

USER GUIDE - MPC Asset Transfer Agreement

GENERAL

This template Asset Transfer Agreement (“ATA”) was prepared based on the work of the Market Participant Choice Working Group (“MPC Working Group”). It is a key component of the industry developed market framework for the acquisition by a Transmission Facility Owner (“TFO”) of Eligible Facilities (radial only) (previously called Private Dedicated Transmission Facilities) built by a Market Participant (“MP”). Private Dedicated Transmission Facilities are either load or generation interconnections that are not relied upon as part of the transmission or supporting telecommunications network; their sole purpose and design is to serve the one MP customer only.

The template is the result of extensive negotiations involving representatives of TFOs and Market Participants and embodies the consensus view of the represented parties in respect of appropriate allocation of risk and minimum technical requirements as of December, 2013. The expectation is that Market Participants and TFOs will work together cooperatively to amend and improve this template periodically drawing on their learnings from specific projects in ways that maintain the intent of the Market Participant Choice Framework. AltaLink, L.P. and ATCO Electric Ltd. participated on behalf of the TFOs.

EXECUTION AND CLOSING PROCESS

The intention was to create a template that could be expeditiously readied for execution with a relatively minimal amount of time required for the Parties’ respective processes for internal review and authorization. In most circumstances, the ATA template can be executed at Stage 3 of the AESO Connection Process without modification by the Parties other than the insertion of party- and date-specific information. The TFOs anticipate that upon receipt of a duly completed and executed (but otherwise unmodified ATA) from an MP, they will be able to achieve TFO execution and return delivery of the ATA within five to ten business days.

To assist future users of this template, a form of user guide has been included by way of footnotes to the body of the ATA and explanatory notes in prescribed schedules. As much as practical, variable information is to be included in the ATA via a schedule. In some cases, optional language shown enclosed in [brackets] may be deleted depending on the factual circumstances.

It is recognized that on an exception basis, the template may occasionally be amended based on mutual agreement to meet the particular business needs of the Parties. However, where Parties cannot agree to amendments, the wording in the then-current template will prevail. Significant modification of the then-current template as a matter of course should not be expected. Nevertheless, a Market Participant that believes it has an appropriate reason to request a material amendment to the ATA is encouraged to contact the applicable TFO as early in the process as possible if it wishes to avoid execution and project delays. The ability of the Parties to agree to modify the template is acknowledged not to be inconsistent with the principle of non-discriminatory access.

When the ATA is executed, unlike a typical purchase and sale, the schedules describing the Purchased Assets will be blank as such details will not then be known. When the MP believes that the Project will be complete within 90 to 180 days, it may commence the closing process by sending a Closing Date Notice to the TFO together with the schedules describing the Purchased Assets plus the Disclosure Schedule setting out exceptions to the MP’s representations and warranties, if any. The TFO is entitled not to agree to any proposed exception if it believes that it is inconsistent with its interests and responsibilities, including the MPC Policy Objectives. If the Parties cannot agree, the matters can be resolved through the binding Dispute Resolution Procedure.

ASSET TRANSFER AGREEMENT

dated

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ASSET TRANSFER AGREEMENT

THIS AGREEMENT is dated as of <@>. ¹

BETWEEN:

<@>, a <@> existing under the Laws of <@>

(the “MP”)

- and -

<@>, a <@> existing under the Laws of <@>

(the “TFO”)

CONTEXT:

- A. The TFO is a Transmission Facility Owner in the Province of Alberta and is regulated by the AUC under the provisions of the *Electric Utilities Act* (Alberta), the *Public Utilities Act* (Alberta) and the *Hydro and Electric Energy Act* (Alberta);
- B. The MP is a Market Participant that has initiated a system access service request pursuant to the AESO Connection Process in respect of an Eligible Facility known as <@> (the “Project”); ²
- C. The MP has made a “proposal” pursuant to the AESO Connection Process to construct the Project; and
- D. The TFO is the "incumbent TFO" in respect of the Project;
- E. The MP wishes to sell, and the TFO wishes to buy, all the MP’s assets that are constructed and used in connection with the Project.

