

SHARED SERVICE AGREEMENT

**THIS MEMORANDUM OF AGREEMENT** made as of the 12th day of April 2023

BETWEEN:

**InnPower Corporation**

("Distco")

and

**Town of Innisfil**

("Servco")

**WHEREAS** Distco desires Servco to provide to Distco the Shares Services referred to herein;

**AND WHEREAS** Servco wishes to provide the Shared Services to Distco upon the terms and conditions set forth herein;

**NOW THEREFORE** in consideration of the mutual covenants and agreements herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Distco and Servco (together, the "Parties") agree as follows:

**1. PURPOSE**

1.1 The purpose of this Agreement is to describe the Shared Services to be provided by Servco to Distco, the charges to be paid for the performance of such Shared Services, and the working relationship between Distco and Servco relating to such Shared Services.

**2. DEFINITIONS AND INTERPRETATION**

2.1 As used in this Agreement, the following terms shall have the following meanings:

- (a) **"Affiliate Relationships Code"** means the Affiliate Relationships Code for Electricity Distributors and Transmitters issued by the Ontario Energy Board on April 1, 1999, including any and all amendments, revisions or replacements made thereto;
- (b) **"Agreement"** means this Shared Services Agreement and all instruments supplemental to it or in amendment or confirmation of it;

- (c) **“Confidential Information”** shall have the meaning prescribed to it in Section 13.1 of this Agreement;
- (d) **“Disclosing Party”** shall have the meaning prescribed to it in Section 13.1 of this Agreement;
- (e) **“Parties”** means Distco and Servco collectively, and **“Party”** means any one of them;
- (f) **“Recipient”** shall have the meaning prescribed to it in Section 13.1 of this Agreement;
- (g) **“Representatives”** means any employee, agent, or subcontractor, of the Party in question, including without limitation any third party retained to perform any or all of the Shared Services pursuant to Section 4 of this Agreement;
- (h) **“Shared Services”** shall have the meaning prescribed to it in Section 4.1 of this Agreement;
- (i) **“Term”** shall have the meaning prescribed to it in Section 3.1 of this Agreement; and
- (j) **“Transfer Price(s)”** shall have the meaning prescribed to it in Section 5 of this Agreement.

2.2 Unless the context of this Agreement requires otherwise, the singular number shall include the plural and vice versa and any gender includes any other gender.

2.3 The following schedule is attached to, and forms, an integral part of this Agreement:

Schedule “1” Services Provided by Servco to Distco

### **3. TERM AND TERMINATION**

3.1 The Parties agree that, notwithstanding any provision contained herein, the Agreement made between them is terminated five years from the effective date thereof (“Term”).

3.2 This Agreement will, subject to section 3.1, remain in effect until terminated by either Party, in whole or in part, upon no less than sixty (60) days' prior written notice to the other Party. Upon termination for convenience, the Parties shall make any adjustments required to ensure that the Transfer Prices remain consistent with the Affiliate Relationships Code. Any partial termination of the Agreement shall be evidenced by a written agreement as between the Parties specifying the specific Shared Services to be terminated, and the adjustment in Transfer Price pursuant to such partial termination.

3.3 Either Party may terminate this agreement in the event of default in performance of any material covenant in this Agreement caused by the other Party that cannot be corrected, and on no less than fourteen (14) days written notice to the defaulting Party of the occurrence of the event of default, where such event of default is correctable but is not corrected by the defaulting Party within such fourteen (14) day period, the non-defaulting Party shall be entitled to terminate the Agreement.

#### **4. SHARED SERVICES**

4.1 Subject to Section 4.5 of this Agreement, Servco shall provide Distco with the services listed in Schedule "1" hereto and any additional services required by Distco from time to time. The services contemplated in Section 4.1 shall collectively be referred to as the "Shared Services". With respect to any additional services required with mutually agreed upon terms, conditions and Transfer Prices, such terms, conditions and Transfer Prices shall be in compliance with the requirements contained and/or contemplated in the Affiliate Relationships Code.

4.2 Servco shall provide the Shared Services listed in Schedule "1" to this Agreement to Distco at quality levels which are mutually acceptable. These levels shall be reviewed from time to time.

4.3 Subject to Sections 4.4 and 4.5 hereof, Servco shall have the right, in its sole discretion, to contract with a third party to deliver all or part of the Shared Services, provided however that such third party shall be capable of providing such Shared Services to the same or better quality levels than those set forth in Section 4.2. The Parties agree that Servco shall be acting as the agent of Distco in procuring the delivery of such Shared Services of Distco contemplated in Schedule "1".

4.4 Where Servco has contracted with a third party to provide part or all of the Shared Services pursuant to Section 4.3 above, Distco shall pay the amount charged by such third party for the portion of the Shared Services delivered.

4.5 This Agreement shall be deemed to be an exclusive service agreement as between Distco and Servco, and Distco shall not have the right to provide itself, or retain a third party to provide itself, any of the Shared Services unless agreed to by Servco.

