

THIS ASSET TRANSFER AGREEMENT is made as of this 4th day of August, 2023
(the “Effective Date”),

BETWEEN:

KASHECHEWAN FIRST NATION, a First Nation,

(the “Transferor”)

-and-

KASHECHEWAN POWER CORPORATION, a corporation incorporated under
the laws of the Province of Ontario,

(the “Transferee”)

RECITALS:

- A. Prior to the Effective Date, the Transferor was the owner of the Purchased Assets (as defined below) which have been operated by the Transferee to deliver electricity to residences and buildings in the community of Kashechewan (the “KFN Community”) located on Albany Indian Reserve No. 67 (the “Reserve”).
- B. As of the Effective Date, the Transferor agrees to transfer the Purchased Assets to the Transferee on the terms and conditions set forth in this Agreement.

NOW THEREFORE this Agreement witnesses that in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each of the Parties, the Parties agree as follows:

ARTICLE 1
INTERPRETATION

1.1 Definitions

- (a) In this Agreement, including the recitals, unless the context otherwise requires:
 - (i) “Agreement” means this agreement and all amendments made hereto by written agreement between the Parties;
 - (ii) “KFN Community” has the meaning given to it in the recitals;

- (iii) “**ITA**” means the *Income Tax Act* (Canada);
- (iv) “**OEB Approval**” means the approval of the Ontario Energy Board to the transfer contemplated herein pursuant to the *Ontario Energy Board Act, 1998*.
- (v) “**Parties**” means the parties to this Agreement and “**Party**” means any of them;
- (vi) “**Purchased Assets**” has the meaning given to it in Schedule “A” attached hereto;
- (vii) “**Purchase Price**” has the meaning ascribed thereto in Section 2.2; and,
- (viii) “**Reserve**” has the meaning given to it in the recitals.

1.2 Interpretation Not Affected by Headings

The headings in this Agreement are for convenience only and will not affect the construction or interpretation of this Agreement.

1.3 Extended Meanings

When the context reasonably permits, words suggesting the singular will be construed as suggesting the plural and vice versa, and words suggesting one gender will be construed as suggesting other genders. The term “including” means “including without limiting the generality of the foregoing”.

1.4 Currency

All references to currency herein are to lawful money of Canada.

ARTICLE 2

PURCHASE AND SALE

2.1 Purchase and Sale of Purchased Assets

Subject to the terms hereof, on the Effective Date the Transferor shall sell, transfer, convey, assign and deliver to the Transferee, and the Transferee shall purchase from the Transferor free and clear of all encumbrances, the Transferor’s right, title and interest in all of the Purchased Assets.

2.2 Purchase Price

The price payable by the Transferee to the Transferor for the Purchased Assets will be an amount equal to \$1 (the “**Purchase Price**”).

2.3 Indemnification

- (a) The Transferor shall indemnify and save harmless the Transferee from all claims, actions, causes of action, proceedings, losses, damages, costs, liabilities and expenses incurred, suffered or sustained as a result of any act or omission of the Transferor prior to the Effective Date in connection with the Purchased Assets.
- (b) The Transferee shall indemnify and save harmless the Transferor from all claims, actions, causes of action, proceedings, losses, damages, costs, liabilities and expenses incurred, suffered or sustained as a result of any act or omission of the Transferee on or after the Effective Date in connection with the Purchased Assets.

ARTICLE 3

REPRESENTATIONS AND WARRANTIES

3.1 Representations and Warranties of the Transferor

- (a) The Transferor represents and warrants to the Transferee that:
 - (i) it is a “band” within the meaning of the *Indian Act* (Canada);
 - (ii) it is the sole beneficial owner and where its interests are registrable the sole owner of the Purchased Assets with good and valid title, free and clear of all mortgages, pledges, liens, charges and encumbrances whatsoever, and is exclusively entitled to possess and dispose of same;
 - (iii) there are no outstanding liabilities for taxes payable, collectible or remittable by the Transferor relating to the period prior to the Effective Date, whether assessed or not, which would reasonably be expected to result in an encumbrance on or other claim against or seizure of all or any part of the Purchased Assets or which would otherwise have an adverse effect on the Purchased Assets or would result in the Transferee becoming liable or responsible for such liabilities;
 - (iv) it has obtained any consent and approval required from a third party in order to sell, transfer, convey, assign and deliver all of the Purchased Assets; and
 - (v) it is not a non-resident of Canada for purposes of the ITA.

