TORONTO THIRD LINE (TTL)

TRANSMISSION FACILITY AGREEMENT (TFA)

Between

[●]

– and –

INDEPENDENT ELECTRICITY SYSTEM OPERATOR

CONTRACT ID #: [●]

DATED as of the {{execution-date}} day of {{execution-month}}, {{execution-year}}.

ARTICLE 1 DEFINITIONS ... 5
1.1 Definitions ... 5
1.2 Exhibits ... 22
1.3 Headings and Table of Contents ... 23
1.4 Gender and Number ... 23
1.5 Currency ... 23
1.6 IESO Market Rules and Statutes ... 23
1.7 Invalidity, Unenforceability, or Inapplicability of Indices and Other Provisions ... 23
1.8 Entire Agreement ... 24
1.9 Waiver, Amendment ... 24
1.10 Governing Law ... 24
1.11 Preparation of Agreement ... 24
1.12 Time ... 25

ARTICLE 2 DESIGN AND OPERATION ... 25
2.1 Design and Construction of the Facility ... 25
2.2 Additional Development and Construction Covenants ... 25
2.3 Milestone Dates ... 26
2.4 Sponsor Information ... 28
2.5 Requirements for Early Development Completion ... 29
2.6 Requirements for Pre-Construction Completion ... 30
2.7 Requirements for Commercial Operation ... 32
2.8 Operational Covenants ... 34
2.9 Insurance Covenants ... 34
2.10 Compliance with Laws and Regulations ... 35
2.11 Additional Sources of Government Support ... 35
2.12 Canadian Content Requirements ... 36
2.13 Project Website ... 36
2.14 Indigenous Participation ... 37

ARTICLE 3 PERFORMANCE OBLIGATIONS ... 39

ARTICLE 4 TOTAL CAPITAL COST ... 39
4.1 Proposed Total Capital Cost Adjustments ... 39

ARTICLE 5 ... 39

REGULATORY PROCESS ... 39
5.1 Payments to the Transmitter ... 39
5.2 Rate Regulation ... 39
5.3 Revenue Requirement Covenants ... 40
5.4 ARR1 Pre-Filing Process ... 40
5.5 Post-ARR1 Adjustments ... 41

ARTICLE 6 STATEMENTS AND PAYMENTS ... 42
6.1 Statements ... 42
6.2 Payment ... 42
6.3 Interest ... 42
6.4 Payment Account Information ... 42
6.5 Adjustment to Statement ... 42

6.6 Disputed Statement ... 43
6.7 Statements and Payment Records ... 43

ARTICLE 7 CREDIT AND SECURITY REQUIREMENTS ... 43
7.1 Completion and Performance Security ... 43
7.2 Composition of Security ... 44

ARTICLE 8 REPRESENTATIONS AND WARRANTIES ... 45
8.1 Representations and Warranties of the Transmitter ... 45
8.2 Representations and Warranties of the Sponsor ... 47

ARTICLE 9 CONFIDENTIALITY AND FIPPA ... 49
9.1 Confidential Information ... 49
9.2 Notice Preceding Compelled Disclosure ... 50
9.3 Return of Information ... 50
9.4 Injunctive and Other Relief ... 51
9.5 FIPPA Records and Compliance ... 51

ARTICLE 10 TERM ... 51
10.1 Term ... 51

ARTICLE 11 TERMINATION AND DEFAULT ... 51
11.1 Events of Default by the Transmitter ... 51
11.2 Remedies of the Sponsor ... 53
11.3 Events of Default by the Sponsor ... 54
11.4 Termination by the Transmitter ... 56
11.5 Remedies for Termination Non-Exclusive ... 56
11.6 Transmitter License ... 56

ARTICLE 12 FORCE MAJEURE AND SYSTEM CONDITIONS ... 56
12.1 Effect of Invoking Force Majeure ... 56
12.2 Exclusions ... 58
12.3 Definition of Force Majeure ... 59
12.4 Definition of System Condition ... 60
12.5 Effect of System Condition ... 60

ARTICLE 13 LENDER’S RIGHTS ... 61
13.1 Lender Security ... 61
13.2 Rights and Obligations of Secured Lenders ... 63
13.3 Cooperation ... 65

ARTICLE 14 DISCRIMINATORY ACTION ... 65
14.1 Discriminatory Action ... 65
14.2 Consequences of Discriminatory Action ... 66
14.3 Notice of Discriminatory Action ... 67
14.4 Right of the Sponsor to Remedy or Cause to be Remedied a Discriminatory Action69

ARTICLE 15 LIABILITY AND INDEMNIFICATION ... 70
15.1 Exclusion of Consequential Damages ... 70
15.2 Liquidated Damages ... 70
15.3 Sponsor Indemnification ... 70
15.4 Defence of Claims ... 71

ARTICLE 16 CONTRACT OPERATION AND ADMINISTRATION 72
16.1 Company Representative 72
16.2 Record Retention; Audit Rights and Obligations 72
16.3 Intentionally deleted 72
16.4 Inspection of Facility 72
16.5 Inspection Not Waiver 73
16.6 Notices 73

ARTICLE 17 MISCELLANEOUS 74
17.1 Informal Dispute Resolution... 74
17.2 Arbitration... 74
17.3 Business Relationship 75
17.4 Binding Agreement.. 75
17.5 No Assignment 75
17.6 No Change of Control.. 76
17.7 Survival.. 76
17.8 Counterparts.. 76
17.9 Additional Rights of Set-Off 76
17.10 Rights and Remedies Not Limited to Contract.. 76
17.11 Time of Essence... 76
17.12 Further Assurances 76

EXHIBIT A FACILITY DESCRIPTION & FUNCTIONAL REQUIREMENTS..................... 79

EXHIBIT B PROPOSED TOTAL CAPITAL COST AND [●] 80

EXHIBIT C FORM OF IRREVOCABLE AND UNCONDITIONAL STANDBY LETTER OF CREDIT 81

EXHIBIT D FORM OF COMPANY REPRESENTATIVE NOTICE 82

EXHIBIT E [AVAILABILITY NON-PERFORMANCE CHARGES].................................... 83

EXHIBIT F FORM OF SECURED LENDER CONSENT AND ACKNOWLEDGEMENT AGREEMENT 84

EXHIBIT G FORM OF FORCE MAJEURE NOTICE 85

EXHIBIT H FORM OF CONFIDENTIALITY UNDERTAKING 86

EXHIBIT I CALCULATION OF TOTAL CAPITAL COST 87

EXHIBIT J FORM OF ACTUAL CANADIAN CONTENT PERCENTAGE CERTIFICATE 88

EXHIBIT K FORMS OF INDEPENDENT ENGINEER CERTIFICATE................................ 89

EXHIBIT L FORM OF TRANSMITTER CERTIFICATES 90

EXHIBIT M MILESTONE DATES 91

EXHIBIT N FORM OF MONTHLY PROGRESS REPORT.. 92

EXHIBIT O FORM OF QUARTERLY PROGRESS REPORT 93

EXHIBIT P FORM OF PRE-CONSTRUCTION COMPLETION PROGRESS REPORT 94

EXHIBIT Q FORM OF LONG TERM OPERATING PLAN... 95

TOROTNO THIRD LINE (TTL)

TRANSMISSION FACILITY AGREEMENT This Toronto Third Line (TTL) Transmission Facility Agreement is dated as of the {{execution-date}} day of {{execution-month}} {{execution-year}} (the "**Contract Date**") between [●] (the "**Transmitter**"), and the Independent Electricity System Operator (the "**Sponsor**"). ***[Note to Finalization: To be updated prior to execution.]***

WHEREAS on June 18, 2026, the Minister of Energy and Mines issued a directive to the Sponsor pursuant to Section 25.32 of the Electricity Act to undertake a competitive procurement process and enter into a procurement contract with a transmitter to develop, construct and operate an underwater high-voltage direct current transmission line referred to as the Toronto Third Line Project (the "**Ministerial Directive**");

AND WHEREAS the Sponsor issued the Toronto Third Line Project Request for Proposals dated [●], as amended, to solicit proposals for the development, construction and operation of the TTL Project (the "**TTL RFP**");

AND WHEREAS the Transmitter submitted a proposal to develop, construct and operate the Facility under the TTL RFP;

AND WHEREAS the Transmitter's proposal was selected by the Sponsor and accordingly the Transmitter and the Sponsor wish to execute this Agreement in order to formalize the contractual arrangements for the Transmitter to develop, construct and operate the Facility on the terms and conditions set out herein, including submission of an initial annual revenue requirement to the Ontario Energy Board

AND WHEREAS this Agreement is intended to be a "procurement contract" under Section 25.32 of the Electricity Act;

NOW THEREFORE, in consideration of the mutual agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, the Parties agree as follows:

ARTICLE 1
DEFINITIONS

1.1 Definitions

In addition to the terms defined elsewhere herein, the following capitalized terms shall have the meanings stated below when used in this Agreement:

[NTD: definitions to be updated based on final Agreement.]

"**Actual Canadian Content Percentage**" means, the actual percentage of the total, documented portion(s) of the expected total capital cost for the development and construction of the Facility, calculated in accordance with Applicable Accounting Principles and, in respect of third-party costs, based on documented third-party pricing, paid by the Transmitter in respect of Canadian Construction Materials or to Canadian Construction Labour Providers, as the case may be.

"**Actual Canadian Content Percentage Certificate**" means a certificate in the form set out in Exhibit J addressed to the Sponsor from the Transmitter.

"**Additional Source of Funding**" has the meaning given to it in Section 2.11(a).

"**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.

"**Agreement**" means this Transmission Facility Agreement as it may be amended, restated or replaced from time to time.

"**Applicable Accounting Principles**" means GAAP or IFRS, whichever is applicable to the Transmitter.

"**Arbitration Act**" means the *Arbitration Act, 1991* (Ontario).

"**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 any substantially equivalent successor provisions and that such Persons, as a matter of fact, deal with each other at a particular time at arm's length.

"**ARR1**" has the meaning ascribed to it in Section 5.2.

"**Bank Act**" means the *Bank Act* (Canada).

"**Business Day**" means a day, other than a Saturday or Sunday or statutory holiday in the Province of Ontario, from time to time, but excluding from such statutory holidays Easter Monday, Remembrance Day and National Day for Truth and Reconciliation.

"**Canadian Construction Labour Provider**" means a Person that:

(a)is a Canadian Status Supply-Chain Participant; and

(b) provides Construction Labour using only employees and/or contractors that are Ordinarily Resident in Canada.

"**Canadian Construction Materials**" means those Construction Materials that **[●]**. **[NTD: The definition of Canadian Construction Materials is being developed in coordination with government and subject to stakeholder feedback.]**

"**Canadian Content Requirement**" means, with respect to a CCR Transmitter, that the Actual Canadian Content Percentage is no less than the Committed Canadian Content Percentage.

"**Canadian Content Shortfall**" has a meaning ascribed to it in Section 2.12(b)(i).

"**Canadian Status Supply-Chain Participant**" means a Person that meets the following requirements (as applicable):

(a) in the case of a natural person, the Person is Ordinarily Resident in Canada;

(b) in the case of a Person that is neither a natural person nor Controlled by any other Person, the headquarters or main office of the Person is located in Canada; or

(c) in the case of a Person that is not a natural person and is Controlled by another Person, the Person that ultimately Controls the Person meets the requirements described in sub-clause (a) or (b) above, as applicable.

"**Capacity Funding**" means funding for costs incurred by a First Nation Community on the Ministry Engagement List to engage with the Transmitter in relation to the TTL Project, including funding for costs incurred to obtain third-party technical, legal and financial advisor services.

"**Capital Cost Components**" means those components of the Facility identified in Exhibit **[●]**. **[NTD: The definition of Capital Cost Components is being developed subject to stakeholder feedback.]**

"**CCR Liquidated Damages**" has the meaning ascribed to it in Section 2.12(b).

"**CCR Transmitter**" means a Transmitter who received evaluation benefits for its Proposal under the TTL RFP in connection with the Canadian Content Requirements, as indicated in Exhibit B.

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

"**COD Longstop Liquidated Damages**" has the meaning ascribed to it in Section 2.3(f).

"**COD Longstop Liquidated Damages Rate**" means an amount, expressed in Dollars per Business Day, which shall be $**[●]** per Business Day.

"**Commercial Operation**" has the meaning ascribed to it in Section 2.7.

"**Commercial Operation Certificate**" means a certificate in the form set out in Exhibit L addressed to the Sponsor from the Transmitter.

"**Commercial Operation Date**" or "**COD**" means the date on which Commercial Operation is first attained.

"**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, the transactions 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 transactions contemplated by this Agreement.

"**Committed Canadian Content Percentage**" has the meaning ascribed to it in Exhibit B.

"**Company Representative**" has the meaning ascribed to it in Section 16.1.

"**Completion and Performance Security**" has the meaning ascribed to it in Section 7.1(a).

"**Confidential Information**" means:

(a) all information which is furnished or disclosed by the Disclosing Party and its Representatives to the Receiving Party and its Representatives in connection with this Agreement, whether before or after its execution, that has been identified as confidential at the time it was furnished or disclosed, and including all new information derived at any time from any such confidential information, but excluding:

  (i) publicly-available information, unless made public by the Receiving Party or its Representatives in a manner not permitted by this Agreement;

  (ii) information already known to the Receiving Party prior to being furnished by the Disclosing Party;

  (iii) 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

  (iv) information that is independently developed by the Receiving Party.

"**Confidentiality Undertaking**" has the meaning ascribed to it in Section 9.1(c).

"**Connection Agreement**" means the agreement or agreements required to be entered into by a TPT operating the Transmission System at a Connection Point and the Transmitter with respect to the connection of the Facility to a Transmission System in accordance with the Transmission System Code, as applicable and governing the terms and conditions of such connection, including all studies and impact assessments incorporated therein, and including the payment of all costs that are the responsibility of the Transmitter thereunder.

"**Connection Cost Recovery Agreement**" means an agreement or agreements required to be entered into by a TPT operating the Transmission System at a Connection Point and the Transmitter, that addresses, among other things, the recovery of costs with respect to the connection of the Facility to a TPT's Transmission System in accordance with the Transmission System Code, as it may be amended, restated, renewed, or replaced from time to time.

"**Connection Point**" has the meaning ascribed to it in the IESO Market Rules, as specified in Exhibit A.

"**Construction Labour**" means the on-site labour associated with engineering, site and land preparation, physical construction (including building construction), and equipment installation occurring on the Project Route prior to the Commercial Operation Date.

"**Construction Materials**" means **[●]**. **[NTD: The definition of Construction Materials is being developed in coordination with government and subject to stakeholder feedback.]**

"**Contract Capacity**" means **[●]**.

"**Contract Date**" has the meaning ascribed to that term in the first paragraph of this Agreement.

"**Contract Year**" means a twelve (12) month period during the Term which begins on the Commercial Operation Date or an anniversary date thereof.

"**Control**" means, with respect to any Person at any time:

(a) 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 percent (50%) or more of the individuals who are responsible for the supervision or management of that Person, or

(b) the exercise of *de facto* control of that Person, whether direct or indirect and whether through the ownership of securities or ownership interests, by contract or trust or otherwise.

"**Converter Station**" means collectively, each HVDC converter station containing apparatus and equipment required for the operation and maintenance of an electric power HVDC transmission line, including equipment required to transmit, switch, transform and convert Electricity, including backups, spares and apparatus with external landscaping and means of access, as described in Exhibit **[●]**.

"**CPI**" or "**Consumer Price Index**" means the consumer price index for "All Items" published or established by Statistics Canada (or its successors) 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.

"**Crown**" means His Majesty the King in right of Ontario or His Majesty the King in right of Canada, as applicable.

"**Customer Impact Assessment**" means a study conducted by a transmitter to assess the impact of the connection of the Facility on the transmission customers in the area connected to such transmitter's Transmission System, as it may be amended from time to time.

"**DBRS Morningstar**" means DBRS Limited or its successor.

"**Delay Remediation Report**" has the meaning ascribed to it in Section 2.3(b).

"**Early Development Completion**" has the meaning ascribed to it in Section 2.5.

"**Early Development Completion Certificate**" means a certificate in the form set out in Exhibit L addressed to the Sponsor from the Transmitter.

"**Disclosing Party**", with respect to Confidential Information, is the Party and/or its Representatives providing or disclosing such Confidential Information and may be the Sponsor or the Transmitter, as applicable.

"**Discriminatory Action**" has the meaning ascribed to it in Section 14.1.

"**Discriminatory Action Compensation**" has the meaning ascribed to it in Section 14.2.

