SMALL HYDRO PROGRAM - STREAM 3 AMENDED AND RESTATED CONTRACT (SHP-S3-AR CONTRACT)

1. **CONTRACT IDENTIFICATION #: SHP-S3-AR-**
2. **CONTRACT DATE:**
3. **PRIOR CONTRACT:**

   TYPE: ☐ Type 2A, HCI – DX (> 5 MW) ☐ Type 2B, HCI – DX (≤ 5 MW)

   ☐ Type 3B, HESOP (legacy NUG) ☐ Type 6, Other

   ID#:

   TERM COMMENCEMENT DATE:

   EXPIRY DATE:

   UNDERLYING AGGREGATED CONTRACT ID#:
4. **SPONSOR:** Independent Electricity System Operator
5. **SUPPLIER:**
6. **SUPPLIER CONTACT INFORMATION**:

   Contact Person:

   Email:

   Phone:

   Supplier Address:
7. **SUPPLIER INFORMATION**:

   OEB License Number: EG-

   GST#:

   ☐ Not a Non-Resident of Canada

   ☐ Non-Resident of Canada
8. **FACILITY NAME:**
9. **NAMEPLATE CAPACITY: _____ MW**
10. **CONTRACT CAPACITY: _____ MW**

	Original Term	Extended Term
11. CONTRACT PRICE:	$•/MWh OR For Type 3B and 6 see the applicable Exhibit B-1	$94.67/MWh
12. 1 MW OR BELOW FACILITY ADDER:	$0/MWh	$4.73/MWh
13. ESCALATION PERCENTAGE:	•% OR For Type 3B and 6 see the applicable Exhibit B-1	60%
14. BASE DATE:	• OR For Type 3B and 6 see the applicable Exhibit B-1.	2023

15. PROPERTY:

Municipal Address(es) and Property Identification Number(s)(PIN)

_____

Legal Description:

_____

_____

_____

_____

16. CONNECTION POINT

☐ IESO-Controlled Grid (directly connected to the Transmission System)

☐ Distribution System (if so, LDC: _____)

17. MARKET PARTICIPATION

The applicant is a Market Participant: ☐ Yes ☐ No

If yes, the resource ID is: _____

18. HOURLY DELIVERED ELECTRICITY FOREGONE FACTOR:

0.____ e (MW/cms) [Type 2A only]

19. OPERATING HEAD _____ (meters)

20. INCORPORATED SCHEDULES, APPENDICES AND EXHBIITS:

Schedule 1 – General Terms and Conditions, Version 1.0

Appendix 1 – Standard Definitions

Exhibit A – Description of Facility

Exhibit B-1 – Metering and Settlement (Original Term)

Exhibit B-2 – Metering and Settlement (Extended Term)

Exhibit C – Form of Irrevocable Standby Letter of Credit

Exhibit D – Determination of Availability (Original Term)

Exhibit E – Arbitration Provisions Applicable to Sections 1.5, 1.6, 1.7, 2.11 & 12.2

Exhibit F – Metering Plan

Exhibit G – Form of Secured Lender Consent and Acknowledgement

Exhibit H – Upgrade or Expansion of the Facility

Exhibit I – Sponsor Webpage Information

Exhibit J – Existing Third Party Contracts

In consideration of the mutual agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Sponsor and the Supplier hereby mutually agree to amend and restate the Prior Contract in its entirety, without novation, effective on the Contract Date and, in order to formalize contractual arrangements for the continued operation of the Facility beyond the Expiry Date, and be bound by the terms and conditions set out in this SHP-S3-AR Contract and the Schedules, Appendices and Exhibits attached hereto as noted in item 20 above (the "**Agreement**"). Each of the Sponsor and the Supplier confirms that it has received a copy of and has reviewed this Agreement, and that its representations and warranties set out herein are true and correct.

IN WITNESS WHEREOF, and intending to be legally bound, the Parties have executed this Agreement by the undersigned duly authorized representatives as of the date first stated above.

[INSERT LEGAL NAME OF SUPPLIER]

By: _____

Name:

Title:

By: _____

Name:

Title:

We have authority to bind the Supplier.

INDEPENDENT ELECTRICITY SYSTEM OPERATOR

By: _____

Name:

Title:
I have authority to bind the corporation.

SMALL HYDRO PROGRAM -
STREAM 3 AMENDED AND RESTATED CONTRACT
(SHP-S3-AR CONTRACT)

SCHEDULE 1

GENERAL TERMS AND CONDITIONS

VERSION 1.0

OCTOBER 21, 2024

TABLE OF CONTENTS

Page

ARTICLE 1 DEFINITIONS 1
1.1 Definitions 1
1.2 Headings and Table of Contents 1
1.3 Gender and Number 2
1.4 Currency 2
1.5 IESO Market Rules 2
1.6 Lakes and Rivers Improvement and Endangered Species 3
1.7 Invalidity, Unenforceability or Inapplicability of Provisions 4
1.8 Entire Agreement 4
1.9 Waiver 4
1.10 Governing Law 5
1.11 Preparation of Agreement 5
1.12 Schedules, Appendices and Exhibits 5
1.13 Gross Revenue Charge 5

ARTICLE 2 OPERATION OF THE FACILITY 5
2.1 Operation and Maintenance of the Facility 5
2.2 Metering 5
2.3 Supplier Equipment 6
2.4 Connection of the Facility 6
2.5 Waterpower Rights 6
2.6 Facility Amendment 6
2.7 Upgrade or Expansion of the Facility 7
2.8 Additional Covenants in respect of the Facility 7
2.9 Insurance Covenants 7
2.10 Compliance with Laws and Regulations and Registration with the System Operator 8
2.11 Environmental Attributes 9

ARTICLE 3 ELECTRICITY, RELATED PRODUCTS DELIVERY AND PAYMENT OBLIGATIONS 10
3.1 Contract Payment and Settlement 10
3.2 Exclusivity and Resale of Electricity 10
3.3 Future Contract Related Products 10
3.4 Supplier's Responsibility for Taxes 11
3.5 Sponsor's Responsibility for Taxes 11
3.6 Non-residency 11

ARTICLE 4 STATEMENTS AND PAYMENTS 12
4.1 Meter and Other Data 12
4.2 Settlement 12
4.3 Interest 14
4.4 Adjustment to Statement 14
4.5 Statements and Payment Records 14

ARTICLE 5 SECURITY REQUIREMENTS 15
5.1 Performance Security 15
5.2 Composition of Performance Security 15
5.3 Adequacy of Security; Replacement Security 15

ARTICLE 6 REPRESENTATIONS 16
6.1 Representations of the Supplier 16
6.2 Representations of the Sponsor 17

ARTICLE 7 CONFIDENTIALITY AND FIPPA 18
7.1 Confidential Information 18
7.2 Notice Preceding Compelled Disclosure 19
7.3 Return of Information 20
7.4 Injunctive and Other Relief 20
7.5 FIPPA Records and Compliance 20

ARTICLE 8 TERM 20
8.1 Term 20
8.2 Market Renewal Program 21

ARTICLE 9 TERMINATION AND DEFAULT 21
9.1 Events of Default by the Supplier 21
9.2 Remedies of the Sponsor 23
9.3 Events of Default by the Sponsor 24
9.4 Termination by the Supplier 25
9.5 Remedies for Termination Non-Exclusive 25

ARTICLE 10 FORCE MAJEURE 26
10.1 Effect of Invoking Force Majeure 26
10.2 Exclusions 27
10.3 Definition of Force Majeure 27

ARTICLE 11 LENDER'S RIGHTS 28
11.1 Lender Security 28
11.2 Rights and Obligations of Secured Lenders 29
11.3 Co-operation 32

ARTICLE 12 DISCRIMINATORY ACTION 32
12.1 Discriminatory Action 32
12.2 Consequences of Discriminatory Action 33
12.3 Right of the Sponsor to Remedy or Cause to Be Remedied a Discriminatory Action 34

ARTICLE 13 LIABILITY AND INDEMNIFICATION 34
13.1 Exclusion of Consequential Damages 34
13.2 Liquidated Damages 34
13.3 Sponsor Indemnification 34
13.4 Defence of Claims 35

ARTICLE 14 CONTRACT OPERATION AND ADMINISTRATION 35
14.1 Company Representative 35
14.2 Record Retention; Audit Rights 36
14.3 Reports to the Sponsor 36
14.4 Inspection of Facility 36
14.5 Inspection Not Waiver 36
14.6 Notices 37

ARTICLE 15 MISCELLANEOUS 38
15.1 Informal Dispute Resolution 38
15.2 Arbitration 38
15.3 Business Relationship 38
15.4 Binding Agreement 39
15.5 Amendments 39
15.6 Assignment 39
15.7 No Change of Control 40
15.8 Survival 40
15.9 Counterparts 41
15.10 Additional Rights of Set-Off 41
15.11 Rights and Remedies Not Limited to Contract 41
15.12 Further Assurances 41

STREAM 3 AMENDED & RESTATED CONTRACT
(HYDROELECTRIC CONTRACT INITIATIVE)

(Issued pursuant to the Small Hydro Program)

GENERAL TERMS AND CONDITIONS

WHEREAS on August 23, 2023, the Minister of Energy issued a directive to the Sponsor pursuant to Subsection 25.32(5) of the Electricity Act (the "**Ministerial Directive"**) to require the IESO to launch a procurement initiative known as the Small Hydro Program, to provide new or amended contracts to existing small hydroelectric facilities, whose installed capacity, as determined on a facility-specific basis, is equal to or below 10 megawatts, and who either: (i) do not have any existing contracts with IESO or the Ontario Electricity Financial Corporation ("**OEFC**"); or (ii) have existing contracts with IESO or the OEFC that will expire on or before April 30, 2043;

AND WHEREAS on May 9, 2024, the Minister of Energy issued a directive to the Sponsor pursuant to Section 35.32 of the Electricity Act (the "**Subsequent Directive**") to expand eligibility of the Small Hydro Program to include existing hydroelectric facilities that are aggregated with other facilities under an Aggregated Contract;

AND WHEREAS the Supplier has submitted an application package in accordance with the Program Rules;

AND WHEREAS the Facility was, prior to the effective date of the Amending Agreement, subject to the Aggregated Contract;

WHEREAS the Supplier's application package was accepted by the Sponsor and accordingly, the Facility was disaggregated from the Aggregated Contract as of the effective date of the Prior Contract, and the Supplier and the Sponsor wish to execute this SHP-S3-AR Contract in order to formalize the contractual arrangements during the term of this Agreement on the terms and conditions set out herein;

AND WHEREAS the Supplier and the Sponsor now wish to amend and restate the Prior Contract in order to formalize contractual arrangements for the continued operation of the Facility on the terms and conditions set out herein.

ARTICLE 1
DEFINITIONS

1.1 Definitions

In addition to the terms defined elsewhere in this Agreement, capitalized terms shall have the meanings given to them in the attached Appendix 1 – Standard Definitions.

1.2 Headings and Table of Contents

The inclusion of headings and a table of contents in this Agreement are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. Unless otherwise indicated, references to Articles, Sections, Schedules, Appendices and Exhibits are references to Articles, Sections, Schedules, Appendices and Exhibits in this Agreement.

1.3 Gender and Number

In this Agreement, unless the context otherwise requires, words importing the singular include the plural and vice versa and words importing gender include all genders.

1.4 Currency

Except where otherwise expressly provided, all amounts in this Agreement are stated, and shall be paid, in Dollars.

1.5 IESO Market Rules

(a) In the event of any conflict or inconsistency with the IESO Market Rules and the terms of this Agreement, the IESO Market Rules shall govern to the extent of such conflict or inconsistency. To the extent that there is a change in the IESO Market Rules following the date that is thirty (30) days prior to the Contract Date, which such change has the effect of materially affecting the Supplier's Economics, then:

(i) either Party upon becoming aware of the consequences of such change, which, for greater certainty may not have been determinable at the time of such change, shall promptly notify the other Party;

(ii) the Sponsor shall, within thirty (30) days of the date any such notice, propose Amendments to this Agreement and the respective agreements of any Other Suppliers that are so affected, on the basis that such Amendments together with the change in the IESO Market Rules will substantially reflect the Supplier's Economics as contemplated hereunder and, at the Sponsor's discretion, that of such Other Suppliers, prior to the introduction of such change in the IESO Market Rules;

(iii) if the Parties do not agree to the Amendments proposed pursuant to Subsection 1.5(a)(ii), then the Parties and, at the Sponsor's discretion, such Other Suppliers who are so affected, that are required by the Sponsor to participate, shall engage in good faith negotiations to reach agreement on the Amendments described in Subsection 1.5(a)(ii);

(iv) if ninety (90) days following the date of the notice sent pursuant to Subsection 1.5(a)(i) the Parties fail to reach agreement on the Amendments described in Subsection 1.5(a)(iii), the matter shall be determined by mandatory and binding arbitration, from which there shall be no appeal, with such arbitration(s) to be conducted in accordance with the procedures set out in Exhibit E. However, if the Supplier fails to participate in such arbitration, the Supplier acknowledges that it waives its right to participate in such arbitration, which shall nevertheless proceed, and the Supplier shall be bound by the award of the Arbitration Panel and the subsequent Amendments to this Agreement made by the Sponsor to implement such award of the Arbitration Panel; and

(v) this Section 1.5(a) shall not apply to the circumstances addressed in Section 2.11 or in respect of the establishment of any Future Contract Related Products.

(b) Changes to the IESO Market Rules that are directly -part of the IESO's Market Renewal Program, including such changes that come into effect on, before or after the Market Renewal Effective Time, are expressly excluded from the scope of Section 1.5(a).

1.6 Lakes and Rivers Improvement and Endangered Species

This Section 1.6 will apply exclusively during the Original Term for a Prior Contract that is Type 2A, Type 2B, and Type 6 and this Section 1.6 will not otherwise apply during the Original Term, and will have no force or effect during the Extended Term.

(a) To the extent that a regulation, order or approval is enacted or issued under the *Lakes and Rivers Improvement Act* or a regulation, permit or agreement is issued or entered into under the *Endangered Species Act*, *2007* following the date that is thirty (30) days prior to the Contract Date, which regulation, order, approval, permit or agreement (an "**Instrument**") has the effect of requiring the Supplier to make material capital investments in the Facility in order to be in compliance with such Instrument, then:

(i) the Supplier shall promptly notify the Sponsor of such Instrument and full particulars of the impact of such Instrument on the Facility. If full particulars of the impact cannot be determined within a reasonable period of time the Supplier shall, within such longer period as the Parties may agree, provide such full particulars;

(ii) the Supplier shall provide within a reasonable period of time a written report to the Sponsor setting out in detail the design, construction work, timetable and costs of bringing the Facility into compliance with the Instrument;

(iii) the Sponsor shall within a reasonable period of time after receipt of the Supplier's written report engage in good faith negotiations with the Supplier to address the material capital investments necessary for the Facility to be in compliance with the Instrument and any change in the Contract Price;

(iv) if the Parties are unable to agree on Amendments within ninety (90) days following the commencement of good faith negotiations, the matter shall be determined by mandatory and binding arbitration from which there shall be no appeal with such arbitration to be conducted in accordance with the procedures set out in Exhibit E but excluding any Other Suppliers; and

(v) notwithstanding Subsection 1.6(iv), changes in the Contract Price shall be subject to the following additional limitations:

(A) the change in the Contract Price shall only take effect after the Supplier can reasonably demonstrate to the Sponsor that the material capital investments necessary for the Facility to be in compliance with the Instrument have been completed;

(B) the Contract Price shall in no event exceed $140.40 per MWh; and

(C) the change in the Contract Price shall in no event result in the Supplier earning more on a projected basis than seven per cent (7%) pre-tax return on seventy-five per cent (75%) of the capital investment when accounted

for over the expected useful life of the capital investment, which expected useful life may exceed the Term.

For greater certainty, a Supplier shall not be entitled to any change in the Contract Price under this Section 1.6, where in the sole opinion of the Sponsor acting reasonably, any of the material capital investments necessary for the Facility to be in compliance with the Instrument: (i) were known or ought to have been known by the owner or operator of the Facility or the Supplier thirty (30) days prior to the Contract Date; or (ii) were due to the failure of the owner or operator of the Facility or the Supplier to comply with Laws and Regulations or applicable guidelines; or (iii) should have been made by the owner or operator of the Facility or the Supplier prior to the issuance of the Instrument in accordance with Good Engineering and Operating Practices or accepted industry practices; or (iv) the Instrument was issued or entered into to address a requirement that was identified thirty (30) days prior to the Contract Date.

1.7 Invalidity, Unenforceability or Inapplicability of Provisions

In the event that a court of competent jurisdiction determines that any provision of this Agreement is invalid, inapplicable or unenforceable, then either Party may propose, by notice to the other Party, a replacement provision, and the Sponsor and the Supplier and, at the Sponsor's discretion those Other Suppliers that are required by the Sponsor to participate, shall engage in good faith negotiations to replace such provision with a valid, enforceable and applicable provision, the economic effect of which substantially reflects that of the invalid, unenforceable or inapplicable provision which it replaces (the "**Replacement Provision(s)**"). If the Parties are unable to agree on the Replacement Provision(s) within thirty (30) days after the commencement of negotiations under this Section 1.7 then the Replacement Provision(s) shall be determined by mandatory and binding arbitration from which there shall be no appeal, with such arbitration(s) to be conducted in accordance with the procedures set out in Exhibit E. However, if the Supplier fails to participate in such arbitration, the Supplier acknowledges that it waives its right to participate in such arbitration, which shall nevertheless proceed, and the Supplier shall be bound by the award of the Arbitration Panel and the subsequent Replacement Provision(s) to this Agreement made by the Sponsor to implement such award of the Arbitration Panel. This Section 1.7 shall not apply to the circumstances addressed in Section 2.11.

1.8 Entire Agreement

This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter of this Agreement and supersedes any and all prior agreements and understandings between the Parties pertaining to the subject matter of this Agreement. There are no warranties, conditions or representations (including any that may be implied by statute) and there are no agreements in connection with the subject matter of this Agreement, except as specifically set forth or referred to in this Agreement.

1.9 Waiver

Except as expressly provided in this Agreement, no waiver of any provision of this Agreement shall be binding unless executed in writing by the Party to be bound thereby. No waiver of any provision of this Agreement shall constitute a waiver of any other provision nor shall any waiver of any provision of this Agreement constitute a continuing waiver or operate as a waiver of, or estoppel with respect to, any subsequent failure to comply, unless otherwise expressly provided. In the case of a waiver issued by the Sponsor, such waiver shall not be binding on the Sponsor unless it has been executed by an individual identified in the waiver as duly authorized to do so.

1.10 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable in the Province of Ontario.

1.11 Preparation of Agreement

Notwithstanding the fact that this Agreement was drafted by the Sponsor's legal and other professional advisors, the Parties acknowledge and agree that any doubt or ambiguity in the meaning, application or enforceability of any term or provision of this Agreement shall not be construed or interpreted against the Sponsor or in favour of the Supplier when interpreting such term or provision, by virtue of such fact.

1.12 Schedules, Appendices and Exhibits

Each of the Schedules, Appendices and Exhibits set out in item 20 on the SHP-S3-AR Contract Cover Page are referenced in and form part of this Agreement.

1.13 Gross Revenue Charge

Where the applicable Gross Revenue Charge values prescribed under Section 92.1 of the Electricity Act are increased or decreased over the Extended Term, the GRC Adjustment shall be the sole and exclusive remedy, and no relief under Article 12 of this Agreement, or otherwise, shall be available to the Supplier.

ARTICLE 2
OPERATION OF THE FACILITY

2.1 Operation and Maintenance of the Facility

The Supplier shall operate and maintain or cause the Facility to be operated and maintained using Good Engineering and Operating Practices and meeting all relevant requirements of the IESO Market Rules, Distribution System Code, Transmission System Code, the Connection Agreement, in each case, as applicable, all other Laws and Regulations and this Agreement.

2.2 Metering

(a) The Supplier shall satisfy the requirements of the Metering Plan and in particular shall ensure that:

(i) its separate meter(s), ancillary metering and monitoring equipment continues to meet the specific requirements as set out in the applicable Type of Exhibit B-1 identified as the metering and settlement Exhibit in respect of the Facility on the SHP-S3-AR Contract Cover Page;

(ii) any revenue quality interval meter(s) included in the Metering Plan conform with Laws and Regulations administered by Measurement Canada with respect to such meter(s); and

(iii) its metering and monitoring equipment provide all required information and equipment specifications needed to permit the Sponsor to access, verify, estimate and edit for calculation purposes and/or total revenue meter readings in order to accurately determine the output of the Facility at the Connection Point net of any

Station Service Loads and auxiliary loads and which is updated promptly, and, in any event, within ten (10) Business Days after any change to the metering installation occurs.

(b) The Sponsor retains the right to audit, at any time during the Term, on reasonable notice to the Supplier and during normal business hours, the metering and monitoring equipment to confirm the accuracy of the Metering Plan and the meter data of the Facility to confirm the accuracy of such data.

(c) The Supplier shall not make any material changes to the Metering Plan without the prior written approval of the Sponsor, acting reasonably.

2.3 Supplier Equipment

(a) The Supplier shall be responsible, at its expense, for all power system components on the Supplier's side of the Connection Point, including all transformation, switching and auxiliary equipment, such as synchronizing and protection and control equipment, pursuant to Laws and Regulations and any requirements deemed necessary by the System Operator, the Transmitter, or the LDC, as applicable, from time to time to protect the safety and security of the IESO-Controlled Grid, the Distribution System, each of their customers, as the case may be.

(b) The Supplier shall be responsible, at its expense, for any protective equipment which may be required at the Facility, from time to time, to protect its own personnel, property, and equipment from variations in frequency and voltage or from the temporary delivery of other than three phase power, whether caused by the Facility or otherwise.

2.4 Connection of the Facility

(a) The Supplier shall ensure that the Facility continues to be connected exclusively to the Connection Point and that all Delivered Electricity is delivered through the Connection Point.

(b) The Supplier shall be responsible, at its expense, for all Facility connection requirements pursuant to Laws and Regulations, from time to time to permit the delivery of Delivered Electricity to the Connection Point.

2.5 Waterpower Rights

The Supplier shall ensure that any Waterpower Rights that are required for the operation of the Facility remain in effect throughout the Term. In the event that any Waterpower Rights that are required for the operation of the Facility expire while a renewal or replacement of such Waterpower Rights are pending finalization or execution such that the renewal or replacement is intended to be effective as of the expiry of the Waterpower Rights, then such Waterpower Rights shall not be deemed to have expired or been terminated.

2.6 Facility Amendment

(a) The Supplier shall at no time after the Contract Date modify, vary or amend in any material respect any of the features or specifications of the Facility or the Facility as outlined in the SHP-S3-AR Contract Cover Page, Exhibit A or B, including an Upgrade or Expansion, (a

"**Facility Amendment**") without first notifying the Sponsor in writing and obtaining the Sponsor's consent in writing, which consent shall not be unreasonably withheld. The Supplier may submit a Facility Amendment request to the Sponsor at any time during the Term of this Agreement, subject to Section 2.7.

(b) For the purpose of this Section 2.6, it shall not be unreasonable for the Sponsor to withhold its consent to an Amendment which would, or would be likely to,

(i) have a Material Adverse Effect on the ability of the Supplier to comply with its obligations under this Agreement; or

(ii) increase or decrease the Nameplate Capacity of the Facility; or

(iii) increase or decrease the Contract Capacity of the Facility; or

(iv) change of Connection Point.

(c) For the purpose of this Section 2.6, it shall be unreasonable for the Sponsor to withhold its consent to a Facility Amendment which the Supplier is undertaking in order to comply with any order issued by the Minister of Natural Resources and Forestry provided such order was not issued as a result of an application by the Supplier.

2.7 Upgrade or Expansion of the Facility

The Parties agree that an Upgrade or Expansion shall require the Sponsor's advance consent under Section 2.6, and shall meet the requirements set out in Exhibit H for any of the following:

(a) any Facility during the Extended Term; and

(b) exclusively a Type 2A or 2B, HCI-DX Facility, or a Type 6 Facility during the Original Term.

2.8 Additional Covenants in respect of the Facility

(a) The Supplier shall be required to own or otherwise control the Facility during the Term.

(b) Except for Station Service, the Supplier covenants and agrees that the Facility shall not utilize any sources or fuels other than waterpower to produce Electricity under this Agreement.

(c) At any time and from time to time during the Original Term, the Supplier shall, if the Facility has a Nameplate Capacity of more than 5 MW, within thirty (30) days of receiving a written request from the Sponsor provide to the Sponsor all resource data relating to the availability of the waterpower that is otherwise available to the Supplier using Commercially Reasonable Efforts.