4.6 No employee shall be shared between Distco and Servco; provided that an employee may be transferred or seconded from from Servco to Distco with the prior written approval of the senior executive manager of Distco and Servco. Such approval shall set forth the terms and conditions of such transfer including all appropriate measures required to preserve the confidentiality of customer information. When on a secondment or transfer, the employee will not provide any services whatsoever to the original company during the period of secondment or transfer.

4.7 Servco shall bear all costs incurred and all risk involved in delivering the Shared Services to Distco, including all risks related to under or over provision of service. Cost allocation and pricing mechanism of the Shared Services is provided in Schedule “1” to this Agreement.

## **5. TRANSFER PRICING**

5.1 All Shared Services provided by Servco or its Representatives to Distco will be charged at the transfer prices determined in accordance with the Affiliate Relationships Code and set out in the attached Schedule (the “Transfer Price” or “Transfer Prices”, collectively). The Transfer Prices do not include HST or any other taxes payable in respect of the Transfer Price, which shall be paid by Distco to Servco.

5.2 The Parties hereby agree and acknowledge that they shall renegotiate the Shared Services and Transfer Prices described in the Schedule hereto at such times as necessary in order to ensure that the Transfer Prices remain consistent with the requirements of the Affiliate Relationships Code.

5.3 Invoices shall be rendered to Distco on or before the 15<sup>th</sup> day of each month (or such other time as may be agreed), setting forth the total amount due to Servco in respect of each of the Shared Services provided during the previous calendar month and the amount of any taxes which Distco has an obligation to pay.

5.4 Payment for Shared Services shall be paid no later than thirty (30) days after receipt of an invoice. If payment is not received in full, the unpaid amounts shall bear interest from the due date to the date of payment at a monthly interest rate of 1.5%. This Section 5.4 shall survive any termination of this Agreement or the expiry of the Term for a period of twelve (12) months from the date on which the last invoice is rendered to Distco pursuant to this Agreement.

## **6. NOTICES AND CONTACTS**

6.1 Any notice or communication required as between the Parties pursuant to this Agreement shall be delivered to the following individuals, or to such other individual as either Party may stipulate by notice to the other:

For Distco: 7251 Yonge St., Innisfil ON, L9S 0J3  
Attn: Laura Hampton, Manager, Regulatory Affairs  
Telephone: (705)431-6870 ext 226  
Email: regulatoryaffairs@innpower.ca

For Servco: 2101 Innisfil Beach Rd, Innisfil ON, L9S 1A1  
Attn: Lee Parkin, Manager of Legal & Clerk Services  
Telephone: (705)436-3740 ext 1401  
Email: lparkin@innisfil.ca

## **7. AMENDMENTS**

- 7.1 If at any time during the term of this Agreement the Parties deem it necessary or expedient to make any alteration or addition to this Agreement, they may do so by means of a written agreement between them which shall be supplemental and form part of this Agreement.

## **8. FURTHER ASSURANCES**

- 8.1 The Parties agree that each of them shall, upon reasonable request of the other, do or cause to be done all further lawful acts, deeds and assurances whatever for the better performance of the terms and conditions of this Agreement.

## **9. SUCCESSORS AND ASSIGNS**

- 9.1 This Agreement shall enure to the benefit of and be binding upon the respective successors and permitted assigns of the Parties, provided however that neither Party may assign this Agreement without the prior written consent of the other Party, such consent not to be unreasonably withheld.

## **10. SEVERABILITY**

- 10.1 If any provision of this Agreement is determined to be invalid or unenforceable in whole or in part, such invalidity or unenforceability shall attach only to such provision and everything else in this Agreement shall continue in full force and effect.

## **11. COUNTERPARTS**

- 11.1 This Agreement may be executed by the Parties in separate counterparts, each of which when so executed and delivered shall be an original, but all counterparts shall together constitute one and the same instrument.

## **12. DISPUTE RESOLUTION**

- 12.1 The Parties will use their best efforts to resolve, at an operational level, any disputes which may arise concerning this Agreement. Any issues which remain unresolved for more than fifteen (15) days will be referred to the most senior executives of each of the Parties. The parties agree to use their best efforts to resolve all disputes in a timely and professional manner utilizing a process appropriate to the issues involved.