"**Discriminatory Action Compensation Amount**" has the meaning ascribed to it in Section 14.3(e)(i).

"**Discriminatory Action Compensation Notice**" has the meaning ascribed to it in Section 14.3(e)(i).

"**Dollars**", or "**$**" means Canadian dollars and cents.

"**DTC Letter**" means a letter indicating either that: (a) the Ministry of Energy and Mines did not specify any Indigenous consultation requirements in respect of the Facility, or (b) the Ministry of Energy and Mines did specify certain Indigenous consultation requirements in respect of the Facility and the Transmitter has carried out such requirements to the Government of Ontario's satisfaction.

"**Economic Interest**" means, with respect to any Person other than a natural Person, the right to receive or the opportunity to participate in any payments arising out of or return from, and an exposure to a loss or a risk of loss by, the business activities of such Person, by means, directly or indirectly, of an equity interest in a corporation, limited partnership interest in a limited partnership, partnership interest in a partnership, units or interests in a trust, membership in a co-op, or, in the sole and absolute discretion of the Sponsor, other similar ownership interest.

"**Electrical Safety Authority**" means the organization created and described pursuant to O.Reg 89/99 under the Electricity Act.

"**Electricity**" means electric energy.

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

"**Environmental Assessment**" means [●].

"**Environmental Effects Monitoring Program**" means [●].

"**Environmental Incident**" means any happening or occurrence (which without limiting the generality thereof includes any release, discharge, leak or spill of a substance contrary to Laws and Regulations) which could give rise to an environmental claim as against the Sponsor. Without limiting the generality thereof, environmental claim means any notice of violation or offence, action, claim, lien, demand, proceeding, loss, penalty, fine, cost obligation or liability and any order or directive by a Governmental Authority under Laws and Regulations.

"**EPC Contracts**" mean, collectively, (a) the contract(s) for the engineering, procurement, construction and installation of the Converter Stations entered into among the Converter Station contractor(s) and the Transmitter; and (b) the contract(s) for the engineering, procurement, construction and installation of the cable systems entered into among the cable contractor(s) and the Transmitter, as they may be amended, restated, renewed, or replaced from time to time and "**EPC Contract**" means either of them as the context requires.

"**EST**" means the Eastern Standard Time applicable in the IESO-Administered Markets, as set forth in the IESO Market Rules.

"**Event of Default**" means a Transmitter Event of Default or a Sponsor Event of Default.

"**Experienced OEM**" means an OEM who supplied the applicable component(s) it is proposing to supply to the Facility to at least one (1) OEM HVDC Transmission Project.

"**Expiry Date**" has the meaning ascribed to it in Section 10.1(b).

"**Facility**" means the facility described in Exhibit A.

"**Facility Amendment**" has the meaning ascribed to it in Section 2.1(c).

"**Final Design**" means the engineering and design work for the Facility completed such that all technical requirements, layouts, calculations, specifications, drawings, materials, and construction details have been developed and reviewed sufficiently to support procurement, construction, permitting compliance, project execution and commissioning.

"**Final Design Package**" means updated and finalized versions of all items that formed part of the Preliminary Design Package

"**Financial Close**" means financial close (or equivalent) has occurred such that borrowing is available to the Transmitter (subject only to typical and customary draw or advance conditions) under a dedicated senior-secured non-recourse project financing or other senior-secured loan or credit facility used or intended to be used solely to develop, build or finance the Facility or, in the absence of such project financing, a binding equity commitment from an Affiliate of the Transmitter in favour of the Transmitter has been executed committing such Affiliate to contribute the necessary equity capital to the Transmitter to develop, build or finance the Facility.

"**Financing Agreement**" means credit facilities entered into by the Transmitter with lenders and such other credit and finance documents entered into by the Transmitter, in each case pursuant to which such debt obligations are incurred for the purpose of paying project costs related to the development, construction, operation and maintenance of the Facility.

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

"**FIPPA Records**" has the meaning ascribed to it in Section 9.5.

"First Nation Community" means:

(a) a First Nation located in whole or in part in Ontario that is a "band" as defined in the Indian Act (Canada); or

(b) a Person, other than a natural Person, that has been determined by the Government of Ontario (for purposes of this Agreement or the TTL RFP) to represent the collective interests of a community that is composed of First Nation natural Persons in Ontario.

"**Fitch IBCA**" means Fitch IBCA, Duff & Phelps, a division of Fitch Inc., or its successors.

"**Force Majeure**" has the meaning ascribed to it in Section 12.3.

"**Functional Requirements**" means **[●]** provided in Exhibit A. **[NTD: The Sponsor will provide a document setting out the functional requirements of the TTL as part of the RFP process]**

"**GAAP**" means Canadian or U.S. generally accepted accounting principles approved or recommended from time to time by the Canadian Institute of Chartered Accountants or the Financial Accounting Standards Board, as applicable, or any successor institutes, applied on a consistent basis.

"**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 high-voltage direct current and subsea transmission 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 transmitter 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 or Electricity infrastructure industry. Without limiting the generality of the foregoing and in respect of the operation of the Facility, Good Engineering and Operating Practices include taking Commercially Reasonable Efforts to ensure that:

(a) adequate materials, resources and supplies, including fuel(s) (as applicable), are available to meet the Facility's needs under reasonable conditions and reasonably anticipated abnormal conditions;

(b) sufficient operating personnel are available and are adequately experienced and trained to operate the Facility properly, efficiently and taking into account manufacturers' guidelines and functional requirements and are capable of responding to abnormal conditions;

(c) preventative, routine and non-routine maintenance and repairs are performed on a basis that ensures reliable long-term and safe operation and taking into account manufacturers' recommendations and are performed by knowledgeable, trained and experienced personnel utilizing proper equipment, tools and procedures; and

(d) appropriate monitoring and testing is done to ensure equipment is functioning as designed and to provide assurance that equipment will function properly under both normal and abnormal conditions.

"**Government of Canada**" means His Majesty the King in right of Canada.

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

"**Government Support Program**" means any program, facility or offering administered or made available by a Governmental Authority that provides cash subsidies, grants or payments on account of capital costs for the development and construction of the Facility.

"**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 rule-making entity, having jurisdiction in the relevant circumstances, including the OEB, the Electrical Safety Authority, the System Operator and any Person acting under the authority of any Governmental Authority, but excluding the Sponsor when acting in a capacity other than as the System Operator.

"**HST**" means the harmonized sales tax exigible pursuant to the *Excise Tax Act* (Canada).

"**HVDC**" means high-voltage direct current.

"**HVDC Component**" means **[●]**.

"**IE Certificate**" means a certificate in the forms set out in Exhibit K addressed to the Sponsor from an Independent Engineer, procured at the expense of the Transmitter.

"IEPP Equity Percentage" means the minimum percentage of the total Economic Interest in the Transmitter, as set out in the Transmitter's IEPP, that the Transmitter committed in its Proposal to offer or make available, until at least the Expiry Date, to one or more First Nation Communities on the Ministry Engagement List or Indigenous Holding Vehicles (including any such Economic Interest in the Transmitter as existed as of the Proposal Submission Deadline).

"IEPP Non-Equity Commitments Percentage" means the minimum percentage of the **[Total Capital Cost]**, as set out in the Transmitter's IEPP, that the Transmitter committed in its Proposal to provide as Non-Equity Commitments in relation to the TTL Project prior to the Expiry Date.

"**IESO-Administered Markets**" has the meaning ascribed to it by the IESO Market Rules.

"**IESO-Controlled Grid**" has the meaning ascribed to it by the IESO Market Rules.

"**IESO Market Rules**" means the rules governing the IESO-Controlled Grid and establishing and governing the IESO-Administered Markets, together with all market manuals, policies, and guidelines issued by the System Operator.

"**IFRS**" means the International Financial Reporting Standards, being the accounting standards and interpretations adopted or recommended from time to time by the International Accounting Standards Board (IASB) or any successor organization, applied on a consistent basis.

"**including**" means "including, without limitation".

"**Indemnifiable Loss**" has the meaning ascribed to it in Section 15.3.

"**Indemnitees**" has the meaning ascribed to it in Section 15.3.

"**Independent Engineer**" means an engineer that is:

(a) a professional engineer duly qualified and licensed to practice engineering in the Province of Ontario; and

(b) employed by an independent engineering firm which holds a certificate of authorization issued by Professional Engineers Ontario that is not affiliated with or directly or indirectly controlled by the Transmitter and that does not have a vested interest in the design, engineering, procurement, construction and/or testing of the Facility.

["Index Factor" or "IF" has the meaning ascribed to such term in Exhibit ●.]

"**Indigenous Engagement and Participation Plan**" or "**IEPP**" means the Indigenous Engagement and Participation Plan submitted with the Transmitter's Proposal.

"**Indigenous Holding Vehicle**" means a Person, other than a natural Person, where the Economic Interest in such Person is held, directly or indirectly, solely by one or more First Nation Communities on the Ministry Engagement List.

"**Insolvency Legislation**" means the *Bankruptcy and Insolvency Act* (Canada), the *Winding Up and Restructuring Act* (Canada), the *Companies' Creditors Arrangement Act* (Canada), each as now and hereafter in effect, any successors to such statutes and any other applicable bankruptcy, insolvency, liquidation, winding-up, administration, receivership, arrangement or other similar law of any jurisdiction (regardless of the jurisdiction of such application or competence of such law), including any law of any jurisdiction permitting a debtor to obtain a stay or a compromise of the claims of its creditors against it and any law of any jurisdiction relating to receivership, reorganization, liquidation, conservatorship, moratorium, rearrangement or corporate or other arrangement affecting the rights of creditors generally.

"**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.

["IPPI" means the Industrial Product Price Index in relation to Canada published by Statistics Canada (or any successor thereof) from time to time (the series number of which as of the Contract Date is Table: 18-10-0265-01).]

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

"**kV**" means kilovolt.

"**Late Delay Remediation Report Administrative Charge**" has the meaning ascribed to it in Section 2.3(c).

"**Late Final IEPP Report Administrative Charge**" has the meaning ascribed to it in Section 2.14(d).

"**Late Progress Report Administrative Charge**" has the meaning ascribed to it in Section 2.4(d).

"**Laws and Regulations**" means:

(a) applicable Canadian 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; and

(e) 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 Transmitter.

"**Leave to Construct**" means leave to construct an electricity transmission line, granted by the OEB, in accordance with Section 92(1) of the OEB Act.

"**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 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 7.2.

"**Liquidated Damages**" means the CCR Liquidated Damages, the MCOD Delay Liquidated Damages, the COD Longstop Liquidated Damages, the Late Progress Report Administrative Charge, the Late Delay Remediation Report Administrative Charge, the Late Final IEPP Report Administrative Charge or any combination of the foregoing.

"**Long Term Operating Plan**" has the meaning ascribed to it in Section 2.6(a)(ix).

"**Longstop Date**" means the Longstop Date for Early Development Completion, the Longstop Date for Pre-Construction Completion or the Longstop Date for Commercial Operation, and "**Longstop Dates**" means any combination of the foregoing.

"**Longstop Date for Commercial Operation**" means the date that is **[twelve (12)]** months after MCOD.

"**Longstop Date for Early Development Completion**" means **[●]**.

"**Longstop Date for Pre-Construction Completion**" means **[●]**.

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

"**Market Settlement Charges**" means all market settlement amounts and charges described in the IESO Market Rules.

"**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 hereunder.

"**Material Project Agreements**" means those material project agreements necessary to develop, construct and operate the Facility.

"**Material Project Land Rights**" means those material options, leases, licenses, easements or other rights of access or occupation necessary to access, construct, operate or maintain the Facility, including, without limitation:

(a) agreements with the Ministry of Natural Resources providing for access to the lake bed during and after construction;

(b) crossing agreements with landowners and utilities; and

(c) **[●]**. **[NTD: List of rights under development.]**

"**Material Project Permits**" means any permit listed in Section 2.6(a)(iii)(C).

"**MCOD Delay Liquidated Damages**" has the meaning ascribed to it in Section 2.3(d).

"**MCOD Liquidated Damages Rate**" means an amount, expressed in Dollars per Business Day, which shall be $**[●]** per Business Day.

"**Milestone**" means Early Development Completion, Pre-Construction Completion or Commercial Operation, and "**Milestones**" means any combination of the foregoing.

"**Milestone Date**" means MCOD, MED or MPC, as applicable, and "**Milestone Dates**" means any combination of the foregoing.

"**Milestone Date for Commercial Operation**" or "**MCOD**" means the date identified as such in Exhibit M.

"**Milestone Date for Early Development Completion**" or "**MED**" means the date identified as such in Exhibit M.

"**Milestone Date for Pre-Construction Completion**" or "**MPC**" means the date identified as such in Exhibit M. **[NTD: achievement of MPC will require delivery of a DTC Letter as per Section 2.2(d).]**

"**Ministerial Directive**" has the meaning ascribed to it in the recitals to this Agreement.

"**Ministry Engagement List**" means the list of First Nation Communities specified in the **[● document provided by the Ministry]**.

"**Moody's**" means Moody's Investors Service, Inc. or its successor.

"**MW**" means megawatt.

["MWh" means megawatt hour.]

"**Non-Equity Commitments**" means benefits, other than equity ownership in the Transmitter, to one or more First Nation Communities on the Ministry Engagement List, natural persons who are members of such First Nation Communities, Indigenous Holding Vehicles or businesses Controlled by any of the foregoing, which have a direct nexus to the development, construction or operation of the TTL Project, including Capacity Funding.

"**Notice of Discriminatory Action**" has the meaning ascribed to it in Section 14.3(a).

"**Notice of Dispute**" has the meaning ascribed to it in Section 14.3(b).

"**OEB**" means the Ontario Energy Board, or its successor.

"**OEB Act**" means the *Ontario Energy Board Act, 1998* (Ontario).

"**OEB Filing Requirements**" means **[●]**.

"**OEB Rate Order**" has the meaning ascribed to it in Section 5.1.

"**OEM**" means an original equipment manufacturer.

"**OEM HVDC Transmission Project**" means an HVDC transmission project located in **[●]** that achieved commercial operation no more than twenty (20) years prior to the Proposal Submission Deadline.

"**Operating Agreement**" means the operating agreement to be executed between the Transmitter and the System Operator pursuant to the IESO Market Rules, granting the System Operator authority to direct the operation of all or part of the Facility.

"**Ordinarily Resident**" means "ordinarily resident" as that expression has been judicially interpreted for the purposes of the ITA.

"**Outage**" means the removal from service, unavailability for connection or temporary de-rating, or restriction of use or reduction in Transmission Transfer Capability, of the Facility (including to permit the performance of inspections, tests, repairs or maintenance on the Facility) for any reason, other than as a result of a System Condition, and which results in a partial or total interruption in the capability of the Facility to transmit Electricity between the Connection Points.

"**Party**" means each of the Transmitter and the Sponsor, and the Transmitter and the Sponsor are collectively referred to as the "**Parties**".

"**Payment Date**" has the meaning ascribed to it in Section 6.2.

"**Performance Test**" means a performance test **[●]**, conducted for the purpose of achieving Commercial Operation witnessed by the Independent Engineer delivering the IE Certificate pursuant to Section 2.7(a)(i).

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

"**Pre-Construction Completion**" has the meaning ascribed to it in Section 2.6.

"**Pre-Construction Completion Certificate**" means a certificate in the form set out in Exhibit L addressed to the Sponsor from the Transmitter.

"**Pre-MCOD Index Adjustment**" means **[●]**.

"**Preliminary Design**" means the **[design reflecting the development of the Facility's major technical, functional, and engineering, sufficient to define the proposed solution, establish scope, cost, schedule, and key interfaces, but before detailed design and construction documents are completed**].

"**Preliminary Design Package**" means, with respect to the TTL Project, **[the Project Schedule, site plans and general arrangements, single-line diagrams, preliminary structural layouts, preliminary equipment sizing, route selection and corridor drawings]**.

"**Preliminary Notice**" has the meaning ascribed to it in Section 14.3(a).

"**Prevailing Party**" has the meaning ascribed to it in Section 14.3(e)(ii).

"**Project Schedule**" means the schedule for construction and completion of the Facility.

"**Project Route**" means all Properties on which the Facility is located.

"**Project Website**" means a public webpage specific to the TTL Project that provides the public with information regarding the TTL Project and Indigenous engagement initiatives in respect thereof.

"**Property**" means a parcel or lot of real property as identified by a Property Identification Number 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 metes and bounds or GPS coordinates. In the case of Crown lands, Property means real property identified by a grid cell, or a waterpower site number (as applicable) or in the absence thereof, GPS co-ordinates of the Property, as applicable.