2.9 Insurance Covenants

(a) The Supplier shall put in effect and maintain, or cause its contractors, where appropriate, to maintain, from the Term Commencement Date to the expiry of the Term, at its own cost and expense, all the necessary and appropriate insurance that a prudent Person in the business of operating the Facility would maintain including policies for "all-risk" property

insurance, equipment breakdown insurance, commercial general liability insurance and environmental impairment liability insurance. Any such policies must (i) for any property insurance, contain a waiver of subrogation in favour of the Indemnitees and (ii) for any liability insurance, include the Indemnitees as additional insureds in which case the policy shall be non-contributing and primary with respect to coverage in favour of the Indemnitees.

(b) Upon the request of the Sponsor, the Supplier will provide the Sponsor with a copy of each insurance policy, to be furnished within ten (10) Business Days of such request being made by the Sponsor.

(c) If the Supplier is subject to the *Workplace Safety and Insurance Act, 1997* (Ontario), it shall submit a valid clearance certificate of Workplace Safety and Insurance Act coverage to the Sponsor prior to the Term Commencement Date. In addition, the Supplier shall, from time to time at the request of the Sponsor, provide additional Workplace Safety and Insurance Act clearance certificates. The Supplier shall pay when due, and shall ensure that each of its contractors and subcontractors pays when due, all amounts required to be paid by it and its contractors and subcontractors, from time to time, under the *Workplace Safety and Insurance Act, 1997* (Ontario), failing which the Sponsor has the right, in addition to and not in substitution for any other right it may have pursuant to this Agreement or otherwise at law or in equity, to pay to the Workplace Safety and Insurance Board any amount due pursuant to the *Workplace Safety and Insurance Act, 1997* (Ontario) and unpaid by the Supplier or its contractors and subcontractors and to deduct such amount from any amount due and owing from time to time to the Supplier pursuant to this Agreement together with all costs incurred by the Sponsor in connection therewith.

2.10 Compliance with Laws and Regulations and Registration with the System Operator

(a) The Sponsor and the Supplier shall each comply with their respective obligations under this Agreement and shall comply in all material respects with all Laws and Regulations required to perform or comply with their respective obligations under this Agreement.

(b) The Sponsor and the Supplier shall each furnish, in a timely manner, information to any Governmental Authority and shall each obtain and maintain in good standing any licence, permit, certificate, registration, authorization, consent or approval of any Governmental Authority required to perform or comply with their respective obligations under this Agreement, including such licencing as is required by the OEB.

(c) The Supplier covenants to forthwith provide the Sponsor with copies of all actions, suits, proceedings, judgments, rulings or orders by or before any Governmental Authority or arbitrator that could have a Material Adverse Effect on the Supplier or the Facility.

(d) Where the Connection Point is the IESO-Controlled Grid, as indicated on the SHP-S3-AR Contract Cover Page, the Supplier shall ensure that, at all times during the Term, it remains a Market Participant and that the Facility is registered with the System Operator so that the Supplier shall meet all applicable Facility registration requirements as specified in the IESO Market Rules.

2.11 Environmental Attributes

(a) Other than as set out in Subsection 2.11(e), the Supplier hereby transfers and assigns to, or to the extent transfer or assignment is not permitted, holds in trust for, the Sponsor who thereafter shall, subject to Subsection 2.11(d), retain, all rights, title, and interest in all Environmental Attributes associated with the Facility.

(b) The Supplier shall from time to time during the Term of this Agreement, upon written direction of the Sponsor, take all such actions and do all such things necessary to effect the transfer and assignment to, or holding in trust for, the Sponsor, all rights, title, and interest in all Environmental Attributes as set out in Subsection 2.11(a).

(c) The Supplier shall from time to time during the Term of this Agreement, upon written direction of the Sponsor, take all such actions and do all such things necessary to certify, obtain, qualify, and register with the relevant authorities or agencies Environmental Attributes that are created and allocated or credited with respect to the Facility pursuant to Laws and Regulations from time to time (collectively, the "**Regulatory Environmental Attributes**") for the purposes of transferring such Regulatory Environmental Attributes to the Sponsor in accordance with Subsection 2.11(a). The Supplier shall be entitled to reimbursement of the cost of complying with a direction under this Subsection 2.11(c), provided that the Sponsor, acting reasonably, approved such cost in writing prior to the cost being incurred by the Supplier.

(d) To the extent that Laws and Regulations requires the Facility to utilize, consume or obtain Regulatory Environmental Attributes in connection with Delivering Electricity, then the Sponsor shall propose such Amendments to this Agreement to the Supplier and, at the Sponsor's discretion, to all of the Other Suppliers who are required by the Sponsor to participate, based on the principle that the Sponsor will permit the Supplier to retain any Regulatory Environmental Attributes that may be created and allocated or credited with respect to the Facility and that are required by such Laws and Regulations in order for the Facility to Deliver Electricity. If the Parties are unable to agree on the Sponsor's proposal or that of the Supplier or any of those Other Suppliers, as the case may be, within sixty (60) days after the delivery or communication of the Sponsor's proposal for such Amendments, then such Amendments shall be determined by mandatory and binding arbitration, from which there shall be no appeal, with such arbitration(s) to be conducted in accordance with the procedures set out in Exhibit E. However, if the Supplier fails to participate in such arbitration, the Supplier acknowledges that it waives its right to participate in such arbitration, which shall nevertheless proceed, and the Supplier shall be bound by the award of the Arbitration Panel and the subsequent Replacement Provision(s) to this Agreement made by the Sponsor to implement such award of the Arbitration Panel.

(e) For any Facility Amendment, Upgrade or Expansion, the Supplier may retain, and shall not be required to transfer or assign to the Sponsor, or hold in trust for the Sponsor, any right, title or interest in the measures referred to as the "Clean Technology Investment Tax Credit" as is intended to be enacted in proposed Section 127.45 of the *Income Tax Act* (Canada) as provided in draft legislation released by the Canadian Department of Finance on August 4, 2023, and the "Clean Electricity Investment Tax Credit" as proposed in the Government of Canada's Budget 2023: A Made-in-Canada Plan released on March 28, 2023 (and with which each such tax credit as may be renamed or amended in any implementing legislation or regulations). For clarity, the Sponsor will retain all rights, title

and interest in any other Environmental Attributes that are tax credits associated with the Facility.

ARTICLE 3
ELECTRICITY, RELATED PRODUCTS DELIVERY AND PAYMENT OBLIGATIONS

3.1 Contract Payment and Settlement

The Contract Payments shall be made, and all details relating to the settlement of Contract Payments under this Agreement shall be handled in accordance with:

(a) the version of Exhibit B-1 applicable to the Facility as specified on the SHP-S3-AR Contract Cover Page during the Original Term; and

(b) Exhibit B-2 during the Extended Term.

3.2 Exclusivity and Resale of Electricity

Except (i) under an agreement with the Sponsor; (ii) an agreement listed in Exhibit J; (iii) in the case of physical delivery of the Contract Capacity, an agreement or arrangement with the LDC pursuant to the Retail Settlement Code; (iv) in the case of Related Products or (v) in the case of Future Contract Related Products, such agreement or undertaking as may be required solely in order to comply with the provisions of Section 3.3:

(a) the Supplier shall not sell or permit another Person to sell, deliver or convey any part of the Electricity from the Facility, Environmental Attributes to which the Sponsor is entitled hereunder, or Future Contract Related Products, or enter into or allow any Person to enter into any agreement or undertaking for the sale, delivery or conveyance thereof; and

(b) the Supplier shall not enter into or allow or enable another Person to enter into a contract in respect of Electricity, Environmental Attributes to which the Sponsor is entitled hereunder, or Future Contract Related Products.

3.3 Future Contract Related Products

(a) All Related Products, other than Future Contract Related Products and any benefits associated therewith, shall belong to the Supplier unless stated otherwise in the applicable version of Exhibit B-1.

(b) The Supplier will provide the Sponsor with prior written notice of the development by the Supplier of any Future Contract Related Products from time to time.

(c) The Supplier shall sell, supply or deliver all Future Contract Related Products as requested, directed or approved by the Sponsor.

(d) The Supplier covenants not to sell, supply or deliver any Future Contract Related Products unless such sale, supply or delivery has been requested, directed or approved by the Sponsor.

(e) The Supplier will notify the Sponsor of any revenue received by the Supplier in connection with the sale, supply or delivery of any Future Contract Related Products.

(f) Any revenue received by the Supplier in connection with the sale, supply or delivery of any Future Contract Related Products shall be shared in accordance with the provisions set out in the applicable Type of Exhibit B-1 or B-2, as applicable, identified in respect of the Facility on the SHP-S3-AR Contract Cover Page.

(g) The Sponsor may, in its sole and absolute discretion, deem any Ancillary Service or other Related Product that is a Future Contract Related Product not to be a Future Contract Related Product.

3.4 Supplier's Responsibility for Taxes

The Supplier is liable for and shall pay, or cause to be paid, or reimburse the Sponsor if the Sponsor has paid, all Taxes applicable to the Delivered Electricity and Future Contract Related Products sold hereunder which may be imposed up to the Connection Point and in respect of which a credit, rebate, or refund has not and may not be obtained by the Sponsor. In the event that the Sponsor is required to remit such Taxes and the Sponsor is not entitled to a credit, rebate, or refund in respect of such payment of Taxes, the amount thereof shall be deducted from any sums becoming due to the Supplier hereunder.

3.5 Sponsor's Responsibility for Taxes

The Sponsor is liable for and shall pay, or cause to be paid, or reimburse the Supplier if the Supplier has paid any Taxes applicable to the Delivered Electricity and Future Contract Related Products sold hereunder which may be imposed at and from the Connection Point and Taxes applicable to or associated with the transfer or assignment of Environmental Attributes from the Supplier to the Sponsor. The Contract Price does not include any Sales Tax payable by the Sponsor in respect of the Electricity and Future Contract Related Products purchased hereunder. If any Sales Tax is payable in connection with the Delivered Electricity and Future Contract Related Products purchased hereunder, such Sales Tax shall be paid by the Sponsor. In the event that the Supplier is required to pay or remit such Taxes and no credit, rebate, or refund is available (or, in the event that the Supplier has assigned this Agreement, that no credit, rebate, or rebate would have been available to the Supplier had it not assigned this Agreement) in respect of such payment or remittance of Taxes, the amount thereof shall be deducted from any sums becoming due to the Sponsor hereunder.

3.6 Non-residency

(a) If the Supplier is a non-resident of Canada, as that term is defined in the ITA, and the Sponsor incurs any withholding or other similar Taxes as a result of such non-residency, then payments under this Agreement by the Sponsor shall be reduced by the amount of such withholding taxes and the Sponsor shall remit such withholding taxes to the applicable taxing authorities. The Sponsor shall, within sixty (60) days after remitting such Taxes, notify the Supplier in writing, providing reasonable detail of such payment so that the Supplier may claim any applicable rebates, refunds or credits from the applicable taxing authorities. If, after the Sponsor has paid such amounts, the Sponsor receives a refund, rebate or credit on account of such Taxes, then the Sponsor shall promptly remit such refund, rebate or credit amount to the Supplier.

(b) If the Supplier is or becomes a non-resident of Canada, as that term is defined in the ITA, the Supplier shall notify the Sponsor forthwith of such status and shall provide the Sponsor with all such information reasonably required by the Sponsor to comply with any withholding tax or other tax obligations to which the Sponsor is or may become subject as a result of thereof.

ARTICLE 4
STATEMENTS AND PAYMENTS

4.1 Meter and Other Data

Based on type of Connection Point indicated on the SHP-S3-AR Contract Cover Page, the Supplier shall provide to the LDC and / or the Sponsor (which, for clarity, is in addition to any obligations under the IESO Market Rules) access to the meters, metering data and information in accordance with the requirements of Exhibit B-1, Section 1.2 and the Metering Plan. Without limiting the generality of the foregoing, the Supplier shall provide to the Sponsor access at all times to any data or information relating to the Facility (including information related to Outages), that would have been provided to the System Operator pursuant to the IESO Market Rules if the Supplier were governed by the IESO Market Rules, forthwith upon request by the Sponsor. The Supplier shall notify the Sponsor of any errors and omissions in any such data or information on a timely basis so as to permit the Sponsor, within a reasonable time, to advise the System Operator, if applicable, to correct such errors and omissions pursuant to the IESO Market Rules. Upon a Party becoming aware of any errors or omissions in any data or information provided in accordance with this Section 4.1, such Party shall notify the other Party and, if applicable, the System Operator in accordance with the IESO Market Rules, on a timely basis.

4.2 Settlement

(a) This Section 4.2 shall apply to a Facility with a Connection Point that is indicated on the SHP-S3-AR Contract Cover Page as one of the following:

(i) IESO-Controlled Grid; or

(ii) Distribution System.

(b) Where the Facility is a Registered Facility:

(i) The Sponsor shall prepare and deliver a settlement statement (the "**Statement**") to the Supplier, within twenty (20) Business Days after the end of each calendar month in the Term that is the subject of the Statement (the "**Settlement Period**"), setting out the basis for the Contract Payment with respect to the Settlement Period, as well as the basis for any other payments owing under this Agreement by either Party to the other Party in the Settlement Period. If the Term begins on a day other than the first day of the Settlement Period, the initial Contract Payment may be deferred and incorporated with that of the first full Settlement Period following the Contract Date. A Statement may be delivered by the Sponsor to the Supplier by email or other electronic means and shall include the reference number assigned to this Agreement by the Sponsor and a description of the components of the Contract Payment and other payments owing to the Supplier for the Settlement Period.

(ii) The Party owing the Contract Payment shall remit to the other Party full payment in respect of the Statement no later than the last Business Day of the month following the end of the Settlement Period to which the Statement relates, provided that where the Supplier owes the Contract Payment, the Supplier shall not be required to make such payment earlier than five (5) Business Days following the delivery of the Statement (the "**Payment Date**"). Any and all payments required to be made by either Party under any provision of this Agreement shall be made

by wire transfer to the applicable account agreed to by the Parties. The account information and HST registration numbers of the Supplier and the Sponsor constitute Supplier's Confidential Information and Sponsor's Confidential Information, respectively, and are subject to the obligations as set out in Article 7. Either Party may change its account information from time to time by notice to the other in accordance with Section 14.6.

(iii) If the Supplier disputes a Statement or any portion thereof, the Party owing any amount set forth in the Statement shall, notwithstanding such dispute, pay the entire amount set forth in the Statement to the other Party. The Supplier shall provide notice to the Sponsor setting out the portions of the Statement that are in dispute with a brief explanation of the dispute. If it is subsequently determined or agreed that an adjustment to the Statement is appropriate, the Sponsor will promptly prepare a Statement. Any overpayment or underpayment of any amount due under a Statement shall bear interest at the Interest Rate, calculated daily, from and including the time of such overpayment or underpayment to the date of the refund or payment thereof. Payment pursuant to the revised Statement shall be made on the tenth (10^{th}) Business Day following the date on which the revised Statement is delivered to the Supplier. If a Statement dispute has not been resolved between the Parties within five (5) Business Days after receipt of notice of such dispute by the Sponsor, the dispute may be submitted by either Party to a Senior Conference pursuant to the terms of Section 15.1.

(c) Where the Facility is not a Registered Facility:

(i) The Parties hereby designate the LDC to which the Facility is connected as the exclusive settlement agent for all Contract Payments on behalf of both the Sponsor and the Supplier.

(ii) The Contract Payments shall be settled periodically and on a schedule consistent with the monthly, bimonthly, quarterly or other periodic billing cycle of the applicable LDC (the "**Settlement Period**"), provided that if the Term begins on a day other than the first day of the Settlement Period the initial Contract Payment may be deferred and incorporated with that of the first full Settlement Period following the Contract Date; all settlement documentation, requirements and details, including the date that any Contract Payment is due (the "**Payment Date**") and the statement of amounts owing (the "**Statement**") shall be governed by the applicable LDC.

(iii) If the Supplier disputes a Statement or any portion thereof, the Party (or, in the case of the Sponsor, the applicable LDC) owing any amount set forth in the Statement shall, notwithstanding such dispute, pay the entire amount set forth in the Statement. Prior to engaging the Sponsor in a dispute, the Supplier shall make all reasonable efforts to resolve the dispute directly with the applicable LDC, failing which the Supplier shall provide notice to the Sponsor setting out the portions of the Statement that are in dispute with a brief explanation of the dispute and the steps taken towards resolving such dispute directly with the applicable LDC. If it is subsequently determined or agreed that an adjustment to the Statement is appropriate, the Sponsor will work the applicable LDC to prepare a revised Statement. Any overpayment or underpayment of any amount due under a Statement shall bear interest at the Interest Rate, calculated daily, from and

including the time of such overpayment or underpayment to the date of the refund or payment thereof. Payment pursuant to the revised Statement shall be made on the next Payment Date following the date on which the revised Statement is delivered to the Supplier. If a Statement dispute has not been resolved between the Parties within five (5) Business Days after receipt of notice of such dispute by the Sponsor, the dispute may be submitted by either Party to a Senior Conference pursuant to the terms of Section 15.1.

(d) The Sponsor shall have the right to designate an alternative settlement agent or implement such alternative settlement mechanisms other than as set out in this Section 4.2, as it may in its discretion determine, provided that such alternative arrangement does not have a Material Adverse Effect on the Supplier. The Sponsor shall provide thirty (30) days' prior notice to the Supplier of any such designation or change.

4.3 Interest

The Party owing the Contract Payment shall pay interest on any late payment to the other Party, from the Payment Date to the date of payment, unless such late payment was through the fault of the other Party. The interest rate applicable to such late payment shall be the Interest Rate in effect on the date that the payment went into arrears, calculated daily, but shall not, under any circumstances, exceed the maximum interest rate permitted by Laws and Regulations.

4.4 Adjustment to Statement

(a) Each Statement shall be subject to adjustment for errors in arithmetic, computation, or other errors, raised by a Party during the period of one (1) year following the end of the calendar year in which such Statement was issued. If there are no complaints raised, or if any complaints raised in the time period have been resolved, such Statement shall be final and subject to no further adjustment after the expiration of such period.

(b) Notwithstanding the foregoing, the determination by the System Operator acting pursuant to the IESO Market Rules of any information shall be final and binding on the Parties in accordance with the IESO Market Rules, and without limiting the generality of the foregoing, if a Statement contains an error in the data or information issued by the System Operator which the System Operator has corrected, then the one (1) year limit set forth in Subsection 4.4(a) shall not apply to the correction of such error or the Sponsor's ability to readjust the Statement.

(c) Subject to Subsection 4.2(b)(iii) and 4.2(c)(iii), any adjustment to a Statement made pursuant to this Section 4.4 shall be made in the subsequent Statement.

4.5 Statements and Payment Records

The Parties shall keep all books and records necessary to support the information contained in and with respect to each Statement and Contract Payment made thereunder, as well as all settlement statements and records of Contract Payments issued by applicable LDCs, if applicable, in accordance with Section 14.2.

ARTICLE 5
SECURITY REQUIREMENTS

5.1 Performance Security

(a) If at any time during the Term the average of HOEP over a contiguous six (6) month period is greater than seventy-five per cent (75%) of the Contract Price and provided that the Contract Capacity is greater than or equal to 1 MW, the Sponsor may at any time, by providing notice to the Supplier, require the Supplier to provide to and maintain with the Sponsor Performance Security within thirty (30) days of such notice.

(b) The Sponsor shall return or refund (as applicable) any Performance Security that has been provided by the Supplier within ten (10) Business Days following the determination and any netting at the end of the Term of any amounts owing by the Supplier to the Sponsor.

5.2 Composition of Performance Security

The Performance Security shall be in the form of a Letter of Credit for the full amount of the Performance Security, as set out in Exhibit C.

5.3 Adequacy of Security; Replacement Security

(a) The Supplier shall ensure that, at all times, the aggregate value of all Performance Security provided to the Sponsor is at least equal to the then currently required amount of Performance Security and that the Performance Security is current, valid, enforceable and in an acceptable form, including:

(i) following realization by the Sponsor of any amount of Performance Security, increasing the amount of Performance Security, by an amount equal to that realized by the Sponsor;

(ii) providing replacement security for any letter of credit (A) which expires, terminates or fails, or ceases to be in full force and effect for the purposes hereof, (B) which is disaffirmed, disclaimed, dishonoured, repudiated or rejected in whole or in part by the provider thereof, or (C) the validity of which is challenged by the provider thereof.

(b) All costs associated with the requirement to provide and maintain Performance Security shall be borne by the Supplier.

(c) If existing Performance Security is replaced with new Performance Security, the Sponsor shall return the existing Performance Security held by the Sponsor to the Supplier, within five (5) Business Days after the Sponsor's receipt of such new Performance Security. A Supplier may from time to time consolidate any separate amounts of Performance Security held by the Sponsor by providing to the Sponsor replacement Performance Security in the cumulative amount of Performance Security outstanding, in which case the Sponsor shall return or refund (as applicable) the existing Performance Security in accordance with this Subsection 5.3(c)

(d) Notwithstanding any other provision of this Agreement, no delay, including a delay resulting from an event of Force Majeure shall extend the date by which any component of

the Performance Security is required to be provided by the Supplier or returned or refunded (as applicable) by the Sponsor.

ARTICLE 6
REPRESENTATIONS

6.1 Representations of the Supplier

The Supplier represents to the Sponsor as follows, and acknowledges that the Sponsor is relying on such representations in entering into this Agreement:

(a) The Supplier is registered or otherwise qualified to carry on business in the Province of Ontario, and has the requisite power to enter into this Agreement and to perform its obligations hereunder.

(b) This Agreement has been duly authorized, executed, and delivered by the Supplier and is a valid and binding obligation of the Supplier enforceable in accordance with its terms, except as such enforcement may be limited by bankruptcy, insolvency and other laws affecting the rights of creditors' generally and except that equitable remedies may only be granted in the discretion of a court of competent jurisdiction.

(c) The execution and delivery of this Agreement by the Supplier and the consummation of the transactions contemplated by this Agreement will not result in the breach or violation of any of the provisions of, or constitute a default under, or conflict with or cause the termination, cancellation or acceleration of any material obligation of the Supplier under:

(i) any contract or obligation to which the Supplier is a party or by which it or its assets may be bound, except for such defaults or conflicts as to which requisite waivers or consents have been obtained;

(ii) the articles, by-laws or other constating documents or resolutions of the directors or shareholders of the Supplier;

(iii) any judgment, decree, order or award of any Governmental Authority or arbitrator;

(iv) any licence, permit, approval, consent or authorization held by the Supplier; or

(v) any Laws and Regulations,

that could have a Material Adverse Effect on the Supplier.

(d) There are no bankruptcy, insolvency, reorganization, receivership, seizure, realization, arrangement or other similar proceedings pending against or being contemplated by the Supplier or, to the knowledge of the Supplier, threatened against the Supplier.

(e) All statements, specifications, data, confirmations, and information that have been set out in the SHP-S3-AR Contract Cover Page, Exhibit A – Description of Facility, and Exhibit F – Metering Plan are complete and accurate in all material respects and there is no material information omitted from the SHP-S3-AR Contract Cover Page, Exhibit A – Description of Facility, or Exhibit F – Metering Plan, which makes the information in the SHP-S3-AR

Contract Cover Page, Exhibit A – Description of Facility, and Exhibit F – Metering Plan misleading or inaccurate.

(f) The Facility is available to generate Electricity and meet all of the requirements of this Agreement in accordance with applicable Laws and Regulations.

(g) Unless the Supplier has indicated that it is a non-resident of Canada on the SHP-S3-AR Contract Cover Page or has otherwise notified the Sponsor pursuant to Subsection 3.6(b), the Supplier is not a non-resident of Canada for the purposes of the ITA.

(h) The Facility is located in the Province of Ontario and affects supply or demand on the IESO-Controlled Grid or a Distribution System, as applicable.

(i) As of the date hereof, there are no actions, suits, proceedings, judgments, rulings or orders by or before any Governmental Authority or arbitrator, or, to the knowledge of the Supplier, threatened against the Supplier, that could have a Material Adverse Effect on the Supplier.

(j) As of the date hereof, the Supplier is in compliance with all Laws and Regulations, other than acts of non-compliance which, individually or in the aggregate, would not have a Material Adverse Effect on the Supplier.

(k) As of the date hereof, the Supplier is in compliance with all of the provisions of this Agreement.

(l) As of the date hereof and for the remainder of the Term, the Supplier will own or have the right to lease the Facility.

(m) As of the date hereof and for the remainder of the Term, (i) own or lease the Site, or (ii) for a Site that is located on Crown lands, have the right to otherwise control or access the Site, as evidenced by documents that in are a form acceptable to the Sponsor, acting in its sole discretion.

