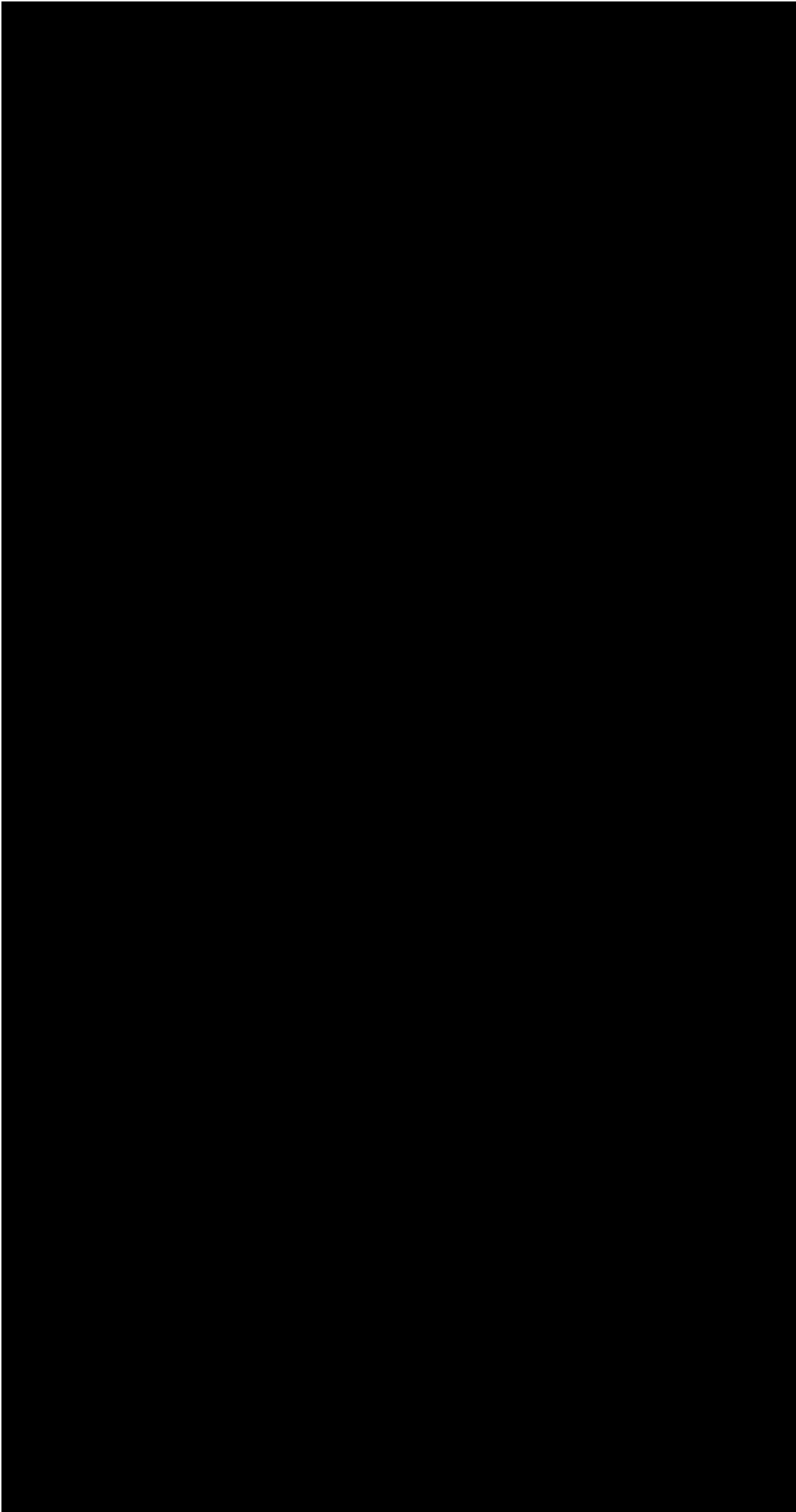
(c) *No notice has been received by the Corporation of any complaint or application filed by any of the Employees or Independent Contractors against the Corporation instituting a proceeding or claiming that the Corporation has violated the Employment Standards Act, 2000 (Ontario), Occupational Health and Safety Act (Ontario), Pay Equity Act (Ontario), Labour Relations Act, 1995 (Ontario) or the Human Rights Code (Ontario) (or any applicable employee or human rights or similar legislation in the other jurisdictions in which the Business is conducted or the Corporation operates) or of any complaints or proceedings of any kind involving the Corporation before any labour relations board, except as disclosed in Section 5.2(33) of the Confidential Disclosure Letter.*