THEREFORE, the Parties agree as follows:

ARTICLE 1 INTERPRETATION

1.1 Definitions

In this Agreement, in addition to terms defined elsewhere in this Agreement, the following terms have the following meanings:

¹ **User Guide:** At the time of execution of the ATA, the Parties are to insert the date of execution, their legal names, corporate status (i.e. corporate, limited partnership, etc.) and the applicable jurisdictions under which the entities exist. Similar information is required to be completed in Section 4.1 and Section 5.1, and on the execution page.

² **User Guide:** At the time of execution of the ATA, the Parties are to insert the Project name.

- (a) “**Accounting Standards**” means the system of asset class coding used by the TFO (as amended from time to time) for purposes of filings with the AUC, which system complies with the Uniform System of Accounts and Minimum Filing Requirements approved by the AUC in effect as at the date on which the calculation is made or required to be made in accordance with this Agreement;
- (b) “**Act**” means the *Electric Utilities Act* (Alberta);
- (c) “**AESO**” means the Alberta Electric System Operator operating as the ISO;
- (d) “**AESO Connection Process**” means the connection process implemented by the AESO to facilitate customer connections to the AIES, including Energization;
- (e) “**Agreement**” means this asset transfer agreement, including all Schedules, as it may be supplemented or amended by written agreement between the Parties;
- (f) “**AIES**” means the Alberta Interconnected Electric System;
- (g) “**Annual Structure Payments**” means the amount of compensation payable to landowners on an annual basis under a utility right-of-way agreement consistent with payments currently being applied by the TFO with respect to similar utility right-of-way agreements or compensation orders in respect of the loss of use and adverse effect of the affected area of land, including a buffer area under and around a transmission line structure;
- (h) “**Assumed Liabilities**” means those certain liabilities directly related to the Project described in Schedule “A”;³
- (i) “**AUC**” means the Alberta Utilities Commission, empowered with the jurisdiction to oversee the HEEA and specifically to approve the construction and operation of Transmission Facilities in Alberta;
- (j) “**AUC Approval**” means, to the extent required or desirable, approval by the AUC of the transactions contemplated herein;
- (k) “**Books and Records**” means books, ledgers, files, lists, reports, plans, drawings, specifications, logs, deeds, surveys, correspondence, operating records, tax returns and other data and information, including all data and information stored on computer-related or other electronic media, maintained with respect to the Project, including, engineering information, drawings, asset information, landowner information, property tax assessments, and (without duplication) the Operations Documents;

³ **User Guide:** During the Section 2.2/2.3 process, the MP may request that certain of the liabilities associated with the proposed Purchased Assets that would normally be Excluded Liabilities, instead be categorized as Assumed Liabilities. Any additional Assumed Liabilities are to be described in Schedule “A”. These must be discussed and agreed by the Parties before the schedule is to be deemed complete.