(n) If the Original SLCA has not been terminated, effective on the Contract Date the Original SLCA shall apply only with respect to the Aggregated Contract and shall not apply to this Agreement or to the Facility (which for clarity will be governed by the terms of Article 11 of this Agreement).

The Supplier covenants that all of the foregoing representations and warranties set out in Subsections 6.1(a) to (n) will continue to be true and correct throughout the Term. At any time and from time to time the Supplier shall, within thirty (30) days of receiving a written request from the Sponsor, represent in writing that each of the foregoing statements set out in Subsections 6.1(a) to (n), inclusive, continues to be true or, if any such statements are no longer true, then the Supplier shall provide to the Sponsor a qualified representation with respect to such statement. Such qualified representation provided by the Supplier to the Sponsor shall be subject, however, to the rights of the Sponsor in Subsection 9.1(d) to require the Supplier to cure or remove any qualification with respect to such statement.

6.2 Representations of the Sponsor

The Sponsor represents to the Supplier as follows, and acknowledges that the Supplier is relying on such representations in entering into this Agreement:

(a) The Sponsor is a corporation without share capital created under the laws of Ontario and has the requisite power to enter into this Agreement and to perform its obligations hereunder.

(b) This Agreement has been duly authorized, executed and delivered by the Sponsor and is a valid and binding obligation of the Sponsor enforceable in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency and other laws affecting the rights of creditors' generally and except that equitable remedies may be granted solely in the discretion of a court of competent jurisdiction.

(c) The execution and delivery of this Agreement by the Sponsor and the consummation of the transactions contemplated by this Agreement will not result in the breach or violation of any of the provisions of, or constitute a default under, or conflict with or cause the termination, cancellation or acceleration of any material obligation of the Sponsor under:

(i) any contract or obligation to which the Sponsor is a party or by which it or its assets may be bound, except for such defaults or conflicts as to which requisite waivers or consents have been obtained;

(ii) the by-laws or resolutions of the directors (or any committee thereof) or shareholders of the Sponsor;

(iii) any judgment, decree, order or award of any Governmental Authority or arbitrator;

(iv) any licence, permit, approval, consent or authorization held by the Sponsor; or

(v) any Laws and Regulations,

that could have a Material Adverse Effect on the Sponsor.

(d) There are no bankruptcy, insolvency, reorganization, receivership, seizure, realization, arrangement or other similar proceedings pending against, or being contemplated by the Sponsor or, to the knowledge of the Sponsor, threatened against the Sponsor.

(e) There are no actions, suits, proceedings, judgments, rulings or orders by or before any Governmental Authority or arbitrator, or, to the knowledge of the Sponsor, threatened against the Sponsor, that could have a Material Adverse Effect on the Sponsor.

(f) The Sponsor is in compliance with all Laws and Regulations, other than acts of non-compliance which, individually or in the aggregate, would not have a Material Adverse Effect on the Sponsor.

ARTICLE 7
CONFIDENTIALITY AND FIPPA

7.1 Confidential Information

From the date of this Agreement to and following the expiry of the Term, the Receiving Party shall keep confidential and secure and not disclose Confidential Information, except as follows:

(a) The Receiving Party may disclose Confidential Information to its Representatives who need to know Confidential Information for the purpose of assisting the Receiving Party in complying with its obligations under this Agreement. On each copy made by the Receiving Party, the Receiving Party must reproduce all notices which appear on the original. The Receiving Party shall inform its Representatives of the confidentiality of Confidential Information and shall be responsible for any breach of this Article 7 by any of its Representatives.

(b) If the Receiving Party or any of its Representatives are requested or required (by oral question, interrogatories, requests for information or documents, court order, civil investigative demand or similar process) to disclose any Confidential Information in connection with litigation or any regulatory proceeding or investigation, or pursuant to any Law and Regulations, the Receiving Party shall promptly notify the Disclosing Party. Unless the Disclosing Party obtains a protective order, the Receiving Party and its Representatives may disclose such portion of the Confidential Information to the Party seeking disclosure as is required by Laws and Regulations in accordance with Section 7.2.

(c) Where the Supplier is the Receiving Party, the Supplier may disclose Confidential Information to any Secured Lender or prospective lender or investor and its advisors, to the extent necessary, for securing financing for the Facility or prospective purchaser, provided that any such Secured Lender or prospective lender or investor or prospective purchaser has been informed of the Supplier's confidentiality obligations hereunder and such Secured Lender or prospective lender or investor or prospective purchaser has completed and executed a confidentiality undertaking (the "**Confidentiality Undertaking**") in the Prescribed Form covenanting in favour of the Sponsor to hold such Confidential Information confidential on terms substantially similar to this Article 7.

(d) Notwithstanding the foregoing, the Supplier consents to the disclosure: (i) of any information contained in Exhibit I on the Website or otherwise publicly disclosed, (ii) of its address for service and the name of its Company Representative to all Other Suppliers who have entered into a SHP Contract, the SHP-AR Contract or SHP-S3-AR Contract, as applicable, for the purposes of Sections 1.5, 1.7, 2.11 and 12.2, (iii) on a confidential basis, of any information received by the Sponsor in respect of this Agreement for such internal purposes as the Sponsor may reasonably determine from time to time to the Sponsor's Representative, and (iv) of aggregate data relating to the SHP Contracts, SHP-AR Contracts and SHP-S3-AR Contracts.

7.2 Notice Preceding Compelled Disclosure

If the Receiving Party or any of its Representatives are requested or required to disclose any Confidential Information, the Receiving Party shall promptly notify the Disclosing Party of such request or requirement so that the Disclosing Party may seek an appropriate protective order or waive compliance with this Agreement. If, in the absence of a protective order or the receipt of a waiver hereunder, the Receiving Party or its Representatives are compelled to disclose the Confidential Information, the Receiving Party and its Representatives may disclose only such portion of the Confidential Information to the party compelling disclosure as is required by law and only to such Person or Persons to which the Receiving Party is legally compelled to disclose, and in connection with such compelled disclosure, the Receiving Party and its Representatives shall provide notice to each such recipient (in co-operation with legal counsel for the Disclosing Party) that such Confidential Information is confidential and subject to non-disclosure on terms and conditions equal to those contained in this Agreement and, if possible, shall obtain each recipient's written agreement to receive and use such Confidential Information subject to those terms and conditions.

7.3 Return of Information

Upon written request by the Disclosing Party, Confidential Information provided by the Disclosing Party in printed paper format or electronic format will be returned to the Disclosing Party and Confidential Information transmitted by the Disclosing Party in electronic format will be deleted from the emails, temporary backup or storage devices and from directories of the Receiving Party's and its Representatives' computers; provided, however, any Confidential Information (i) found in drafts, notes, studies and other documents prepared by or for the Receiving Party or its Representatives or (ii) found in electronic format as part of the Receiving Party's off-site or on-site data storage/archival process system, will be held by the Receiving Party and kept subject to the terms of this Agreement or destroyed at the Receiving Party's option. Notwithstanding the foregoing, a Receiving Party shall be entitled to make at its own expense and retain one (1) copy of any Confidential Information materials it receives for the limited purpose of discharging any obligation it may have under Laws and Regulations and shall keep such retained copy subject to the terms of this Article 7.

7.4 Injunctive and Other Relief

The Receiving Party acknowledges that breach of any provisions of this Article may cause irreparable harm to the Disclosing Party or to any third party to whom the Disclosing Party owes a duty of confidence and that the injury to the Disclosing Party or to any third party may be difficult to calculate and inadequately compensable in damages. The Receiving Party agrees that the Disclosing Party is entitled to obtain injunctive relief (without proving any damage sustained by it or by any third party) or any other remedy against any actual or potential breach of the provisions of this Article 7.

7.5 FIPPA Records and Compliance

The Parties acknowledge and agree that the Sponsor is subject to FIPPA and that FIPPA applies to and governs all Confidential Information in the custody or control of the Sponsor ("**FIPPA Records**") and may, subject to FIPPA, require the disclosure of such FIPPA Records to third parties. The Supplier shall provide a copy of any FIPPA Records that it previously provided to the Sponsor if the Supplier continues to possess such FIPPA Records in a deliverable form at the time of the Sponsor's request. If the Supplier does possess such FIPPA Records in a deliverable form, it shall provide the same within a reasonable time after being directed to do so by the Sponsor. The provisions of this Section 7.5 shall survive any termination or expiry of this Agreement and shall prevail over any inconsistent provisions in this Agreement.

ARTICLE 8
TERM

8.1 Term

(a) This Agreement shall become effective upon the Contract Date. As of the Effective Time, the Prior Contract is amended and restated in its entirety by this Agreement. The Parties acknowledge and agree that the terms of the Prior Contract continue in full force and effect (unamended by the terms and conditions of this Agreement) until the Effective Time, and that this Agreement is binding upon the Parties and in full force and effect after the Effective Time.

(b) Notwithstanding the amendments effected by this Agreement to the rights and obligations of the Parties contained in the Prior Contract, each Party acknowledges and agrees that all rights, liabilities and obligations of each Party existing or arising pursuant to the Prior Contract prior to the Effective Time, including any causes of action of a Party or any

monthly payment payable thereunder calculated at the price or prices in effect prior to the Effective Time, shall not merge and shall survive the execution and delivery of this Agreement which amends and restates the Prior Contract as at the Effective Time.

(c) The "**Term**" means that period of time commencing at the beginning of the hour ending 01:00 hours (EST) on the Contract Date (the "**Effective Time**") and ending at 24:00 hours (EST) on April 30, 2043, subject to earlier termination in accordance with the provisions hereof.

(d) The "**Original Term**" means that period of time during the Term commencing at the beginning of the hour ending 01:00 hours (EST) on the Contract Date and ending at 24:00 hours (EST) on the Expiry Date.

(e) The "**Extended Term**" means that period of time during the Term commencing at the beginning of the hour ending 01:00 hours (EST) on the day immediately after the Expiry Date and ending at 24:00 hours (EST) on April 30, 2043.

(f) The Supplier shall have the right, at its option, to terminate this Agreement at any time during the eighth (8^{th}) Contract Year or the fifteenth (15^{th}) Contract Year by providing no less than ninety (90) days written notice to the Sponsor of its intention to terminate this Agreement, whereupon this Agreement shall terminate with the Termination Date being the last day of that Contract Year. For greater certainty, the provisions of Subsection 9.1(e) and Section 15.11 shall apply to such termination. The Supplier acknowledges that upon exercising its option to terminate in accordance with this Subsection 8.1(f), it shall be precluded from entering into any contract with the Sponsor relating to the Facility for the period remaining on the Term of the Agreement had the Supplier elected not to exercise its option to terminate, which shall not be before April 30^{th}, 2043.

(g) Neither Party shall have any right to extend or renew the Term except as agreed in writing by the Parties.

8.2 Market Renewal Program

After the Market Renewal Effective Time, if the IESO is dispatching the IESO-Controlled Grid and administering the IESO-Administered Markets in accordance with the "legacy market rules" (as that term is defined in the IESO Market Rules), this Agreement shall be read as it applied immediately prior to the Market Renewal Effective Time, until such time as the IESO ceases to dispatch the IESO-Controlled Grid and administer the IESO-Administered Markets in accordance with the legacy market rules.

ARTICLE 9
TERMINATION AND DEFAULT

9.1 Events of Default by the Supplier

Each of the following will constitute an Event of Default by the Supplier (each, a "**Supplier Event of Default**"):

(a) The Supplier fails to make any payment when due or deliver, and/or maintain, the Performance Security as required under this Agreement, if such failure is not remedied within five (5) Business Days after written notice of such failure from the Sponsor.

(b) The Supplier fails to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Supplier Event of Default) if such failure is not remedied within fifteen (15) Business Days after written notice of such failure from the Sponsor, provided that such cure period shall be extended by a further fifteen (15) Business Days if the Supplier is diligently remedying such failure and such failure is capable of being cured during such extended cure period.

(c) The Supplier fails or ceases to hold a valid licence, permit, certificate, registration, authorization, consent or approval issued by a Governmental Authority where such failure or cessation results in, or could be reasonably expected to result in, a Material Adverse Effect on the Supplier or the Facility and is not remedied within thirty (30) Business Days after receipt by the Supplier of written notice of such failure or cessation from the Sponsor, provided that such cure period shall be extended by a further thirty (30) Business Days if the Supplier is diligently remedying such failure or cessation and such failure or cessation is capable of being corrected during such extended cure period.

(d) Any representation made by the Supplier in this Agreement is not true or correct in any material respect when made and is not made true or correct in all material respects within thirty (30) Business Days after receipt by the Supplier of written notice of such fact from the Sponsor, provided that such cure period shall be extended by a further thirty (30) Business Days if the Supplier, in the reasonable opinion of the Sponsor, is diligently correcting such breach and such breach is capable of being corrected during such extended cure period.

(e) An effective resolution is passed or documents are filed in an office of public record in respect of, or a judgment or order is issued by a court of competent jurisdiction ordering, the dissolution, termination of existence, liquidation or winding up of the Supplier, unless such filed documents are immediately revoked or otherwise rendered inapplicable, or unless there has been a permitted and valid assignment of this Agreement by the Supplier under this Agreement to a Person which is not dissolving, terminating its existence, liquidating or winding up and such Person has assumed all of the Supplier's obligations under this Agreement.

(f) The Supplier amalgamates with, or merges with or into, or transfers the Facility or all or substantially all of its assets to, another Person unless, at the time of such amalgamation, merger or transfer, there has been a permitted and valid assignment hereof by the Supplier under this Agreement to the resulting, surviving or transferee Person and such Person has assumed all of the Supplier's obligations under this Agreement.

(g) A receiver, manager, receiver-manager, liquidator, monitor or trustee in bankruptcy of the Supplier or of any of the Supplier's property is appointed by a Governmental Authority or pursuant to the terms of a debenture or a similar instrument, and such receiver, manager, receiver-manager, liquidator, monitor or trustee in bankruptcy is not discharged or such appointment is not revoked or withdrawn within thirty (30) days of the appointment. By decree, judgment or order of a Governmental Authority, the Supplier is adjudicated bankrupt or insolvent or any substantial part of the Supplier's property is sequestered, and such decree, judgment or order continues undischarged and unstayed for a period of thirty (30) days after the entry thereof. A petition, proceeding or filing is made against the Supplier seeking to have the Supplier declared bankrupt or insolvent, or seeking adjustment or composition of any of its debts pursuant to the provisions of any Insolvency Legislation,

and such petition, proceeding or filing is not dismissed or withdrawn within thirty (30) days.

(h) The Supplier makes an assignment for the benefit of its creditors generally under any Insolvency Legislation, or consents to the appointment of a receiver, manager, receiver-manager, monitor, trustee in bankruptcy or liquidator for all or part of its property or files a petition or proposal to declare bankruptcy or to reorganize pursuant to the provisions of any Insolvency Legislation.

(i) The Supplier has made a Facility Amendment that has not first been consented to by the Sponsor (other than in instances where such consent has been unreasonably withheld).

(j) The Supplier undergoes a change in Control without first obtaining the written approval of the Sponsor if required pursuant to this Agreement.

(k) The Availability of any Facility with a Nameplate Capacity of more than 5 MW as determined in Exhibit D is less than eighty per cent (80%).

(l) The Supplier assigns this Agreement without first obtaining the consent of the Sponsor, if required pursuant to this Agreement.

Notwithstanding Subsections 9.1(b), (c) and (d), the Sponsor shall have the right to reduce the cure period from fifteen (15) Business Days to five (5) Business Days in Subsection 9.1(b) and from thirty (30) Business Days to ten (10) Business Days in Subsection 9.1(c) or (d) where it can be reasonably established that the Supplier intentionally committed the Supplier Event of Default specified in Subsection 9.1(b), (c) or (d).

9.2 Remedies of the Sponsor

(a) If any Supplier Event of Default (other than a Supplier Event of Default relating to the Supplier referred to in Subsections 9.1(e), (g) and (h) occurs and is continuing, upon written notice to the Supplier, the Sponsor may terminate this Agreement.

(b) If a Supplier Event of Default occurs and is continuing, the Sponsor may, in addition to the remedy set out in Subsection 9.2(a):

(i) set-off any payments due to the Supplier against any amounts payable by the Supplier to the Sponsor including, at the Sponsor's option, the amount of any Performance Security provided to the Sponsor pursuant to Article 5; and

(ii) draw on all or part of the Performance Security, and if the remedy in Subsection 9.2(a) has not been exercised, require the Supplier to replace such drawn security with new security.

(c) Notwithstanding Subsections 9.2(a) and (b), upon the occurrence of a Supplier Event of Default relating to the Supplier referred to in Subsection 9.1(e), (g) or (h), this Agreement shall automatically terminate without notice, act or formality, effective immediately before the occurrence of such Supplier Event of Default, in which case, for certainty, the Secured Lender shall have the rights available to it under Subsection 11.2(g).

(d) If the Sponsor terminates this Agreement pursuant to Subsection 11.2(a) or the Agreement is terminated pursuant to Subsection 9.2(c), the Sponsor shall be entitled to retain all Performance Security provided by the Supplier and exercise all such other remedies available to the Sponsor, including pursuing a Claim for damages, as contemplated under Section 9.5.

(e) Termination shall not relieve the Supplier or the Sponsor of their respective responsibilities relating to the availability of the Facility and delivery of the Delivered Electricity and Environmental Attributes from the Facility that relate to the Delivered Electricity, and Future Contract Related Products from the Facility, or amounts payable under this Agreement, up to and including the Termination Date. The Sponsor shall be responsible only for the payment of amounts accruing under this Agreement up to and including the Termination Date. In addition to its other rights of set-off available to it pursuant to this Agreement and at law, the Sponsor may hold back payment or set-off its obligation to make such payment against any payments owed to it if the Supplier fails to comply with its obligations on termination.

9.3 Events of Default by the Sponsor

Each of the following will constitute an Event of Default by the Sponsor (each, a "**Sponsor Event of Default**"):

(a) The Sponsor fails to make any payment under this Agreement when due, if such failure is not remedied within five (5) Business Days after written notice of such failure from the Supplier.

(b) The Sponsor fails to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Sponsor Event of Default), if such failure is not remedied within fifteen (15) Business Days after written notice of such failure from the Supplier, provided that such cure period shall be extended by a further fifteen (15) Business Days if the Sponsor is diligently remedying such failure and such failure is capable of being cured during such extended cure period.

(c) The Sponsor fails or ceases to hold a valid licence, permit, certificate, registration, authorization, consent or approval issued by a Governmental Authority where such failure or cessation results in, or could be reasonably expected to result in, a Material Adverse Effect on the Sponsor and is not remedied within thirty (30) Business Days after receipt by the Sponsor of written notice of such failure or cessation from the Supplier, provided that such cure period shall be extended by a further thirty (30) Business Days if the Sponsor is diligently remedying such failure or cessation and such failure or cessation is capable of being corrected during such extended cure period.

(d) Any representation made by the Sponsor in this Agreement is not materially true or correct in any material respect when made and is not made materially true or correct within thirty (30) Business Days after receipt by the Sponsor of written notice of such fact from the Supplier, provided that such cure period shall be extended by a further thirty (30) Business Days if the Sponsor is diligently correcting such breach and such breach is capable of being corrected during such extended cure period.

(e) An effective resolution is passed or documents are filed in an office of public record in respect of, or a judgment or order is issued by a court of competent jurisdiction ordering

the dissolution, termination of existence, liquidation or winding up of the Sponsor unless such filed documents are immediately revoked or otherwise rendered inapplicable, or unless there has been a permitted and valid assignment of this Agreement by the Sponsor under this Agreement to a Person which is not dissolving, terminating its existence, liquidating or winding up and such Person has assumed all of the Sponsor's obligations under this Agreement.

(f) A receiver, manager, receiver-manager, liquidator, monitor or trustee in bankruptcy of the Sponsor or of any of the Sponsor's property is appointed by a Governmental Authority or pursuant to the terms of a debenture or a similar instrument, and such receiver, manager, receiver-manager, liquidator, monitor or trustee in bankruptcy is not discharged or such appointment is not revoked or withdrawn within thirty (30) days of the appointment. By decree, judgment or order of Governmental Authority, the Sponsor is adjudicated bankrupt or insolvent or any substantial part of the Sponsor's property is sequestered, and such decree, judgment or order continues undischarged and unstayed for a period of thirty (30) days after the entry thereof. A petition, proceeding or filing is made against the Sponsor seeking to have it declared bankrupt or insolvent, or seeking adjustment or composition of any of its debts pursuant to the provisions of any Insolvency Legislation, and such petition, proceeding or filing is not dismissed or withdrawn within thirty (30) days.

(g) The Sponsor makes an assignment for the benefit of its creditors generally under any Insolvency Legislation, or consents to the appointment of a receiver, manager, receiver-manager, monitor, trustee in bankruptcy or liquidator, of it or of all or part of its property or files a petition or proposal to declare bankruptcy or to reorganize pursuant to the provision of any Insolvency Legislation.

(h) The Sponsor assigns this Agreement (other than an assignment made pursuant to Subsection 15.6(f)) without first obtaining the consent of the Supplier, if required pursuant to this Agreement.

9.4 Termination by the Supplier

(a) If any Sponsor Event of Default occurs and is continuing, then upon written notice to the Sponsor, the Supplier may (i) terminate this Agreement and (ii) set-off any payments due to the Sponsor against any amounts payable by the Sponsor to the Supplier.

(b) Notwithstanding the foregoing, if applicable, the Sponsor shall be responsible for payment of amounts accruing under this Agreement only up to and including the Termination Date. The Supplier may hold back payment or set-off against any payments owed by it if the Sponsor fails to comply with its obligations on termination.

9.5 Remedies for Termination Non-Exclusive

The termination of this Agreement by either Party and the payment of all amounts then due and owing to the other Party as expressly provided in this Agreement shall not limit, waive or extinguish in any way the recourse of either Party to any remedies available to it in relation to such termination at law, in equity or otherwise, nor shall such termination affect any rights that the Indemnitees may have pursuant to any indemnity given under this Agreement.

ARTICLE 10
FORCE MAJEURE

10.1 Effect of Invoking Force Majeure

(a) If, by reason of Force Majeure:

(i) the Supplier is unable to make available all or any part of the Contract Capacity or is unable to generate at the Facility, or is unable to deliver from the Facility to the Connection Point, all or any part of the Delivered Electricity or Future Contract Related Products;

(ii) all or any part of the Delivered Electricity cannot be received at or transmitted or distributed from the Connection Point; or

(iii) either Party is unable, wholly or partially, to perform or comply with its other obligations (other than payment obligations) hereunder,

then the Party so affected by Force Majeure shall be excused and relieved from performing or complying with such obligations (other than payment obligations) and shall not be liable for any liabilities, damages, losses, payments, costs, expenses (or Indemnifiable Losses, in the case of the Supplier affected by Force Majeure) to, or incurred by, the other Party in respect of or relating to such Force Majeure and such Party's failure to so perform or comply during the continuance and to the extent of the inability so caused from and after the invocation of Force Majeure.

(b) A Party shall be deemed to have invoked Force Majeure with effect from the commencement of the event or circumstances constituting Force Majeure when that Party gives to the other Party prompt written notice in substantially the Prescribed Form, provided that such notice shall be given within ten (10) Business Days of the later of (i) the commencement of the event or circumstances constituting Force Majeure or (ii) the date that the Party invoking Force Majeure knew or ought to have known that the event or circumstances constituting Force Majeure could have a Material Adverse Effect on the development or operation of the Facility. If the effect of the Force Majeure and full particulars of the cause thereof cannot be reasonably determined within such ten (10) Business Day period, the Party invoking Force Majeure shall be allowed a further ten (10) Business Days (or such longer period as the Parties may agree in writing) to provide such full particulars in substantially the Prescribed Form to the other Party.

(c) The Party invoking Force Majeure shall use Commercially Reasonable Efforts to remedy the situation and remove, so far as possible and with reasonable dispatch, the Force Majeure, but settlement of strikes, lockouts and other labour disturbances shall be wholly within the discretion of the Party involved.

(d) The Party invoking Force Majeure shall give prompt written notice of the termination of the event of Force Majeure, provided that such notice shall be given within ten (10) Business Days of the termination of the event or circumstances constituting Force Majeure.

(e) Nothing in this Section 10.1 shall relieve a Party of its obligations to make payments of any amounts that were due and owing before the occurrence of the Force Majeure or that otherwise may become due and payable during any period of Force Majeure.

(f) In no circumstance shall an event of Force Majeure extend the Term.