"**Property Identification Number**" or "**PIN**" means the property identifier assigned to a property in accordance with the *Registry Act* (Ontario), s 21(2) or in accordance with the *Land Titles Act*, (Ontario), s 141(2).

"**Proposal**" means the proposal in respect of the Facility submitted pursuant to the TTL RFP.

"**Proposed Submission Deadline**" [●]. [***Note to Finalization: Proposal Submission Deadline will be aligned with the Proposal Submission Deadline set out in the TTL RFP.***].

"**Proposed Capital Cost**" means the cost of the Capital Cost Components set out in the Transmitter's Proposal.

"**Receiving Party**", with respect to Confidential Information, is the Party receiving Confidential Information and may be the Sponsor or the Transmitter, as applicable.

"**Replacement Provision(s)**" has the meaning ascribed to it in Section 1.7(c).

"**Reportable Events**" means the following:

(a) completion of any System Impact Assessment or Customer Impact Assessment, including receipt of approvals from the System Operator or a TPT, as applicable;

(b) execution of EPC Contract(s) in respect of the Facility;

(c) Financial Close;

(d) ordering or reserving of manufacturing of major equipment for the Facility, including the identity of the OEM(s) manufacturing the HVDC Components and Converter Stations;

(e) delivery of major equipment for the Facility;

(f) commencement, changes to percentage completion, and completion of construction of the Facility;

(g) completion of testing of the Facility;

(h) connection of the Facility to the Transmission System at the Connection Points;

(i) the achievement of any Milestone;

(j) application for or receipt of any Additional Source of Funding by the Transmitter;

(k) the acquisition or attainment of Material Project Land Rights, Material Project Agreements and Material Project Permits;

(l) any event that materially delays or advances the Project Schedule; and

(m) any material safety, criminal, or other regulatory infractions, Environmental Incidents, and public relations incidents including, without limitation, protests by any community or site vandalism.

"**Representatives**" means a Party's directors, officers, employees, auditors, consultants, advisors (including economic and legal advisors), contractors and agents and those of its Affiliates or owners of Economic Interest in such Party, and the agents and advisors of such Persons. While the Sponsor is the Independent Electricity System Operator, this definition shall also include the

Government of Ontario, the System Operator, and their respective directors, officers, employees, auditors, consultants (including economic and legal advisors), contractors and agents.

"**S&P**" means the Standard and Poors Rating Group (a division of McGraw-Hill Inc.) or its successors.

"**Secured Lender**" means a lender under a Secured Lender's Security Agreement.

"**Secured Lender's Security Agreement**" means an agreement or instrument, including a deed of trust or similar instrument securing loans, notes, bonds or debentures or other indebtedness, liabilities or obligations, containing a charge, mortgage, pledge, security interest, assignment, sublease, deed of trust or similar instrument with respect to all or any part of the Transmitter's Interest granted by the Transmitter, or with respect to all or any part of the securities of the Transmitter (or that of its general partner(s) in the case of a Transmitter that is a partnership) that is security for any indebtedness, liability or obligation of the Transmitter (or of a guarantor of such obligations, in the case of a pledge of the securities of the Transmitter), together with any amendment, change, supplement, restatement, extension, renewal or modification thereof.

"**Senior Conference**" has the meaning ascribed to it in Section 17.1.

"**Sponsor**" has the meaning ascribed to it in the first paragraph of this Agreement and includes such Person's successors and permitted assigns, acting in a capacity other than as the System Operator.

"**Sponsor Event of Default**" has the meaning ascribed to it in Section 11.3.

"**Sponsor's Website**" means the website of the Sponsor located at uniform resource locator (URL) https://www.ieso.ca/ or such other URL, or other electronic or non-electronic format, as the Sponsor may provide to the Transmitter from time to time.

"**Statement**" has the meaning ascribed to it in Section 6.1.

"**Statement Month**" has the meaning ascribed to it in Section 6.1.

"**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 a new connection of the Facility to the IESO-Controlled Grid, or of the modification of an existing connection of the Facility to the IESO-Controlled Grid on the reliability of the integrated power system.

"**System Operator**" means the Independent Electricity System Operator of Ontario 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.

"**Tangible Net Worth**" means, in respect of a Person, at any time and without duplication, an amount determined in accordance with GAAP (or IFRS, if the Person has adopted such standard), and calculated as (a) the aggregate book value of all assets, minus (b) the aggregate book value of all liabilities, minus (c) the sum of any amounts shown on account of patents, patent applications, service marks, industrial designs, copyrights, trade marks and trade names, and licenses, prepaid assets, goodwill and all other intangibles.

"**Taxes**" means all *ad valorem*, property, occupation, severance, production, transmission, utility, gross production, gross receipts, sales, use, excise and other taxes, tariffs, governmental charges, licenses, permits and assessments, other than (i) HST and (ii) taxes based on profits, net income or net worth.

"**Term**" has the meaning ascribed to it in Section 10.1(b).

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

"**Third Party Transmitter**" or "**TPT**" means a transmitter that is the counterparty to a Connection Agreement related to the Facility.

"**Toronto Third Line Project**" or "**TTL Project**" means the development, construction and operation of the Facility in accordance with this Agreement.

["Total Capital Cost" means the amount calculated pursuant to Article 4 of this Agreement and, for greater certainty, is to be utilized in the determination of the revenue requirement for the Transmitter as contemplated by Section 78(5.3) of the OEB Act.]

"**Transaction Party**" means a current, prospective or previous direct or indirect investor in or financier to the Transmitter.

"**Transmission Products**" means any products related to the rated, continuous load-carrying capability of a transmission facility to convey Electricity at a given time.

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

"**Transmission System Code**" means the "Transmission System Code" approved by the OEB, which, among other things, sets the standards for a Transmitter's existing Transmission System and for expanding the Transmitter's transmission facilities in order to connect new customers to it or accommodate increase in capacity or load of existing customers.

"**Transmission Transfer Capability**" means **[●]**.

"**Transmitter**" has the meaning ascribed to it in the first paragraph of this Agreement and includes such Person's successors and permitted assigns.

"**Transmitter Event of Default**" has the meaning ascribed to it in Section 11.1.

"**Transmitter Non-acceptance Notice**" has the meaning ascribed to it in Section 14.3(e).

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

"**TTL RFP**" has the meaning ascribed to it in the recitals to this Agreement.

"**Ultimate Controlling Parent**" means, in respect of any reference Person other than a natural person, a Person that Controls such reference Person and that is not itself Controlled by any other Person.

"**WSIA**" means the *Workplace Safety and Insurance Act, 1997* (Ontario).

1.2 Exhibits

(a) The following Exhibits are attached to and form part of this Agreement:

Exhibit A	Facility Description & Functional Requirements
Exhibit B	Proposed Capital Cost, IEPP Commitments and **[●]**
Exhibit C	Form of Irrevocable Standby Letter of Credit
Exhibit D	Form of Company Representative Notice
Exhibit E	**[Availability Non-Performance Charges]**
Exhibit F	Form of Secured Lender Consent and Acknowledgement Agreement
Exhibit G	Form of Force Majeure Notice
Exhibit H	Form of Confidentiality Undertaking
Exhibit I	Calculation of Total Capital Cost
Exhibit J	Form of Actual Canadian Content Percentage Certificate
Exhibit K	Form of Independent Engineer Certificate
Exhibit L	Form of Transmitter Certificates
Exhibit M	Milestone Dates
Exhibit N	Form of Monthly Progress Report
Exhibit O	Form of Quarterly Progress Report
Exhibit P	Form of Pre-Construction Completion Progress Report
Exhibit Q	Form of Long Term Operating Plan

(b) Exhibits **[D, F, G, H, J, K, L and N]** in the forms attached to this Agreement substantially reflect corresponding forms appearing on the Sponsor's Website as at the date of this Agreement. However, the Transmitter acknowledges and agrees that the Sponsor may, at any time and from time to time after the date of this Agreement, acting reasonably, without notice to the Transmitter, amend or replace each such form of certificate, notice or report, and post such amended or replacement form on the Sponsor's Website, and thereafter such amended or replaced form as it appears on the Sponsor's Website shall replace and shall be used by the Transmitter or the Sponsor, as the case may be, in the stead of the then current form. Accordingly, it is the responsibility of the Transmitter to ensure that the latest draft version of the relevant form, as posted on the Sponsor's Website, is used. **[NTD: List of exhibits to be updated.]**

1.3 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.

1.4 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.

1.5 Currency

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

1.6 IESO Market Rules and Statutes

Unless otherwise expressly stipulated, any reference in this Agreement to the IESO Market Rules or to a statute or to a regulation or rule promulgated under a statute or to any provision of a statute, regulation, rule, code or provision shall be a reference to the IESO Market Rules, statute, regulation, rule, code or provision as amended, supplemented, re-enacted or replaced from time to time. 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.

1.7 Invalidity, Unenforceability, or Inapplicability of Indices and Other Provisions

In the event that either the Sponsor or the Transmitter, acting reasonably, considers that any provision of this Agreement is invalid, inapplicable, or unenforceable, or in the event that any index or price quotation referred to in this Agreement, including the CPI ceases to be published, or if the basis therefor is changed materially, then:

(a) if a provision is considered to be invalid, inapplicable or unenforceable, then the Party considering such provision to be invalid, inapplicable or unenforceable may propose, by notice in writing to the other Party, a replacement provision and the Sponsor and the Transmitter shall then 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;

(b) if any index or price quotation referred to in this Agreement, ceases to be published, or if the basis therefor is changed materially, then the Sponsor and the Transmitter shall engage in good faith negotiations to substitute an available replacement index or price quotation that most nearly, of those then publicly available, approximates the intent and purpose of the index or price quotation that has so ceased or changed and this Agreement shall be amended as necessary to accommodate such replacement index or price quotation;

(c) if the Parties agree that amendments to this Agreement are required pursuant to this Section 1.7 and the negotiations set out in Sections 1.7(a) or 1.7(b) are not successful, then if the Parties are unable to agree on all such issues and any amendments required to this Agreement (the "**Replacement Provision(s)**") within thirty (30) days after the receipt of the notice under Section 1.7(a) or the occurrence of the event in Section 1.7(b), then the Replacement Provision(s) shall be determined by mandatory and binding arbitration, with such arbitration to be conducted in accordance with the procedures set out in Section 17.2.

1.8 Entire Agreement

This Agreement constitutes the entire agreement 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. No reliance is placed on any warranty, representation, opinion, advice or assertion of fact made by a Party to this Agreement, or its directors, officers, employees or agents, to the other Party to this Agreement or its directors, officers, employees or agents, except to the extent that the same has been reduced to writing and included as a term of this Agreement.

1.9 Waiver, Amendment

Except as expressly provided in this Agreement, no amendment or waiver of any provision of this Agreement shall be binding unless executed in writing by the Party (or Parties) 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.

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 therein.

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 Transmitter when interpreting such term or provision, by virtue of such fact.

1.12 Time

Where the time for performance of an obligation under this Agreement expires on a day which is not a Business Day, the deadline for performance of such obligation shall be the next day that is a Business Day.

ARTICLE 2
DESIGN AND OPERATION

2.1 Design and Construction of the Facility

(a) The Transmitter agrees to design and build the Facility to meet the Functional Requirements using Good Engineering and Operating Practices and meeting all relevant requirements of the IESO Market Rules, Transmission System Code and the Connection Agreement(s), in each case, as applicable, and all other Laws and Regulations and Material Project Permits, including any such requirements relating to decommissioning of the Facility or reclamation of the Project Route. The Transmitter shall ensure that the Facility is designed, engineered and constructed to operate in accordance with the requirements of this Agreement.

(b) The Transmitter shall not enter into any manufacturing booking agreements for any HVDC Component or Converter Station, with an OEM that is not an Experienced OEM. Following the Transmitter's achievement of Early Development Completion in accordance with Section 2.5, the Transmitter shall not, without the Sponsor's prior written consent, engage an OEM to manufacture HVDC Components or Converter Stations that is not an OEM included on the list the Transmitter submitted in accordance with Section 2.5(a)(ii)(E).

(c) The Transmitter shall at no time after the Contract Date modify, vary, or amend in any material respect any of the features of the Facility outlined in Part 2 of Exhibit A (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, provided that it shall not be unreasonable for the Sponsor to withhold its consent to any modification, variation or amendment which would, or would be likely to materially adversely affect the ability of the Facility to satisfy the Functional Requirements or the ability of the Transmitter to comply with its obligations under this Agreement. Any Facility Amendment that has not been consented to by the Sponsor (other than in instances where such consent has been unreasonably withheld) shall, if not removed within ten (10) Business Days after such Facility Amendment occurred, constitute a Transmitter Event of Default.

2.2 Additional Development and Construction Covenants

(a) The Transmitter agrees to arrange for, or cause to be arranged, on or prior to COD, all Facility connection requirements in accordance with the Connection Agreement(s) to permit the transmission of Electricity through the Facility. The Transmitter agrees that the responsibility for all costs that are allocated to or are otherwise the responsibility of the Transmitter in accordance with the Connection

Agreement and the Transmission System Code, as applicable, and as each may be interpreted or administered in accordance with any applicable interpretation bulletins issued by the OEB, shall rest with the Transmitter.

(b) The Transmitter shall provide, at its expense, all power system components on the Transmitter's side of the Connection Points, 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 or a TPT from time to time, to protect the safety and security of the IESO-Controlled Grid.

(c) The Transmitter agrees to install protective equipment to protect its own personnel, property, and equipment from variations in frequency and voltage or from temporary delivery of other than three-phase power, whether caused by the Facility, the IESO-Controlled Grid, the Transmission System or the Distribution System.

(d) The Transmitter may not commence construction of the TTL Project unless the Transmitter has provided to the Sponsor a copy of a DTC Letter from the Ministry of Energy and Mines.

2.3 Milestone Dates

(a) The Transmitter acknowledges that time is of the essence to the Sponsor with respect to attaining Early Development Completion, Pre-Construction Completion and Commercial Operation of the Facility. The Transmitter shall use Commercially Reasonable Efforts to achieve each of the Milestones by the Milestone Date applicable to such Milestone and, in any case, each Milestone must be achieved no later than the Longstop Date applicable to such Milestone.

(b) If there occurs or arises any incident, event or circumstance which results, or is likely to result, in a delay in the aggregate of thirty (30) days or more in the achievement of a Milestone, including delays arising from events of Force Majeure, or if a Milestone is otherwise not achieved within thirty (30) days after the Milestone Date applicable to such Milestone, the Transmitter shall promptly (and, in any event, within ten (10) Business Days of the date that such delay was first reasonably known or should reasonably have been known by the Transmitter) notify the Sponsor, submit to the Sponsor a report setting out the Transmitter's strategies for eliminating or reducing, to the extent possible and practicable to do so, the impact of such delay on the development, construction and commissioning of the Facility (a "**Delay Remediation Report**"), and meet with the Sponsor, at such frequency and with such personnel as determined by the Sponsor, to discuss the strategies set out in such Delay Remediation Report. The Transmitter acknowledges that the Sponsor may publish the Delay Remediation Report on the Sponsor's Website.

(c) The Transmitter acknowledges that time is of the essence to the Sponsor with respect to providing a Delay Remediation Report. Where the Transmitter fails to satisfy the requirements of Section 2.3(b), the Transmitter shall pay to the Sponsor, as liquidated damages and not as a penalty, **[●]** Dollars ($**[●]**) for each Business Day that the requirements of Section 2.3(b) are not satisfied (the "**Late Delay Remediation Report Administrative Charge**"). The Late Delay Remediation Report Administrative Charge shall not limit other remedies the Sponsor may have under this Agreement in respect of ongoing failure to deliver the Delay Remediation Report within the time periods set out in Section 2.3(b). If the Transmitter fails to pay to the Sponsor the amount of the Late Delay Remediation Report Administrative Charge, the Sponsor shall be entitled to draw and retain from the Completion and Performance Security the amount of such Late Delay Remediation Report Administrative Charge.

(d) The Transmitter agrees that if the Facility fails to achieve Early Development Completion on or before the Longstop Date for Early Development Completion, it shall constitute a Transmitter Event of Default.