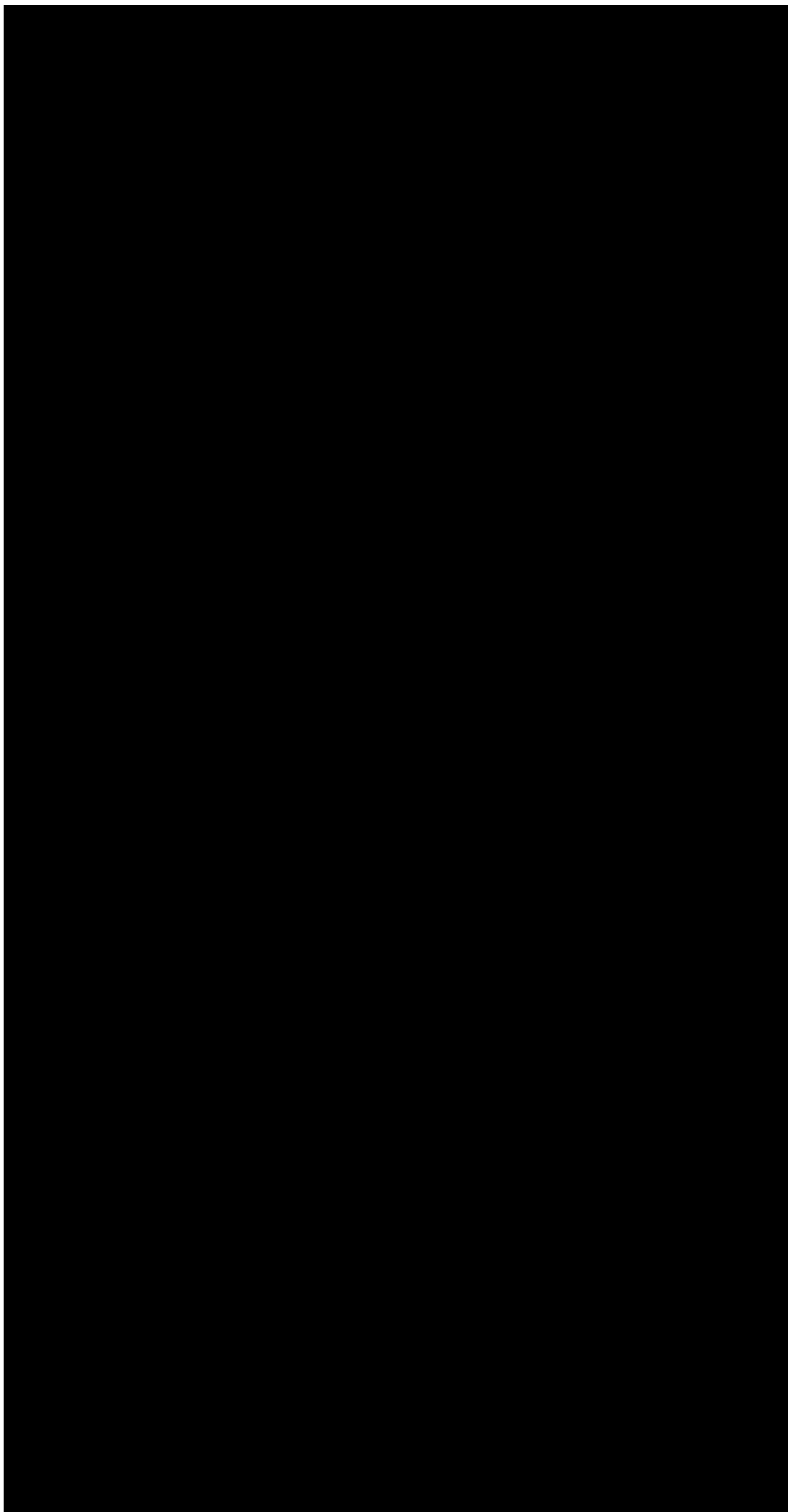
(d) *The Corporation is in material compliance with its duties and obligations under all applicable employment-related statutes and laws, including the Employment Standards Act, 2000 (Ontario), the Human Rights Code (Ontario), the Labour Relations Act, 1995 (Ontario), the Occupational Health and Safety Act (Ontario), the Pay Equity Act (Ontario) and the Workplace Safety and Insurance Act, 1997 (Ontario).*