(g) If, by reason of Force Majeure, the Supplier is unable to perform or comply with its obligations (other than payment obligations) hereunder for more than an aggregate of thirty-six (36) months in any sixty (60) month period during the Term, then either Party may terminate this Agreement upon notice to the other Party without any costs or payments of any kind to either Party, except for any amounts that were due or payable by a Party hereunder up to the date of termination, and all security shall be returned or refunded (as applicable) forthwith.

10.2 Exclusions

A Party shall not be entitled to invoke Force Majeure under this Article 10, nor shall it be relieved of its obligations hereunder in any of the following circumstances:

(a) if and to the extent the Party seeking to invoke Force Majeure has caused the applicable event of Force Majeure by its fault or negligence;

(b) if and to the extent the Party is seeking to invoke Force Majeure because it is unable to procure or maintain any Waterpower Rights to be utilized by the Facility;

(c) if and to the extent the Party seeking to invoke Force Majeure has failed to use Commercially Reasonable Efforts to prevent or remedy the event of Force Majeure and remove, so far as possible and within a reasonable time period, the Force Majeure (except in the case of strikes, lockouts and other labour disturbances, the settlement of which shall be wholly within the discretion of the Party involved);

(d) if and to the extent that the Supplier is seeking to invoke Force Majeure because it is able to sell any of the Delivered Electricity on more advantageous terms to a third party buyer;

(e) if and to the extent that the Party seeking to invoke Force Majeure because of arrest or restraint by a Governmental Authority, such arrest or restraint was the result of a breach of or failure to comply with Laws and Regulations by such Party;

(f) if the Force Majeure was caused by a lack of funds or other financial cause;

(g) if the Party invoking Force Majeure fails to comply with the notice provisions in Subsection 10.1(b) or (d);

(h) in respect of any impacts of the COVID-19 pandemic or the Russo-Ukrainian military conflict that were known or ought reasonably to be known by the Supplier as of the Contract Date, in each case, based on their magnitude, scope and geographic scale; or

(i) For greater certainty, actions of the Sponsor that are not actions of the System Operator shall not constitute a Force Majeure.

10.3 Definition of Force Majeure

For the purposes of this Agreement, the term "**Force Majeure**" means any act, event, cause or condition that prevents a Party from performing its obligations (other than payment obligations) hereunder, that is beyond the affected Party's reasonable control, and shall include:

(a) acts of God, including extreme wind, ice, lightning or other storms, earthquakes, tornadoes, hurricanes, cyclones, landslides, drought, floods and washouts;

(b) fires or explosions;

(c) local, regional or national states of emergency;

(d) strikes and other labour disputes (other than legal strikes or labour disputes by employees (i) of such Party, or (ii) of a third party contractor of such Party, unless, in either such case, such strikes or other labour disputes are the result or part of a general industry strike or labour dispute);

(e) civil disobedience or disturbances, war (whether declared or not), acts of sabotage, blockades, insurrections, terrorism, revolution, riots or epidemics;

(f) an order, judgment, legislation, ruling or direction by Governmental Authorities restraining a Party, provided that the affected Party has not applied for or assisted in the application for and has used Commercially Reasonable Efforts to oppose said order, judgment, legislation, ruling or direction;

(g) any inability to obtain, or to secure the renewal or amendment of, any permit, certificate, licence or approval of any Governmental Authority, Transmitter or LDC required to perform or comply with any obligation under this Agreement, unless the revocation or modification of any such necessary permit, certificate, licence or approval was caused by the violation of the terms thereof or consented to by the Party invoking Force Majeure; and

(h) any unanticipated maintenance or Outage affecting the Facility which results directly from, or is scheduled or planned directly as a consequence of, an event of Force Majeure.

ARTICLE 11
LENDER'S RIGHTS

11.1 Lender Security

Notwithstanding Section 15.6, the Supplier, from time to time on or after the Contract Date shall have the right, at its cost, to enter into a Secured Lender's Security Agreement. For greater certainty, in the case of a deed of trust or similar instrument securing bonds or debentures where the trustee holds security on behalf of, or for the benefit of, other lenders, only the trustee shall be entitled to exercise the rights and remedies under the Secured Lender's Security Agreement as the Secured Lender on behalf of the lenders. A Secured Lender's Security Agreement shall not be binding upon the Sponsor unless it is based upon and subject to the following conditions or as otherwise agreed under Section 11.3:

(a) A Secured Lender's Security Agreement may be made for any amounts and upon any terms (including terms of the loans, interest rates, payment terms and prepayment privileges or restrictions) as desired by the Supplier, except as otherwise provided in this Agreement.

(b) For greater certainty, a Secured Lender's Security Agreement may cover shares or partnership interests in the capital of the Supplier.

(c) The Sponsor shall have no liability whatsoever for payment of the principal sum secured by any Secured Lender's Security Agreement, or any interest accrued thereon or any other

sum secured thereby or accruing thereunder; and the Secured Lender shall not be entitled to seek any damages against the Sponsor for any or all of the same.

(d) No Secured Lender's Security Agreement shall be binding upon the Sponsor in the enforcement of the Sponsor's rights and remedies provided in this Agreement or by Laws and Regulations, unless and until a copy of the original thereof and the registration details, if applicable, together with written notice of the address of the Secured Lender to which notices may be sent have been delivered to the Sponsor by the Supplier or the Secured Lender; and in the event of an assignment of such Secured Lender's Security Agreement, such assignment shall not be binding upon the Sponsor unless and until a copy thereof and the registration details, if applicable, together with written notice of the address of the assignee thereof to which notices may be sent, have been delivered to the Sponsor by the Supplier or the Secured Lender.

(e) If the Supplier is in default under or pursuant to the Secured Lender's Security Agreement and the Secured Lender intends to exercise any rights afforded to the Secured Lender under this Agreement, then the Secured Lender shall give written notice of such default to the Sponsor at least five (5) Business Days prior to exercising any such rights.

(f) Any Secured Lender's Security Agreement permitted hereunder may secure two (2) or more separate debts, liabilities or obligations in favour of two (2) or more separate Secured Lenders, provided that such Secured Lender's Security Agreement complies with the provisions of this Article 11.

(g) Any number of permitted Secured Lender's Security Agreements may be outstanding at any one time, provided that each such Secured Lender's Security Agreement complies with the provisions of this Article 11.

(h) All rights acquired by a Secured Lender under any Secured Lender's Security Agreement shall be subject to all of the provisions of this Agreement, including the restrictions on assignment contained herein. While any Secured Lender's Security Agreement is outstanding, the Sponsor and the Supplier shall not Amend or supplement this Agreement or agree to a termination of this Agreement without the consent of the Secured Lender, which consent shall not be unreasonably withheld, conditioned or delayed. A Secured Lender must respond within a reasonable period of time to any request to Amend or supplement this Agreement.

(i) Despite any enforcement of any Secured Lender's Security Agreement, the Supplier shall remain liable to the Sponsor for the payment of all sums owing to the Sponsor under this Agreement and for the performance of all of the Supplier's obligations under this Agreement.

11.2 Rights and Obligations of Secured Lenders

While any Secured Lender's Security Agreement remains outstanding, and if the Sponsor has received the notice referred to in Subsection 11.1(d) or the contents thereof are embodied in the agreement entered into by the Sponsor in accordance with Section 11.3, the following provisions shall apply:

(a) No Supplier Event of Default (other than those referred to in Subsection 9.2(c) shall be grounds for the termination by the Sponsor of this Agreement until:

(i) any notice required to be given under Sections 9.1 and 9.2(a) has been given to the Supplier and to the Secured Lender; and

(ii) the cure period set out in Subsection 11.2(b) has expired without a cure having been completed and without the Secured Lender having taken the actions therein contemplated.

(b) In the event the Sponsor has given any notice required to be given under Section 9.1, the Secured Lender shall, within the applicable cure period (including any extensions), if any, have the right (but not the obligation) to cure such default, and the Sponsor shall accept such performance by such Secured Lender as if the same had been performed by the Supplier.

(c) Any payment to be made or action to be taken by a Secured Lender hereunder as a prerequisite to keeping this Agreement in effect shall be deemed properly to have been made or taken by the Secured Lender if such payment is made or action is taken by a nominee or agent of the Secured Lender or a receiver or receiver and manager appointed by or on the application of the Secured Lender.

(d) A Secured Lender shall be entitled to the Supplier's rights and benefits contained in this Agreement and shall become liable for the Supplier's obligations solely as provided in this Section 11.2. A Secured Lender may, subject to the provisions of this Agreement, enforce any Secured Lender's Security Agreement and acquire the Supplier's Interest in any lawful way and, without limitation, a Secured Lender or its nominee or agent or a receiver or receiver and manager appointed by or on the application of the Secured Lender, may take possession of and manage the Facility and, upon foreclosure, or without foreclosure upon exercise of any contractual or statutory power of sale under such Secured Lender's Security Agreement, may sell or assign the Supplier's Interest with the consent of the Sponsor as required under Subsection 11.2(f).

(e) Until a Secured Lender (i) forecloses or has otherwise taken ownership of the Supplier's Interest or (ii) has taken possession or control of the Supplier's Interest, whether directly or by an agent as a mortgagee in possession, or a receiver or receiver and manager has taken possession or control of the Supplier's Interest by reference to the Secured Lender's Security Agreement, the Secured Lender shall not be liable for any of the Supplier's obligations or be entitled to any of the Supplier's rights and benefits contained in this Agreement, except by way of security. If the Secured Lender itself or by a nominee or agent, or a receiver or a receiver and manager appointed by or on the application of the Secured Lender, is the owner or is in control or possession of the Supplier's Interest, then the entity that is the owner or is in control or possession of the Supplier's Interest shall be bound by all of the Supplier's obligations. Once the Secured Lender or such other Person goes out of possession or control of the Supplier's Interest or transfers the Supplier's Interest in accordance with this Agreement to another Person who is at Arm's Length with the Secured Lender, the Secured Lender shall cease to be liable for any of the Supplier's obligations and shall cease to be entitled to any of the Supplier's rights and benefits contained in this Agreement, except, if the Secured Lender's Security Agreement remains outstanding, by way of security.

(f) Despite anything else contained in this Agreement, the Secured Lender agrees that it shall not transfer, sell or dispose of the Supplier's Interest or any other interest in the Facility to any Person unless such transferee or purchaser takes the Supplier's Interest or other

applicable interest subject to the Supplier's obligations pursuant to this Agreement. No transfer shall be effective unless the Sponsor:

(i) acting reasonably, if such transferee is at Arm's Length with the Secured Lender; or

(ii) acting in its sole and subjective discretion, if such transferee is not at Arm's Length with the Secured Lender,

has approved of the transferee or purchaser and the transferee or purchaser has entered into an agreement with the Sponsor in form and substance satisfactory to the Sponsor, acting reasonably, wherein the transferee or purchaser agrees to assume and to perform the obligations of the Supplier in respect of the Supplier's Interest or the other applicable interest, whether arising before or after the transfer, sale or disposition and including the posting of the Performance Security, if any, required under Article 5.

(g) In the event of the termination of this Agreement prior to the end of the Term due to a Supplier Event of Default, the Sponsor shall, within ten (10) days after the date of such termination, deliver to each Secured Lender which is at Arm's Length with the Supplier a statement of all sums then known to the Sponsor that would at that time be due under this Agreement but for the termination and a notice to each such Secured Lender stating that the Sponsor is willing to enter into a New Agreement (the "**Sponsor Statement**"). Subject to the provisions of this Article 11, each such Secured Lender or its transferee approved by the Sponsor pursuant to Subsection 11.2(f) shall thereupon have the option to obtain from the Sponsor a New Agreement in accordance with the following terms:

(i) Upon receipt of the written request of the Secured Lender within thirty (30) days after the date on which it received the Sponsor Statement, the Sponsor shall enter into a New Agreement.

(ii) Such New Agreement shall be effective as of the Termination Date and shall be for the remainder of the Term at the time this Agreement was terminated and otherwise upon the terms contained in this Agreement. The Sponsor's obligation to enter into a New Agreement is conditional upon the Secured Lender (A) paying all sums that would, at the time of the execution and delivery thereof, be due under this Agreement but for such termination, (B) otherwise fully curing any defaults under this Agreement existing immediately prior to termination of this Agreement that are capable of being cured, and (C) paying all reasonable costs and expenses, including legal fees, so as to provide a full indemnity (and not only substantial indemnity), incurred by the Sponsor in connection with such default and termination, and the preparation, execution and delivery of such New Agreement and related agreements and documents, provided, however, that with respect to any default that could not be cured by such Secured Lender until it obtains possession, such Secured Lender shall have the applicable cure period commencing on the date that it obtains possession to cure such default.

When the Secured Lender has appointed an agent, a receiver or a receiver and manager or has obtained a court-appointed receiver or receiver and manager for the purpose of enforcing the Secured Lender's security, that Person may exercise any of the Secured Lender's rights under this Subsection 11.2(g).

(h) Despite anything to the contrary contained in this Agreement, the provisions of this Article 11 shall enure only to the benefit of the holders of a Secured Lender's Security Agreement. If the holders of more than one such Secured Lender's Security Agreement who are at Arm's Length with the Supplier make written requests to the Sponsor in accordance with this Section 11.2 to obtain a New Agreement, the Sponsor shall accept the request of the holder whose Secured Lender's Security Agreement had priority immediately prior to the termination of this Agreement over the Secured Lender's Security Agreements of the other Secured Lenders making such requests and thereupon the written request of each other Secured Lender shall be deemed to be void. In the event of any dispute or disagreement as to the respective priorities of any such Secured Lender's Security Agreement, the Sponsor may rely upon the opinion as to such priorities of any law firm qualified to practise law in the Province of Ontario retained by the Sponsor in its unqualified subjective discretion or may apply to a court of competent jurisdiction for a declaration as to such priorities, which opinion or declaration shall be conclusively binding upon all parties concerned.

11.3 Co-operation

The Sponsor and the Supplier shall enter into an agreement with any Secured Lender substantially in the form of Exhibit G for the purpose of implementing the Secured Lender's Security Agreement protection provisions contained in this Agreement. The Sponsor, acting reasonably, shall consider any request jointly made by the Supplier and a Secured Lender or proposed Secured Lender to facilitate a provision of a Secured Lender's Security Agreement or proposed Secured Lender's Security Agreement that may require an Amendment to this Agreement, provided that the rights of the Sponsor are not adversely affected thereby, the obligations of the Supplier to the Sponsor are not altered thereby and the consent of any other Secured Lender to such Amendment has been obtained by the Supplier or the Secured Lender making the request for the Amendment.

ARTICLE 12
DISCRIMINATORY ACTION

12.1 Discriminatory Action

(a) A "**Discriminatory Action**" shall occur if:

(i) either (A) the Legislative Assembly of Ontario causes to come into force any statute that was introduced as a government bill in the Legislative Assembly of Ontario or causes to come into force or makes any order -in -council or regulation first having legal effect on or after the date of the Contract Date; or (B) the Legislative Assembly of Ontario directly or indirectly amends this Agreement without the consent of the Supplier;

(ii) the effect of the action referred to in Subsection 12.1(a)(i) is either (A) borne principally by the Supplier; or (B) borne principally by the Supplier and one or more Other Suppliers; and

(iii) such action increases the costs that the Supplier would reasonably be expected to incur under this Agreement in respect of Delivering Electricity, except where such action is in response to any act or omission on the part of the Supplier that is contrary to Laws and Regulations (other than an act or omission rendered illegal by virtue of such action) or such action is permitted under this Agreement.

(b) Notwithstanding the foregoing, none of the following shall be a Discriminatory Action:

(i) Laws and Regulations of general application, including an increase of Taxes of general application, or any action of the Government of Ontario pursuant thereto;

(ii) any such statute that prior to five (5) Business Days prior to the Contract Date:

(A) has been introduced as a bill in the Legislative Assembly of Ontario 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 do not have a Material Adverse Effect on the Supplier; or

(B) has been made public in a discussion or consultation paper, press release or announcement issued by the Sponsor, the Government of Ontario, and/or the Ministry of Energy that appeared on the Website, the website of the Sponsor, the Government of Ontario and/or the Ministry of Energy, provided that any amendments made to such public form, in becoming such statute, do not have a Material Adverse Effect on the Supplier; and

(iii) any of such regulations that prior to five (5) Business Days prior to the Contract Date:

(A) have been published in the Ontario Gazette but by the terms of such regulations come into force on or after five (5) Business Days prior to the Contract Date; or

(B) have been referred to in a press release issued by the Sponsor, the Government of Ontario and/or the Ministry of Energy that appeared on the website of the Government of Ontario or the Ministry of Energy, provided that any amendments made to such regulations in coming into force do not have a Material Adverse Effect on the Supplier.

12.2 Consequences of Discriminatory Action

To the extent that there is a Discriminatory Action, then:

(a) the Supplier, upon becoming aware of the consequences of such Discriminatory Action, shall promptly notify the Sponsor;

(b) the Parties and, at the Sponsor's discretion, those Other Suppliers that are required by the Sponsor to participate, shall engage in good faith negotiations to Amend this Agreement and the respective agreements of those Other Suppliers on the basis that such Amendments together with the Discriminatory Action will substantially reflect the Supplier's Economics and, at the Sponsor's discretion, those Other Suppliers, prior to the Discriminatory Action; and

(c) if the Parties fail to reach agreement on the Amendments described in Subsection 12.1(b), the matter shall be determined by mandatory and binding arbitration, from which there shall be no appeal, with such arbitration(s) to be conducted in accordance with the procedures set out in Exhibit E. However, if the Supplier fails to participate in such arbitration, the Supplier acknowledges that it waives its right to participate in such

arbitration, which shall nevertheless proceed, and the Supplier shall be bound by the award of the Arbitration Panel and the subsequent Amendments to this Agreement made by the Sponsor to implement such award of the Arbitration Panel.

12.3 Right of the Sponsor to Remedy or Cause to Be Remedied a Discriminatory Action

If the Sponsor wishes to remedy or cause to be remedied the occurrence of a Discriminatory Action, the Sponsor must give notice to the Supplier within thirty (30) days after the date of receipt of notice of the Discriminatory Action. If the Sponsor gives such notice, the Sponsor must remedy or cause to be remedied the Discriminatory Action within one hundred and eighty (180) days after the date of receipt of the notice of the Discriminatory Action. If the Sponsor remedies or causes to be remedied the Discriminatory Action in accordance with the preceding sentence, the Supplier shall have the right to obtain, without duplication, compensation for any detrimental effect the Discriminatory Action had on the Supplier's Economics, adjusted to apply only to the period during which the Discriminatory Action detrimentally affected the Supplier's Economics.

ARTICLE 13
LIABILITY AND INDEMNIFICATION

13.1 Exclusion of Consequential Damages

Notwithstanding anything contained herein to the contrary, neither Party will be liable under this Agreement or under any cause of action relating to the subject matter of this Agreement for any special, indirect, incidental, punitive, exemplary or consequential damages, including loss of profits (save and except as provided in Sections 1.5, 1.6, 1.7, 2.11 and 12.2), loss of use of any property or claims of customers or contractors of the Parties for any such damages.

13.2 Liquidated Damages

The Supplier acknowledges and agrees that it would be extremely difficult and impracticable to determine precisely the amount of actual damages that would be suffered by the Sponsor and the Ontario ratepayer as result of a failure by the Supplier to meet its obligations under this Agreement. The Supplier further acknowledges and agrees that the liquidated damages set forth in this Agreement are a fair and reasonable approximation of the amount of actual damages that would be suffered by the Sponsor and the Ontario ratepayer as a result of a failure by the Supplier to meet its obligations under this Agreement, and does not constitute a penalty.

13.3 Sponsor Indemnification

The Supplier shall indemnify, defend and hold the Sponsor, the Government of Ontario, the members of the Government of Ontario's Executive Council and their respective Affiliates, and each of the foregoing Persons' respective directors, officers, employees, shareholders, advisors and agents (including contractors and their employees) (collectively, the "**Indemnitees**") harmless from and against any and all Claims, demands, suits, losses, damages, liabilities, penalties, obligations, payments, costs and expenses and accrued interest thereon (including the costs and expenses of, and accrued interest on, any and all actions, suits, proceedings for personal injury (including death) or property damage, assessments, judgments, settlements and compromises relating thereto and reasonable lawyers' fees and reasonable disbursements in connection therewith) (each, an "**Indemnifiable Loss**"), asserted against or suffered by the Indemnitees relating to, in connection with, resulting from, or arising out of (i) any occurrence or event relating to the Facility, except to the extent that any injury or damage is attributable to the negligence or wilful misconduct of the Indemnitees or the failure of the Indemnitees to comply with Laws and Regulations, (ii) any breach

by the Supplier of any representations, warranties and covenants contained in this Agreement, except to the extent that any injury or damage is attributable to the negligence or wilful misconduct of the Indemnitees, and (iii) a discharge of any contaminant into the natural environment, at or related to, the Facility and any fines or orders of any kind that may be levied or made in connection therewith pursuant to Laws and Regulations, except to the degree that such discharge shall have been due to the negligence or wilful misconduct of the Indemnitees. For greater certainty, in the event of contributory negligence or other fault of the Indemnitees, then such Indemnitees shall not be indemnified hereunder in the proportion that the Indemnitees' negligence or other fault contributed to any Indemnifiable Loss.

13.4 Defence of Claims

(a) Promptly after receipt by the Indemnitees of any Claim or notice of the commencement of any action, administrative or legal proceeding or investigation as to which the indemnity provided for in Section 13.3 may apply, the Sponsor shall notify the Supplier in writing of such fact. The Supplier shall assume the defence thereof with counsel designated by the Supplier and satisfactory to the affected Indemnitees, acting reasonably; provided, however, that if the defendants in any such action include both the Indemnitees and the Supplier and the Indemnitees shall have reasonably concluded that there may be legal defences available to them which are different from or additional to, or inconsistent with, those available to the Supplier, the Indemnitees shall have the right to select separate counsel satisfactory to the Supplier acting reasonably (at no additional cost to the Indemnitees) to participate in the defence of such action on behalf of the Indemnitees. The Supplier shall promptly confirm that it is assuming the defence of the Indemnitees by providing written notice to the Indemnitees. Such notice shall be provided no later than five (5) days prior to the deadline for responding to any Claim relating to any Indemnifiable Loss.

(b) Should any of the Indemnitees be entitled to indemnification under Section 13.3 as a result of a Claim by a third party, and the Supplier fails to assume the defence of such Claim (which failure shall be assumed if the Supplier fails to provide the notice prescribed by Subsection 13.4(a)), the Indemnitees shall, at the expense of the Supplier, contest (or, with the prior written consent of the Supplier, settle) such Claim, provided that no such contest need be made and settlement or full payment of any such Claim may be made without consent of the Supplier (with the Supplier remaining obligated to indemnify the Indemnitees under Section 13.3), if, in the written opinion of an independent third party counsel chosen by the Company Representatives, such Claim is meritorious. If the Supplier is obligated to indemnify any Indemnitees under Section 13.3, the amount owing to the Indemnitees will be the amount of such Indemnitees' actual out-of-pocket loss net of any insurance proceeds received or other recovery.

ARTICLE 14
CONTRACT OPERATION AND ADMINISTRATION

14.1 Company Representative

The Supplier and the Sponsor shall, by notice in the Prescribed Form, each appoint, from time to time, a representative (a "**Company Representative**"), who shall be duly authorized to act on behalf of the Party that has made the appointment, and with whom the other Party may consult at all reasonable times, and whose instructions, requests and decisions, provided the same are in writing signed by the respective Company Representative, shall be binding on the appointing Party as to all matters pertaining to this Agreement. The Company Representative shall not have the power or authority to Amend this Agreement.

14.2 Record Retention; Audit Rights

The Supplier and the Sponsor shall both keep complete and accurate records and all other data required by either of them for the purpose of proper administration of this Agreement. All such records shall be maintained as required by Laws and Regulations but for no less than seven (7) years after the creation of the record or data. The Supplier and the Sponsor, on a confidential basis as provided for in Article 7 of this Agreement, shall provide reasonable access to the relevant and appropriate financial and operating records and data kept by such Party relating to this Agreement reasonably required for the other Party to comply with its obligations to any Governmental Authority or to verify or audit information provided in accordance with this Agreement. Moreover, the Supplier agrees and consents to the System Operator, an LDC or any other relevant third party providing to the Sponsor all relevant meter and invoice data regarding the Facility required by the Sponsor in order to verify the amount of Delivered Electricity. A Party may use its own employees for purposes of any such review of records, provided that those employees are bound by the confidentiality requirements provided for in Article 7. Alternatively, and at the election of the auditing Party, access shall be through the use of a mutually agreed upon third party auditor. The Party seeking access to such records in this manner shall pay the fees and expenses associated with use of the third-party auditor.