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3.2 Representations and Warranties of the Transferee

- (a) The Transferee represents and warrants to the Transferor that:
 - (i) it is a corporation duly incorporated and registered under the laws of the jurisdiction of its incorporation, and has all the requisite power and authority to enter into and perform its obligations under this Agreement;
 - (ii) it is not a non-resident of Canada for purposes of the ITA.

3.3 “As-Is, Where Is” Purchase

- (a) The Transferee hereby acknowledges and agrees that except for the representations and warranties set out in Section 3.1, the Purchased Assets are being sold and purchased on an “as is, where is” basis as of the Effective Date, without any express or implied agreement or representation or warranty of any kind whatsoever as to the title, physical condition, fitness for a particular purpose or otherwise with respect to the Purchased Assets.
- (b) The Transferee further acknowledges and agrees that, except as otherwise expressly provided in this Agreement, the Transferor does not make or give any representations and warranties concerning any statements made or other information delivered or made available to the Transferee with respect to the Purchased Assets.

3.4 Non-Assignable Rights

This Agreement shall not constitute an assignment or attempted assignment of any contract or authorization which by its terms requires the consent or approval of the other party for completion of the transfer contemplated by this Agreement or in respect of which the completion of the transfer contemplated by this Agreement will increase the obligations or decrease the rights or entitlements of the Transferor or the Transferee under such contract or authorization which, as a matter of law, or by its terms: (i) is not assignable; or (ii) is not assignable without the consent or approval of the other party thereto, in any case where either such consent or approval has not been obtained (a “**Restricted Right**”). In respect of any such Restricted Right, the Transferor shall:

- (i) apply for and use all reasonable efforts to obtain all such consents and approvals;
- (ii) enforce any rights of the Transferor arising from such Restricted Right against the other party thereto;
- (iii) at no time use any such Restricted Right for its own purposes or assign or provide the benefit of such Restricted Right to any other party;

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- (iv) pay over to the Transferee all monies collected by or paid to the Transferor in respect of any such Restricted Right; and

take all such actions and do, or cause to be done, all such things at the request of the Transferee as shall reasonably be necessary in order that the value and benefits of the applicable Restricted Right shall be preserved and enure to the benefit of the Transferee.

ARTICLE 4 **OEB APPROVAL**

4.1 OEB Approval

- (a) The Transferor and the Transferee shall as promptly as practicable after the execution of this Agreement (but in no event later than sixty (60) days after the execution of this Agreement), file or cause to be filed with the Ontario Energy Board an application required to be made under Subsection 86(1) of the *Ontario Energy Board Act, 1998* in respect of the OEB Approval as it relates to the acquisition by the Transferee, from the Transferor, of all or substantially all of the Purchased Assets. Each of the Transferor and the Transferee shall use their best efforts to cooperate and assist the other, so that the OEB Approval can be obtained as soon as reasonably possible. All the costs and expenses incurred by the Parties in connection with the application for the OEB Approval shall be borne by the Transferee.
- (b) The transaction contemplated herein is subject to the OEB Approval having been obtained.

ARTICLE 5 **GENERAL**

5.1 Effective Conveyance

This Agreement will operate as an actual conveyance, transfer, assignment and setting over of the Purchased Assets as of the Effective Date. The Transferor will, at the reasonable request of the Transferee, sign, execute and deliver all documents, transfers, assignments, matters and things which are convenient and necessary or which counsel for the Transferee may advise are necessary or desirable for more completely and effectively evidencing the conveyance, assignment, transfer to or vesting of the Purchased Assets in the Transferee.

5.2 Further Assurances

Each Party will, from time to time and at all times after the execution of this Agreement, without further consideration, do such further acts and deliver all such further assurances,

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deeds and documents as will be reasonably required in order to evidence the full performance and the carrying out of the terms of this Agreement.

5.3 Entire Agreement

This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and cancels and supersedes any prior understandings and agreements between them with respect thereto. There are no representations, warranties, terms, conditions, undertakings, or collateral agreements, express, implied or statutory, between the Parties other than as expressly set forth in this Agreement.

5.4 Governing Law

This Agreement will be subject to and interpreted, construed and enforced in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

5.5 Assignment, Enurement, Etc.

Neither Party will assign its obligations or benefits under this Agreement without the prior written consent of the other Party. Any purported assignment in contravention of this Section 5.5 will be void. This Agreement will be binding upon and enure to the benefit of the Transferee and the Transferor and their respective successors and permitted assigns.