## **13. CONFIDENTIALITY**


- 13.1 “Confidential Information” means all information, whether disclosed orally, in writing, or otherwise, designated as being confidential, which is disclosed by one party (the “Disclosing Party”) to the other party (the “Recipient”) relating to the business of the Disclosing Party or in connection with the subject matter of this Agreement and includes, but is not limited to, business, financial, and marketing information, plans and strategies, contractual, customer and supplier information, technical information related to hardware, software and firmware, and know-how, trade secrets and any other intellectual property rights, and the terms of this Agreement.
- 13.2 Notwithstanding the foregoing, Confidential Information shall not include information which (i) now is, or hereafter properly becomes, generally available to the public other than as a result of disclosure in breach of this Agreement; (ii) is required to be disclosed in compliance with any applicable law, under order of a court of competent jurisdiction or other similar requirement of a governmental agency, so long as the Recipient provides the Disclosing Party with prior written notice of any required disclosure pursuant to such law, order or requirement and cooperates, to the extent permitted by law with the Disclosing Party in seeking an order eliminating or restricting the disclosure or a protective order or otherwise ensuring the confidential treatment of the Confidential Information; (iii) is disclosed with the prior written approval of an authorized officer of the Disclosing Party; (iv) is previously known to the Recipient at the time of disclosure; (v) is discovered by the Recipient without reference to the Confidential Information of the Disclosing Party; or (vi) is lawfully obtained from a third party which was not bound by a confidentiality agreement respecting the disclosure.
- 13.3 Each agrees not to disclose any Confidential Information to any person except those of its Representatives who have a need to know such Confidential Information in connection with this Agreement and who are informed of the confidential nature of the Confidential Information and who agree to be bound by the terms of this Section 13.
- 13.4 The Recipient will not use any Confidential Information relating to the Disclosing Party for any purpose other than in connection with the performance of its obligations, or exercise of its rights, under this Agreement, and will exercise the same security measures normally exercised with respect to its own Confidential Information, and at a minimum a reasonable degree of care, to safeguard the Confidential Information from disclosure to anyone other than as permitted hereby.
- 13.5 Upon expiry or termination of this Agreement, or upon written notice from the Disclosing Party requesting return of any or all Confidential Information, the Recipient shall forthwith return all such Confidential Information to the Disclosing Party and shall keep no copies. Where deletion of information is necessary to fulfill this requirement, it shall be performed within the confines afforded by existing technology limitations, and shall exclude archival or long term back up storage. Upon request, the Recipient shall provide to the Disclosing Party an officer’s certificate confirming that such actions have been completed and that there are no tangible and/or electronic versions of the Confidential Information in the Recipient’s possession or

control, except for archival purposes, long term back up storage of such versions or copies required to be maintained to comply with applicable laws or the terms of this Agreement, and for which the obligations of confidentiality herein shall continue.

- 13.6 The provisions of this Section 13 shall survive termination of this Agreement. In the event of any breach of this Section 13, the Disclosing Party shall be entitled to seek interim and permanent injunctive relief, which remedy shall be in addition to any other rights or remedies to which such Party may be entitled under this Agreement or otherwise under applicable laws.
- 13.7 Servco shall comply at all time with the data management and data access protocols implemented by Distco to protect access to Confidential Information.
- 13.8 Subject to Section 2.2.2 of the Affiliate Relationships Code, Distco employees shall not disclose Sensitive Information to Servco where Distco shares information services (as defined in the Affiliate Relationships Code) with Servco. "Sensitive Information" means information Distco has obtained relating to a specific smart sub-metering provider, wholesaler, consumer, retailer or generator in the process of providing current or prospective utility service.

**IN WITNESS WHEREOF**, the Parties have executed this agreement effective as of the date first above written as attested by the hands of their respective officers duly authorized in that behalf:

**INNPOWER CORPORATION**



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**Name:** Danny D. Persaud

**Position:** President & Chief Executive Officer

I have authority to bind the corporation

**TOWN OF INNISFIL**



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**Name:** Lee Parkin

**Position:** Town Solicitor

I have authority to bind the corporation

**TOWN OF INNISFIL**



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**Name:** Kaitlyn Magri

**Position:** Operations Business Manager

I have authority to bind the corporation



**SCHEDULE "1"**

**Services provided by Servco to Distco**

With respect to each service provided by Servco to Distco, Distco shall pay to Servco an amount as determined by the Pricing Methodology for each Service Offered in the table below, as may be amended or updated from time to time.

<b>Service Offered</b>	<b>Pricing Methodology</b>	<b>Documentation to Evidence Billing</b>	<b>Shared Corporate Services<sup>1</sup>?</b>	<b>Affiliate Relationships Code Requirement</b>	<b>Detailed Description</b>
Fleet repair & maintenance	No more than market rate	Parts and Labour	No	2.3.3.1	Fleet repair and maintenance services

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<sup>1</sup> As defined in the Affiliate Relationships Code, "shared corporate services" means business functions that provide shared strategic management and policy support to the corporate group of which the utility is a member, relating to legal, regulatory, procurement services, building or real estate support services, information management services, information technology services, corporate administration, finance, tax, treasury, pensions, risk management, audit services, corporate planning, human resources, health and safety, communications, investor relations, trustee, or public affairs.

Service Offered	Pricing Methodology	Documentation to Evidence Billing	Shared Corporate Services <sup>1</sup> ?	Affiliate Relationships Code Requirement	Detailed Description
In-house legal services	Fully-allocated cost	Fully allocated costs based on corporate cost allocation study	Yes	2.3.5.1	Legal services provided on an ad-hoc basis