(e) The Parties agree that if Commercial Operation of the Facility is not achieved by MCOD, the Transmitter shall pay to the Sponsor, as liquidated damages and not as a penalty, a sum of money equal to the amount of (i) the MCOD Delay Liquidated Damages Rate multiplied by (ii) each Business Day after the MCOD until the earlier of Commercial Operation being achieved or the Longstop Date for Commercial Operation being reached (such amounts, "**MCOD Delay Liquidated Damages**"). If the Transmitter fails to pay to the Sponsor the amount of the MCOD Delay Liquidated Damages, the Sponsor shall be entitled to draw and retain from the Completion and Performance Security the amount of such MCOD Delay Liquidated Damages.

(f) The Parties agree that if the Facility fails to achieve Commercial Operation on or before the Longstop Date for Commercial Operation, the Transmitter shall pay to the Sponsor, as liquidated damages and not as a penalty, a sum of money equal to the amount of (i) the COD Longstop Liquidated Damages Rate multiplied by (ii) each Business Day after the Longstop Date for Commercial Operation until Commercial Operation is achieved (such amounts, "**COD Longstop Liquidated Damages**"). If the Transmitter fails to pay to the Sponsor the amount of the COD Longstop Liquidated Damages, the Sponsor shall be entitled to draw and retain from the Completion and Performance Security the amount of such COD Longstop Liquidated Damages.

(g) The maximum time period that COD Longstop Liquidated Damages shall be calculated and payable under Section 2.3(f) shall be **[●]** Business Days.

[NTD: The Transmitter will be required to increase the amount of Completion and Performance Security on the earlier of its achievement of Pre-Construction Completion or the Longstop Date for Pre-Construction, as set out in Section 7.1(b)(iii).

The Sponsor is still considering appropriate consequences for missed milestones.]

2.4 Sponsor Information

The Transmitter shall provide the Sponsor with progress reports as follows:

(a) By the fifteenth (15th) day of each calendar month following the Contract Date and continuing until COD, the Transmitter shall provide the Sponsor with a monthly progress report in the form of Exhibit N, including the following:

(i) the status of efforts made by the Transmitter in the previous calendar month to achieve applicable Milestones;

(ii) progress of the design and construction work;

(iii) the status of approvals of any Governmental Authority relating to the Facility;

(iv) the status of Capital Cost Components including **[NTD: this will include changes to estimated amounts and actual amounts]**;

(v) any insurance claims submitted or any insurance proceeds received by the Transmitter;

(vi) progress in implementing the IEPP including, without limitation, a summary of Indigenous engagement efforts undertaken, the status of Indigenous participation agreements and community benefits agreements, all offers of Economic Interest in the Transmitter that have been made, all Non-Equity Commitments offered, paid or otherwise provided, and all offers of Economic Interest in the Transmitter which have been fulfilled.

(vii) the progress or status of all Reportable Events.

At the Sponsor's request, the Transmitter shall provide an opportunity for the Sponsor to meet with appropriate personnel of the Transmitter to discuss and assess the contents of any such monthly progress report, and the Sponsor shall have the right to request any other information, acting reasonably.

(b) By the fifteenth (15th) day of each calendar quarter following COD and continuing until the Expiry Date, the Transmitter shall provide the Sponsor with a quarterly progress report in the form of Exhibit O, including the following:

(i) the status of the Long Term Operating Plan, including compliance with and any changes to the major maintenance schedule; and

(ii) progress in implementing the IEPP including, without limitation, a summary of Indigenous engagement efforts undertaken, the status of Indigenous participation agreements and community benefits agreements, all offers of Economic Interest in the Transmitter that have been made, all Non-Equity Commitments offered, paid or otherwise provided, and all offers of Economic Interest in the Transmitter which have been fulfilled.

(c) The Transmitter acknowledges that information from the progress reports described in Sections 2.4(a) and 2.4(b) **[related to the status of design, permitting, Indigenous community and stakeholder engagement, Indigenous economic participation, and construction]** may be posted or printed by the Sponsor on the Sponsor's Website or in publications.

(d) The Transmitter acknowledges that time is of the essence to the Sponsor with respect to providing progress reports pursuant to Sections 2.4(a) and 2.4(b). Where the Transmitter fails to satisfy the requirements of Sections 2.4(a) or 2.4(b), the Transmitter shall pay to the Sponsor, as liquidated damages and not as a penalty, **[●]** Dollars ($**[●]**) for each Business Day that the requirements of Sections 2.4(a) or 2.4(b) are not satisfied (the "**Late Progress Report Administrative Charge**"). The Late Progress Report Administrative Charge shall not limit other remedies the Sponsor may have under this Agreement in respect of ongoing failure to deliver the progress reports within the time periods set out in this Section 2.4. If the Transmitter fails to pay to the Sponsor the amount of the Late Progress Report Administrative Charge, the Sponsor shall be entitled to draw and retain from the Completion and Performance Security the amount of such Late Progress Report Administrative Charge.

(e) In addition to the progress reports it is required to provide pursuant to Sections 2.4(a) and 2.4(b), the Transmitter shall also provide the Sponsor with notice of any material incident, loss, casualty, event or concern which may occur or arise during the course of the development, construction or commissioning of the Facility, promptly and, in any event, within **[ten (10)]** Business Days following the later of: (i) the Transmitter becoming aware of any such incident, loss, casualty, event or concern occurring or arising; and (ii) the Transmitter becoming aware of the materiality of same, with such timing in each case based upon the Transmitter having acted in accordance with Good Engineering and Operating Practices.

(f) Where the Transmitter delivers to the System Operator any reports, plans or notices with respect to Outages, removal from service, unavailability for connection or temporary de-rating, restriction of use or reduction in Transmission Transfer Capability of the Facility (including to permit the performance of inspections, tests, repairs or maintenance on the Facility), it shall deliver such reports, plans and notices to the Sponsor at the same time or within one (1) Business Day of delivery to the System Operator.

(g) The Transmitter agrees to provide to the Sponsor, at all times, access to any information relating to the Facility that the Transmitter has provided or received pursuant to the IESO Market Rules.

2.5 Requirements for Early Development Completion

(a) The Facility will be deemed to have achieved "**Early Development Completion**" pursuant to this Agreement at the point in time when, as subsequently confirmed by the Sponsor in a written notice to the Transmitter as described in Section 2.5(b), the Sponsor has received:

(i) directly from an Independent Engineer, an IE Certificate, in the form set out in Exhibit K, stating that the Preliminary Design meets the Functional Requirements; and

(ii) a Early Development Completion Certificate, together with the following documentation and information required to be provided to the Sponsor:

(A) the Preliminary Design Package sealed by a professional engineer licensed in Ontario;

(B) the **[updated estimated total project costs, broken down by category] [NTD: to be described in accordance with the final commercial model]**;

(C) the Transmitter's OEB license;

(D) a list of each of Material Project Permits, Material Project Land Rights and Material Project Agreements, with updates on progress towards attaining each of them;

(E) a list of OEMs the Transmitter has contracted with for manufacturing of HVDC Components and Converter Stations, proof of deposits for each manufacture booking agreement with each specified OEM, and evidence that each such OEM is an Experienced OEM.

(b) The Sponsor shall notify the Transmitter in writing within twenty (20) Business Days following receipt of the IE Certificate and the Early Development Completion Certificate as to whether the IE Certificate and the Early Development Completion Certificate pursuant to Section 2.5(a) are acceptable to the Sponsor, acting reasonably, in which case the Sponsor will confirm the achievement of Early Development Completion effective as of the date of the Transmitter's completed submission. If the Sponsor determines that any such materials are not acceptable to the Sponsor, acting reasonably, the Sponsor shall at the time of such notification provide to the Transmitter reasonable particulars in respect of the deficiencies.

2.6 Requirements for Pre-Construction Completion

(a) The Facility will be deemed to have achieved "**Pre-Construction Completion**" pursuant to this Agreement at the point in time when, as subsequently confirmed by the Sponsor in a written notice to the Transmitter as described in Section 2.6(b), the Sponsor has received:

(i) directly from an Independent Engineer, an IE Certificate, in the form set out in Exhibit K, stating that the Final Design meets the Functional Requirements;

(ii) a progress report in the form set out in Exhibit P certified by the Independent Engineer; and

(iii) a Pre-Construction Completion Certificate, together with the following documentation and information required to be provided to the Sponsor:

(A) a Final Design Package sealed by a professional engineer licensed in Ontario;

(B) evidence that all Material Project Land Rights that were included in the list submitted under 2.5(a)(ii)(D) have been obtained;

(C) evidence that permits, licenses, approvals or authorizations, as applicable and as required based on the Project Route and Functional Requirements, under the following legislation (each a "**Material Project Permit**") have been obtained: **[NTD: specific permits to be further specified in subsequent drafts:**

(1) ***Environmental Assessment Act* (Ontario);**

(2) ***Endangered Species Act* (Ontario);**

(3) ***Environmental Protection Act* (Ontario) ;**

(4) ***Ontario Heritage Act* (Ontario);**

(5) ***Fish and Wildlife Conservation Act* (Ontario);**

(6) ***Public Lands Act* (Ontario);**

(7) ***Lakes and Rivers Improvements Act* (Ontario);**

(8) ***Conservation Authorities Act* (Ontario)*;***

(9) ***Species at Risk Act* (Canada)*;***

(10) ***Migratory Birds Convention Act* (Canada)*;***

(11) ***Fisheries Act* (Canada)*;***

(12) ***Canadian Navigable Waters Act* (Canada)*;***

(13) ***Canada Marine Act* (Canada)*;* and**

(14) **[●].]**

(D) Evidence that the EPC Contracts have been entered into, along with evidence that schedules or deadlines contained therein are consistent with the Project Schedule as updated in the Final Design Package and will enable Commercial Operation by MCOD.

(iv) a copy of a DTC Letter from the Ministry of Energy and Mines;

(v) confirmation of the publication of the Environmental Effects Monitoring Program;

(vi) evidence that Financial Close has occurred **[or is reasonably expected to occur within [●] days of MPC]**, including evidence that the Transmitter has entered into a Financing Agreement, if applicable;

(vii) an updated permitting plan detailing any Material Project Permits which the Transmitter still has to obtain;

(viii) a list of any Material Project Agreements other than the EPC Agreements which the Transmitter has yet to enter into; and

(ix) a Facility major maintenance schedule for **[●]** years following COD, in the form set out in Exhibit Q (the "**Long Term Operating Plan**") that is consistent with Good Engineering and Operating Practices.

(b) The Sponsor shall notify the Transmitter in writing within twenty (20) Business Days following receipt of the IE Certificate and the Pre-Construction Completion Certificate as to whether the IE Certificate and the Pre-Construction Completion Certificate pursuant to Section 2.6(a) are acceptable to the Sponsor, acting reasonably, in which case the Sponsor will confirm the achievement of Pre-Construction Completion effective as of the date of the Transmitter's completed submission. If the Sponsor determines that any such materials are not acceptable to the Sponsor, acting reasonably, the Sponsor shall at the time of such notification provide to the Transmitter reasonable particulars in respect of the deficiencies.

2.7 Requirements for Commercial Operation

(a) The Facility will be deemed to have achieved "**Commercial Operation**" pursuant to this Agreement at the point in time when, as subsequently confirmed by the Sponsor in a written notice to the Transmitter as described in Section 2.7(b), the Sponsor has received:

(i) directly from an Independent Engineer, an IE Certificate, in the form set out in Exhibit K, stating that:

(A) the Facility has been completed in all material respects;

(B) the Connection Points of the Facility are at the locations specified in Exhibit A;

(C) The following Material Project Agreements have been entered into:

(1) Operating Agreement;

(2) Operating and maintenance agreements relating to the Facility; and

(3) Connection Agreements and, if applicable, Connection Cost Recovery Agreements;

(D) the Facility has been constructed, connected, and commissioned and synchronized to the IESO-Controlled Grid in a manner that satisfies the Functional Requirements and is in accordance with the Market Rules, the Transmission System Code and the requirements of all applicable Laws and Regulations; and

(E) the Facility has obtained all Material Project Permits; and

(F) **[the Facility has passed a Performance Test]**.

(ii) a Commercial Operation Certificate, together with such documentation required to be provided under such form to the Sponsor;

(iii) a final single line electrical drawing that identifies the as-built Connection Points sealed by a professional engineer licensed in Ontario;

(iv) a copy of the final Registration Approval Notification (RAN) issued by the System Operator;

(v) **[a Performance Test report, based on the Performance Test referenced in Section 2.7(a)(i)(E);]** and

(vi) if the Transmitter is a CCR Transmitter, and subject to Section 2.12(b), the Actual Canadian Content Percentage Certificate (which, for greater certainty, shall not prevent COD from being achieved).

(b) The Sponsor shall notify the Transmitter in writing within twenty (20) Business Days following receipt of the IE Certificate, the Actual Canadian Content Percentage Certificate and the Commercial Operation Certificate as to whether the IE Certificate, the Actual Canadian Content Percentage Certificate, Commercial Operation Certificate, and the materials provided by the Transmitter pursuant to Section 2.7(a) are acceptable to the Sponsor, acting reasonably, in which case the Sponsor will confirm the achievement of Commercial Operation effective as of the date of the Transmitter's completed submission. If the Sponsor determines that any such materials are not acceptable to the Sponsor, acting reasonably, the Sponsor shall at the time of such notification provide to the Transmitter reasonable particulars in respect of the deficiencies.

2.8 Operational Covenants

(a) From the COD until the expiry of the Term, the Transmitter shall operate and maintain the Facility in accordance with Good Engineering and Operating Practices and meeting all applicable requirements of the OEB Act, the Electricity Act, IESO Market Rules, the Transmission System Code, Material Project Permits and any Connection Agreements.

2.9 Insurance Covenants

(a) The Transmitter shall put in effect and maintain, or cause its contractors, where appropriate, to maintain, from the commencement of the construction of the Facility 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 developing, constructing, financing and operating the Facility would maintain including policies for “all-risk” property insurance covering not less than the full replacement value of the Facility, “all-risk” equipment breakdown insurance, “wrap-up” liability insurance and “commercial general liability” insurance with a rider to extend coverage to include Environmental Incidents.

(b) Any policies described in this Section 2.9 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 with respect to liability arising in the course of performance of the obligations under, or otherwise in connection with, this Agreement, in which case the policy shall be non-contributing and primary with respect to coverage in favour of the Indemnitees. The limit for liability policies described in this Section 2.9 shall be for an amount appropriate for the size and scope of the Facility.

(c) Within ten (10) Business Days of any request therefore by the Sponsor, the Transmitter shall provide the Sponsor, via electronic submission, with an electronic certificate of each insurance policy required in this Section 2.9 which confirms the relevant coverage, including endorsements, and that is issued in the name of, or otherwise confirms coverage of, the Transmitter and the Facility, as applicable.

(d) If the Transmitter is subject to the WSIA, it shall submit a valid clearance certificate of WSIA coverage to the Sponsor on or prior to the commencement of construction of the Facility. In addition, the Transmitter shall, from time to time at the request of the Sponsor, provide additional WSIA clearance certificates. The Transmitter agrees to pay when due, and to 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 from the commencement of construction of the Facility, under the WSIA, failing which the Sponsor shall have 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 WSIA and unpaid by the Transmitter or its contractors and subcontractors and to deduct such amount from any amount due and owing from time to time to the Transmitter pursuant to this Agreement together with all costs incurred by the Sponsor in connection therewith.

(e) The Transmitter agrees to use Commercially Reasonable Efforts to pursue, claim, collect and recover any proceeds available to it under the insurance policies required by this Section 2.9 in respect of any loss, damage, destruction or other event affecting the Facility. The Transmitter shall keep the Sponsor reasonably informed of the status of any material insurance claim and shall not knowingly take, or omit to take, any action that would materially prejudice the availability or recovery of such insurance proceeds.

2.10 Compliance with Laws and Regulations

(a) The Sponsor and the Transmitter shall each 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 Transmitter shall each furnish, in a timely manner, information to Governmental Authorities and shall each obtain and maintain in good standing any license, 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 licensing as is required by the OEB. Without limiting the generality of the foregoing, the Transmitter agrees to meet all applicable Facility registration requirements as specified in the IESO Market Rules.

(c) The Transmitter shall apply to the System Operator to become authorized as a "Market Participant", as a "Transmitter", pursuant to the IESO Market Rules. The settlement of Market Settlement Charges shall take place directly between the Transmitter and the System Operator, and any costs incurred by the Transmitter pursuant to the IESO Market Rules in respect of this Agreement shall be charged to and be the sole responsibility of the Transmitter, unless otherwise expressly set out herein.

2.11 Additional Sources of Government Support

(a) In the event the Transmitter is awarded any direct capital funding pursuant to any Government Support Program (any such funds, an "**Additional Source of Funding**"), the Transmitter shall provide written notice to the Sponsor within thirty (30) days of receiving any such funding.