- (l) “**Buildings and Improvements**” means all plant, buildings, structures, erections, improvements, fixtures and appurtenances situated on or forming part of any of the Owned Lands or Leased Premises, and as described in Schedule “A”;
- (m) “**Business Day**” means any day excluding a Saturday, Sunday or statutory holiday in the Province of Alberta, and also excluding any day on which the principal chartered banks located in the City of [Calgary OR Edmonton] are not open for business during normal banking hours;⁴
- (n) “**Claim**” means any claim, demand, action, cause of action, suit, arbitration, investigation, proceeding, complaint, grievance, charge, prosecution, assessment, reassessment or finding by or from any Person, including any appeal or application for review and any determination of any nature whatsoever by a Governmental Authority;
- (o) “**Closing**” means the completion of the sale to, and purchase by, the TFO of the Project and the Purchased Assets pursuant to this Agreement effective as of the Effective Time;
- (p) “**Closing Date**” means the date on which the Closing will take place, such date to be initially designated by the MP pursuant to the Closing Date Notice, and as may be subsequently amended by agreement of the Parties, including, in circumstances where the MP has effected a Disposition pursuant to Section 11.12, reasonable additional time to the extent required in order to complete such agreements, documents, consents, acknowledgements, instruments and other documentation as may be reasonably necessary or desirable to effect the disposition in compliance with Section 11.12;
- (q) “**Closing Date Notice**” means the Notice given by the MP in accordance with Section 2.2;
- (r) “**Closing Statement of Costs**” is defined in Section 3.2;
- (s) “**Closing Time**” means 2:00 p.m. (Mountain Clock Time) on the Closing Date or any other time on the Closing Date as may be agreed by the Parties;
- (t) “**Competition Act**” means the *Competition Act* (Canada);
- (u) “**Competition Act Approval**” means either the issuance by the Commissioner of Competition appointed under the Competition Act of an advance ruling certificate pursuant to Section 102 of the Competition Act with respect to the completion of the transactions contemplated by this Agreement, or the expiry of the applicable waiting period under Part IX of the Competition Act and the written notification by the Commissioner to the TFO that the Commissioner does not, at that time, intend to make an application under Section 92 of the Competition Act for an

⁴ **User Guide:** At the time of execution of the ATA, the Parties are to retain the name of the city where the TFO has its head office, and delete the name of the other city.

order that would impede the completion, without variation, of the transactions contemplated by this Agreement;⁵

- (v) “**Confidentiality Obligations**” means the Parties’ respective obligations of confidentiality contained within this Agreement or within any other confidentiality agreement or non-disclosure agreement executed by the Parties before or after the date this Agreement is executed;⁶
- (w) “**Construction Contribution**” has the meaning given to it in the Tariff;
- (x) “**Contract**” means any agreement, understanding, undertaking, commitment, licence or lease relating to the Project, including Leases, Purchase Orders and Warranty Rights, whether written or oral;
- (y) “**Costs**” are the actual, verifiable and auditable internal and external costs and expenses incurred by the MP for the work performed in connection with the construction of the Project or any portion thereof, including all costs and expenses arising from: (i) the TFO performing services and/or providing material and equipment pursuant to a scope of work associated with the connection of the Project to the AIES direct assigned to the TFO from the AESO (excluding any costs and expenses for system-related upgrades); and (ii) the payment by the MP to the TFO for the TFO’s reasonable incremental internal and external costs and expenses arising from: completing the matters required in order to execute this Agreement and the Interim Operating Authority Services and Interconnection Agreement, and to take all necessary and desirable actions for the benefit of both or either of the Parties in order for Closing to occur as contemplated, including

⁵ **User Guide:** The Competition Act sets out a regime for the civil review of “mergers” which the Commissioner of Competition considers are likely to prevent or lessen competition substantially. All mergers may be subject to review under the Competition Act, regardless of whether they are subject to mandatory pre-merger notification, and can be challenged pre- or post-closing. Pre-merger notification is required in respect of a proposed acquisition of any of the assets in Canada of an operating business if both of the following conditions are true: (a) the parties, together with their affiliates, have assets in Canada or annual gross revenues from sales from or into Canada (exports and imports) that exceed \$400 million; and (b) the aggregate value of the assets to be acquired (i.e. the Purchased Assets), or the annual gross revenues from sales in or from Canada generated from those assets, exceeds \$82 million. These threshold amounts are effective as of 2014, and are subject to adjustment. The size of each of the TFOs means that the first threshold will be exceeded, while the large majority of projects will be under the second threshold. Accordingly, pre-merger notification is unlikely to be required. Regardless of whether pre-merger notification is required, absent an advance ruling certificate, the Commissioner can bring an application for a remedy in respect of a merger within one year following the substantial completion of the transaction. If pre-merger notification is required, significant additional provisions to the ATA will be necessary; the MPC Working Group has not attempted to draft a generic form of provision given the wide range of unique circumstances that are likely to apply. Such additional provisions are to be incorporated in the Disclosure Schedule under “Other Provisions”.