5.6 Time of Essence

Time will be of the essence in this Agreement.

5.7 Invalidity of Provisions

If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that will not affect or impair the legality, validity or enforceability in that jurisdiction of any other provision of this Agreement or the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this Agreement.

5.8 Waiver

No waiver by any Party of any breach (whether actual or anticipated) of any of the terms, conditions, representations or warranties contained herein will take effect or be binding upon that Party unless the waiver is expressed in writing under the authority of that Party. Any waiver so given will extend only to the particular breach so waived and will not limit or affect any rights with respect to any other or future breach.

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5.9 Remedies Generally

No failure on the part of any Party in exercising any right or remedy hereunder will operate as a waiver thereof, nor will any single or partial exercise of any such right or remedy preclude any other or further exercise thereof or the exercise of any other right or remedy in law or in equity or by statute or otherwise conferred.

5.10 Amendment

No amendment to this Agreement will be valid or binding unless set forth in writing and duly executed by the Parties.

5.11 Counterpart Execution

This Agreement may be executed by the Parties in one or more counterparts, all of which taken together, shall constitute one and the same instrument. The facsimile or .pdf signatures of the Parties shall be deemed to constitute original signatures, and facsimile or .pdf copies hereof shall be deemed to constitute duplicate originals.

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Schedule “A”

Purchased Assets

- The electricity distribution system located on the Reserve that is used to deliver electricity at voltage less than 50 kV to the KFN Community, including:
 - all lines, wires, lines of wire, cables, conductors, transformers, transformer stations, distribution stations, poles, anchors, guy wires, brackets, crossarms, insulators and their several attachments, and other apparatus, accessories, facilities, plant, buildings, fixtures, chattels, equipment, meters, any and all telecommunication equipment and signals; and
 - all other associated assets, improvements, equipment and works associated with or required for the distribution of electricity, whether temporary or permanent in nature, that currently are attached to or erected on the Reserve, as the same may be replaced, repaired and/or altered from time to time and including those assets as may be used for the provision of electrical services to premises, facilities or customers that are part of the KFN Community beyond the Reserve boundaries, and all associated books, records, assigned contracts, accounts receivable, prepaid expenses, software and servers, vehicles, licences, inventory, intellectual property, and other intangible assets related to the electricity distribution system.

IN WITNESS WHEREOF the Parties have executed this Agreement as of the date first above written.

Quorum: 5

**KASHECHEWAN FIRST NATION
(TRANSFEROR)**



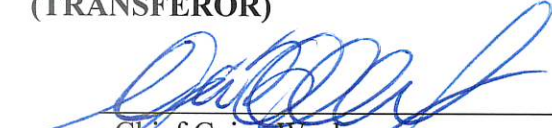
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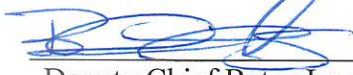
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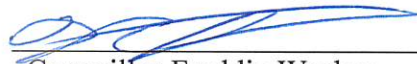
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Chief Gaius Wesley



Deputy Chief Betsy Lazarus



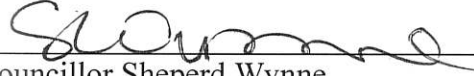
Councillor Freddie Wesley

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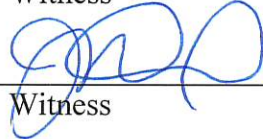
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Councillor Wayne Lazarus



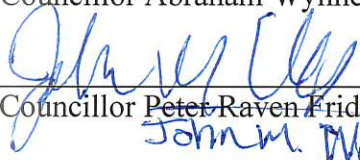
Councillor Sheperd Wynne

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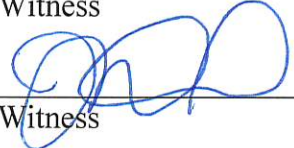
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Councillor Abraham Wynne Jr.



Councillor Peter Raven Friday Jr.
John M. Wesley

Witness



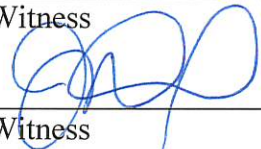
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Councillor John M. Wesley



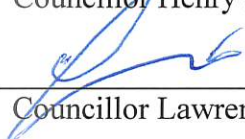
Councillor Michael Goodwin

Witness



Witness

Councillor Henry Koosees



Councillor Lawrence Goodwin

**KASHECHEWAN POWER CORPORATION
(TRANSFeree)**

Name:

Title:

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