(b) The Transmitter covenants that it shall use Commercially Reasonable Efforts to pursue, claim, collect and obtain Additional Sources of Funding available to it pursuant to Government Support Programs.

(c) The Transmitter covenants that, where it receives any Additional Source of Funding, it shall account for the amount of such Additional Source of Funding as a stated reduction in its revenue requirement application to the OEB.

2.12 Canadian Content Requirements

(a) If a Transmitter is a CCR Transmitter, the Transmitter shall:

(i) meet the Canadian Content Requirements;

(ii) as part of the requirements for achieving Commercial Operation, submit a completed Actual Canadian Content Percentage Certificate; and

(iii) within twenty (20) Business Days of a request by the Sponsor, provide the Sponsor with supporting evidence substantiating the calculation of the Actual Canadian Content Percentage.

(b) Notwithstanding the foregoing, the Parties agree that if the CCR Transmitter has not met the Canadian Content Requirements as of the Commercial Operation Date, as the sole and exclusive remedy for such failure, in recognition of the evaluation benefit that the Transmitter elected to receive under the TTL RFP for committing to meet the Canadian Content Requirements, the CCR Transmitter shall pay to the Sponsor, within ten (10) Business Days after receipt of an invoice from the Sponsor, as liquidated damages and not as a penalty, a sum of money equal to:

(i) if the difference between the Committed Canadian Content Percentage and the Actual Canadian Content Percentage (the "**Canadian Content Shortfall**") is equal to or greater than one half of one percent (0.50%) but less than or equal to five percent (5.00%), [●]; or

(ii) if the Canadian Content Shortfall is greater than five percent (5%), [●],

(such amounts, "**CCR Liquidated Damages**"), provided that in no event shall the CCR Liquidated Damages exceed [●].

2.13 Project Website

(a) The Transmitter shall maintain and regularly update its Project Website, which shall include the following information:

(i) technical details about the Facility, including the Functional Requirements;

(ii) the legal name and contact information of the Transmitter;

(iii) details about the ownership of the Transmitter including the Transmitter's Ultimate Controlling Parent;

(iv) an illustrative map showing the proposed locations of the Connection Points, proposed approximate location of the Converter Stations and overland components, and proposed preliminary location of the transmission corridor, as provided in the 2025 Toronto Integrated Regional Plan, or any updated map that has been submitted to or approved by a Governmental Authority;

(v) contact information of representatives of the Transmitter for the purposes of discussing land rights, Indigenous engagement and requesting Capacity Funding;

(vi) a statement that Capacity Funding is available for First Nation Communities on the Ministry Engagement List;

(vii) the process for members of the public to communicate questions, feedback or concerns with respect to the Facility;

(viii) the updated schedule for community and Indigenous community engagement activities, including engagement with First Nation Communities on the Ministry Engagement List, throughout the duration of the Term, and all Milestones herein;

(ix) the Transmitter's plan to support First Nation Communities on the Ministry Engagement List in accessing and navigating equity and non-equity economic participation opportunities;

(x) the Transmitter's up to date permitting plan, including monitoring studies and the status of Material Project Permits;

(xi) the updated Project Schedule; and

(xii) if the Facility is under construction, 5-10 photos that best represent the current progress of construction.

2.14 Indigenous Participation

(a) The Transmitter covenants that it shall use Commercially Reasonable Efforts to implement the commitments set out in its IEPP, including the IEPP Equity Percentage and the IEPP Non-Equity Commitments Percentage.

(b) No later than one (1) year after COD, the Transmitter shall submit a final report to the Sponsor on its compliance with its IEPP commitments (the "**Final IEPP Report**"), which shall include a description of:

(i) commitments included in the IEPP set out in the Transmitter's Proposal, including the IEPP Equity Percentage and the IEPP Non-Equity Commitments Percentage;

(ii) any Economic Interest held by First Nation Communities on the Ministry Engagement List or any Indigenous Holding Vehicles at the time of report submission, including the name of the entity holding the Economic Interest, the corresponding percentage of Economic Interest held by such entity and the specific securities holdings giving rise to such Economic Interest;

(iii) the total amount of Non-Equity Commitments paid or otherwise provided as of the time of submission of the Final IEPP Report;

(iv) an explanation for why any commitments from the IEPP have not been met, including the Commercially Reasonable Efforts expended by the Transmitter to meet such unmet commitments; and

(v) an explanation of how the Transmitter implemented its plan to support First Nation Communities on the Ministry Engagement List in accessing and navigating equity and non-equity economic participation opportunities.

The Sponsor may publish the Final IEPP Report on the Sponsor's Website.

(c) Together with the Final IEPP Report, the Transmitter must provide the following as evidence to support the Final IEPP Report:

(i) a list of all offers of an Economic Interest in the Transmitter that have been made to any First Nation Communities on the Ministry Engagement List or any Indigenous Holding Vehicles made by the Transmitter or any of its Affiliates, including the entity that received the offer, the percentage of equity in the Transmitter offered and evidence of a letter or email setting out the offer;

(ii) a list of Non-Equity Commitments paid to any First Nation Communities on the Ministry Engagement List or any Indigenous Holding Vehicles by the Transmitter or any of its Affiliates, including the amounts paid, the entities paid, the purpose of the payments, and evidence of payments made; and

(iii) a list of agreements establishing an Economic Interest in the Transmitter, entered into between the Transmitter or any of its Affiliates and any First Nation Communities on the Ministry Engagement List or any Indigenous Holding Vehicles, including the names of the counterparties, the percentage of equity in the Transmitter established for each such counterparty and by whom, and evidence of the applicable agreements.

[NTD: The Sponsor is considering a mechanism to reduce the Total Capital Cost should the Transmitter fail to spend the full amount required to achieve its IEPP Non-Equity Commitments Percentage.]

(d) The Transmitter acknowledges that time is of the essence to the Sponsor with respect to providing a Final IEPP Report. Where the Transmitter fails to satisfy the requires of Sections 2.14(b) or 2.14(c), the Transmitter shall pay to the Sponsor, as liquidated damages and not as a penalty, **[●]** Dollars ($**[●]**) for each Business Day that the requirements of Sections 2.14(b) or 2.14(c) are not satisfied (the "**Late Final IEPP Report Administrative Charge**"). The Late Final IEPP Report Administrative Charge shall not limit other remedies the Sponsor may have under this Agreement in respect of ongoing failure to deliver the Final IEPP Report within the time periods set out in Sections 2.14(b) or 2.14(c). If the Transmitter fails to pay to the Sponsor the amount of the Late Final IEPP Report Administrative Charge, the Sponsor shall be entitled to draw and retain from the Completion and

Performance Security the amount of such Late Final IEPP Report Administrative Charge.

ARTICLE 3
PERFORMANCE OBLIGATIONS

[NTD: Operational performance obligations are under consideration by the Sponsor.]

ARTICLE 4
TOTAL CAPITAL COST

4.1 Proposed Total Capital Cost Adjustments

[NTD: The Sponsor is considering incorporating various Proposed Total Capital Cost adjustments into this Agreement (e.g. ceiling prices with or without incentives; indexation; target pricing with cost sharing; unit pricing; costs reimbursable), each to be applicable to one or more categories of specified Capital Cost Components. For certain specified events that are beyond the control of the Transmitter, and which result in the Transmitter necessarily and prudently incurring material additional costs in relation to specified Capital Cost Components, the Transmitter may submit an application to the Sponsor to request an adjustment to its Proposed Total Capital Cost in the amount of the material increase, subject to specified limitations. All cost adjustments are subject to demonstrating compliance with Section 2.9(e).]

ARTICLE 5

REGULATORY PROCESS

[NTD: This Article is under development. All provisions, including those regarding filing requirements, IESO and OEB processes, accounting standards, covenants, and post-filing adjustments are under consideration by the Sponsor and the OEB and remain subject to change.]

5.1 Payments to the Transmitter

[The Transmitter acknowledges that: (a) this Agreement is a procurement contract within the meaning of subsection 78(5.3) of the OEB Act that sets out the amount to be paid to the Transmitter in respect of Capital Cost Components; (b) any revenue or payment associated with the construction, development and operation of the Facility will be based on an OEB order establishing the Transmitter's annual revenue requirement for the Facility (the "OEB Rate Order"); and (c) the Transmitter is not entitled to any other payments from the Sponsor other than payments to be made in accordance with an OEB Rate Order.]

5.2 Rate Regulation

[By no later than [●] days prior to the anticipated COD, the Transmitter shall apply to the OEB pursuant to Section 78 of the OEB Act for approval of an initial annual revenue requirement ("ARR1") that will be included in Ontario's Uniform Transmission Rates.]

[NTD: The TFA will establish the Capital Cost Components and the Total Capital Cost of the TTL Transmission Project, based on the Proposed Capital Cost, as adjusted under Article 4. Costs incurred by the Transmitter in respect of non-Capital Cost Components are outside the scope of this Agreement and are subject to OEB adjudication under Section 78 of the OEB Act. The Transmitter may include these costs in the Transmitter's revenue requirement application, in accordance with OEB Filing Requirements.]

[NTD: The Sponsor may intervene in the Transmitter's ARR1 application.]

5.3 Revenue Requirement Covenants

(a) **[In submitting any application to the OEB concerning its ARR1, the Transmitter shall:**

(i) **select an incentive rate-setting methodology that has a plan minimum of five (5) years, in accordance with the terms of this Agreement, the OEB's Handbook for Utility Rate Applications and any applicable OEB Filing Requirements;**

(ii) **in respect of Capital Cost Components: (A) only include in rate base the Total Capital Cost established by this Agreement; and (B) not submit any other capital costs not captured by the Total Capital Cost for recovery from the OEB;**

(iii) **not shift or reclassify costs from Capital Cost Components captured by the Total Capital Cost to other cost categories reviewed by the OEB;**

(iv) **not seek to recover any liquidated damages or administrative charges paid to the Sponsor hereunder in its revenue requirement;**

(v) **not include any costs that do not have a direct nexus to the development, construction or operation of the TTL Project, including costs of non-equity benefits paid to any community stakeholders or Indigenous communities that would not be capitalized in respect of the TTL Project pursuant to Applicable Accounting Standards;**

(vi) **account for depreciation modeled in accordance with OEB Filing Requirements; and**

(vii) **include an updated Long Term Operating Plan.]**

5.4 ARR1 Pre-Filing Process

(a) **[The Transmitter shall provide notice to the Sponsor [●] days prior to its anticipated ARR1 application filing date.**

(b) **Within [●] days of receiving the notice, the Sponsor shall provide to the Transmitter the up-to-date Total Capital Cost and such additional information relating to the calculation of the Total Capital Cost as is reasonably necessary to enable the Transmitter to review the amount submitted by the Sponsor.**

(c) **Absent notice from the Transmitter to the contrary, on the [●] day following the Transmitter's receipt of (b), the current Total Capital Cost submitted by the Sponsor shall be deemed to have been accepted and shall not be the subject of further dispute by the Transmitter.**

(d) **The Transmitter shall provide to the Sponsor a minimum of [●] days prior to its anticipated ARR1 application filing date, its draft ARR1 application along with such additional information as is reasonably necessary to enable the Sponsor to ensure that the Transmitter has complied with its obligations in Section 5.3.**

(e) **Within [●] days from the receipt of the Transmitter's draft application and supporting information under paragraph (d), the Sponsor shall notify the Transmitter of its determination, at its sole discretion, with respect to the Transmitter's compliance with its obligations in Section 5.3.**

(f) **Neither the Transmitter's provision of notice under paragraph (c) or a determination by the Sponsor under paragraph (e) shall prevent the Transmitter from submitting its ARR1 application containing the Total Capital Cost preferred by the Sponsor.**

(g) **[NTD: The Sponsor and the OEB are considering the process for addressing any costs or cost adjustments that are incurred or finalized following ARR1 ("Post-ARR1 Adjustment"). The Sponsor is proposing that the Transmitter's ARR1 application shall include a request for an accounting order to establish an account to track any amounts that are or may be subject to a Post-ARR1 Adjustment in accordance with Section 5.5. The Transmitter will be required to apply to the OEB for disposal of any account balance following the finalization of any such Post ARR1 Adjustment in accordance with the outcome of the Post-ARR1 Adjustment process.]**

5.5 Post-ARR1 Adjustments

[NTD: Any Post-ARR1 Adjustment amounts are to be established by the Parties in accordance with this Agreement and are intended to be subject to Section 78(5.3) of the OEB Act. The Sponsor is proposing that the Parties shall use a process similar to the process set out in Section 5.4 for the determination and submission to the OEB of any Post-ARR1 Adjustments.]

ARTICLE 6
STATEMENTS AND PAYMENTS

6.1 Statements

The Sponsor shall prepare and deliver a statement (the "**Statement**") to the Transmitter, within twenty (20) Business Days after the end of each calendar month in the Term that is the subject of the Statement and in which a payment obligation, including any Liquidated Damages, has arisen hereunder (the "**Statement Month**"), setting out the basis for the payment with respect to the Statement Month. A Statement may be delivered by the Sponsor to the Transmitter by electronic means and shall include the reference number assigned to this Agreement by the Sponsor and a description of the components of the payment, as described in this Agreement owing by or to the Transmitter for the Statement Month.

6.2 Payment

Where the Transmitter owes an amount to the Sponsor hereunder, including any Liquidated Damages, the Transmitter shall remit to the Sponsor full payment in respect of the Statement no later than the final Business Day of the month immediately after the end of the month to which the Statement relates (the "**Payment Date**"). Any and all payments required to be made by the Transmitter under any provision of this Agreement shall be made by electronic funds transfer (EFT) to the applicable account designated in Section 6.4, or as otherwise agreed by the Parties.

6.3 Interest

Where the Transmitter owes an amount to the Sponsor hereunder, the Transmitter shall pay interest on any late payment to the Sponsor, from the Payment Date to the date of payment, unless such late payment was through the fault of the Sponsor. 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.

6.4 Payment Account Information

Account for payments to Sponsor:

Account Number:	[●]
Transit Number:	[●]
Sponsor's HST Registration Number:	[●]

Sponsor may change its account information from time to time by written notice to the Transmitter in accordance with Section 16.6.

6.5 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) Subject to Section 6.6, any adjustment to a Statement made pursuant to this Section 6.5 shall be made in the next subsequent Statement.

6.6 Disputed Statement

If the Transmitter 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 Transmitter shall provide written 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 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 tenth (10th) Business Day following the date on which the revised Statement is delivered to the Transmitter. If a Statement dispute has not been resolved between the Parties within five (5) Business Days after receipt of written 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 17.1.

6.7 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 payment made thereunder, in accordance with Section 16.2.

ARTICLE 7
CREDIT AND SECURITY REQUIREMENTS

7.1 Completion and Performance Security

(a) The Parties acknowledge that the Transmitter has, as of the Contract Date, provided to the Sponsor security in the form described in Section 7.2(a) for the performance of the Transmitter's obligations under this Agreement (the "**Completion and Performance Security**") in an amount equal to $[●].

(b) From and after the Contract Date and until the Expiry Date, the Transmitter shall maintain the Completion and Performance Security in the amount and for the period specified below:

(i) from the Contract Date until Early Development Completion in an amount equal to $[●], which, for clarity, includes the amount provided to the Sponsor as set out in Section 7.1(a);

(ii) from Early Development Completion to **[the earlier of the Longstop Date for Pre-Construction Completion or]** Pre-Construction Completion in an amount equal to $[●] **[NTD: it is contemplated that this amount will be an increase from the amount in (i) above]**;

(iii) from **[the earlier of the Longstop Date for Pre-Construction Completion or]** Pre-Construction Completion to COD in an amount equal to $[●] **[NTD: it is contemplated that this amount will be an increase from the amount in (ii) above]**; and

(iv) from COD to the Expiry Date in an amount equal to $[●].

(c) In the event that the Sponsor, in accordance with this Agreement, has recovered monies that were due to it using all or part of the Completion and Performance Security, the Transmitter shall forthwith provide replacement security to cover an amount equal to that recovered or paid out of the Completion and Performance Security.

7.2 Composition of Security

(a) The Completion and Performance Security shall be in the form of a Letter of Credit (or multiple Letters of Credit), for the full amount of the Completion and Performance Security.