⁶ **User Guide:** The Parties are expected to enter into a comprehensive confidentiality agreement early in the AESO Connection Process in order to safeguard their respective commercial and technical information. The MPC Working Group has endorsed the form of confidentiality agreement that is included with the MPC Asset Transfer Agreement package of materials. Information related to payments in respect of any Land Rights that are in excess of the limits described in the MP’s representation and warranty in Section 4.13(a) or Section 4.13(b), as applicable, ought to be included as confidential information under any such confidentiality agreement.

legal and commercial review of the terms and conditions of this Agreement and the Interim Operating Authority Services and Interconnection Agreement, performing the Preliminary Review, performing its obligations pursuant to the Interim Operating Authority Services and Interconnection Agreement, performing the Pre-transfer Review, completing all matters required in order to satisfy the conditions for the benefit of the MP contained in Section 8.4, and to prepare and register (if applicable) all related conveyances, but in all cases excluding all costs, expenses and liabilities that relate to Excluded Assets and/or Excluded Liabilities;

⁷

- (z) **“Country of Residence”** is defined in Section 4.27;
- (aa) **“Damage Notice”** is defined in Section 6.6;
- (bb) **“Direct Loss”** means any loss, expense, personal injury or death, damage or other liability suffered or incurred by an Indemnified Party;
- (cc) **“Disallowed Costs”** is defined in Section 3.8(c);
- (dd) **“Disclosure Schedule”** means Schedule “H” with the content agreed by the TFO and the MP pursuant to Section 2.3, including any and all exceptions to the representations and warranties given by the MP pursuant to ARTICLE 4;
- (ee) **“Disclosure Schedule Date”** means the date the Disclosure Schedule is provided by the MP to the TFO with the Closing Date Notice;
- (ff) **“Disposition”** means a sale, assignment, mortgage, pledge, transfer, conveyance, encumbrance, set over or disposal in any manner whatsoever, of this Agreement and/or the rights, benefits, interests, accounts, revenues, proceeds, obligations or liabilities under this Agreement, or any portion thereof, or an agreement to effect any of the foregoing;
- (gg) **“Dispute Resolution Procedure”** means the procedure described in Schedule “G”;
- (hh) **“Effective Time”** means the specific time on the Closing Date agreed by the Parties to be the instant at which the Closing is to be effective;⁸
- (ii) **“Eligible Facility”** has the meaning ascribed to it in the regulations to the Act;⁹

⁷ **User Guide:** It is anticipated that some of the Costs related to the additional work required of the TFO as a result of the MPC program will be recovered via an agreement between the Parties (e.g. construction contribution agreement or construction commitment agreement). However, the Parties may need to document the manner in which TFO costs not covered by any such agreement will be paid to the TFO. Such costs then form part of the “Costs” which form the basis of the Purchase Price the TFO pays for the Purchased Assets. See also Section 8.1(f)(viii).

⁸ **User Guide:** The Parties must agree on the exact moment during the Closing Date that the transfer of the Purchased Assets is to be effective, appropriate to the circumstances and the Project. This time is to be inserted in the General Conveyance delivered at Closing.