14.3 Reports to the Sponsor

If the Supplier is required to report Outages directly to the System Operator or an LDC, the Supplier shall deliver to the Sponsor pursuant to this Agreement in the Prescribed Form, a copy of all reports, plans and notices that the Supplier is required to provide to the System Operator pursuant to the IESO Market Rules or such LDC with respect to Outages, at the same time or within one (1) Business Day after such reports, plans and notices are delivered by the Supplier to the System Operator pursuant to the IESO Market Rules or the LDC, as applicable.

14.4 Inspection of Facility

(a) The Sponsor and its Representatives shall, at all times upon two (2) Business Days' prior notice, at any time after the Contract Date, have access to the Facility and every part thereof during regular business hours and the Supplier shall, and shall cause all personnel operating and managing the Facility, to furnish the Sponsor with all reasonable assistance in inspecting the Facility for the purpose of ascertaining compliance with this Agreement; provided that such access and assistance shall be carried out in accordance with and subject to the reasonable safety and security requirements of the Supplier and all personnel operating and managing the Facility, as applicable, and shall not interfere with the operation of the Facility.

(b) The inspection of the Facility by or on behalf of the Sponsor shall not relieve the Supplier of any of its obligations to comply with the terms of this Agreement. No Supplier Event of Default will be waived or deemed to have been waived by any inspection by or on behalf of the Sponsor. In no event will any inspection by the Sponsor hereunder be a representation that there has been or will be compliance with this Agreement and Laws and Regulations.

14.5 Inspection Not Waiver

(a) Failure by the Sponsor to inspect the Facility or any part thereof under Section 14.4, shall not constitute a waiver of any of the rights of the Sponsor hereunder. An inspection or audit not followed by a notice of a Supplier Event of Default shall not constitute or be deemed

to constitute a waiver of any Supplier Event of Default, nor shall it constitute or be deemed to constitute an acknowledgement that there has been or will be compliance by the Supplier with this Agreement.

(b) Failure by the Supplier to exercise its audit rights under Section 14.2 shall not constitute or be deemed to constitute a waiver of any of the rights of the Supplier hereunder. An audit not followed by a notice of a Sponsor Event of Default shall not constitute or be deemed to constitute a waiver of any Sponsor Event of Default, nor shall it constitute or be deemed to constitute an acknowledgement that there has been or will be compliance by the Sponsor with this Agreement.

14.6 Notices

(a) All notices, consents, approvals, requests, reports and other information pertaining to this Agreement or required pursuant to this Agreement not explicitly permitted to be in a form other than writing shall be in writing and shall be addressed to the other Party as follows (each a "**Notice**"):

If to the Supplier, all contact details shall be as set out in the SHP-S3-AR Contract Cover Page.

If to the Sponsor:

Independent Electricity System Operator
120 Adelaide Street West
Suite 1600
Toronto, Ontario
M5H 1T1

Attention: Director, Contract Management
E-mail: contract.management@ieso.ca

Either Party may, by written Notice to the other, change its respective Company Representative or the address to which Notices are to be sent.

(b) Notice delivered or transmitted as provided above shall be deemed to have been given and received on the day it is received or transmitted, provided that it is received or transmitted on a Business Day prior to 5:00 p.m. local time in the place of receipt. Otherwise, such Notice shall be deemed to have been given and received on the next following Business Day.

(c) Any Notices of an Event of Default and termination of this Agreement shall only be given by hand or courier delivery.

(d) No Notice delivered pursuant to this Agreement shall be deemed to be notice for any other purpose, including any obligation to provide notice to the System Operator pursuant to the IESO Market Rules. No Notice to the Sponsor shall be deemed delivered unless the addressee of such Notice is identified in such Notice as "Contract Management". No Notice from the Sponsor shall be binding on the Sponsor pursuant to this Agreement unless the sender of such Notice is identified in such Notice as "Contract Management".

ARTICLE 15
MISCELLANEOUS

15.1 Informal Dispute Resolution

If either Party considers that any dispute has arisen under or in connection with this Agreement that the Parties cannot resolve, then such Party may deliver a notice to the other Party describing the nature and the particulars of such dispute. Within ten (10) Business Days following delivery of such notice to the other Party, a senior executive (Vice President or higher) from each Party shall meet, either in person or by telephone (the "**Senior Conference**"), to attempt to resolve the dispute. Each senior executive shall be prepared to propose a solution to the dispute. If, following the Senior Conference, the dispute is not resolved, the dispute may be settled by arbitration pursuant to Section 15.2, if agreed to by both Parties.

15.2 Arbitration

Except as otherwise specifically provided for in this Agreement, any matter in issue between the Parties as to their rights under this Agreement may be decided by arbitration provided, however, that the Parties have first completed a Senior Conference pursuant to Section 15.1. Any dispute to be decided by arbitration will be decided by a single arbitrator appointed by the Parties or, if such Parties fail to appoint an arbitrator within fifteen (15) days following the agreement to refer the dispute to arbitration, upon the application of either of the Parties, the arbitrator shall be appointed by a Judge of the Superior Court of Justice (Ontario) sitting in the Judicial District of Toronto Region. The arbitrator shall not have any current or past business or financial relationships with any Party (except prior arbitration). The arbitrator shall provide each of the Parties an opportunity to be heard and shall conduct the arbitration hearing in accordance with the provisions of the *Arbitration Act, 1991* (Ontario). Unless otherwise agreed by the Parties, the arbitrator shall render a decision within ninety (90) days after the end of the arbitration hearing and shall notify the Parties in writing of such decision and the reasons therefor. The arbitrator shall be authorized only to interpret and apply the provisions of this Agreement and shall have no power to modify or change this Agreement in any manner. The decision of the arbitrator shall be conclusive, final and binding upon the Parties. The decision of the arbitrator may be appealed solely on the grounds that the conduct of the arbitrator, or the decision itself, violated the provisions of the *Arbitration Act, 1991* (Ontario) or solely on a question of law as provided for in the *Arbitration Act, 1991* (Ontario). The *Arbitration Act, 1991* (Ontario) shall govern the procedures to apply in the enforcement of any award made. If it is necessary to enforce such award, all costs of enforcement shall be payable and paid by the Party against whom such award is enforced. Unless otherwise provided in the arbitral award to the contrary, each Party shall bear (and be solely responsible for) its own costs incurred during the arbitration process, and each Party shall bear (and be solely responsible for) its equal share of the costs of the arbitrator. Each Party shall be otherwise responsible for its own costs incurred during the arbitration process.

15.3 Business Relationship

Each Party shall be solely liable for the payment of all wages, Taxes and other costs related to the employment by such Party of Persons who perform this Agreement, including all federal, provincial and local income, social insurance, health, payroll and employment taxes and statutorily-mandated workers' compensation coverage. None of the Persons employed by either Party shall be considered employees of the other Party for any purpose. Nothing in this Agreement shall create or be deemed to create a relationship of partners, joint venturers, fiduciary, principal and agent or any other relationship between the Parties.

15.4 Binding Agreement

Except as otherwise set out in this Agreement, this Agreement shall not confer upon any other Person, except the Parties and their respective successors and permitted assigns, any rights, interests, obligations or remedies under this Agreement. This Agreement and all of the provisions of this Agreement shall be binding upon and shall enure to the benefit of the Parties and their respective successors and permitted assigns.

15.5 Amendments

This Agreement may be amended only by mutual written agreement of the Parties. Notwithstanding the foregoing the Sponsor, shall have the right to Amend the Agreement without the written agreement of the Supplier in order to implement an award of the Arbitration Panel in accordance with Exhibit E and otherwise as permitted herein.

15.6 Assignment

(a) Neither this Agreement nor any of the rights, interests or obligations under this Agreement may be assigned by either Party, including by operation of Laws and Regulations without the prior written consent of the other Party, which consent shall not be unreasonably withheld, except as set out below and as provided in Article 11.

(b) For the purposes of Subsection 15.6(a) it shall not be unreasonable for the Sponsor to withhold its consent if the proposed assignment would (i) cause a Supplier to breach the obligation to own otherwise control Facility as set out in Subsection 2.8(a), or (ii) have or is likely to have, as determined by the Sponsor acting reasonably, a Material Adverse Effect on the Supplier's ability to perform its obligations under this Agreement.

(c) The Supplier may, subject to compliance with Laws and Regulations and provided that there is not a Supplier Event of Default that has not been remedied, assign this Agreement without the consent of the Sponsor to an Affiliate acquiring the Facility; provided, however, that no such assignment by the Supplier or any of its successors or permitted assigns hereunder shall be valid or effective unless and until such Affiliate agrees with the Sponsor in writing to assume all of the Supplier's obligations under this Agreement and be bound by the terms of this Agreement, and the arrangements and obligations of the Supplier set forth in Article 5 have been met in accordance with the terms of Article 5.

(d) If the Supplier assigns this Agreement to a non-resident of Canada as that term is defined in the ITA, and the Sponsor incurs any additional Taxes, at any time thereafter, solely as the result of such assignment, then payments under this Agreement by the Sponsor shall be reduced by the amount of such additional Taxes and the Sponsor shall remit such additional Taxes to the applicable taxing authorities. The Sponsor shall within sixty (60) days after remitting such Taxes, notify the assignee in writing, providing reasonable detail of such payment so that the assignee may claim any applicable rebates, refunds or credits from the applicable taxing authorities. If after the Sponsor has paid such amounts, the Sponsor receives a refund, rebate or credit on account of such Taxes, then the Sponsor shall promptly remit such refund, rebate or credit amount to the assignee.

(e) If a valid assignment of this Agreement is made by the Supplier in accordance with this Section 15.6, the Sponsor acknowledges and agrees that, upon such assignment and

assumption and notice thereof by the assignor to the Sponsor, the assignor shall be relieved of all its duties, obligations and liabilities hereunder.

(f) The Sponsor shall have the right to assign this Agreement from time to time and all benefits and obligations hereunder for the balance of the Term without the consent of the Supplier to an assignee which shall assume the obligations and liability of the Sponsor under this Agreement and be novated into this Agreement in the place and stead of the Sponsor (except for the Sponsor's obligation in Subsection 15.6(f)(iii) which will remain in force), provided that the assignee agrees in writing to assume and be bound by the terms and conditions of this Agreement and further agrees not to make any material amendments to or terminate this Agreement after such assignment without the prior written consent of the Sponsor, whereupon:

(i) the representation set forth in Subsection 6.2(a) shall apply to the assignee with all necessary amendments to reflect the form and the manner in which the assignee was established;

(ii) all of the representations set forth in Section 6.2 shall be deemed to be made by the assignee to the Supplier at the time of such assignment and assumption; and

(iii) the Sponsor shall be relieved of all obligations and liability arising pursuant to this Agreement; notwithstanding the foregoing, the Sponsor shall remain liable to the Supplier for remedying any payment defaults under Subsection 9.3(a) and shall remain liable for any obligations and liabilities of the assignee arising from any Sponsor Event of Default, provided that any notice required to be given under Sections 9.3 and 9.4(a) is given on the same day to the assignee and to the Sponsor. The time periods in Section 9.3 shall not begin to run until both the assignee and the Sponsor have been so notified.

15.7 No Change of Control

(a) The Supplier shall not permit or allow a change of Control of the Supplier, except with the prior written consent of the Sponsor, which consent may not be unreasonably withheld.

(b) For the purposes of Subsection 15.7(a), it shall not be unreasonable for the Sponsor to withhold its consent if the proposed change of Control would have or is likely to have, as determined by the Sponsor acting reasonably, a Material Adverse Effect on the Supplier's ability to perform its obligations under this Agreement.

(c) For the purpose of Subsection 15.7(a), a change of Control shall exclude a change in ownership of any shares or units of ownership that are listed on a recognized stock exchange and shall include a change of Control resulting from a change in ownership in any shares or units of ownership in any entity that directly owns the Facility or the Facility and other generation facilities.

15.8 Survival

The provisions of Sections 2.11, 3.4, 3.5, 3.6, Article 4, Article 7, Subsection 11.2(g), Article 13, Sections 14.2 15.1, 15.2 and 15.10 shall survive the expiration of the Term or earlier termination of this Agreement. The expiration of the Term or a termination of this Agreement shall not affect or prejudice any rights or obligations that have accrued or arisen under this Agreement prior to the time of expiration or

termination and such rights and obligations shall survive the expiration of the Term or the termination of this Agreement for a period of time equal to the applicable statute of limitations.

15.9 Counterparts

This Agreement may be executed in two or more counterparts, and all such counterparts shall together constitute one and the same Agreement. It shall not be necessary in making proof of the contents of this Agreement to produce or account for more than one such counterpart. This Agreement may be executed by printing, signing and scanning, or by electronic signature in a format approved by the Sponsor. Delivery by electronic mail or similar electronic transmission of an executed signature page to this Agreement shall be as effective as delivery of a manually executed copy of this Agreement by such Party.

15.10 Additional Rights of Set-Off

(a) In addition to its other rights of set-off under this Agreement or otherwise arising in law or equity, the Sponsor may set-off any amounts owing by the Supplier to the Sponsor in connection with Sections 2.9, 3.1, 3.4, 3.6(a), 4.2(b)(ii), 4.2(c)(ii), 4.5, 9.2(d) and 15.6(d) against any monies owed by the Sponsor to the Supplier in connection with Sections 2.9, 2.11(c), 3.1, 3.5, 3.6(a), 4.5, 9.4, and 15.6(d).

(b) In addition to its other rights of set-off under this Agreement or otherwise arising in law or equity, the Supplier may set-off any amounts owing by the Sponsor to the Supplier in connection with Sections 2.9 2.11(c), 3.1, 3.5, 3.6(a), 4.5, 9.4, and 15.6(d) against any monies owed by the Supplier to the Sponsor in connection with Sections 2.9, 3.1, 3.4, 3.6(a), 4.2(c), 4.5, 9.2(d) and 15.6(d).

15.11 Rights and Remedies Not Limited to Contract

Unless expressly provided in this Agreement, the express rights and remedies of the Sponsor or the Supplier set out in this Agreement are in addition to and shall not limit any other rights and remedies available to the Sponsor or the Supplier, respectively, at law or in equity.

15.12 Further Assurances

Each of the Parties shall, from time to time on written request of the other Party, do all such further acts and execute and deliver or cause to be done, executed or delivered all such further acts, deeds, documents, assurances and things as may be required, acting reasonably, in order to fully perform and to more effectively implement and carry out the terms of this Agreement. The Parties agree to promptly execute and deliver any documentation required by any Governmental Authority in connection with any termination of this Agreement. Without limiting the generality of the foregoing, upon request of the Sponsor, the Supplier shall enroll in or utilize an internet-based or software program utilized by the Sponsor for the administration of this Agreement, and shall communicate with the Sponsor through such website or software program for the purposes of administering this Agreement, as requested by the Sponsor. The Parties agree to promptly execute and deliver any documentation required by any Governmental Authority in connection with any termination of this Agreement.

[END OF STANDARD TERMS AND CONDITIONS]

APPENDIX 1 – STANDARD DEFINITIONS

The following terms shall have the meaning stated below when used in this Agreement:

1 MW or Below Facility means a Facility that has a Nameplate Capacity that is 1.000 MW or less.

1 MW or Below Facility Adder means, during the Original Term, $0/MWh, and a fixed price equal to $4.73/MWh (2023 dollars) escalated at 60% of CPI during the Extended Term.

Above Cap Sales means the sale of Above Cap Energy in the IESO-Administered Markets.

Affiliate means any Person that (i) Controls a Party; (ii) is Controlled by a Party; or (iii) is Controlled by the same Person that Controls a Party.

Aggregated Contract means a contract between the Supplier and the Sponsor as identified by the Underlying Aggregated Contract ID# on the SHP-S3-AR Contract Cover Page, which agreement settled multiple hydroelectricity generation facilities, including, prior to the effective date of the Amending Agreement, the Facility.

Agreement has the meaning given to it on the SHP-S3-AR Contract Cover Page.

Amending Agreement means the agreement between the Sponsor and the Supplier that amends the Aggregated Contract and is dated and effective the day immediately preceding the Contract Date.

Amendment means a change, revision or addition to this Agreement and ***Amend*** has a corresponding meaning.

Ancillary Service has the meaning given to it in the IESO Market Rules.

Applicable Real-Time Locational Marginal Price or ***ARTLMP*** means, with respect to any Dispatch Interval, the locational marginal price for energy applicable to the Facility's Connection Point in the real-time IESO-Administered Markets for Electricity for that Dispatch Interval, including administered prices.

Applicable Day-Ahead Locational Marginal Price or ADALMP means, with respect to any hour, the locational marginal price for energy applicable to the Facility's Connection Point in the day-ahead IESO-Administered Market for Electricity for that hour, including administered prices.

Arbitration Panel has the meaning given to it in Exhibit E.

Arm's Length means, with respect to two or more Persons, that such Persons are not related to each other within the meaning of subsections 251(2), (3), (3.1), (3.2), (4), (5) and (6) of the ITA or that such Persons, as a matter of fact, deal with each other at a particular time at arm's length.

Availability or AV has the meaning given to it in Exhibit D.

Base Date means the dates set out on the SHP-S3-AR Contract Cover Page that are the effective dates used to determine the Contract Prices for the respective Original Term and Extended Term settlement requirements.

Business Day means any day that is not a Saturday, a Sunday, or a legal holiday in the Province of Ontario.

Capacity Products means any products related to the rated, continuous load-carrying capability of a Facility to generate and Deliver Electricity at a given time.

Cents or ¢ means hundredths of a Dollar.

Claim means a claim or cause of action in contract, in tort, under any Laws and Regulations, or otherwise.

Commercially Reasonable Efforts means efforts which are designed to enable a Party, directly or indirectly, to satisfy a condition to, or otherwise assist in the consummation of, a transaction, activity or undertaking contemplated by this Agreement and which do not require the performing Party to expend any funds or assume liabilities other than expenditures and liabilities which are reasonable in nature and amount in the context of the transaction therein contemplated.

Company Representative has the meaning given to it in Section 14.1 of the SHP-S3-AR Contract.

Confidential Information means all information that has been identified as confidential and which is furnished or disclosed by the Disclosing Party and its Representatives to the Receiving Party and its Representatives in connection with a SHP-S3-AR Contract (including any Prior Contract), whether before or after its execution, including all new information derived at any time from any such confidential information, but excluding (a) publicly-available information, unless made public by the Receiving Party or its Representatives in a manner not permitted by this Agreement; (b) information already known to the Receiving Party prior to being furnished by the Disclosing Party; (c) information disclosed to the Receiving Party from a source other than the Disclosing Party or its Representative, if such source is not subject to any agreement with the Disclosing Party prohibiting such disclosure to the Receiving Party; and (d) information that is independently developed by the Receiving Party.

Confidentiality Undertaking has the meaning given to it in Subsection 7.1(c) of the SHP-S3-AR Contract.

Connection Agreement means the agreement or agreements required to be entered into between the LDC and the Supplier with respect to the connection of the Facility to a Distribution System or the IESO-Controlled Grid, in accordance with the Distribution System Code, and governing the terms and conditions of such connection.

Connection Costs means those costs, which may include design, engineering, procurement, construction, installation and commissioning costs, related to the reliable connection of the Facility to a Distribution System or Transmission System as applicable, as more particularly specified pursuant to the System Impact Assessment, Customer Impact Assessment and Connection Impact Assessment, as applicable. For greater certainty, Connection Costs do not include Network Upgrade Costs.

Connection Impact Assessment means an assessment conducted by an LDC to determine the impact on the Distribution System of connecting the Facility to its Distribution System.

Connection Point means the electrical connection point between the Facility and a Distribution System or the IESO-Controlled Grid where Electricity is injected into a Distribution System or the IESO-Controlled Grid (as applicable), as more particularly described in the Connection Agreement.

Contract Capacity means the capacity of the Facility as set out on the SHP-S3-AR Contract Cover Page.

Contract Date means the effective date of this Agreement, as set out on the SHP-S3-AR Contract Cover Page.

Contract Energy means the portion of Total Contract Energy during a Contract Year, expressed in MWh, up to the Maximum Contract Energy.

Contract Facility means that portion of the Facility which was developed and operated by the Supplier to produce the Contract Energy and Contract Related Products pursuant to the Prior Contract.

Contract Payment means all payments to the Supplier under this Agreement including payments on account of the Contract Price multiplied by Hourly Delivered Electricity, and Peak Performance Factor, as applicable, determined for each Settlement Period in accordance with Exhibit B-1 or Exhibit B-2, as applicable.

Contract Price means the price as of a particular Base Date as set out in item 11 of the SHP-S3-AR Contract Cover Page, plus any adjustments set out in the applicable Exhibit B-1 for the Original Term or Exhibit B-2 for the Extended Term.

Contract Type means the form of Prior Contract issued pursuant to one of HCI, HESOP, or otherwise, as set out on the SHP-S3-AR Contract Cover Page.

Contract Year means a twelve (12) month period which began on the Term Commencement Date, or an anniversary thereof.

Control means, with respect to any Person at any time, (i) holding, whether directly or indirectly, as owner or other beneficiary (other than solely as the beneficiary of an unrealized security interest) securities or ownership interests of that Person carrying votes or ownership interests sufficient to elect or appoint fifty per cent (50%) or more of the individuals who are responsible for the supervision or management of that Person, or (ii) the exercise of de facto control of that Person, whether direct or indirect and whether through the ownership of securities or ownership interests or by contract, trust or otherwise, and Controlled by has a corresponding meaning.

CPI or Consumer Price Index means the consumer price index for "All Items" published or established by Statistics Canada (or its successor) for any relevant calendar month in relation to the Province of Ontario.

Credit Rating means, with respect to any Person, its long-term senior unsecured debt rating or its deposit rating as provided by Moody's, S&P, DBRS Morningstar, or, if such Person is a financial institution, Fitch IBCA, or DBRS Morningstar or any other established and reputable rating agency, as agreed to by the Parties, acting reasonably from time to time.

Customer Impact Assessment means a study conducted by a Transmitter to assess the impact of the connection of a project on other users of the IESO-Controlled Grid.

Delivered means, in relation to Electricity and certain Related Products, delivered to the Connection Point and successfully injected into a Distribution System or the IESO-Controlled Grid; and Deliver and Delivering have the corresponding meanings.

Disclosing Party means, with respect to Confidential Information, the Party and/or its Representatives providing or disclosing such Confidential Information and may be the Sponsor or the Supplier, as applicable.

Discriminatory Action has the meaning given to it in Section 12.1(a) of the SHP-S3-AR Contract.

Dispatch Interval means a "dispatch interval" as defined in the IESO Market Rules.

Dispatch Interval Contract Energy means:

(a) the Electricity generated and Delivered by the Facility during any Dispatch Interval; and

(b) in each case, provided such Electricity is delivered to the Connection Point and successfully injected into a Distribution System or the IESO-Controlled Grid.

Dispatch Interval Delivered Electricity means:

(a) the Electricity generated and Delivered by the Facility during any Dispatch Interval; and

(b) in each case, provided such Electricity is delivered to the Connection Point and successfully injected into a Distribution System or the IESO-Controlled Grid.

Distribution System means a system connected to the IESO-Controlled Grid for distributing Electricity at voltages of 50 kilovolts or less, and includes any structures, equipment or other things used for that purpose, provided that a Distribution System shall be deemed not to include any equipment controlled by the System Operator pursuant to the Distribution System Code.

Distribution System Code means the "Distribution System Code" established and approved by the OEB, which, among other things, establishes the obligations of an LDC with respect to the services and terms of service to be offered to customers and retailers and provides minimum technical operating standards for Distribution Systems.

Dollar or $ means Canadian dollars and Cents, unless otherwise specifically set out to the contrary.

Effective Time has the meaning given to it in Section 8.1(c) of the SHP-S3-AR Contract.

Electricity means electric energy, measured in MWh.

Electricity Act means the *Electricity Act, 1998* (Ontario).

Emission Reduction Credits means the credits associated with the avoidance or reduction of emissions below the lower of actual historical emissions or regulatory limits, including "emission reduction credits" as defined in O. Reg. 397/01 made under the Environmental Protection Act (Ontario) or such other regulations as may be promulgated under the Environmental Protection Act (Ontario) or any currently applicable or future Laws and Regulations.

Energy From Nameplate Capacity means the entire quantity of Electricity, expressed in MWh, generated by the Nameplate Capacity and supplied to the Facility delivery point.