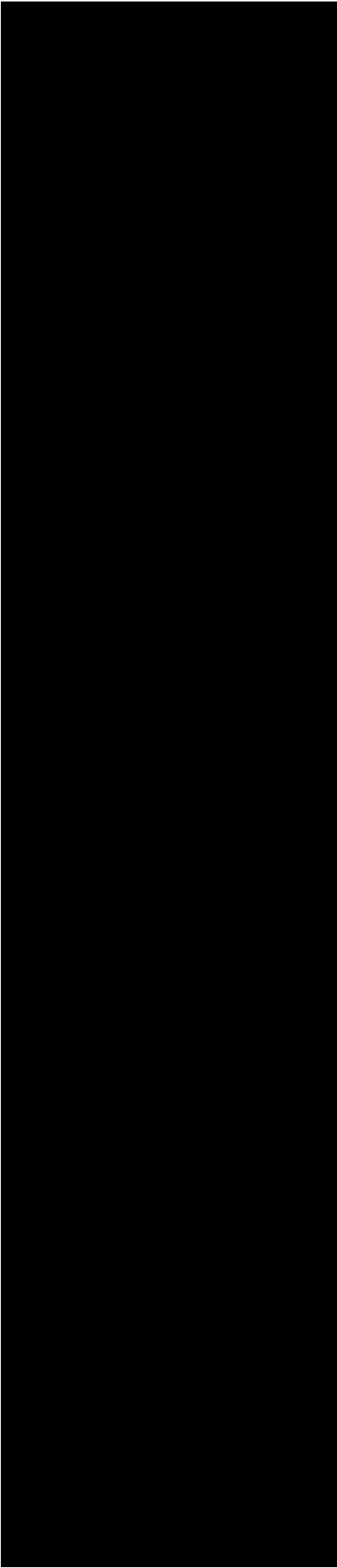
(e) All costs, charges, experience rating assessments or other assessments or other liabilities, contingent or otherwise, under workers' compensation legislation or other legislation relating to industrial accidents and/or occupational diseases claims applicable to the Corporation have been paid or accrued and there has not been any special or penalty charge or assessment under such legislation against the Corporation that has not been paid.

See attached.









Section 5.2(34)

Employee Accruals

(34) *Employee Accruals. All accruals for unpaid vacation pay, premiums for employment and parental insurance, health premiums, Canada Pension Plan premiums, accrued wages, salaries and commissions and Employee Plan payments have been reflected in the Books and Records and Financial Statements. There are no material outstanding agreements, understandings or commitments of the Corporation to the Employees or Independent Contractors with respect to any compensation increases, payments or other rights, including arising from the consummation of the Transactions contemplated by this Agreement.*



Section 5.2(36)

Ethical Practices

(36) Ethical Practices. *The Vendor has not and to the Knowledge of the Vendor, no Representative of the Vendor or of the Corporation has directly or indirectly made or received any contribution, gift, bribe, rebate, payoff, influence payment, kickback, or other payment to or from any Person, private or public, regardless of form, whether in money, property or services in violation of any Applicable Law.*

Nil.

Section 5.2(37)

Personal Information

(37) *Personal Information. All of the privacy policies and privacy procedures of the Corporation currently in effect have been made available to the Purchaser.*

(a) *Except as set out in Section 5.2(37) of the Confidential Disclosure Letter:*

(i) *the Corporation has not received any communication from any regulator with respect to issues involving the collection, use, disclosure, retention or destruction of Personal Information by the Corporation, including any claims of unauthorized access or disclosure of such Personal Information;*

(ii) *no complaint against the Corporation alleging non-compliance with any Privacy Law has been found by any Governmental Authority to be well-founded, and no order or judgment has been made against the Corporation by any Governmental Authority based on any finding of non-compliance with any such Privacy Law;*

(iii) *no unresolved complaint or other proceeding against the Corporation relating to any such alleged non-compliance is now pending by or before any Governmental Authority; and*

(iv) *to the Knowledge of the Vendor, no event has occurred that could give rise to any such complaint or proceeding against the Corporation.*

(b) *The Personal Information has not been subject to any loss or unauthorized disclosure or access while under the control of the Corporation or any service provider acting on behalf of the Corporation.*

(c) *There are no consents or approvals required in order for the Corporation to continue to use and disclose the Personal Information following the completion of the Transaction in a manner consistent with the Corporation's use and disclosure of the Personal Information immediately prior to the completion of the Transaction.*

Nil.

Section 5.2(38)

No Predecessors

(38) No Predecessors. *Except as set out in Section 5.2(38) of the Confidential Disclosure Letter, no corporation has been merged with the Corporation, by amalgamation, dissolution, arrangement or otherwise, in such a manner that the Corporation is or may become liable for any liabilities (contingent or otherwise) of any kind whatsoever of that corporation.*

Nil.

Section 5.2(39)

No Finder's Fees

(39) No Finder's Fees. Each of the Vendor, Hydro One and the Corporation has not taken and will not take any action that would cause the Purchaser or the Corporation to become liable to any Person for any claim or payments for a brokerage commission, finder's fee or other similar arrangement.

Nil.

Section 5.2(40)

Obligations to the City of Brampton

(40) Obligations to the City of Brampton. Section 5.2(40) of the Confidential Disclosure Letter sets out all of the commitments, undertakings, Contracts, covenants or other obligations of the Corporation to the City of Brampton pursuant to the 2000 Brampton SPA, all of which are in good standing.

The Corporation is responsible for carrying out Hydro One's obligations under Sections 6.6, 6.8 and 6.9 of the 2000 Brampton SPA. Pursuant to the amended and restated letter agreement dated May 8, 2001 from the Corporation of the City of Brampton to Hydro One, the parties agreed that Hydro One would cause the Corporation to provide \$10,000 annually to the Brampton Development Team. The Brampton Development Team ceased to operate following the municipal election on November 10, 2003.