- (jj) “**Encumbrance**” means any security interest, mortgage, charge, pledge, hypothec, lien, encumbrance, restriction, option, adverse Claim, right of others or other encumbrance of any kind;
- (kk) “**Energization**” means the electrical connection of the Project to the AIES;
- (ll) “**Energization Certificate**” means the formal document signed by representatives of AESO to authorize the facilities as identified therein to connect to the AIES, and which may include a list of any deficiencies in respect thereto;
- (mm) “**Environment**” means the ambient air, all layers of the atmosphere, all water including surface water and underground water, all land, all living organisms and the interacting natural systems that include components of air, land, water, living organisms and organic and inorganic matter, and includes indoor spaces;
- (nn) “**Environmental Deficiencies**” means any environmental contamination, deficiencies, liabilities and obligations arising from any breach of any applicable Environmental Laws, release of any Hazardous Substances contrary to applicable Environmental Laws or otherwise, occurring prior to the Effective Time;
- (oo) “**Environmental Laws**” means all Laws relating to the Environment and protection of the Environment, the regulation of chemical substances or products, health and safety including occupational health and safety, and the transportation of dangerous materials;
- (pp) “**ETA**” means Part IX of the *Excise Tax Act* (Canada);
- (qq) “**Excluded Assets**” means the following property and assets of the MP pertaining to the Project and all documents, books, accounts, records and other information relating to that property and those assets:
 - (i) all the corporate, financial and other records of the MP not pertaining primarily to the Project;
 - (ii) all Inventories;
 - (iii) all Purchase Orders outstanding at the Effective Time;
 - (iv) all Land Rights in respect of which (and to the extent that) the TFO has agreed to accept one or more MP Granted Leases pursuant to Section 2.3; and

⁹ **User Guide:** The regulatory definition of Eligible Facility specifically refers to radial transmission facilities. While the regulation is permissive in allowing an MP and a TFO to agree to some other configuration, Alberta Energy notes that this would be a rare exception. This template ATA is designed for radial transmission facilities only.

- (v) all other property and assets described in Schedule “A” under the heading “Excluded Assets”;¹⁰
- (rr) **“Excluded Liabilities”** means:
 - (i) all liability for payments in respect of any Land Right that is in excess of the limits described in the MP’s representation and warranty in Section 4.13(a) or Section 4.13(b), as applicable;
 - (ii) all Disallowed Costs related to the Project;
 - (iii) all liability of the MP for all Claims arising by reason of the occurrence prior to the Effective Time of any personal injury or death, accident or other alleged damage-causing event with respect to the operations of the MP prior to the Effective Time or relating to products manufactured or sold or services performed by the MP prior to the Effective Time that provide the basis for a Claim for personal injury or death from and after the Closing Date;
 - (iv) all liability of the MP relating to the Excluded Assets;
 - (v) all liability of the MP for any breach by the MP of any Laws, including Environmental Laws, relating to the construction or operation or use of the Project or the Purchased Assets prior to the Effective Time;
 - (vi) all liability for Environmental Deficiencies;
 - (vii) all liability of the MP suffered or incurred or accruing prior to the Effective Time under any Contract or Real Property Lease;
 - (viii) all liability for any Taxes suffered or incurred or accruing prior to the Effective Time relating to the Project or the Purchased Assets (including penalties, fines and interest) except as set out in Schedule “A”;
 - (ix) all liability for wages, salary, bonus, vacation pay or other remuneration, or under any plans, or for any Claims pursuant to workers’ compensation or similar legislation, relating to any individual while employed or engaged by the MP on the Project;
 - (x) all obligations agreed to by the MP to upgrade any Third Party’s facilities to a future standard (where a crossing agreement or facility relocation has occurred), to resolve any outstanding construction-related commitments to landowners, or to provide any outstanding construction or project-related

¹⁰ **User Guide:** During the Section 2.2/2.3 process, either Party may request that certain of the proposed Purchased Assets be categorized as Excluded Assets, in addition to the standard list in this definition. Any additional Excluded Assets are to be described in Schedule “A”. These must be discussed and agreed by the Parties before the schedule is to be deemed complete.