Environmental Attributes means the interests or rights arising out of attributes or characteristics relating to the environmental impacts associated with the Facility or the output of the Facility, now or in the future, and the right to quantify and register these with competent authorities, including:

(a) all right, title, interest and benefit in and to any renewable energy certificate, credit, reduction right, offset, allocated pollution right, emission reduction allowance or other proprietary or contractual right, whether or not tradable, resulting from the actual or assumed displacement of emissions by the production of Electricity from the Facility as a result of the utilization of renewable energy technology;

(b) rights to any fungible or non-fungible attributes or entitlements relating to environmental impacts, whether arising from the Facility itself, from the interaction of the Facility with the IESO-Controlled Grid, a Distribution System or the Transmission System, or because of Laws and Regulations or voluntary programs established by any Governmental Authority;

(c) any and all rights, title and interest relating to the nature of an energy source (including a renewable fuel) as may be defined and awarded through Laws and Regulations or voluntary programs, including all Emission Reduction Credits; and

(d) all revenues, entitlements, benefits, and other proceeds arising from or related to the foregoing which may be available in connection with the Facility;

but excluding:

(a) such other items as the Sponsor may determine in its sole discretion at any time and from time to time, such excluded items to be posted on the Website and revised periodically.

For greater certainty, in the event that any governmental or nongovernmental agency, whether provincial, federal, national or international in scope or authority, creates or sanctions a registry, trading system, credit, offset or other program relating to Environmental Attributes or their equivalent, the term "Environmental Attributes" as used in this Agreement shall include the rights or benefits created or sanctioned under any such program or programs to the extent available as a result of, or arising from, the production of Electricity or Related Products from the Facility.

Escalation Percentage means the percentage of the Contract Price that escalates on the basis of increases in CPI, as set out on the SHP-S3-AR Contract Cover Page, which for clarity varies between the Original Term and the Extended Term.

Event of Default means an event of default by the Supplier or the Sponsor.

Expansion means an addition of Generating Equipment to the Facility or an Upgrade which: (i) does not constitute routine maintenance or servicing of any Generating Equipment that operates, or has operated within the past 12 months at such Facility; (ii) generates Electricity in addition to the Electricity of existing Generating Equipment that operates or operated at such Facility; and (iii) does not include any of the Electricity generating capacity available from the existing Facility.

Expiry Date means the date the Prior Contract was due to expire, as set out on SHP-S3-AR Contract Cover Page.

Extended Term has the meaning given to it in Section 8.1(e) of the SHP-S3-AR Contract.

Facility means the electricity generating facility described in Exhibit A, that is owned or otherwise controlled by the Supplier for the Term, which generates Electricity exclusively from waterpower and delivers that Electricity through a meter in accordance with all Laws and Regulations to either the IESO-Controlled Grid, a Distribution System or a Transmission System.

Facility Amendment has the meaning given to it in Section 2.6 of the SHP-S3-AR Contract.

FIPPA means the *Freedom of Information and Protection of Privacy Act* (Ontario).

FIPPA Records has the meaning given to it in Section 7.5 of the SHP-S3-AR Contract.

Force Majeure has the meaning given to it in Section 10.3 of the SHP-S3-AR Contract.

Future Contract Related Products means all Related Products that relate to the Facility and that were not capable of being traded or sold by the Supplier in the IESO-Administered Markets or other markets on or before the Contract Date.

Generating Equipment means equipment used by a Facility in the generation of Electricity, such as hydroelectric turbines, but does not include transformers or other equipment used to transform or transmit such Electricity.

Good Engineering and Operating Practices means any of the practices, methods and activities adopted by a significant portion of the North American electric utility industry as good practices applicable to the design, building, and operation of generating facilities of similar type, size and capacity or any of the practices, methods or activities which, in the exercise of skill, diligence, prudence, foresight and reasonable judgement by a prudent generator of Electricity in light of the facts known at the time the decision was made, could reasonably have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety, expedition and Laws and Regulations. Good Engineering and Operating Practices are not intended to be limited to the optimum practices, methods or acts to the exclusion of all others, but rather are intended to delineate acceptable practices, methods, or acts generally accepted in the North American electric utility industry.

Government of Ontario means His Majesty the King in right of Ontario.

Governmental Approvals means approvals, authorizations, consents, permits, grants, licences, privileges, rights, orders, judgments, rulings, directives, ordinances, decrees, registrations and filings issued or granted by Laws and Regulations or by any Governmental Authority.

Governmental Authority means any federal, provincial, or municipal government, parliament or legislature, or any regulatory authority, agency, tribunal, commission, board or department of any such government, parliament or legislature, or any court or other law, regulation or rulemaking entity, having jurisdiction in the relevant circumstances, including the System Operator, the OEB, the Electrical Safety Authority, and any Person acting under the authority of any Governmental Authority.

GRC Adjustment has the meaning given to it in Section 1.5 of Exhibit B-2.

Gross Revenue Charge means any taxes and charges paid on the gross revenues of the Facility pursuant to Section 92.1 of the Electricity Act and O. Reg. 124/02.

HCI means the Hydroelectric Contract Initiative developed and implemented pursuant to directions of the Minister (or a predecessor thereto) issued May 7, 2009, January 21, 2013, and February 14, 2020.

HCI-DX means a Prior Contract for a distribution connected Facility, as part of the HCI, as set out on the SHP-S3-AR Contract Cover Page.

HCI-TX means a Prior Contract for a transmission connected Facility, as part of the HCI, as set out on the SHP-S3-AR Contract Cover Page.

HESOP means the Hydroelectric Standard Offer Program developed and implemented pursuant to directions of the Minister (or a predecessor thereto) issued January 21, 2013, and June 26, 2013.

Hourly Delivered Electricity means the Electricity generated and Delivered by the Facility during any hour.

Hourly Ontario Energy Price or ***HOEP***:

(a) has the meaning given to it by the IESO Market Rules, or to any replacement or successor thereto; or

(b) on or after the Market Renewal Effective Time, means:

(i) for Facilities that do not participate in the IESO-Administered Markets, the Retail Settlement Code Price; or

(ii) for Facilities that participate in the IESO-Administered Markets, the ADALMP, or where the ADALMP is not available, the average of the ARTLMP for all intervals in the applicable hour.

HST means all Taxes payable under Part IX of the Excise Tax Act (Canada) (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.

IESO-Administered Markets has the meaning given to it by the IESO Market Rules.

IESO-Controlled Grid has the meaning given to it by the IESO Market Rules.

IESO Market Rules means the rules made under Section 32 of the Electricity Act, together with all market manuals, policies, and guidelines issued by the System Operator, as may be amended from time to time.

including means including (or includes) without limitation.

Indemnifiable Loss has the meaning given to it in Section 13.3 of the SHP-S3-AR Contract.

Indemnitees has the meaning given to it in Section 13.3 of the SHP-S3-AR Contract.

Indexed Contract Price means the Contract Price adjusted for increases in CPI pursuant to Exhibit B-1 during the Original Term and Exhibit B-2 during the Extended Term.

Insolvency Legislation means the *Bankruptcy and Insolvency Act* (Canada), the *Winding Up and Restructuring Act* (Canada) and the *Companies' Creditors Arrangement Act* (Canada) or any analogous legislation, and the bankruptcy, insolvency, creditor protection or similar laws of any other jurisdiction (regardless of the jurisdiction of such application or competence of such law).

Interest Rate means the annual rate of interest established by the Royal Bank of Canada or its successor, from time to time, as the interest rate it will charge for demand loans in Dollars to its commercial customers in Canada and which it designates as its "prime rate" based on a year of 365 or 366 days, as applicable. Any change in such prime rate shall be effective automatically on the date such change is announced by the Royal Bank of Canada.

Instrument has the meaning set out in Subsection 1.6(a) of the SHP-S3-AR Contract.

ITA means the *Income Tax Act* (Canada).

Laws and Regulations means:

(a) applicable federal, provincial or municipal laws, orders-in-council, by-laws, codes, rules, policies, regulations and statutes;

(b) applicable orders, decisions, codes, judgments, injunctions, decrees, awards and writs of any court, tribunal, arbitrator, Governmental Authority or other Person having jurisdiction;

(c) applicable rulings and conditions of any licence, permit, certificate, registration, authorization, consent and approval issued by a Governmental Authority;

(d) any requirements under or prescribed by applicable common law;

(e) the Retail Settlement Code, the Distribution System Code, the Transmission System Code and any other codes issued by the OEB; and

(f) the IESO Market Rules, as well as any manuals or interpretation bulletins issued by the System Operator from time to time that are binding on the Supplier.

LDC means the owner or operator of a Distribution System who is licensed by the OEB as an "electricity distributor".

LDC Portal means a secure web site maintained by an LDC, either directly or indirectly, that provides a point-of-access for specific authorized users to a facility's or site's specific data, such as meter data, or such similar processes and/or application that may be implemented in conjunction with the "Smart Meter Initiative" for the presentment of meter data; and includes any systems or applications that may replace, supplement or succeed any such existing systems or applications.

Letter of Credit means one or more irrevocable and unconditional standby letters of credit issued by a financial institution listed in either Schedule I or II of the Bank Act (Canada) or such other financial institution having a minimum Credit Rating of (i) A- with S&P, (ii) A3 with Moody's, (iii) A (low) with DBRS Morningstar, or (iv) A- with Fitch IBCA, in substantially the form attached as Exhibit C or in a form acceptable to the Sponsor, acting reasonably, and otherwise conforming to the provisions of Section 5.2.

LMP Adjustment Factor, means for each Dispatch Interval "n" or hour "h", an amount (in $/MWh) equal to (i) the lesser of the day-ahead Ontario Zonal Price, or in the event of a day-ahead market failure or suspension, ***the*** real-time Ontario Zonal Price, and zero; minus (ii) the lesser of the ARTLMP and zero. For certainty, the LMP Adjustment Factor for a Dispatch Interval may be a positive or negative amount.

Market Participant has the meaning given to it by the IESO Market Rules**.**

Market Renewal Effective Time means, in relation to the Market Renewal Program, 00:00:00 EST on the date that is designated by the IESO in a market advisory notice issued pursuant to the IESO Market Rules as the first trade date of the single-schedule market following the commencement of a market suspension for the purposes of "market transition" as that term is defined in the IESO Market Rules.

Market Renewal Program means the set of comprehensive amendments to the IESO Market Rules to provide for the implementation of a single schedule market, a day-ahead market, and enhanced real-time unit commitment.

Material Adverse Effect means any change (or changes taken together) in, or effect on, the affected Party that materially and adversely affects the ability of such Party to perform its obligations under this Agreement.

Meter Data Distribution means the Sponsor's meter data management or data distribution system, or such successor system, that is used by the Supplier to upload revenue quality interval meter data for the Facility to be reviewed and monitored by the Sponsor for the Term.

Metering Plan means the plan attached as Exhibit F.

Ministerial Directive has the meaning set out in the recitals to this Agreement.

MW means megawatt and ***MWh*** means megawatt hour.

Nameplate Capacity means the manufacturer's total installed rated capacity of the Facility to generate Electricity.

Network Upgrade Costs means those costs related to Network Upgrades. For greater certainty, Network Upgrade Costs shall not include Connection Costs.

Network Upgrades means all additions, improvements and upgrades to the network facilities, as defined by the Distribution System Code and Transmission System Code, for the connection of the Facility to a Local Distribution System or Transmission System, as more particularly specified pursuant to the System Impact Assessment, Customer Impact Assessment, Connection Impact Assessment, Distribution System Code and Transmission System Code for generator connections.

New Agreement means a new agreement substantially in the form of this Agreement and for the then balance of the Term (had this Agreement not been terminated early), which may be entered into with a Secured Lender who is at Arm's Length with the Supplier or with a Person identified by such Secured Lender following an event of default under the Secured Lender's Security Agreement.

Notice has the meaning given to it in Section 14.6 of the SHP-S3-AR Contract.

NUG means a nonutility generator having a Type 3B Prior Contract.

OEB means the Ontario Energy Board or its successor.

OEFC means the Ontario Electricity Financial Corporation, established under the Electricity Act.

Off-Peak Hour means any hour that is not an On-Peak Hour.

On-Peak Hour means for a Type 3B Facility, all hours between and including 7:00:00 and 22:59:59, at the Facility, on Business Days.

Ontario Zonal Price means, for each Dispatch Interval of hour "h", the "Ontario Zonal Energy Price" established pursuant to the IESO Market Rules after the Market Renewal Effective Time.

Operating Reserve means the total revenues received by the Sponsor from the System Operator in relation to Operating Reserve flowing from the Nameplate Capacity delivered to the IESO-Administered Markets.

Original SLCA means an agreement with respect to the Supplier's Interest, which agreement was entered into prior to the Contract Date between the Supplier (as the supplier under the Prior Contract) and the Secured Lender.

Original Term has the meaning given to it in Section 8.1(d) of the SHP-S3-AR Contract.

Other Suppliers means all of the other suppliers that have a SHP-S3-AR Contract with the Sponsor or other bilateral arrangements with the Sponsor similar in nature to this Agreement.

Outage means the removal of equipment from service, unavailability for connection of equipment or temporary derating, restriction of use or reduction in performance of equipment for any reason, including to permit the performance of inspections, tests, repairs or maintenance on equipment, which results in a partial or total interruption in the ability of the Facility to make the Contract Capacity available and Deliver the Electricity from the Facility.

Party means any one of the Supplier and the Sponsor, and the Sponsor and the Supplier are collectively referred to as the ***Parties***.

Payment Date has the meaning given to it in Subsection 4.2(b)(ii) or 4.2(c)(ii) of the SHP-S3-AR Contract, as applicable.

Peak Performance Factor means 1.35 for all On-Peak Hours and 0.90 for all Off-Peak Hours.

Performance Security means financial security in the amount of $10,000 per MW of Nameplate Capacity that the Supplier must provide and maintain with the Sponsor in accordance with Article 5 of the SHP-S3-AR Contract as security for the performance of the Supplier's obligations under the SHP-S3-AR Contract.

Person means a natural person, firm, trust, partnership, limited partnership, company or corporation (with or without share capital), sole proprietorship, Governmental Authority or other entity of any kind, excluding a joint venture.

Pre-Dispatch Price means the pre-dispatch price for Electricity, being the hourly price determined from the pre-dispatch schedule for a specified number of hours in advance of clearing of the real-time IESO-Administered Markets, and for clarity, after the Market Renewal Effective Time, shall mean the hourly Ontario Zonal Price determined from the pre-dispatch schedule for a specified number of hours in advance of clearing of the real-time IESO-Administered Markets.

Prescribed Form means, in relation to a form, the latest version of the corresponding form appearing on the Website, as may be amended or replaced by the Sponsor from time to time and without notice to the Supplier.

Prior Contract means the agreement between the Supplier and the Sponsor (referred to in the Program Rules as the Disaggregated Contract) in respect of the Facility, as amended, identified on the SHP-S3-AR Contract Cover Page by the Contract Type, identification #, Term Commencement Date, and Expiry Date.

Program Rules means the rules that set-out the manner in which the Small Hydro Program will be conducted, as may be amended in accordance with its terms from time to time.

Property means a parcel or lot of real property as identified by a PIN or, in the absence thereof, by another legal description by lot and/or parcel number or similar legal description or by other appropriate description using meters and bounds or GPS coordinates. In the case of provincial Crown lands, Property means a grid cell, or a waterpower site number (as applicable) or in the absence thereof, GPS coordinates of the Property, as applicable.

Property Identification Number (PIN) means the Property identifier assigned to a Property in accordance with the *Registry Act*, RSO 1990, c. R.20, s. 21(2), or in accordance with the *Land Titles Act*, RSO 1990, c. L.5, s. 141(2).

Receiving Party means, with respect to Confidential Information, the Party receiving Confidential Information and may be the Sponsor or the Supplier, as applicable.

Registered Facility has the meaning given to it in the IESO Market Rules, and for clarity, after the Market Renewal Effective Time, has the meaning a "generation facility" comprised of at least one "generation resource", as those terms are defined in the IESO Market Rules).

Regulatory Environmental Attributes has the meaning given to it in Subsection 2.11(c) of the SHP-S3-AR Contract.

Related Products means all Capacity Products, Ancillary Services, transmission rights and any other products or services that may be provided by the Facility from time to time, excluding Environmental Attributes produced by the Facility that may be traded or sold in the IESO-Administered Markets or other markets, or otherwise sold, and which shall be deemed to include products and services for which no market may exist, such as capacity reserves.

Replacement Provision(s) has the meaning given to it in Section 1.7 of the SHP-S3-AR Contract.

Representatives means a Party's directors, officers, shareholders, employees, auditors, consultants, advisors (including economic and legal advisors), contractors and agents and those of its Affiliates and the agents and advisors of such Persons. In the case of the Sponsor, this definition shall also include the Government of Ontario and their respective directors, officers, shareholders, employees, auditors, consultants, advisors (including economic and legal advisors), contractors and agents.

RES means the Renewable Energy Supply competitive procurement developed and implemented by the Minister (or a predecessor thereto) including a Request for Proposal No. SSB065230 issued June 24, 2004.

RESOP means the Renewable Energy Standard Offer Program developed and implemented pursuant to directions of the Minister (or a predecessor thereto) issued March 21, 2006.

Retail Settlement Code means the code established and approved by the OEB, governing the determination of financial settlement costs for electricity retailers, consumers, distributors and generators.

Retail Settlement Code Price or ***RSCP*** means, for each hour "h", the price determined in accordance with the Retail Settlement Code for the purpose of calculating settlements with retail embedded generators in respect of hour "h".

Sales Tax means HST.

Secured Lender means the lender(s) under a Secured Lender's Security Agreement.

Secured Lender Consent and Acknowledgement Agreement means the Prescribed Form attached as Exhibit G.

Secured Lender's Security Agreement means an agreement or instrument, including a deed of trust or similar instrument securing bonds or debentures, containing a charge, mortgage, pledge, security interest, assignment, sublease, deed of trust or similar instrument with respect to all or any part of the Supplier's

Interest granted by the Supplier that is security for any indebtedness, liability or obligation of the Supplier, together with any amendment, change, supplement, restatement, extension, renewal or modification thereof.

Senior Conference has the meaning given to it in Section 15.1 of the SHP-S3-AR Contract.

Settlement Period has the meaning given to it in Subsection 4.2(b)(i) or 4.2(c)(ii) of the SHP-S3-AR Contract, as applicable.

SHP Contract means a Small Hydro Program agreement entered into between a supplier and the Sponsor pursuant to the Program Rules (where there is no Prior Contract), as may be amended, restated or replaced from time to time.

SHP-AR Contract means a Small Hydro Program agreement entered into between a supplier and the Sponsor pursuant to the Program Rules with respect to a Stream 2 Facility, as may be amended, restated or replaced from time to time.

SHP-S3-AR Contract means a Small Hydro Program agreement amending and restating the Prior Contract and entered into between the Supplier and the Sponsor pursuant to the Program Rules, as may be amended, restated or replaced from time to time.

SHP-S3-AR Contract Cover Page means the front pages of the SHP-S3-AR Contract setting out specific features of the Facility, including the applicable Prior Contract, the applicability of the Peak Performance Factor and the applicable versions of the Exhibits.

Site means all Properties on which the Facility is located, excluding the electrical connection line that connects the Facility to the Connection Point.

Sponsor means the Independent Electricity System Operator of Ontario established under Part II of the Electricity Act, being the Party described in the opening paragraph of this Agreement, and its successors and assigns.

Sponsor Event of Default has the meaning given to it in Section 9.3 of the SHP-S3-AR Contract.

Sponsor Statement has the meaning given to it in Subsection 11.2(g) of the SHP-S3-AR Contract.

Standard Definitions means these definitions which are applicable and appended to the SHP-S3-AR Contract.

Statement has the meaning given to it in Subsection 4.2(b)(i) or 4.2(c)(ii) of the SHP-S3-AR Contract, as applicable.

Station Service means the Electricity used at the Facility for excitation, onsite maintenance and operation of auxiliary and other facilities, essential to the operation of the Facility.

Station Service Loads means energy consumed to power the onsite maintenance and operation of power generation facilities, but excludes energy consumed in association with activities which could be ceased or moved to other locations without impeding the normal and safe operation of the Facility.

Stream 2 Facility has the meaning given to it in the Program Rules.

Subsequent Directive has the meaning set out in the recitals to this Agreement.

Supplier means the Person identified as the supplier on the SHP-S3-AR Contract Cover Page, and, as applicable, its heirs, estate trustees, personal and legal representatives, successors and permitted assigns.

Supplier Event of Default has the meaning given to it in Section 9.1 of the SHP-S3-AR Contract.

Supplier's Economics means the net present value of the revenues from the Hourly Delivered Electricity and Related Products in respect of the Facility that are reasonably forecast to be earned by a Supplier, net of any costs that such Supplier would reasonably be expected to incur in respect of the Facility, and taking into account any Commercially Reasonable Efforts the Supplier is reasonably expected to take to mitigate the effect of any IESO Market Rule amendments or Discriminatory Actions, such as by mitigating operating expenses and normal capital expenditures of the business of the generation and delivery of the Hourly Delivered Electricity and Related Products in respect of the Facility.

Supplier's Interest means the right, title and interest of the Supplier in or to the Facility and this Agreement or any benefit or advantage of any of the foregoing.

System Impact Assessment means a study conducted by the System Operator pursuant to Section 6.1.5 of Chapter 4 of the IESO Market Rules, to assess the impact of the modification of an existing connection of a Facility on the performance of the IESO-Controlled Grid and the reliability of the integrated power system.

System Operator means the Independent Electricity System Operator established under Part II of the Electricity Act, and its successors, acting pursuant to its authority to make, administer and enforce the IESO Market Rules.

Taxes means all ad valorem, property, occupation, severance, production, governmental charges, utility, gross production, gross receipts, HST, value-added, sales, stamp, use, excise, levies, countervailing, antidumping and special import measures, imposts, duties including customs' duties, fees, withholdings, assessments, premiums, deductions, taxes based on profits, net income or net worth and any other taxes or charges whatsoever, whether directly or indirectly imposed, assessed, levied or collected by any Governmental Authority, together with interest thereon and penalties with respect thereto.

Term has the meaning given to it in Section 8.1(c) of the SHP-S3-AR Contract.

Term Commencement Date or ***TCD*** means the term commencement date of the Prior Contract as set out on the SHP-S3-AR Contract Cover Page.

Termination Date means the date on which this Agreement terminates as a result of an early termination of this Agreement in accordance with its provisions.

Transmission System means a system for conveying Electricity at voltages of more than 50 kilovolts and includes any structures, equipment or other things used for that purpose.

Transmission System Code means the "Transmission System Code" established and approved by the OEB, which, among other things, establishes the obligations of a Transmitter with respect to the services and terms of service to be offered to customers and retailers and provides minimum technical operating standards for the IESO-Controlled Grid.

Transmitter means a Person licensed as a "transmitter" by the OEB.

Type 2A has the meaning given to it in the applicable Exhibit B-1.

Type 2B has the meaning given to it in the applicable Exhibit B-1.

Type 3B has the meaning given to it in the applicable Exhibit B-1.

Type 6 has the meaning given to it in the applicable Exhibit B-1 and refers to a residual category to capture other forms of Prior Contract that originated from an Aggregated Contract and are not captured by Type 2A, Type 2B or Type 3B.

Upgrade means the refurbishment or replacement of Generating Equipment at the Facility with equipment which provides better or improved performance.

Waterpower Rights means, with respect to a Facility utilizing waterpower, (i) any "Waterpower Lease" or "Licence of Occupation" entered into with His Majesty the King in right of Ontario, as represented by the Ministry of Natural Resources and Forestry; (ii) any "Federal Licence" entered into with His Majesty the King in right of Canada, as represented by the Minister of the Environment and Climate Change for the purposes of the Parks Canada Agency; or (iii) any substantially equivalent Governmental Approval.

Website means such website as the Sponsor shall designate from time to time.

EXHIBIT A
DESCRIPTION OF FACILITY

Detailed Description of Facility:

Original in-service date.

[insert details]

Property location of the Facility (including the longitude and latitude coordinates for the Facility, the nearest population centre, river name,).

[insert details]

Major equipment and infrastructure (including number of generating units, turbine types or models, turbine manufacturers, runner types, energy storage equipment, headworks, intake, powerhouse, tailrace, penstocks (number, length, diameter, materials), control structures, etc.).

[insert details]

Environmental features (including a description of features that mitigate environmental concerns, such as air quality, noise, water, sewage discharge, etc. and a list of environmental approvals and permits and their status).

[insert details]

Electrical Interconnection. For distribution connected facilities, list: name of transformer station, name of transformer station feeder, name of distribution station and the feeder name, and the facility connection voltage (kV). For transmission connected facilities, list: Transmitter, name of transmission circuit, name of transformer station or switching station, facility connection voltage (kV).

[insert details]

Drawing number and date (or document name/titles) of a facility Single Line Diagram (SLD).

[insert details]

List of all licences, permits, certificates, registrations, authorizations, consents and approvals issued by a Governmental Authority (which are required to operate and maintain the Facility).