(b) A Letter of Credit delivered hereunder shall be subject to the following provisions:

(i) The Transmitter shall (i) renew or cause the renewal of each outstanding Letter of Credit on a timely basis as provided in the relevant Letter of Credit, (ii) if the financial institution that issued an outstanding Letter of Credit has indicated its intent not to renew such Letter of Credit, provide a substitute Letter of Credit or other equivalent form of security satisfactory to the Sponsor at least ten (10) Business Days prior to the expiration of the outstanding Letter of Credit, and (iii) if a financial institution issuing a Letter of Credit fails to honour the Sponsor's properly documented request to draw on an outstanding Letter of Credit (other than a failure to honour as a result of a request to draw that does not conform to the requirements of such Letter of Credit), provide for the benefit of the Sponsor (A) a substitute Letter of Credit that is issued by another financial institution, or (B) other security satisfactory to the Sponsor in an amount equal to such outstanding Letter of Credit, in either case within five (5) Business Days after the Transmitter receives notice of such refusal.

(ii) A Letter of Credit shall provide that the Sponsor may draw upon the Letter of Credit in an amount (up to the face amount or part thereof remaining available to be drawn thereunder for which the Letter of Credit has been issued) that is equal to all amounts that are due and owing from the Transmitter but that have not been paid to the Sponsor within the time allowed for such payments under this Agreement (including any related notice or grace period or both). A Letter of Credit shall provide that a drawing may be made on the Letter of Credit upon submission to the financial institution issuing the Letter of Credit of one or more certificates specifying the amounts due and owing to the Sponsor in accordance with the specific requirements of the Letter of Credit. The location where the drawing may be made must be Toronto, Ontario.

(iii) If the Transmitter shall fail to renew, substitute, or sufficiently increase the amount of an outstanding Letter of Credit (as the case may be), or establish one or more additional Letters of Credit or other equivalent form of security satisfactory to the Sponsor when required hereunder, then without limiting other remedies the Sponsor may have under this Agreement, the Sponsor (i) may draw on the undrawn portion of any outstanding Letter of Credit and retain for its own account, as liquidated damages and not as a penalty, the amount equal to one (1%) percent of the face value of such outstanding Letter of Credit and/or (ii) prior to the expiry of such Letter of Credit, may draw on the entire, undrawn portion of any outstanding Letter of Credit, upon submission to the financial institution issuing such Letter of Credit of a certificate specifying the entire amount of the Letter of Credit is owing to the Sponsor in accordance with the specific requirements of the Letter of Credit. Any amount then due and owing to the Sponsor shall be received by the Sponsor as liquidated damages and not as a penalty. If the amounts then due and owing are less than the amount drawn under such Letter of Credit, then such excess amount shall be held as Completion and Performance Security. The Transmitter shall remain liable for any amounts due and owing to the Sponsor and remaining unpaid after the application of the amounts so drawn by the Sponsor. If the Transmitter subsequently delivers a Letter of Credit or other security or other collateral permitted pursuant hereto, in each case satisfactory to the Sponsor in its sole and absolute discretion as to form, substance and amount, then upon acceptance by the Sponsor thereof, the Sponsor shall remit to the Transmitter all amounts held by the Sponsor as Completion and Performance Security pursuant to this Section 7.2(b)(iii).

(c) The costs and expenses of establishing, renewing, substituting, cancelling, increasing and reducing the amount of (as the case may be) one or more Letters of Credit shall be borne by the Transmitter.

(d) The Sponsor shall return a Letter of Credit held by the Sponsor to the Transmitter, if the Transmitter is substituting a Letter of Credit of a greater or lesser amount pursuant to Section 7.2(b)(i), within ten (10) Business Days from the Sponsor's receipt of such substituted Letter of Credit.

ARTICLE 8
REPRESENTATIONS AND WARRANTIES

8.1 Representations and Warranties of the Transmitter

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

(a) The Transmitter is a [●] **[formed/incorporated]** under the laws of [●], 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. ***[Note to Finalization: To be updated prior to execution.]***

(b) This Agreement has been duly authorized, executed, and delivered by the Transmitter and is a valid and binding obligation of the Transmitter 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 Transmitter 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 Transmitter under:

(i) any contract or obligation to which the Transmitter 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 Transmitter;

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

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

(v) any Laws and Regulations,

that could have a Material Adverse Effect on the Transmitter.

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

(e) There is no proceeding under any Insolvency Legislation pending against or being contemplated by the Transmitter or, to the knowledge of the Transmitter, threatened against the Transmitter or any of its property, nor has the Transmitter consented to an order for a proceeding under Insolvency Legislation under the terms of a forbearance agreement or otherwise, or otherwise taken any steps to commence a proceeding under Insolvency Legislation.

(f) All requirements for the Transmitter to make any filing, declaration or registration with, give any notice to or obtain any license, permit, certificate, registration, authorization, consent or approval of, any Governmental Authority as a condition to entering into this Agreement have been satisfied.

(g) The Transmitter is not a non-resident of Canada for the purposes of the ITA.

(h) The Transmitter 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 Transmitter or on its obligations under this Agreement.

(i) Following COD, the Facility will be capable of meeting the Functional Requirements while operating in accordance with Good Engineering and Operating Practices.

(j) The statements and information contained in the Proposal in respect of the Facility are true and correct in all material respects, except to the extent consented to by the Sponsor in a Facility Amendment or to the extent alteration of the Facility is otherwise permitted hereunder, and the statements and information contained in the Proposal in respect of the Transmitter were true and correct in all material respects as of the Proposal Submission Deadline.

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

In addition, the Transmitter shall, upon delivery of each of the monthly progress reports required to be provided to the Sponsor pursuant to Section 2.4(a), represent and warrant in writing that each of the foregoing statements set out in Sections 8.1(a) to 8.1(k) inclusive continues to be true or, if any of such statements are no longer true, then the Transmitter shall provide to the Sponsor a qualified representation and warranty with respect to such statement. Such qualified representation and warranty provided by the Transmitter to the Sponsor shall be subject, however, to the rights of the Sponsor in Section 11.1(d) to require the Transmitter to cure or remove any such qualification with respect to such statement.

8.2 Representations and Warranties of the Sponsor

The Sponsor represents and warrants to the Transmitter as follows, and acknowledges that the Transmitter is relying on such representations and warranties 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 shareholder 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 is no proceeding under any Insolvency Legislation pending against or being contemplated by the Sponsor or, to the knowledge of the Sponsor, threatened against the Sponsor or any of its property, nor has the Sponsor consented to an order for a proceeding under Insolvency Legislation under the terms of a forbearance agreement or otherwise, or otherwise taken any steps to commence a proceeding under Insolvency Legislation.

(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) All requirements for the Sponsor to make any declaration, filing or registration with, give any notice to or obtain any licence, permit, certificate, registration, authorization, consent or approval of, any Governmental Authority as a condition to entering into this Agreement have been satisfied.

(g) 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 or on its obligations under this Agreement.

ARTICLE 9
CONFIDENTIALITY AND FIPPA

9.1 Confidential Information

From the Contract Date 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 9 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 Laws and Regulations, order, regulation or ruling, 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 law or regulation in accordance with Section 9.2.

(c) Where the Transmitter is the Receiving Party, the Transmitter 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, provided that any such Secured Lender or prospective lender or investor has been informed of the Transmitter's confidentiality obligations hereunder and such Secured Lender or prospective lender or investor has completed and executed a confidentiality undertaking (the "**Confidentiality Undertaking**") in the form referenced as Exhibit H, covenanting in favour of the Sponsor to hold such Confidential Information confidential on terms substantially similar to this Article 9.

(d) Notwithstanding the foregoing, the Transmitter consents to the disclosure of: (i) any information the Sponsor or the System Operator is required or entitled to publish under the TTL RFP or the IESO Market Rules; (ii) this Agreement in its entirety; (iii) all information with respect to any changes to the Project Schedule or any missed Milestone Dates, including the publication of the Delay Remediation Report described in Section 2.3(b), or any other corrective action plans; (iv) portions of progress reports as set out in Section 2.4(c); (v) any reports, plans, notices or communications described in 2.4(e), 2.4(f) or 2.4(g); (vi) the Final IEPP Report; (vii) to the OEB, in accordance with Section 78(5.5) of the OEB Act, any information in respect of this Agreement that is required for the purposes of the regulation of the Facility; and (viii) to the Government of Ontario, [●].

[NTD: The Sponsor is still considering the scope of information sharing with the Government of Ontario.]

9.2 Notice Preceding Compelled Disclosure

If the Receiving Party or any of its Representatives are requested or required to disclose any Confidential Information, then, except to the extent prohibited by Laws and Regulations, 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 of the Confidential Information to the Party compelling disclosure as is required by Laws and Regulations 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. Notwithstanding the foregoing, in circumstances where Confidential Information has been disclosed to a Transaction Party and such Confidential Information is disclosed by such Transaction Party in connection with ordinary course reviews or audits by internal auditors or Governmental Authorities that regulate the activities of such Transaction Party, in each case carried out in accordance with Laws and Regulations and such Transaction Party is unaware of such disclosure or is otherwise restricted by Laws and Regulations from notifying the Disclosing Party of such disclosure, the requirements of this Section 9.2 shall not apply to such Transaction Party.

9.3 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 and 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 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 9.

9.4 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 9.

9.5 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 Transmitter agrees to provide a copy of any FIPPA Records that it previously provided to the Sponsor if the Transmitter continues to possess such FIPPA Records in a deliverable form at the time of the Sponsor's request. If the Transmitter 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 9.5 shall survive any termination or expiry of this Agreement and shall prevail over any inconsistent provisions in this Agreement.

ARTICLE 10
TERM

10.1 Term

(a) This Agreement shall be effective for the duration of the Term.

(b) The "**Term**" means that period of time commencing on the Contract Date and ending at 24:00 hours (EST) on the date that is two (2) years after the Commercial Operation Date of the Facility (the "**Expiry Date**"), subject to an earlier termination in accordance with the provisions hereof.

[NTD: The Sponsor is considering the inclusion of an Sponsor right to terminate based on escalating capital cost estimates or changing system conditions prior to MPC, with compensation paid to the Transmitter for its necessarily and prudently incurred costs.]

ARTICLE 11
TERMINATION AND DEFAULT

11.1 Events of Default by the Transmitter

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

(a) The Transmitter fails to make any payment when due or deliver and/or maintain the Completion and Performance Security as required under this Agreement, if such failure is not remedied within ten (10) Business Days after written notice of such failure from the Sponsor.

(b) The Transmitter fails to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Transmitter 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 Transmitter is diligently remedying such failure and such failure is capable of being cured during such extended cure period.

(c) The Transmitter fails to obtain, or ceases to hold, a valid Material Project Permit by, or following, the date on which such Material Project Permit is required under the applicable Laws and Regulations in order for the Transmitter to proceed with the development, construction or commissioning of the Facility in accordance with the Project Schedule, and such failure is not remedied within thirty (30) Business Days after receipt by the Transmitter of written notice of such failure from the Sponsor, provided that such cure period shall be extended by a further thirty (30) Business Days if the Transmitter is diligently remedying such failure and such failure is capable of being remedied during such extended cure period

(d) Any representation and warranty made by the Transmitter 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 delivery by the Transmitter of written notice of such fact to the Sponsor or receipt by the Transmitter of written notice of such fact from the Sponsor, as the context requires, provided that such cure period (i) shall be extended for a further period of thirty (30) Business Days and (ii) may be extended by such further period of time as the Sponsor in its sole and absolute discretion determines is reasonable, if, in each case, the Transmitter 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 Transmitter, unless such filed documents are immediately revoked or otherwise rendered inapplicable, or unless, in the case of the Transmitter, there has been a permitted and valid assignment of this Agreement by the Transmitter 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 Transmitter's obligations under this Agreement.

(f) Any receiver, interim receiver, manager, receiver and manager, liquidator, monitor, custodian, sequestrator, or trustee in bankruptcy or other Person with similar powers is appointed in respect of the Transmitter, or all or any part of the Transmitter's property, or any filing is made or proceeding is commenced in respect of the Transmitter on application of a creditor or with consent of or by the Transmitter seeking the entry of an order for the appointment or relief in respect of any of the foregoing; provided that, with respect to any such involuntary appointment, filing or proceeding, such appointment, filing or proceeding shall not have been revoked, withdrawn or dismissed within thirty (30) days of the filing or commencement of the proceeding or such other time as the Parties may agree to or pursuant to court order.

(g) The Transmitter makes an assignment for the benefit of its creditors, commits an act of bankruptcy under any Insolvency Legislation, acknowledges its insolvency or is declared or deemed bankrupt or insolvent under any Insolvency Legislation, or makes a voluntary assignment into bankruptcy. Any filing is made or a proceeding is commenced in respect of the Transmitter seeking any stay of proceedings, declaration of bankruptcy or insolvency, protection from creditors, moratorium, reorganization, arrangement, composition, re-adjustment or any other relief, under any Insolvency Legislation, including any filing of a proposal or notice of intention to make a proposal; provided that, with respect to any such involuntary filing or proceeding, such filing or proceeding shall not have been revoked, withdrawn or dismissed within thirty (30) days of the filing or commencement of the proceeding or such other time as the Parties may agree to or pursuant to court order.

(h) The Transmitter fails to achieve Early Development Completion on or before the Longstop Date for Early Development Completion pursuant to Section 2.3(d).

(i) The Transmitter has made, or caused or allowed to have been made, a Facility Amendment that has not first been consented to by the Sponsor and that has not been removed within ten (10) Business Days after such Facility Amendment occurred.

(j) The Transmitter assigns this Agreement without first obtaining the written approval of the Sponsor, if required pursuant to this Agreement.

(k) The Transmitter undergoes a change in Control without first obtaining the written approval of the Sponsor if required pursuant to Section 17.6.

(l) Following the achievement of Early Development Completion, the Transmitter, without the Sponsor’s prior written consent, enters into a manufacturing booking agreement for manufacturing of HVDC Components or Converter Stations, or otherwise obtains manufacturing of HVDC Components or Converter Stations, from an OEM that is not an Experienced OEM included on the list of OEMs submitted by the Transmitter to the Sponsor in accordance with Section 2.5(a)(ii)(E).

11.2 Remedies of the Sponsor

(a) If any Transmitter Event of Default occurs and is continuing, upon written notice to the Transmitter, the Sponsor may, subject to Section 12.4, terminate this Agreement.

(b) If a Transmitter Event of Default occurs and is continuing, the Sponsor may, in addition to the remedy set out in Section 11.2(a), draw on the Completion and Performance Security, or any part thereof and, if the remedy in Section 11.2(a) has not been exercised, require the Transmitter to replace such drawn security with new security.

(c) If the Sponsor terminates this Agreement pursuant to Section 11.2(a),

(i) where the Termination Date precedes the Commercial Operation Date, the Sponsor may, in its sole and absolute discretion, require the Transmitter to pay to the Sponsor, as liquidated damages and not as a penalty, a sum equal to the Dollar amount of all Completion and Performance Security required to be provided by the Transmitter as of the Termination Date, and the Sponsor shall be entitled to pursue a Claim for damages with respect to the amount of any portion of the Completion and Performance Security that the Transmitter was required to provide to the Sponsor as of the Termination Date pursuant to Section 7.1 and, in such circumstances, notwithstanding Section 11.5, the Sponsor's remedies against the Transmitter in respect of the termination of this Agreement shall be limited to the amount of liquidated damages payable by the Transmitter pursuant to this Section 11.2(c)(i); and

(ii) where the Termination Date is on or after the Commercial Operation Date the Sponsor shall have the option, exercisable in the sole and absolute discretion of the Sponsor, to retain all Completion and Performance Security provided by or on behalf of the Transmitter and exercise all other remedies available to the Sponsor including pursuing a claim for damages, as contemplated in Section 11.5. **[NTD: To be included if security is retained after COD]**

(d) Termination shall not relieve the Transmitter or the Sponsor of their respective responsibilities under this Agreement, or amounts payable under this Agreement, up to and including the Termination Date.

11.3 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 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 Transmitter, 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.

(b) 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 Transmitter, 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.

(c) 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 Transmitter, 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.

(d) 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.

(e) Any receiver, interim receiver, manager, receiver and manager, liquidator, monitor, custodian, sequestrator, or trustee in bankruptcy or other Person with similar powers is appointed in respect of the Sponsor, or all or any part of the Sponsor's property, or any filing is made or proceeding is commenced in respect of the Sponsor on application of a creditor or with consent of or by the Sponsor seeking the entry of an order for the appointment or relief in respect of any of the foregoing; provided that, with respect to any such involuntary appointment, filing or proceeding, such appointment, filing or proceeding shall not have been revoked, withdrawn or dismissed within thirty (30) days of the filing or commencement of the proceeding or such other time as the Parties may agree to or pursuant to court order.