economic benefits or benefits of economic value to First Nation Communities; and

- (xi) all other liabilities described in Schedule “A” under the heading “Excluded Liabilities”;¹¹
- (ss) **“Facility Acceptance Framework”** means the procedures for the acceptance of the Project by the TFO as described in Schedule “E”;
- (tt) **“Final Statement of Costs”** is defined in Section 3.3;
- (uu) **“Fixed Assets and Equipment”** means all facilities, machinery, equipment (including motor vehicles and all manufacturing and quality control equipment and office equipment including computer equipment), boilers, electrical substations, fixtures, furniture, furnishings, vehicles, material handling equipment, implements, accessories and all other tangible or corporeal property of any kind used or held for use primarily in or in respect of the Project (other than Buildings and Improvements, Inventories, Books and Records) whether located in or on the premises of the MP or elsewhere and all rights, privileges, licenses and entitlements to use same in the same manner as are and have been used by the MP, and including those described in Schedule “A”;
- (vv) **“Good Electric Operating Practice”** means, at any particular time: (i) any of the practices, methods and acts engaged in or approved by a significant portion of the Canadian electric transmission industry prior to such time and by constructors, owners, operators or maintainers of facilities similar in size and operational characteristics to the Project; or (ii) any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at the lowest reasonable costs consistent with applicable Law and the Permits, environmental considerations, good business practices, reliability, safety, expedition and the manufacturer's maintenance requirements, provided that “Good Electric Operating Practice” is not intended to be limited to the optimum practices, methods or acts to the exclusion of all others, but rather to be a spectrum of the acceptable practices methods or acts generally accepted in such industry having due regard for, among other things, the manufacturer's maintenance requirements, the requirements of Governmental Authorities and any applicable agreements;
- (ww) **“Governmental Authority”** means any federal, provincial, state, local, municipal, regional, territorial, aboriginal, or other government, governmental or public department, branch, ministry, or court, domestic or foreign, including any district, agency, commission, board, arbitration panel or authority exercising or

¹¹ **User Guide:** During the Section 2.2/2.3 process, either Party may request that certain of the liabilities associated with the proposed Purchased Assets be categorized as Excluded Liabilities, in addition to the standard list in this definition. Any additional Excluded Liabilities are to be described in Schedule “A”. These must be discussed and agreed by the Parties before the schedule is to be deemed complete.

entitled to exercise any administrative, executive, judicial, ministerial, prerogative, legislative, regulatory or taxing authority or power of any nature as well as any quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under or for the account of any of them, and any subdivision of any of them;

- (xx) “**GST**” means the goods and services tax imposed under the ETA and any provincial sales tax on goods and/or services;
- (yy) “**Hazardous Substance**” means any substance, waste, liquid, gaseous or solid matter, fuel, micro-organism, sound, vibration, ray, heat, odour, radiation, energy vector, plasma, organic or inorganic matter which is or is deemed to be, alone or in any combination, hazardous, hazardous waste, solid or liquid waste, toxic, a pollutant, a deleterious substance, a contaminant or a source of pollution or contamination, regulated by any Environmental Laws;
- (zz) “**HEEA**” means the *Hydro and Electric Energy Act* (Alberta);
- (aaa) “**Indemnified Parties**” means the MP Indemnified Parties or the TFO Indemnified Parties, as applicable;
- (bbb) “**Indemnifying Party**” means the Party providing indemnification to an Indemnified Party pursuant to any part of ARTICLE 9;
- (ccc) “**Indemnity Claim**” is defined in Section 9.5;
- (ddd) “**Independent System Operator**” has the meaning given in Section 1 of the Act;
- (eee) “**Insolvent**” means with respect to any Person, the status of such Person if such Person: (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it; (ii) makes an assignment or any general arrangement for the benefit of creditors; (iii) otherwise becomes bankrupt or insolvent (however evidenced); (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets; (v) is generally unable, or otherwise persistently fails, to pay its debts as they fall due; or (vi) the realizable value of such Person’s assets are at any time less than the aggregate of its liabilities;
- (fff) “**Insurance Policies**” means insurance policies issued by reputable insurers for Losses arising out any activities on or about the Project and the Purchased Assets and in amounts and terms and conditions customary for similar projects;
- (ggg) “**Intellectual Property**” means the intellectual property listed in Schedule “A”, being all of the software, licenses, patents and patent applications, copyrights, domain names, industrial designs, trade secrets, know-how, formulae, processes, inventions, technical expertise, research data and other similar property, all

associated registrations and applications for registration, and all associated rights, including moral rights, required to own, operate and maintain the Project in accordance with the representations, warranties and covenants of the MP contained in this Agreement;