[insert details]

Public contact information for the Supplier (including Supplier website link, public relations contacts, if any).

[insert details]

EXHIBIT B

EXHIBIT B1 – METERING AND SETTLEMENT (ORIGINAL TERM)
TYPE 2A: HCI-DX FACILITIES GREATER THAN 5 MW NOT REGISTERED IN THE IESO-ADMINISTERED MARKETS

1.1 Application of Exhibit

(a) This version of Exhibit B-1 shall apply to a Facility with a Prior Contract that is HCI-DX as indicated on the SHP-S3-AR Contract Cover Page and with a Nameplate Capacity greater than 5 MW that is (i) connected to a Distribution System, and (ii) not a Registered Facility (being a "**Type 2A**" Facility).

(b) Sections 1.3, 1.4, 1.5, 1.6 and 2.1 of this Exhibit B-1 shall only be of force and effect during the Original Term and shall be of no force or effect as of the Extended Term or during any part thereof.

(c) The Parties acknowledge and agree that the commercial settlement terms outlined in this Exhibit B-1 are substantially similar to those under the Aggregated Contract, thereby satisfying section 3(a)(ii)(2) of the Subsequent Directive and the Supplier hereby releases and forever discharges the Sponsor, its successors and assigns, from any Claim related thereto.

1.2 Metering Requirements

The Supplier shall provide, at its expense, separate meter(s) and ancillary metering and monitoring equipment as required by the applicable LDC. The Supplier shall provide the Sponsor with access to the applicable LDC Portal or if applicable the System Operator's Meter Data Distribution system. In the event that the LDC Portal, the System Operator's Meter Data Distribution system is not available, the Supplier must supply validated metering data in one of the following formats: .XML or .CSV at an interval of no more than every thirty (30) days.

1.3 Indexation

The Indexed Contract Price shall be determined as follows:

(a) The Indexed Contract Price in any year "y" shall be the greater of the Indexed Contract Price in the preceding year, "y-1", and the following calculation:

$$\mathrm{CP_y} = (1 - \mathrm{EP}) \times \mathrm{CP_{BD}} + \mathrm{EP} \times \mathrm{CP_{BD}} \times \frac{\mathrm{CPI_y}}{\mathrm{CPI_{BD}}}$$

Where:

$\mathrm{CP_y}$ is the Indexed Contract Price applicable in calendar year "y" during the Term;

$\mathrm{CP_{BD}}$ is the Contract Price applicable on the Base Date of the Original Term;

$\mathrm{CPI_{BD}}$ is the CPI for the month of December immediately preceding the commencement of the calendar year "BD" in which the Base Date of the Original Term occurs;

$\mathrm{CPI_y}$ is the CPI for the month of December immediately preceding the commencement of calendar year "y"; and

EP is the Escalation Percentage as set out on the SHP-S3-AR Contract Cover Page.

1.4 Calculation of Contract Payment

(a) For each hour in a Settlement Period, the Contract Payment shall be an amount expressed in Dollars and equal to:

(i) where HOEP in such hour is greater than or equal to $0.00/MWh, the Hourly Delivered Electricity multiplied by (A) the Indexed Contract Price applicable during the corresponding calendar year, and (B) the Peak Performance Factor applicable during the corresponding hour; or

(ii) where HOEP in such hour is less than $0.00/MWh, the Hourly Delivered Electricity multiplied by the resultant of (A) the Indexed Contract Price applicable during the corresponding calendar year multiplied by the Peak Performance Factor applicable during the corresponding hour, minus (B) the absolute value of HOEP for that hour;

provided that, if in any hour the Hourly Delivered Electricity exceeds the Contract Capacity times one (1) hour, then for the purposes of the calculation set out in this Section 1.4(a) of Exhibit B-1, the Contract Capacity times one (1) hour shall be used instead of the Hourly Delivered Electricity.

(b) The Contract Payment in respect of a Settlement Period shall be:

(i) the sum of the Contract Payments in respect of each hour in such Settlement Period;

minus

(ii) in relation to the sale, supply or delivery of any Future Contract Related Products, an amount equal to eighty per cent (80%) of the difference, if positive, of the total revenues received by the Supplier from the sale of such Future Contract Related Products for that Settlement Period, less the Approved Incremental Costs. For the purposes of this Subsection 1.4(b) of Exhibit B-1, "**Approved Incremental Costs**" means the incremental costs incurred by the Supplier for that Settlement Period in excess of the cost of production of the Delivered Electricity, relating to the sale, supply or delivery of such Future Contract Related Products, and which costs are reasonable and have first been verified and approved by the Sponsor.

(c) Where the Contract Payment in respect of a Settlement Period is a positive number, such amount shall be owed by the applicable LDC to the Supplier. Where such amount is a negative number, the absolute value of such the amount shall be owed by the Supplier to the applicable LDC.

1.5 System Operator Instructions

(a) Insofar as the System Operator issues instructions to reduce all or part of the output of the Facility on an economic basis in order to mitigate over generation on the IESO-Controlled Grid or any substantial portion thereof, then the calculation set out in Section 1.4 of this

Exhibit B-1 shall provide for an additional Contract Payment (the "**Additional Contract Payment**") for any hour, "h", in which:

(i) either (A) the Pre-Dispatch Price for such hour "h", as published in the immediately preceding hour "h-1" is less than $5.00/MWh or (B) the System Operator has published an over generation advisory or equivalent notice in respect of such hour "h" for the IESO-Controlled Grid or a substantial portion thereof;

(ii) the dispatch data for the Facility includes energy offered at a price less than or equal to $1.00/MWh;

(iii) the System Operator has issued a dispatch instruction or other instruction on an economic basis to reduce the output of the Facility to a level below that offered at price less than or equal to $1.00/MWh; and

(iv) the Supplier has complied with such dispatch instruction or other instruction and as a consequence and within the same calendar day has had to either spill water or utilize that water at lower incremental efficiency.

(b) The Additional Contract Payment for any such hour shall be the Hourly Delivered Electricity foregone as a result of compliance with the System Operator's instruction multiplied by (A) the Indexed Contract Price applicable during the corresponding calendar year, and (B) the Peak Performance Factor applicable during the corresponding hour, provided that such amount of foregone Hourly Delivered Electricity shall not in any case exceed the Contract Capacity times 1 hour.

(c) The Hourly Delivered Electricity foregone as a result of compliance with an instruction from the System Operator pursuant to Subsection 1.5(a) of this Exhibit B-1 shall be determined in accordance with the methodology specified in Section 1.6 of this Exhibit B-1.

(d) The implementation of this Section 1.5 of Exhibit B-1 shall not trigger the amending provisions of Section 1.5 of the Agreement, except to the extent that any IESO Market Rule change has the effect of materially affecting the Supplier's Economics notwithstanding the implementation of this Section 1.5 of Exhibit B-1.

1.6 Hourly Delivered Electricity Foregone

This Section 1.6 sets out the methodology for determination of the quantity of Hourly Delivered Electricity foregone as a result of any spill that meets the requirements set out in Subsection 1.5(c) of this Exhibit B-1.

(a) The following information is required to substantiate any determination of Hourly Delivered Electricity foregone and will be retained by Supplier and provided on request to the Sponsor:

(i) in order to determine the quantity of Hourly Delivered Electricity foregone, for each qualifying hour:

(A) either (A) the Pre-Dispatch Price for such hour "h", as published in the immediately preceding hour "h-1" or (B) the identification of the over generation advisory or equivalent notice published by the System Operator

in respect of such hour "h" for the IESO-Controlled Grid or a substantial portion thereof;

(B) the dispatch data for the Facility;

(C) a record of the System Operator's dispatch instruction or other instruction on an economic basis to reduce the output of the Facility to a level below that offered at a price less than or equal to $1.00/MWh; and

(D) the metered output of the Facility.

(ii) in order to determine that the Supplier's foregoing of Hourly Delivered Electricity in any hour has resulted in a qualifying spill, the Facility spill record for the day.

(b) The quantity of Hourly Delivered Electricity foregone shall be the lesser of:

(i) the quantity offered at less than $1.00/MWh minus the net metered output for the same hour, and

(ii) the MWh determined by converting the qualifying spill to MWh using the factor for the relevant Facility as set out in item 18 on the SHP-S3-AR Contract Cover Page.

(c) Absent any apparent errors, the Sponsor shall be entitled to rely on the Supplier's calculation for the monthly settlement calculations without prejudice to any corrections made following further review of information or audit of the Supplier processes by the Sponsor.

1.7 Defined terms in this Exhibit B-1, Type 2A

The following definitions will apply to this Exhibit B-1 for Type 2A Facilities to supplement the Standard Definitions applicable to the SHP-S3-AR Contract, where the Standards Definitions in the SHP-S3-AR Contract will prevail to the extent of an inconsistency:

Additional Contract Payment has the meaning given to it in Section 1.5(a) herein.

Approved Incremental Costs has the meaning given to it in Section 1.4(b)(ii) herein.

EXHIBIT B-1 – METERING AND SETTLEMENT (ORIGINAL TERM)
TYPE 2B: HCI-DX FACILITIES LESS THAN OR EQUAL TO 5 MW NOT REGISTERED IN THE IESO-ADMINISTERED MARKETS

1.8 Application of Exhibit

(a) This version of Exhibit B-1 shall apply to a Facility with a Prior Contract that is HCI-DX as indicated on the SHP-S3-AR Contract Cover Page and with a Nameplate Capacity less than or equal to 5 MW that is (i) connected to a Distribution System, and (ii) not a Registered Facility (being a "**Type 2B**" Facility).

(b) Sections 1.3, 1.4 and 2.1 of this Exhibit B-1 shall only be of force and effect during the Original Term and shall be of no force or effect as of the Extended Term or during any part thereof.

(c) The Parties acknowledge and agree that the commercial settlement terms outlined in this Exhibit B-1 are substantially similar to those under the Aggregated Contract, thereby satisfying section 3(a)(ii)(2) of the Subsequent Directive and the Supplier hereby releases and forever discharges the Sponsor, its successors and assigns, from any Claim related thereto.

1.9 Metering Requirements

The Supplier shall provide, at its expense, separate meter(s) and ancillary metering and monitoring equipment as required by the applicable LDC. The Supplier shall provide the Sponsor with access to the applicable LDC Portal or if applicable the System Operator's Meter Data Distribution, or equivalent with respect to the Facility. In the event that the LDC Portal, the System Operator's Meter Data Distribution or equivalent is not available, the Supplier must supply validated metering data in one of the following formats: .XML or .CSV at an interval of no more than every thirty (30) days.

1.10 Indexation

The Indexed Contract Price shall be determined as follows:

(a) The Indexed Contract Price in any year "y" shall be the greater of the Indexed Contract Price in the preceding year, "y-1", and the following calculation:

$$CP_y = (1 - EP) \times CP_{BD} + EP \times CP_{BD} \times \frac{CPI_y}{CPI_{BD}}$$

Where:

CP_y	is the Indexed Contract Price applicable in calendar year "y" during the Term;
CP_{BD}	is the Contract Price applicable on the Base Date for the Original Term;
CPI_{BD}	is the CPI for the month of December immediately preceding the commencement of the calendar year "BD" in which the Base Date for the Original Term occurs;
CPI_y	is the CPI for the month of December immediately preceding the commencement of calendar year "y"; and
EP	is the Escalation Percentage set out on the SHP-S3-AR Contract Cover Page.

1.11 Calculation of Contract Payment

(a) For each hour in a Settlement Period, the Contract Payment shall be an amount expressed in Dollars and equal to the Hourly Delivered Electricity multiplied by (A) the Indexed Contract Price applicable during the corresponding calendar year, and (B) the Peak Performance Factor applicable during the corresponding hour; provided that, if in any hour the Hourly Delivered Electricity exceeds the Contract Capacity times 1 hour, then for the purposes of the calculation set out in this Subsection 1.4(a) of Exhibit B-1, the Contract Capacity times 1 hour shall be used instead of the Hourly Delivered Electricity.

(b) The Contract Payment in respect of a Settlement Period shall be:

(i) the sum of the Contract Payments in respect of each hour in such Settlement Period;

minus

(ii) in relation to the sale, supply or delivery of any Future Contract Related Products, an amount equal to eighty per cent (80%) of the difference, if positive, of the total revenues received by the Supplier from the sale of such Future Contract Related Products for that Settlement Period, less the Approved Incremental Costs. For the purposes of this Subsection 1.4(b) of Exhibit B-1, "**Approved Incremental Costs**" means the incremental costs incurred by the Supplier for that Settlement Period in excess of the cost of production of the Delivered Electricity, relating to the sale, supply or delivery of such Future Contract Related Products, and which costs are reasonable and have first been verified and approved by the Sponsor.

(c) Where the Contract Payment in respect of a Settlement Period is a positive number, such amount shall be owed by the applicable LDC to the Supplier. Where such amount is a negative number, the absolute value of such amount shall be owed by the Supplier to the applicable LDC.

1.12 Defined terms in this Exhibit B-1, Type 2B

The following definitions will apply to this Exhibit B-1 for Type 2B Facilities to supplement the Standard Definitions applicable to the SHP-S3-AR Contract, where the Standards Definitions in the SHP-S3-AR Contract will prevail to the extent of an inconsistency:

Approved Incremental Costs has the meaning given to it in Section 1.4(b)(ii) herein.

EXHIBIT B-1 – METERING AND SETTLEMENT (ORIGINAL TERM)
TYPE 3B: HESOP FACILITIES NOT REGISTERED IN THE IESO-ADMINISTERED MARKETS (LEGACY NUG)

1.1 Application of Exhibit

(a) This version of Exhibit B-1 shall apply to a Facility with a Prior Contract that is HESOP (legacy NUG), as indicated on the SHP-S3-AR Contract Cover Page and that is (i) connected to a Distribution System, and (ii) not a Registered Facility (being a "**Type 3B**" Facility).

(b) Sections 1.3, 1.4, 1.5 and 1.6 of this Exhibit B-1 shall only be of force and effect during the Original Term and shall be of no force or effect as of the Extended Term or during any part thereof.

(c) The Parties acknowledge and agree that the commercial settlement terms outlined in this Exhibit B-1 are substantially similar to those under the Aggregated Contract, thereby satisfying section 3(a)(ii)(2) of the Subsequent Directive and the Supplier hereby releases and forever discharges the Sponsor, its successors and assigns, from any Claim related thereto.

1.2 Metering Requirements

The Supplier shall provide, at its expense, separate meter(s) and ancillary metering and monitoring equipment as required by the applicable LDC. The Supplier shall provide the Sponsor with access to the applicable LDC Portal or if applicable the System Operator's Meter Data Distribution system, or equivalent with respect to the Facility, as applicable. In the event that the LDC Portal, the System Operator's Meter Data Distribution system or equivalent is not available, the Supplier must supply validated metering data no later than 10 Business Days following the end of the applicable Settlement Period in one of the following formats: .XML or .CSV at an interval of no more than every thirty (30) days.

1.3 Contract Capacity, Contract Price, Escalation Percentage and Base Date

For the purposes of this Exhibit B-1:

(a) the Contract Capacity shall be equal to the "**Existing Facility Capacity**" plus the "**Expansion Capacity**" in this Exhibit 3-B, in Table 1 below.

(b) **Table 1: HESOP (NUG legacy) Contract Capacity Chart**

Existing Facility Capacity	• MW
Expansion Capacity	• MW
Contract Capacity	• MW

(c) the Contract Price shall be divided into the following components, as applicable: the "**Existing Facility Price**", the "**Secondary Existing Facility Price**", and the "**Expansion Price**", each as may be applicable as shown in Table 2 below.

(d) the Escalation Percentage and Base Date shall be differentiated for the Existing Facility Price, the Secondary Existing Facility Price, and the Expansion Price, as shown in Table 2 below.

(e) **Table 2: HESOP (NUG legacy) Contract Pricing Chart**

	Existing Facility Price	Secondary Existing Facility Price	Expansion Price
Contract Price	$• / MWh	$• / MWh	$• / MWh
Escalation Percentage	• %	• %	20%
Base Date	•		dd/mm/yyyy

(f) the baseline production of the Facility during On-Peak Hours for each calendar month "m" (the "**Baseline Monthly On-Peak Production**" or "**BMonP**") and the baseline production of the Facility during Off-Peak Hours for each calendar month "m" (the "**Baseline Monthly Off-Peak Production**" or "**BMoffP**") is shown in Table 3 below.

(g) **Table 3: Baseline Monthly On-Peak Production and Baseline Monthly Off-Peak Production**

Month	BMonP (MWh)	BMoffP (MWh)
January		
February		
March		
April		
May		
June		
July		
August		
September		
October		
November		
December		

1.4 Determination of Monthly Production (STAGE I)

(a) The "**Expansion On-Peak Production**" during the Settlement Period shall be calculated as follows:

$$\mathrm{XonP_p} = \mathrm{TPonP_p} - \mathrm{ABonP_p}$$

Where:

$XonP_p$ is the Expansion On-Peak Production (MWh) for Settlement Period "p";

$TPonP_p$ is the "**Total On-Peak Production**" (MWh) during the Settlement Period and shall be calculated as the summation of Hourly Delivered Electricity in all On-Peak Hours in Settlement Period "p"; provided that, if in any hour the Hourly Delivered Electricity exceeds the Contract Capacity of the Facility times one hour, then the Contract Capacity of the Facility times one hour shall be used instead of the Hourly Delivered Electricity;

$BMonP_p$ is the Baseline Monthly On-Peak Production for Settlement Period "p" as set out in Table 3 above; and

$ABonP_p$ is the "**Actual Base On-Peak Production**" (MWh) for Settlement Period "p" and shall be calculated as the lesser of $TPonP_p$ and $BMonP_p$.

(b) Calculation of the "**Expansion Off-Peak Production**" during the Settlement Period

$$XoffP_p = TPoffP_p - ABoffP_p$$

Where:

$XoffP_p$ is the Expansion Off-Peak Production (MWh) for Settlement Period "p";

$TPoffP_p$ is the "**Total Off-Peak Production**" (MWh) during the Settlement Period and shall be calculated as the summation of Hourly Delivered Electricity in all Off-Peak Hours in Settlement Period "p"; provided that, if in any hour the Hourly Delivered Electricity exceeds the Contract Capacity of the Facility times one hour, then the Contract Capacity of the Facility times one hour shall be used instead of the Hourly Delivered Electricity;

$BMoffP_p$ is the Baseline Monthly Off-Peak Production for Settlement Period "p" as set out in Table 3 above; and

$ABoffP_P$ is the "**Actual Base Off-Peak Production**" (MWh) for Settlement Period "p" and shall be calculated as the lesser of $TPoffP_p$ and $BMoffP_p$.

1.5 Determination of the Contract Prices (STAGE II)

(a) The "**Indexed Expansion Price**" shall be determined as follows:

(i) The Indexed Expansion Price in any year "y" shall be the greater of the Indexed Expansion Price in the preceding year, "y-1", and the following calculation:

$$IXP_y = (1 - EP_{XP}) \times XP + EP_{XP} \times \left(XP \times \frac{CPI_y}{CPI_{BD}}\right)$$

Where:

IXP_y is the Indexed Expansion Price ($/MWh) for calendar year "y" during the Original Term;

EP_{XP} is the Escalation Percentage for the Expansion Price as set out in Table 2 above;

XP is the Expansion Price ($/MWh) as set out in Table 2 above;

CPI_y is the CPI for the month of December immediately preceding the commencement of calendar year "y"; and

CPI_{BD} is:

i. for Facilities in respect of which the Base Date for the Expansion Price (as set out in Table 2 above) that falls between January 1 and September 30 (inclusive) in a calendar year, the CPI applicable to the month of December immediately preceding the commencement of such calendar year; and

ii. for Facilities in respect of which the Base Date for the Expansion Price (as set out in Table 2 above) falls on or after October 1 in a calendar year , the CPI applicable to the month of December in that calendar year.

(b) The Expansion On-Peak Rate and the Expansion Off-Peak Rate shall be determined as follows:

$$\mathrm{XonR_y} = \mathrm{PPFon} \times \mathrm{IXP_y} \text{ and } \mathrm{XoffR_y} = \mathrm{PPFoff} \times \mathrm{IXP_y}$$

Where:

$XonR_y$ is the "**Expansion On-Peak Rate**" ($/MWh) for calendar year "y";

$XoffR_y$ is the "**Expansion Off-Peak Rate**" ($/MWh) for calendar year "y";

PPFon is 1.20 for On-Peak Hours; and

PPFoff is 0.83 for Off-Peak Hours.

(c) The "**Indexed Secondary Existing Facility Price**" shall be determined as follows:

(i) The Indexed Secondary Existing Facility Price in any year "y" shall be the greater of the Indexed Secondary Existing Facility Price in the preceding year, "y-1", and the following calculation:

$$\mathrm{ISEFP_y} = (1 - \mathrm{EP_{SEFP}}) \times \mathrm{EFP_{BD}} + \mathrm{EP_{EFP}} \times \left(\mathrm{SEFP_{BD}} \times \frac{\mathrm{CPI_y}}{\mathrm{CPI_{BD}}}\right)$$

Where:

$ISEFP_y$ is the Indexed Secondary Existing Facility Price ($/MWh) for calendar year "y";

$SEFP_{BD}$ is the Secondary Existing Facility Price ($/MWh) as set out on in Table 2 above as of the Base Date;

EP_{SEFP} is the Escalation Percentage for the Secondary Existing Facility Price as set out in Table 2 above;

CPI_y is the CPI for the month of December immediately preceding the commencement of calendar year "y"; and

CPI_{BD} is the CPI for the month of December immediately preceding the commencement of the calendar year "BD" in which the Base Date for the Secondary Existing Facility Price occurs.

(d) The Base On-Peak Rate and Base Off-Peak Rate shall be determined as follows:

$$\mathrm{BPonR_y} = \mathrm{PPFon} \times \mathrm{ISEFP_y} \quad \text{and} \quad \mathrm{BPoffR_y} = \mathrm{PPFoff} \times \mathrm{ISEFP_y}$$

Where:

$BPonR_y$ is the "**Base On-Peak Rate**" ($/MWh) during the Settlement Period for calendar year "y" during the Original Term;

$BPoffR_y$ is the "**Base Off-Peak Rate**" ($/MWh) during the Settlement Period for calendar year "y" during the Original Term;

PPFon is 1.20 for On-Peak Hours; and

PPFoff is 0.83 for Off-Peak Hours.

1.6 Calculation of Contract Payment (STAGE III)

The Contract Payment shall be calculated as follows:

$$\mathrm{CP_p} = \mathrm{ABonP_p} \times \mathrm{BPonR_y} + \mathrm{ABoffP_p} \times \mathrm{BPoffR_y} + \mathrm{XonP_p} \times \mathrm{XonR_y} + \mathrm{XoffP_p} \times \mathrm{XoffR_y} - \mathrm{HO_p} - \mathrm{FCRP_p}$$

Where:

CP_p is the Contract Payment in Settlement Period "p";

HO_p is the "**HOEP Offset**" and shall be calculated as:

i. if the Facility is a not a Registered Facility and the Contract Capacity is less than or equal to 5 MW, then HO_p shall be calculated as the summation of the Hourly Delivered Electricity multiplied by HOEP for such hour, in all hours in the Settlement Period "p".

Provided that, if in any hour, the Hourly Delivered Electricity exceeds the Contract Capacity times 1 hour, then the Contract Capacity times one hour shall be used instead of the Hourly Delivered Electricity;

$FCRP_p$ is in relation to the sale, supply or delivery of any Future Contract Related Products, an amount equal to eighty percent (80%) of the difference if positive, of the total revenues received by the Supplier from the sale of such Future Contract Related Products for that Settlement Period, less the Approved Incremental Costs which is the incremental costs incurred by the Supplier for that Settlement Period in excess of the cost of production of the Delivered Electricity, relating to the sale, supply or delivery of such Future Contract Related Products, and which costs are reasonable and have first been verified and approved by the Sponsor.

1.7 Defined terms in this Exhibit B-1, Type 3B

The following definitions will apply to this Exhibit B-1 for Type 3B Facilities to supplement the Standard Definitions applicable to the SHP-S3-AR Contract, where the Standards Definitions in the SHP-S3-AR Contract will prevail to the extent of an inconsistency:

Actual Base Off-Peak Production has the meaning given to it in Section 1.4(b) herein.

Actual Base On-Peak Production has the meaning given to it in Section 1.4(a) herein.

Approved Incremental Costs means the incremental costs incurred by the Supplier for that Settlement Period in excess of the cost of production of the Hourly Delivered Electricity related to the sale, supply or Delivery of such Future Contract Related Projects, and which costs are reasonable and have first been verified and approved by the Sponsor.