(f) The Sponsor makes an assignment for the benefit of its creditors, commits an act of bankruptcy under any Insolvency Legislation, acknowledges its insolvency or is declared or deemed bankrupt or insolvent under any Insolvency Legislation, or makes a voluntary assignment into bankruptcy. Any filing is made or a proceeding is commenced in respect of the Sponsor seeking any stay of proceedings, declaration of bankruptcy or insolvency, protection from creditors, moratorium, reorganization, arrangement, composition, re-adjustment or any other relief, under any Insolvency Legislation, including any filing of a proposal or notice of intention to make a proposal; provided that, with respect to any such involuntary filing or proceeding, such filing or proceeding shall not have been revoked, withdrawn or dismissed within thirty (30) days of the filing or commencement of the proceeding or such other time as the Parties may agree to or pursuant to court order.

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

11.4 Termination by the Transmitter

If any Sponsor Event of Default occurs and is continuing, then upon written notice to the Sponsor, the Transmitter may terminate this Agreement and, in such circumstances, the Sponsor shall return to the Transmitter any remaining Completion and Performance Security that has been provided by the Transmitter hereunder.

11.5 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.

11.6 Transmitter License

If this Agreement is terminated by either Party, the Transmitter shall take all actions required to request the OEB remove the Facility from its transmitter license, or cancel its transmitter license, as applicable, and Transmitter agrees not to seek Leave to Construct in respect of the Facility (or a substantially similar asset) for at least **[five (5)]** years.

ARTICLE 12
FORCE MAJEURE AND SYSTEM CONDITIONS

12.1 Effect of Invoking Force Majeure

(a) If, by reason of any act, event, cause or condition that constitutes Force Majeure hereunder, either Party is unable, wholly or partially, to perform or comply with its obligations (other than payment obligations) hereunder, or the Transmitter is unable to achieve any Milestone by the applicable Milestone Date for such Milestone or the applicable Longstop Date for such Milestone, then the Party so affected by Force Majeure shall be excused and relieved from performing or complying with such obligations (other than payment obligations) or meeting such timelines, as applicable, and shall not be liable for any liabilities, damages, losses, payments, costs, expenses (or Indemnifiable Losses, in the case of the Transmitter 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.

If an event of Force Majeure causes the Transmitter to not achieve any Milestone by the applicable Milestone Date for such Milestone, then such Milestone Date and any subsequent Milestone Dates shall be extended for such reasonable period of delay directly resulting from such Force Majeure event. If an event of Force Majeure causes the Transmitter to not achieve any Milestone by the applicable Longstop Date for such Milestone Date and did not previously extend the applicable Milestone Date for such Milestone as contemplated in the preceding sentence, then such Longstop Date and any subsequent Longstop Dates shall be extended for such reasonable period of delay directly resulting from such Force Majeure event. Following the Commercial Operation Date, an event of Force Majeure shall not extend the Term.

(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 notice in writing of the effect of the Force Majeure and reasonably full particulars of the cause thereof, in substantially the form as set forth in Exhibit G, provided that such notice shall be given within ten (10) Business Days 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 critical path of the Project Schedule for the development, construction and commissioning of the Facility. Where a Party fails to provide notice of the commencement of the event or circumstances constituting Force Majeure within ten (10) Business Days of the commencement of such event or circumstances, such Party shall be deemed to have invoked Force Majeure with effect from the date when that Party gives to the other Party written notice in substantially the form as set forth in Exhibit G, of the event or circumstances constituting Force Majeure. 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 form set forth as Exhibit G, 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. Where the Transmitter invokes Force Majeure, the Transmitter shall: (i) provide to the Sponsor information and documentation confirming to the satisfaction of the Sponsor, acting reasonably, that such Commercially Reasonable Efforts were used, and (ii) represent and warrant that such information and documentation are true, complete and accurate in all material respects and that no material information is omitted that would make such information or documentation misleading or inaccurate.

(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 12.1 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.

12.2 Exclusions

A Party shall not be entitled to invoke Force Majeure under this Article 12, 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 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);

(c) 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 by such Party of Laws and Regulations;

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

(e) if the Party invoking Force Majeure fails to comply with the notice provisions in Sections 12.1(b) or 12.1(d);

(f) in respect of any impacts of the COVID-19 pandemic, the Russo-Ukrainian military conflict or the military conflict in, adjacent to or relating to the state of Israel or the Islamic Republic of Iran, that were known or ought reasonably to be known by the Transmitter, in each case, based on their magnitude, scope and geographic scale as of the Contract Date;

(g) if the demand for Electricity or Transmission Products in the Province of Ontario is reduced in any material respect;

(h) if and to the extent the Party is seeking to invoke Force Majeure as a result of the failure of performance of any other third party (including contractors or subcontractors) that is or was a direct or indirect vendor, materials provider, service provider, transportation carrier, or other provider, or customer, to or of such Party, unless such failure of performance of such third party was itself directly caused by an event that would be considered an event of Force Majeure under this Agreement, mutatis mutandis; or

(i) if and to the extent the Party is seeking to invoke Force Majeure because of its inability to obtain any consent, amendment or other approval of the Sponsor pursuant to the terms of this Agreement.

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

12.3 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 or prevents the Transmitter from achieving any Milestone by the applicable Milestone Date for such Milestone, but only if and to the extent the impact of such act, event, cause or condition on the affected Party could not reasonably have been anticipated as at the Contract Date and is beyond the affected Party's reasonable control, including:

(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 or personnel of (i) such Party, or (ii) 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, despite the use of Commercially Reasonable Efforts, to obtain, or to secure the renewal or amendment of, any permit, certificate, impact assessment, 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, impact assessment, licence or approval was caused by the violation of the terms thereof or consented to by the Party invoking Force Majeure;

(h) ice scour and anchor drag and similar events or damage caused by an anchor or object which strikes the cable buried in the lake bed, to the extent such events or damage could not have been prevented through the use of Commercially Reasonable Efforts by the Transmitter in the design, engineering and construction of the Facility, recognizing that the Facility has been designed in accordance with the Functional Requirements and Good Engineering and Operating Practices;

(i) delays, disruptions, unavailability, or inaccessibility of and to vessels that are required to access, install, maintain, repair, or replace the transmission cable, in each case, caused by a Force Majeure event (for clarity, a contractual default by a provider of such vessels shall not in and of itself be considered an event of Force Majeure); provided that it shall be considered an event of Force Majeure if such delays, disruptions unavailability or inaccessibility arise as a result of the Transmitter being unable to secure such vessels after having made Commercially Reasonable Efforts to do so, but it shall not be considered an event of Force Majeure if such vessels were available and the Transmitter failed to secure such vessels.

12.4 Definition of System Condition

For the purposes of this Agreement, the term "**System Condition**" means any condition or system constraint on the IESO-Controlled Grid (other than, for greater certainty, the Facility) or any decision or action or inaction of the System Operator, a TPT, or other regional transmission operator, or transmission owner, that, in each case, arises prior to COD and results in the Facility being unable to achieve Commercial Operation; for clarity, such condition, system constraint, decision, action or inaction includes, without limitation, the following, provided that, in each case, it results in the Facility being unable to achieve Commercial Operation:

(a) delays in the connection of the Facility to the IESO-Controlled Grid, including any delays or failure of the System Operator to complete any work or implement any systems required for the Facility to commence Commercial Operation;

(b) delays or failure to complete any additions, improvements, and upgrades to the network facilities, or other work necessary, for the connection of the Facility to a Transmission System at a Connection Point; and

(c) any unreasonable delays or failure of the System Operator to enter into an operating agreement,

but shall not include any such condition or system constraint on the IESO-Controlled Grid or any such decision or action or inaction of the System Operator or regional transmission operator, or transmission owner, in each case, to the extent caused by the fault or negligence of the Transmitter.

12.5 Effect of System Condition

(a) A System Condition shall commence with effect from the commencement of the event or circumstances constituting a System Condition.

(b) A Party shall give to the other Party prompt written notice of such Party becoming aware of a System Condition that could have a Material Adverse Effect on the critical path of the Project Schedule to achieve commercial operation, provided that such notice shall be given within ten (10) Business Days of the date that the Party knew or ought to have known of the existence of such System Condition and that the event or circumstances constituting such System Condition could have a Material Adverse Effect on the critical path of the Project Schedule to achieve commercial operation.

(c) If the Transmitter delivers a notice to the Sponsor pursuant to Section 12.5(b), such notice shall include (or if the Sponsor delivers such notice to the Transmitter, the Transmitter shall provide a separate notice to the Sponsor within ten (10) Business Days of receipt of the Sponsor's notice of System Condition that includes) a description of the effect of the System Condition (including on the Project Schedule) provided if the effect of the System Condition cannot be reasonably determined within such ten (10) Business Day period, the Transmitter shall be allowed a further ten (10) Business Days (or such longer period as the Parties may agree in writing) to provide the full particulars of the effect of the System Condition.

(d) The reporting or discussion of a System Condition event provided in a periodic report from the Transmitter to the Sponsor pursuant to Section 2.4 shall not constitute sufficient notice of the occurrence of a System Condition.

(e) If a Party becomes aware of the termination of such System Condition event, it shall provide written notice to the other Party, provided that such notice shall be given within ten (10) Business Days of such Party becoming aware of the termination of the event or circumstances constituting such System Condition.

(f) Notwithstanding anything to the contrary, if the Transmitter is unable to achieve Commercial Operation by the Milestone Date for Commercial Operation as a result of a System Condition, the Transmitter shall be excused and relieved from performing or complying with such obligations and shall not be liable for any liabilities, damages, losses, payments, costs or expenses (or Indemnifiable Losses) to, or incurred by, the Sponsor in respect of or relating to such System Condition or the Transmitter failure to so perform or comply during the continuance of and to the extent of the inability so caused by the System Condition. To the extent the Transmitter is prevented from achieving Commercial Operation by the Milestone Date for Commercial Operation, then the Milestone Date for Commercial Operation shall be extended for such reasonable period of delay directly resulting from such System Condition event. Nothing in this Section 12.5 shall relieve a Party of its obligations to make payments of any amounts that were due and owing before the occurrence of the System Condition or that otherwise may become due and payable during any period of System Condition.

ARTICLE 13
LENDER'S RIGHTS

13.1 Lender Security

Notwithstanding Section 17.5, the Transmitter, from time to time on or after the date of execution of this Agreement shall have the right, at its cost, to enter into a Secured Lender's Security Agreement. For the avoidance of doubt, 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 be based upon and subject to the following conditions:

(a) A Secured Lender's Security Agreement may be made in respect of obligations for any amounts and subject to any terms (including terms of applicable loans, interest rates, payment terms and prepayment privileges or restrictions) as desired by the Transmitter, except as otherwise provided in this Agreement. A Secured Lender's Security Agreement may secure the indebtedness, liability or obligation of the Transmitter exclusively related to the Facility, and shall not secure any indebtedness, liability or obligation of any Person arising under or in connection with any other facility, project, or asset. For greater certainty, a Secured Lender's Security Agreement may cover shares or partnership interests in the capital of the Transmitter, but only to the extent such shares or partnership interests are pledged solely to secure indebtedness, liabilities or obligations exclusively related to the Facility.

(b) 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.

(c) No Secured Lender's Security Agreement shall be recognized by the Sponsor or give rise to any rights hereunder in the enforcement of the Sponsor's rights and remedies provided in this Agreement or by Laws and Regulations, unless and until an electronic copy 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 Transmitter or the Secured Lender; and in the event of an assignment of such Secured Lender's Security Agreement, such assignment shall not be recognized by the Sponsor or establish any rights hereunder in favour of such assignee 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 Transmitter or the Secured Lender.

(d) If the Transmitter 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 ten (10) Business Days prior to exercising any such rights.

(e) 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 Section 13.1.

(f) 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 Section 13.1.

(g) 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 Transmitter 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.

(h) Despite any enforcement of any Secured Lender's Security Agreement, the Transmitter 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 Transmitter's obligations under this Agreement.

13.2 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 Section 13.1(c) and the contents thereof are embodied in the agreement entered into by the Sponsor in accordance with Section 13.3, the following provisions shall apply:

(a) No Transmitter Event of Default shall be grounds for the termination by the Sponsor of this Agreement until:

(i) any notice required to be given under Section 11.1 and Section 11.2(a) has been given to the Transmitter and to the Secured Lender; and

(ii) the cure period set out in Section 13.2(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 11.1, 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 Transmitter.

(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 Transmitter's rights and benefits contained in this Agreement and shall become liable for the Transmitter's obligations solely as provided in Section 13.2(e). A Secured Lender may, subject to the provisions of this Agreement, enforce any Secured Lender's Security Agreement and acquire the Transmitter'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 Transmitter's Interest with the consent of the Sponsor as required under Section 13.2(f).

(e) Until a Secured Lender (i) forecloses or has otherwise taken ownership of the Transmitter's Interest or (ii) has taken possession or control of the Transmitter'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 Transmitter's Interest by reference to the Secured Lender's Security Agreement, the Secured Lender shall not be liable for any of the Transmitter's obligations or be entitled to any of the Transmitter'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 Transmitter's Interest, then the entity that is the owner or is in control or possession of the Transmitter's Interest shall be bound by all of the Transmitter's obligations. Once the Secured Lender or such other Person goes out of possession or control of the Transmitter's Interest or transfers the Transmitter's Interest in accordance with this Agreement to another Person, the Secured Lender shall cease to be liable for any of the Transmitter's obligations and shall cease to be entitled to any of the Transmitter'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 shall not transfer, sell or dispose of the Transmitter's Interest or any other interest in the Facility or shares or partnership interests in the capital of the Transmitter (or that of its general partner(s) in the case of a Transmitter that is a partnership) to any Person unless such transferee takes the Transmitter's Interest or other applicable interest subject to the Transmitter'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 and the transferee has entered into an agreement with the Sponsor in form and substance satisfactory to the Sponsor, acting reasonably, wherein the transferee agrees to assume and to perform the obligations of the

Transmitter in respect of the Transmitter's Interest, whether arising before or after the transfer, and including the posting of the Completion and Performance Security required under Article 7, and in the case of a transfer with respect to all or any part of the securities of the Transmitter (or that of its general partner(s) in the case of a Transmitter that is a partnership), be subject to Section 17.6.

(g) Despite anything to the contrary contained in this Agreement, the provisions of this Section 13.2 shall enure only to the benefit of the holders of a Secured Lender's Security Agreement.

13.3 Cooperation

The Sponsor and the Transmitter shall enter into an agreement with any Secured Lender substantially in the Prescribed Form set out in Exhibit F, 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 Transmitter 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 Transmitter to the Sponsor are not altered thereby and the consent of any other Secured Lender to such amendment has been obtained by the Transmitter or the Secured Lender making the request for the amendment.

ARTICLE 14
DISCRIMINATORY ACTION

14.1 Discriminatory Action

A "**Discriminatory Action**" shall occur if:

(a) the Legislative Assembly of Ontario:

(i) causes to come into force any statute that was introduced as a bill in the Legislative Assembly of Ontario or the Government of Ontario causes to come into force or makes any order-in-council or regulation first having legal effect on or after the Contract Date; or

(ii) directly or indirectly amends this Agreement without the agreement of the Transmitter;

(b) the effect of the action referred to in Section 14.1(a) is borne principally by the Transmitter;

(c) the action referred to in Section 14.1(a) directly reduces or precludes payments otherwise due to the Transmitter hereunder or has the effect of increasing the costs that the Transmitter would reasonably be expected to incur in respect of the development, construction, operation and maintenance of the Facility hereunder, except where such action is in response to any act or omission on the part of the

Transmitter 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. Despite the preceding sentence, 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 Transmitter; 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 and Mines that appeared on the Sponsor's Website or the website of the Government of Ontario and/or the Ministry of Energy and Mines, provided that any amendments made to such public form, in becoming such statute, do not have a Material Adverse Effect on the Transmitter; 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 and Mines that appeared on the website of the Government of Ontario or the Ministry of Energy and Mines, provided that any amendments made to such regulations in coming into force do not have a Material Adverse Effect on the Transmitter.

14.2 Consequences of Discriminatory Action

If a Discriminatory Action occurs, the Transmitter shall have the right to obtain, without duplication, an increase in the Total Capital Cost (the "**Discriminatory Action Compensation**") for the increase in the costs that the Transmitter would reasonably be expected to incur to satisfy its obligations hereunder as a result of the occurrence of such Discriminatory Action, but excluding the portion of any costs charged by a Person who does not deal at Arm's Length with the Transmitter that is in excess of the costs that would have been charged had such Person been at Arm's Length with the Transmitter.