Base Off-Peak Rate has the meaning given to it in Section 1.5(d) herein.

Base On-Peak Rate has the meaning given to it in Section 1.5(d) herein.

Baseline Monthly Off-Peak Production has the meaning given to it in Section 1.3(f) herein.

Baseline Monthly On-Peak Production has the meaning given to it in Section 1.3(f) herein.

Estimated Expansion Energy has the meaning given to it in Section 1.6 herein.

Existing Facility Capacity has the meaning given to it in Section 1.3(a) herein.

Existing Facility Price has the meaning given to it in Section 1.3(c) herein.

Expansion Capacity has the meaning given to it in Section 1.3(a) herein.

Expansion Off-Peak Production has the meaning given to it in Section 1.4(b) herein.

Expansion On-Peak Production has the meaning given to it in Section 1.4(a) herein.

Expansion Price has the meaning given to it in Section 1.3(c) herein.

Expansion Off-Peak Rate has the meaning given to it in Section 1.5(b) herein.

Expansion On-Peak Rate has the meaning given to it in Section 1.5(b) herein.

HOEP Offset has the meaning given to it in Section 1.6 herein.

Indexed Expansion Price has the meaning given to it in Section 1.5(a) herein.

Indexed Secondary Existing Facility Price has the meaning given to it in Section 1.5(c) herein.

Secondary Existing Facility Price has the meaning given to it in Section 1.3(c) herein.

Total Off-Peak Production has the meaning given to it in Section 1.4(b) herein.

Total On-Peak Production has the meaning given to it in Section 1.4(a) herein.

EXHIBIT B-1 – METERING AND SETTLEMENT (ORIGINAL TERM)
TYPE 6: OTHER

[NOTE: The terms of this Exhibit B-1, Type 6 have been removed for confidentiality reasons and will be provided to a Supplier with a Type-6 Facility separately.]

EXHIBIT B-2 – METERING & SETTLEMENT (EXTENDED TERM)

1.1 Application of Exhibit

This Exhibit B-2 shall only be of force and effect as of and during the Extended Term.

1.2 Metering Requirements

The Supplier shall provide, at its expense, separate meter(s) and ancillary metering and monitoring equipment as required by the applicable settlement authority. The Supplier shall provide the Sponsor with access to the applicable LDC Portal or if applicable the System Operator's Meter Data Distribution system. In the event that the LDC Portal, the System Operator's Meter Data Distribution system is not available, the Supplier must supply validated metering data in one of the following formats: .XML or .CSV at an interval of no more than every thirty (30) days.

1.3 Indexation of Contract Price

(a) The Contract Price in any year "y" shall be calculated as follows:

$$CP_y = ICP_y + IMWBFA_y - GRC_{ADJ}$$

Where:

CP_y is the Contract Price for the year "y";

ICP_y is the Indexed Contract Price for the year "y"; and

$IMWBFA_y$ is the Indexed 1 MW or Below Facility Adder for a Facility with a Contract Capacity for the year "y".

GRC_{ADJ} is any change to Laws or Regulations that materially impacts the Gross Revenue Charge, including an adjustment to or abeyance of the prescribed rates for property tax and water rental amounts.

(b) The Indexed Contract Price in any year "y" shall be calculated as follows:

$$ICP_y = [(1 - EP) \times CP_{BD}] + \left[EP \times CP_{BD} \times \frac{CPI_y}{CPI_{BD}}\right]$$

Where:

ICP_y is the Indexed Contract Price applicable in calendar year "y";

EP is the Escalation Percentage for the Extended Term, which is equal to 60%, as set out on the SHP-S3-AR Contract Cover Page;

CP_{BD} is the Contract Price on the Base Date of year 2023, which is equal to $94.67 / MWh, as set out on the SHP-S3-AR Contract Cover Page;

CPI_y is the CPI for the month of December immediately preceding the commencement of calendar year "y", which shall be adjusted to the percentage increase or decrease (if any) between the CPI effective on the first day of such

Contract Year compared with the CPI effective as of the Base Date of year 2023;

CPI_{BD} is the CPI for the month of December immediately preceding the commencement of the calendar year for Base Date 2023.

(c) The indexed 1 MW or Below Facility Adder in any year "y" shall be calculated as follows:

$$IMWBFA_y = [(1 - EP) \times MWLA_{BD}] + \left[EP \times MWLA_{BD} \times \frac{CPI_y}{CPI_{BD}}\right]$$

Where:

$IMWBFA_y$ is the Indexed 1 MW or Below Facility Adder for the year "y"; and

$MWLA_{BD}$ is the 1 MW or Below Facility Adder for the Base Date of year 2023 and is equal to $4.73 / MWh;

1.4 Calculation of Contract Payment

(a) For each Settlement Period, the "**Contract Payment**" shall be an amount expressed in Dollars and equal to:

$$CSP_p = NHPP_p + CEP_p$$

Where:

CSP_p is the Contract Payment in a Settlement Period;

$NHPP_p$ is the Negative Hour Price Payment for the Settlement Period; and

CEP_p is the Contract Energy Payment for the Settlement Period.

(b) Calculation of the "**Negative Hour Price Payment**", where the HOEP is less than or equal to $0.00 / MWh for an applicable hour (a Negative Price Hour) that falls within the Settlement Period:

$$NHPP_p = \left[\sum_{Nh=438}^{Nh=1} \left(NPSF \times CP_y - (MP_i)\right) \times Min[DE_i; CC \times i]\right] + \left[\sum_{Nh=Nn}^{Nh=439} (CP_y - (MP_i)) \times Min[DE_i; CC \times i]\right]$$

Where:

$NHPP_p$ is the Negative Hour Price Payment for the Settlement Period "p" for those hours in which the HOEP for any given hour is less than or equal to $0.00/MWh;

Nh is the Negative Price Hour sequence number which equals 1 for the first Negative Price Hour in each calendar year and increases by 1 for each subsequent Negative Price Hour in that calendar year;

Nn is the total number of Negative Price Hours in a calendar year;

NPSF is the Negative Price Scaling Factor of 25% to be applied to the first 438 hours within a calendar year where HOEP is at $0.00/MWh or less;

CP_y is the Contract Price for year "y" and is determined as described under Section 1.3(a) of this Exhibit B-2;

MP_i is the applicable market price of either the hourly price or the 5minute interval market clearing price, as applicable, for the metered interval "i";

DE_i is the Delivered Electricity for the metered interval "i";

CC is the Contract Capacity; and

i is equal to 1 when the metered interval is one-hour, or is equal to $1/12^{th}$ of an hour (5 mins) when the metered interval is $1/12^{th}$ of an hour, as applicable.

(c) Calculation of the Contract Energy Payment, where the HOEP is greater than $0.00 / MWh for an applicable hour (a Positive Price Hour) that falls within the Settlement Period:

$$\mathrm{CEP_p} = \left[\sum_{\mathrm{Ph=Pn}}^{\mathrm{Ph=1}} (\mathrm{CP_y} - (\mathrm{MP_i})) \times \mathrm{Min}[\mathrm{DE_i}; \mathrm{CC} \times \mathrm{i}]\right]$$

Where:

CEP_p is the Contract Energy Payment for the settlement period "p" for those hours in which HOEP for any given hour is greater than $0.00/MWh;

Ph is the Positive Price Hour sequence number which equals 1 for the first Positive Price Hour in each calendar year and increases by 1 for each subsequent Positive Price Hour in that calendar year, and any hour that is not a Negative Price Hour is a Positive Price Hour; and

Pn is the total number of Positive Price Hours in a calendar year.

1.5 Calculation of the GRC Adjustment

The calculation of the "**GRC Adjustment**" shall be determined as follows:

$$\mathrm{GRC_{ADJ}} = (\mathrm{GRC_{PTb}} + \mathrm{GCR_{WRb}}) \times (\mathrm{GRC_{Rb}}) - (\mathrm{GRC_{PTc}} + \mathrm{GRC_{WRc}}) \times (\mathrm{GRC_{Rc}})$$

Where:

GRC_{ADJ} is any change to Laws or Regulations that materially impacts the Gross Revenue Charge, including an adjustment to or abeyance of the prescribed rates for property tax and water rental amounts;

GRC_{PTb} is the base 2023 GRC property tax value as prescribed by Section 92.1(4) of the Electricity Act, which is equal to 2.5%;

GRC_{WRb} is the base 2023 water rental tax value of the GRC as prescribed by Section 92.1(5) of the Electricity Act, which is equal to 9.5%;

GRC_{Rb} is the base 2023 assumed revenue per MWh of $40.00 associated to the GRC as stipulated under Section 92.1 of the Electricity Act;

GRC_{PTc} is the current percent rate associated to the property tax value of the GRC;

GRC_{WRc} is the current percent rate associated to the water rental tax value of the GRC; and

GRC_{Rc} is the current assumed revenue per MWh associated to the GRC.

1.6 Defined terms used in this Exhibit B-2

The following definitions will apply to this Exhibit B-2 to supplement the Standard Definitions applicable to the SHP-S3-AR Contract, where the Standards Definitions in the SHP-S3-AR Contract will prevail to the extent of an inconsistency:

Contract Payment has the meaning set out in Section 1.4(c) of this Exhibit B-2.

Gross Revenue Charge means any Taxes and charges paid on the gross revenues of the Facility pursuant to Section 92.1 of the Electricity Act.

GRC Adjustment has the meaning set out in Section 1.5 of this Exhibit B-2.

Negative Hour Price Payment has the meaning set out in Section 1.4(b) of this Exhibit B-2.

EXHIBIT C
FORM OF IRREVOCABLE STANDBY LETTER OF CREDIT

DATE OF ISSUE:	[●]
APPLICANT:	[●]
BENEFICIARY:	Independent Electricity System Operator and its permitted assigns (the "**Beneficiary**")
AMOUNT:	[●]
EXPIRY DATE:	[●]
EXPIRY PLACE:	Counters of the issuing financial institution in Toronto, Ontario
CREDIT RATING:	**[Insert credit rating only if the issuer is not a financial institution listed in either Schedule I or II of the *Bank Act*]**
TYPE:	Irrevocable and Unconditional Standby Letter of Credit Number: [●] (the "**Credit**")

The Credit is issued in connection with the Small Hydro Program –Amended and Restated Contract (the "**SHP-S3-AR Contract**") dated **[Insert Date of SHP-S3-AR Contract]**, as amended from time to time, between the Beneficiary and the "Supplier", as such term is defined under the SHP-S3-AR Contract.

We hereby authorize the Beneficiary to draw on **[Issuing Bank Name/Address]**, in respect of the Credit, for the account of the Applicant, up to an aggregate amount of $[●] ([●] Canadian Dollars) available by the Beneficiary's draft at sight accompanied by the Beneficiary's signed certificate stating that:

> "The Applicant is in breach of, or default under, the SHP-S3-AR Contract, and therefore the Beneficiary is entitled to draw upon the Credit in the amount of the draft attached hereto."

Drafts drawn hereunder must bear the clause "Drawn under irrevocable and unconditional Standby Letter of Credit No. [●] issued by **[Issuing Bank Name]** dated **[Issue Date]**."

Partial drawings are permitted.

This Letter of Credit will automatically extend for additional, successive terms of one year each (each an "**Additional Term**"), unless the undersigned provides the Beneficiary with written notice, at least sixty days prior to the expiration date of the then current term, that it does not wish to extend this Letter of Credit for an Additional Term.

We engage with you that all drafts drawn under and in compliance with the terms of the Credit will be duly honoured, if presented at the counters of **[Issuing Bank Name/Address]** at or before **[Expiry Time]** (EST) on **[Expiry Date]**, as extended.

The Credit is subject to the International Standby Practices ISP 98, International Chamber of Commerce publication No. 590 and, as to matters not addressed by the ISP 98, shall be governed by the laws of the Province of Ontario and applicable Canadian federal law, and the parties hereby irrevocably agree to attorn to the non-exclusive jurisdiction of the courts of the Province of Ontario.

This Credit is transferable at the written request of the Beneficiary, without the consent of the Supplier, but subject to the consent of the issuing financial institution, acting reasonably. All fees incurred by the issuing financial institution in relation to such transfer shall be at the Applicant's expense, but failure of the Applicant to pay such fees shall not restrict the ability of the Beneficiary to transfer the Credit.

In the event of a transfer of this Credit as provided for above, the name of the Beneficiary will be amended to another entity by way of an amendment hereto, without the consent of the Applicant, and upon receipt by **[Issuing Bank Name]** of the Beneficiary's dated and signed letter addressed to **[Issuing Bank Name]** and completed as follows:

> "We, the undersigned Beneficiary to **[Issuing Bank Name]** Letter of Credit No. [●], hereby waive all our rights under the Letter of Credit and request that the current name and address of the Beneficiary thereunder be amended to read **[insert name and address of new Beneficiary]**. We have enclosed the original Letter of Credit and all amendments (if any) thereto. Please forward the original Letter of Credit and all amendments (if any), including the current amendment, to the **[new Beneficiary]**, care of the Applicant."

[Issuing Bank Name]

By:

By:

EXHIBIT D
DETERMINATION OF AVAILABILITY (ORIGINAL TERM)

The availability of the Facility, that has a Nameplate Capacity of more than 5 MW, in respect of a given Settlement Period (the "**Availability**") shall be calculated as set out below:

$$\mathrm{AV} = \frac{(\mathrm{THM} - \mathrm{OH} - \mathrm{FMH} - \mathrm{UEH})}{(\mathrm{THM} - \mathrm{FMH} - \mathrm{UEH})} \times 100$$

Where:

AV is the Availability of the Facility (expressed as a percentage figure).

OH is the total number of Outage Hours in the most recent thirty-six (36) month period which ends on the last day of the Settlement Period, subject to the following:

(a) in determining Outage Hours, an hour may be a partial Outage Hour as a result of an Outage, including an inability of the Facility to produce at the full Nameplate Capacity or as a result of an Outage lasting for a part but not all of an hour. An hour in which a partial Outage occurs will be counted as a fractional Outage Hour by subtracting from one the quotient obtained by dividing: (i) the maximum production in that hour that could have been achieved given the partial Outage (in MWh) by (ii) the Nameplate Capacity multiplied by one (1) hour (in MWh). This fraction will be the contribution of that hour to the Outage Hours in the given Settlement Period;

(b) Outage Hours shall not include the hours of any Outage where and to the extent that the Outage is caused by an event of Force Majeure;

(c) Outage Hours shall not include any hours where the Facility is removed from service for the purposes of Upgrade or Expansion; and

(d) Outage Hours shall not include hydrological impacts other than those hydrological impacts which may be in the control of the Supplier. For certainty, Outage Hours shall not include any hours solely related to meeting any order issued by the Minister of Natural Resources and Forestry provided such order was not issued as a result of an application by the Supplier;

THM is the total number of hours in the most recent thirty-six (36) month period which ends on the last day of the Settlement Period;

FMH is the total number of hours in the most recent thirty-six (36) month period which ends on the last day of the Settlement Period during which the Supplier was subject to an event of Force Majeure; and

UEH is the total number of hours in the most recent thirty-six (36) month period which ends on the last day of the Settlement Period during which the Facility was out of service for the purpose of implementing any Upgrade or Expansion.

EXHIBIT E
ARBITRATION PROVISIONS

The following rules and procedures (the "**Rules**") shall govern, exclusively, any matter or matters to be arbitrated between the Parties under Sections 1.5, 1.6, 1.7, 2.11 and 12.2 of this Agreement.

1. **Commencement of Arbitration** – If the Parties and, at the Sponsor's option, all Other Suppliers required by the Sponsor to participate, have been unable to reach agreement as contemplated in Sections 1.5, 1.6, 1.7, 2.11 or 12.2, as applicable, then the Sponsor shall commence arbitration by delivering a written notice ("**Request**") to the Supplier and such Other Suppliers required by the Sponsor to participate (collectively the "**Suppliers**"). If the Sponsor has not already done so, the Sponsor shall then deliver to the Suppliers the names of all Suppliers. Within twenty (20) days of the delivery of the Request, the Sponsor shall deliver to the Suppliers a written notice nominating an arbitrator who shall be familiar with commercial law matters and has no financial or personal interest in the business affairs of any of the parties. Within twenty (20) days of the receipt of the Sponsor's notice nominating its arbitrator, the Suppliers shall by written notice to the Sponsor nominate an arbitrator who shall be familiar with commercial law matters and has no financial or personal interest in the business affairs of any of the parties. The two (2) arbitrators nominated shall then select a chair person of the arbitration panel (the "**Arbitration Panel**") who shall be a former judge of a Superior Court or appellate court in Canada.

2. **Application to Court** – If the Suppliers are unable to agree on the nomination of an arbitrator within twenty (20) days of the receipt of the Sponsor's notice nominating its arbitrator, any Supplier or the Sponsor may apply to a judge of the Superior Court of Justice of Ontario to appoint the arbitrator. If the two (2) arbitrators are unable to agree on a chair person within thirty (30) days of the nomination or appointment of the Suppliers' arbitrator, any supplier or the Sponsor may apply to a judge of the Superior Court of Justice of Ontario to appoint the chair person.

3. **General** – The Arbitration Panel, once appointed, shall proceed immediately to determine the Replacement Provision(s), as the case may be, in accordance with the *Arbitration Act, 1991* (Ontario) and, where applicable, the *International Commercial Arbitration Act* (Ontario), it being the intention of the Sponsor and the Supplier that there be, to the extent possible, one arbitration proceeding and hearing to determine the Replacement Provision(s). Unless otherwise agreed by the Parties, the Arbitration Panel shall determine the conduct of the arbitral proceedings, including the exchange of statements of claim and defence, the need for documentary and oral discovery and whether to hold oral hearings with a presentation of evidence or oral argument so that the award may be made within the time period set out below. Each of the Suppliers shall have a right to participate in the arbitration proceeding.

4. **Consolidation** – The Parties agree that should the Arbitration Panel determine that the Replacement Provision(s) need to be determined through more than one arbitration proceeding, then the Parties agree that the Arbitration Panel shall determine whether the arbitration proceedings shall be consolidated, conducted simultaneously or consecutively or whether any of the arbitration proceedings should be stayed until any of the others are completed.

5. **Award** – The award of the Arbitration Panel, which shall include the Replacement Provision(s), shall be made within six (6) months after the appointment of the Arbitration Panel, subject to any extended date to be agreed by the Parties or any reasonable delay due to unforeseen circumstances.

6. **Costs** – The Parties shall pay their own costs of participating in the arbitration proceedings.

7. **Fees** – Each of the arbitrators on the Arbitration Panel shall be paid their normal professional fees for their time and attendances, which fees together with any hearing room fees, shall be paid by the Sponsor.

8. **Computation of Time** – In the computation of time under these Rules or an order or direction given by the Arbitration Panel, except where a contrary intention appears, or the parties otherwise agree:

   (a) where there is a reference to the number of days between two (2) events, those days shall be counted by excluding the day on which the first event happens and including the day on which the second event happens, even if they are described as clear days or the words "**at least**" are used;

   (b) statutory holidays shall not be counted;

   (c) where the time for doing any act or any order or direction given by the Arbitration Panel expires on a day which is not a Business Day, the act may be done on the next day that is a Business Day; and

   (d) service of a document or notice or any order or direction given by the Arbitration Panel made after 4:00 p.m. (Toronto time), or at any time on a day which is not a Business Day, shall be deemed to have been made on the next Business Day.

9. **Place of Arbitration** – The arbitration, including the rendering of the award, shall take place in Toronto, Ontario, which shall be the seat of the proceedings. The language to be used in the arbitration shall be English.

EXHIBIT F
METERING PLAN

(*Attach Metering Plan from the application here*)

EXHIBIT G
FORM OF SECURED LENDER CONSENT AND ACKNOWLEDGEMENT AGREEMENT

[TO BE ATTACHED AS A PRESCRIBED FORM]

EXHIBIT H
UPGRADE OR EXPANSION OF THE FACILITY

1.1 Application of Exhibit

During the Term of the SHP-S3-AR Contract, any Upgrade or Expansion of the Facility will require the Sponsor's prior written consent under Section 2.6 of the SHP-S3-AR Contract.

1.2 Minimum Threshold

To be eligible during the Extended Term, any Upgrade or Expansion of the Facility must increase the Nameplate Capacity by a minimum threshold of either: (a) 1 MW; or (b) 50% of the Nameplate Capacity (prior to the Upgrade or Expansion), whichever is lessor.

1.3 Maximum Threshold

An Upgrade or Expansion of the Facility may not increase the Nameplate Capacity or Contract Capacity of the Facility above 10 MW.

1.4 Upgrade or Expansion Specific Provisions

Prior to commencing any Upgrade or Expansion to the Facility, the Supplier agrees to provide to the Sponsor for its approval:

(a) a specific description of the Upgrade or Expansion and its effect on the capability or performance of the Facility;

(b) major activities and milestone dates, the project team and its resources, financing arrangements;

(c) testing and commissioning requirements, other conditions precedent to commercial operation;

(d) a description of the Supplier's fulfillment of the following:

  (i) provide the Ministry of Energy with details, in writing, of the proposed Upgrade or Expansion and in particular whether the proposed Upgrade of Expansion will have a physical or material effect on the environment or land tenure;

  (ii) request that the Ministry of Energy determine what, if any, Indigenous consultation requirements the Supplier must meet in order to carry out the Upgrade or Expansion ("**Indigenous Consultation Requirements**"); and

  (iii) enter into an agreement with the Ministry of Energy, if requested by the Ministry of Energy, to set out the terms and conditions of the Supplier carrying out the Indigenous Consultation Requirements; and,

(e) any such other requirements as may be deemed necessary by the Sponsor in the context of the Upgrade or Expansion.

1.5 Determination of the Contract Price Post Expansion

(a) Contract Price in year "y" during the Original Term shall be calculated as follows:

$$CP_y = \left(\frac{B1ICP_y \times OCC}{OCC + ECC}\right) + \left(\frac{EICP_y \times ECC}{OCC + ECC}\right)$$

Where:

CP_y is the Contract Price for the year "y";

$B1ICP_y$ is the Indexed Contract Price for the year "y" as specified in the applicable Exhibit B;

OCC is the Original Contract Capacity in MW, prior to any Expansion of the Facility;

ECC is the Expansion Contract Capacity in MW; and

$EICP_y$ is the Expansion Indexed Contract Price for the year "y".

(b) The Expansion Indexed Contract Price in year "y" during the Original Term shall be calculated as follows:

$$EICP_y = [(1 - EP) \times ECP_{BD}] + \left(\frac{EP \times ECP_{BD} \times CPI_y}{CPI_{BD}}\right)$$

Where:

$EICP_y$ is the Expansion Indexed Contract Price for the calendar year "y";

EP is the Escalation Percentage for the Expansion Capacity, which is equal to 60%;

ECP_{BD} is the Expansion Contract Price for the Base Date of year 2023, as specified on the SHP-S3-AR Contract Cover Page, which is equal to $94.67 / MWh;

CPI_y is the CPI for the month of December immediately preceding the commencement of calendar year "y", which shall be adjusted to the percentage increase or decrease (if any) between the CPI effective on the first day of such contract year compared with the CPI effective as of the Base Date of year 2023;

CPI_{BD} is the CPI for the month of December immediately preceding the commencement of the calendar year for Base Date 2023.

(c) The Contract Price in year "y" during the Extended Term shall be calculated as per Exhibit B-2 for an amended Contract Capacity which includes the capacity associated to an Expansion.

1.6 Other Requirements

The proposed Upgrade or Expansion will not result in any extension of the Term.

EXHIBIT I
SPONSOR WEBPAGE INFORMATION

The Supplier agrees to provide to the Sponsor any information specified herein and agrees that the information may be disclosed by the Sponsor on its Website or otherwise publicly disclosed in accordance with Subsection 7.1(d)) of the Agreement:

- Legal Name of Supplier
- Facility Name
- Nameplate Capacity (MW)
- Contract Capacity (MW)
- Property location of Facility or Nearest Population Centre
- River Name
- Number of Generating Units
- Turbine Type or Model
- Turbine Manufacturer
- Runner Type
- Normal Operating Head
- Penstocks (number, length, diameter and materials)
- Connection Point (circuit designation and/or name of substation)
- Estimated Annual Generation (MWh)
- Original In Service Date
- Term Commencement Date
- Supplier Website Link
- Supplier Public Relations Contact
- Description of the Facility (information on headworks, intake, powerhouse, tailrace etc.)
- Photos of the Facility (interior and exterior)
- Contract Date
- Original Term
- Extended Term

EXHIBIT J
EXISTING THIRD PARTY CONTRACTS

Section 3.2 excluded third party contracts (if any):

- **[NTD: Add if applicable, based on Prior Contract.]**