14.3 Notice of Discriminatory Action

(a) In order to exercise its rights in the event of the occurrence of a Discriminatory Action, the Transmitter must give a notice (the "**Preliminary Notice**") to the Sponsor within sixty (60) days after the date on which the Transmitter first became aware (or should have been aware, using reasonable due diligence) of the Discriminatory Action stating that a Discriminatory Action has occurred. Within sixty (60) days after the date of receipt of the Preliminary Notice, the Transmitter must give another notice (the "**Notice of Discriminatory Action**"). A Notice of Discriminatory Action must include:

(i) a statement of the Discriminatory Action that has occurred;

(ii) details of the effect of the said occurrence that is borne by the Transmitter;

(iii) details of the manner in which the Discriminatory Action increases the costs that the Transmitter would reasonably be expected to incur under this Agreement in satisfying its obligation hereunder; and

(iv) the amount claimed as Discriminatory Action Compensation and details of the computation thereof.

The Sponsor shall, after receipt of a Notice of Discriminatory Action, be entitled, by notice given within thirty (30) days after the date of receipt of the Notice of Discriminatory Action, to require the Transmitter to provide such further supporting particulars as the Sponsor considers necessary, acting reasonably.

(b) If the Sponsor wishes to dispute the occurrence of a Discriminatory Action, the Sponsor shall give a notice of dispute (the "**Notice of Dispute**") to the Transmitter, stating the grounds for such dispute, within thirty (30) days after the date of receipt of the Notice of Discriminatory Action or within thirty (30) days after the date of receipt of the further supporting particulars, as applicable.

(c) If neither the Notice of Discriminatory Action nor the Notice of Dispute has been withdrawn within thirty (30) days after the date of receipt of the Notice of Dispute by the Transmitter, the dispute of the occurrence of a Discriminatory Action shall be submitted to mandatory and binding arbitration in accordance with Section 17.2 without first having to comply with Section 17.1.

(d) If the Sponsor does not dispute the occurrence of a Discriminatory Action or the amount of Discriminatory Action Compensation claimed in the Notice of Discriminatory Action, the Total Capital Cost shall be increased by the amount of Discriminatory Action Compensation claimed within sixty (60) days after the date of receipt of the Notice of Discriminatory Action. If a Notice of Dispute has been given, the Total Capital Cost shall be increased by the Discriminatory Action Compensation Amount determined in accordance with Section 14.3(e) not later than sixty (60) days after the later of the date on which the dispute with respect to the occurrence of a Discriminatory Action is resolved and the date on which the Discriminatory Action Compensation Amount is determined.

(e) Discriminatory Action Compensation Notice

(i) If the Sponsor wishes to dispute the amount of the Discriminatory Action Compensation, the Sponsor shall give to the Transmitter a notice (the "**Discriminatory Action Compensation Notice**") setting out an amount that the Sponsor proposes as the Discriminatory Action Compensation (the "**Discriminatory Action Compensation Amount**"), if any, together with details of the computation. If the Transmitter does not give notice (the "**Transmitter Non-acceptance Notice**") to the Sponsor stating that it does not accept the Discriminatory Action Compensation Amount proposed within thirty (30) days after the date of receipt of the Discriminatory Action Compensation Notice, the Transmitter shall be deemed to have accepted the Discriminatory Action Compensation Amount so proposed. If the Transmitter Non-acceptance Notice is given, the Sponsor and the Transmitter shall attempt to determine the Discriminatory Action Compensation Amount through negotiation, and any amount so agreed in writing shall be the Discriminatory Action Compensation Amount. If the Sponsor and the Transmitter do not agree in writing upon the Discriminatory Action Compensation Amount within sixty (60) days after the date of receipt of the Transmitter Non-acceptance Notice, the Discriminatory Action Compensation Amount shall be determined in accordance with the procedure set forth in Section 14.3(e)(ii) and Sections 17.1 and 17.2 shall not apply to such determination.

(ii) If the negotiation described in Section 14.3(e)(i) does not result in an agreement in writing on the Discriminatory Action Compensation Amount, either the Sponsor or the Transmitter may, after the later of (A) the date on which a dispute with respect to the occurrence of a Discriminatory Action is resolved and (B) the date of the expiry of a period of thirty (30) days after the date of receipt of the Transmitter Non-acceptance Notice, by notice to the other require the dispute to be resolved by arbitration as set out below. The Sponsor and the Transmitter shall, within thirty (30) days after the date of receipt of such notice of arbitration, jointly appoint a valuator to determine the Discriminatory Action Compensation Amount. The valuator so appointed shall be a duly qualified business valuator where the individual responsible for the valuation has not less than ten (10) years' experience in the field of business valuation. If the Sponsor and the Transmitter are unable to agree upon a valuator within such period, the Sponsor and the Transmitter shall jointly make application (provided that if a Party does not participate in such application, the other Party may make application alone) under the Arbitration Act to a judge of the Superior Court of Justice to appoint a valuator, and the provisions of the Arbitration Act shall govern such appointment. The valuator shall determine the Discriminatory Action Compensation Amount within sixty (60) Business Days after the date of his or her appointment. Pending a decision by the valuator, the Sponsor and the Transmitter shall share equally, and be responsible for their respective shares of, all fees and expenses of the valuator. The fees and expenses of the valuator shall be paid by the non-Prevailing Party. "Prevailing Party" means the Party whose determination of the Discriminatory Action Compensation Amount is most nearly equal to that of the valuator's determination. The Transmitter's and the Sponsor's respective determinations of the Discriminatory Action Compensation Amount shall be based upon the Notice of Discriminatory Action and the Discriminatory Action Compensation Notice, as applicable.

(iii) In order to facilitate the determination of the Discriminatory Action Compensation Amount by the valuator, each of the Sponsor and the Transmitter shall provide to the valuator such information as may be requested by the valuator, acting reasonably, and the Transmitter shall permit the valuator and the valuator's representatives to have reasonable access during normal business hours to such information and to take extracts therefrom and to make copies thereof.

(iv) The Discriminatory Action Compensation Amount as determined by the valuator shall be final and conclusive and not subject to any appeal.

(f) The increase in the Total Capital Cost by the Discriminatory Action Compensation Amount shall constitute full and final satisfaction of all amounts that may be claimed by the Transmitter for and in respect of the occurrence of the Discriminatory Action and, upon such adjustment, the Sponsor shall be released and forever discharged by the Transmitter from any and all liability in respect of such Discriminatory Action.

14.4 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 Transmitter within thirty (30) days after the later of the date of receipt of the Notice of Discriminatory Action and the date of the receipt by the Sponsor of the further supporting particulars referred to in Section 14.3(a). 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 Discriminatory Action or, if a Notice of Dispute has been given, within one hundred and eighty (180) days after the date of the final award pursuant to Section 17.2 to the effect that a Discriminatory Action occurred. If the Sponsor remedies or causes to be remedied the Discriminatory Action in accordance with the preceding sentence, the Transmitter shall have the right to obtain, without duplication, the amount that the Transmitter would have the right to claim in respect of that Discriminatory Action pursuant to Section 14.2, adjusted to apply only to the period commencing on the first day of the first calendar month following the date of the Discriminatory Action and expiring on the day preceding the day on which the Discriminatory Action was remedied.

ARTICLE 15
LIABILITY AND INDEMNIFICATION

15.1 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, loss of use of any property or claims of customers or contractors of the Parties for any such damages.

15.2 Liquidated Damages

(a) Nothing in this Article shall reduce a Party's claim for liquidated damages pursuant to Sections 2.3(e), 2.4(d), 2.12(b), 2.14(d), 7.2(b)(iii) or 11.2(c)(i). The Transmitter acknowledges and agrees with the Sponsor that:

(i) if the Transmitter is a CCR Transmitter, the Transmitter has received an evaluation benefit in respect of the Proposal for the Committed Canadian Content Percentage under the TTL RFP; and

(ii) the actual damages incurred by the Sponsor and Electricity consumers as a result of a failure by the Transmitter to meet its obligations under this Agreement are impossible to definitively quantify and the Transmitter further agrees that the payment of the liquidated damages set forth in this Agreement constitutes a fair and reasonable means of compensating the Sponsor for damages likely to be incurred as a result of such delays and does not constitute a penalty.

15.3 Sponsor Indemnification

The Transmitter shall indemnify, defend and hold the Sponsor, the System Operator, 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:

(a) 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, including to the Environmental Protection Act (Ontario), the Ontario Water Resources Act

(Ontario), the Dangerous Goods Transportation Act (Ontario) or other similar legislation; or

(b) any breach by the Transmitter 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.

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.

15.4 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 15.3 may apply, the Sponsor shall notify the Transmitter in writing of such fact. The Transmitter shall assume the defence thereof with counsel designated by the Transmitter and satisfactory to the affected Indemnitees, acting reasonably; provided, however, that if the defendants in any such action include both the Indemnitees and the Transmitter 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 Transmitter, the Indemnitees shall have the right to select separate counsel satisfactory to the Transmitter acting reasonably (at no additional cost to the Indemnitees) to participate in the defence of such action on behalf of the Indemnitees. The Transmitter 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 15.3 as a result of a Claim by a third party, and the Transmitter fails to assume the defence of such Claim (which failure shall be assumed if the Transmitter fails to provide the notice prescribed by Section 15.4(a)), the Indemnitees shall, at the expense of the Transmitter, contest (or, with the prior written consent of the Transmitter, 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 Transmitter (with the Transmitter remaining obligated to indemnify the Indemnitees under Section 15.3), if, in the written opinion of an independent third party counsel chosen by the Company Representative, such Claim is meritorious. If the Transmitter is obligated to indemnify any Indemnitees under Section 15.3, 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 16
CONTRACT OPERATION AND ADMINISTRATION

16.1 Company Representative

The Transmitter shall, by notice in the form of Exhibit D, appoint from time to time, a representative (a "**Company Representative**"), who shall be duly authorized to act on behalf of the Transmitter, and with whom the Sponsor 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 Transmitter as to all matters pertaining to this Agreement. The Company Representative shall not have the power or authority to amend this Agreement.

16.2 Record Retention; Audit Rights and Obligations

(a) The Transmitter 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 and related to the Facility in Ontario, Canada. All such records shall be maintained as required by Laws and Regulations but for no less than for the Term plus seven (7) years after the creation of the record or data. **[NTD: The Transmitter will be required to keep complete and accurate records of evidence supporting IEPP commitments, which may be audited under (b) below.]**

(b) The Transmitter and the Sponsor, on a confidential basis as provided for in Article 9 of this Agreement, shall provide reasonable access to the relevant and appropriate financial and operating records and data kept by it relating to this Agreement reasonably required for the other Party to comply with its obligations to Governmental Authorities or to verify or audit billings or to verify or audit information provided in accordance with this Agreement. 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 9. Alternatively, a Party may at its own expense appoint an auditor to conduct its audit. The Party seeking access to such records in this manner shall pay the fees and expenses associated with use of the third party auditor.

16.3 Intentionally deleted

16.4 Inspection of Facility

(a) The Sponsor's 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 Transmitter 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 Transmitter 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 Transmitter of any of its obligations to comply with the terms of this Agreement. No Transmitter 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.

16.5 Inspection Not Waiver

(a) Failure by the Sponsor to inspect the Facility or any part thereof under Section 16.4, or to exercise its audit rights under Section 16.2, 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 Transmitter Event of Default shall not constitute or be deemed to constitute a waiver of any Transmitter Event of Default, nor shall it constitute or be deemed to constitute an acknowledgement that there has been or will be compliance by the Transmitter with this Agreement.

(b) Failure by the Transmitter to exercise its audit rights under Section 16.2 shall not constitute or be deemed to constitute a waiver of any of the rights of the Transmitter 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.

16.6 Notices

(a) All notices pertaining 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: ***[Note to Finalization: To be updated prior to execution.]***

If to the Transmitter: [●]

Attention: [●]
E-mail: [●]

If to the Sponsor: IESO
120 Adelaide Street West
Suite 1600
Toronto, Ontario
M5H 1T1

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

Transmitter may, by written notice to the Sponsor, change its respective Company Representative in accordance with Exhibit D 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 be given electronically and then followed 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 17
MISCELLANEOUS

17.1 Informal Dispute Resolution

If either Party considers that a 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. The Parties shall use Commercially Reasonable Efforts to cause their respective senior executives attending a Senior Conference to be informed with all relevant background information in respect of the dispute and to be prepared to propose a resolution to the dispute. If, following the Senior Conference, the dispute is not resolved, the dispute may be settled by arbitration pursuant to Section 17.2, if agreed to by both Parties.

17.2 Arbitration

(a) 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 17.1.

(b) 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.

(c) 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 or solely on a question of law as provided for in the Arbitration Act. The Arbitration Act 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.

17.3 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.

17.4 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.

17.5 No Assignment

Except as provided in Article 13, 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 be at the sole and absolute discretion of such Party.

17.6 No Change of Control

The Transmitter shall not permit or allow a change of Control of the Transmitter, except with the prior written consent of the Sponsor, which consent shall be at the sole and absolute discretion of the Sponsor.

17.7 Survival

The provisions of Sections 5.3, 5.5, Article 6, Section 7.2(b)(iii), Article 9, Sections 11.2, 11.4, 11.5, Article 15, Sections 16.2, 17.1 and 17.2 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.

17.8 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.

17.9 Additional Rights of Set-Off

In addition to the other rights of set-off under this Agreement or otherwise arising in law or equity, either Party may set off any amounts owing to such Party under this Agreement against any amounts owed to the other Party under this Agreement.

17.10 Rights and Remedies Not Limited to Contract

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

17.11 Time of Essence

Time is of the essence in the performance of the Parties' respective obligations under this Agreement.

17.12 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. Without limiting the generality of the foregoing, upon request of the Sponsor, the Transmitter 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 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.

[Remainder of Page Intentionally Blank]

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.

[●]
[Note to Finalization: To be updated prior to execution.]

By: ______________________________
Name:
Title:

By: ______________________________
Name:
Title:

We have authority to bind the corporation.

INDEPENDENT ELECTRICITY SYSTEM OPERATOR

By: ______________________________
Name:
Title:

By: ______________________________
Name:
Title:

We have authority to bind the corporation.

EXHIBIT A
FACILITY DESCRIPTION & FUNCTIONAL REQUIREMENTS

[NTD: Exhibits under development. Exhibit A will include a description of the Facility and the Functional Requirements for the Facility provided in the RFP.]

Part I: Functional Requirements

Part II: Facility Description

EXHIBIT B
PROPOSED TOTAL CAPITAL COST AND [●]

[NTD: Exhibits under development]

EXHIBIT C
FORM OF IRREVOCABLE AND UNCONDITIONAL STANDBY LETTER OF CREDIT

[NTD: Exhibits under development]

EXHIBIT D
FORM OF COMPANY REPRESENTATIVE NOTICE

[NTD: EXHIBITS UNDER DEVELOPMENT]

EXHIBIT E
[AVAILABILITY NON-PERFORMANCE CHARGES]

EXHIBIT F
FORM OF SECURED LENDER CONSENT AND ACKNOWLEDGEMENT AGREEMENT

[NTD: Exhibits under development]

EXHIBIT G
FORM OF FORCE MAJEURE NOTICE

[NTD: Exhibits under development]

EXHIBIT H
FORM OF CONFIDENTIALITY UNDERTAKING

[NTD: Exhibits under development]

EXHIBIT I
CALCULATION OF TOTAL CAPITAL COST

[NTD: Exhibits under development]

EXHIBIT J
FORM OF ACTUAL CANADIAN CONTENT PERCENTAGE CERTIFICATE

[NTD: Exhibits under development]

EXHIBIT K
FORMS OF INDEPENDENT ENGINEER CERTIFICATE

[NTD: Exhibits under development]

EXHIBIT L
FORM OF TRANSMITTER CERTIFICATES

[NTD: Exhibit under development for Early Development Completion Certificate/Pre-Construction Completion Certificate/Commercial Operation Certificate]

EXHIBIT M
MILESTONE DATES

[NTD: Exhibits under development]

EXHIBIT N
FORM OF MONTHLY PROGRESS REPORT

[NTD: Exhibits under development]

EXHIBIT O
FORM OF QUARTERLY PROGRESS REPORT

EXHIBIT P
FORM OF PRE-CONSTRUCTION COMPLETION PROGRESS REPORT

EXHIBIT Q
FORM OF LONG TERM OPERATING PLAN