- (hhh) “**Interconnection Agreement**” means an agreement between TFO and the MP providing for interconnection services following Closing and the termination of the Interim Operating Authority Services and Interconnection Agreement, which agreement will incorporate or be consistent with the post-Closing maintenance and repair provisions in Section 6.8;
- (iii) “**Interim Operating Authority Services and Interconnection Agreement**” means an agreement between the Parties in form and substance as attached as Schedule “F”;
- (jjj) “**Inventories**” means all inventories of every kind and nature pertaining to the Project and the Purchased Assets;¹²
- (kkk) “**ISO**” means the Independent System Operator as defined in the Act;
- (lll) “**ISO Rules**” means the rules made by the ISO pursuant to the Act;
- (mmm) “**ITA**” means the *Income Tax Act* (Canada);
- (nnn) “**Knowledge of the MP**” means the knowledge that the senior officer of the MP with responsibility for the Project actually has, and in addition would have obtained, after having made or caused to be made all reasonable inquiries necessary to obtain informed knowledge, including inquiries of the records, and employees, consultants, agents and contractors of the MP (and of the MP’s affiliates), who are reasonably likely to have firsthand knowledge of the relevant matter;
- (ooo) “**Land Rights**” means all rights of every nature or kind in respect of real property pertaining to the Project and the Purchased Assets, including the right to erect, maintain and operate structures on land, the Owned Lands (excluding at Closing any such Owned Lands to the extent that the TFO has agreed to accept one or more MP Granted Leases in the place thereof), the Real Property Leases (and the Leased Premises to which they relate), and those described in Schedule “B”;
- (ppp) “**Law**” or “**Laws**” means all laws, statutes, codes, ordinances, decrees, rules, regulations, by-laws, statutory rules, principles of law, published policies, procedures and guidelines, judicial or arbitral or administrative or ministerial or departmental or regulatory judgments, orders, decisions, rulings, or awards, including those of the AUC and the AESO and general principles of common and civil law, and the terms and conditions of any grant of approval, permission,

¹² **User Guide:** The ATA contemplates that Inventories will not be transferred as part of the Purchased Assets, with Inventories being listed as an Excluded Asset. However, see the footnote for Schedule “D”.

authority or licence of any Governmental Authority, and the term “applicable” with respect to Laws and in a context that refers to one or more Persons, means that the Laws apply to the Person or Persons, or its or their business, undertaking or property, and emanate from a Governmental Authority having jurisdiction over the Person or Persons or its or their business, undertaking or property;

- (qqq) “**Leased Premises**” means all of the Land Rights that are leased by the MP in connection with the Project and the Purchased Assets pursuant to Real Property Leases, and includes easements, utility rights of way, and all and any other rights granting the holder thereof the right to access lands temporarily or permanently or for a term;
- (rrr) “**Leases**” means the leases relating to the Project and the Purchased Assets other than the Real Property Leases;
- (sss) “**Lender**” means a Person that either directly or as agent or trustee, lends funds or extends a credit facility, or guarantees the obligations of, the MP or an affiliate of the MP, and such Person’s successors and assigns;
- (ttt) “**Loss**” means any Direct Loss or Third Party Claim, and the costs and expenses of any associated action, suit, proceeding, demand, assessment, judgment, settlement or compromise and all interest, punitive damages, fines, penalties and all legal and other professional fees and disbursements on a solicitor and its own client basis;
- (uuu) “**Market Participant**” has the meaning given in Section 1 of the Act;
- (vvv) “**Material Adverse Effect**” means any material adverse change, effect, event or matter related to the TFO’s ownership, operation and maintenance of the Purchased Assets following Closing, or the liabilities of the TFO in connection therewith, as determined from the perspective of a reasonable Person in the TFO’s position having regard to the MPC Policy Objectives and the principle that, from and after Closing, it is the intention of the Parties that the TFO will be in the same position with respect to the Project and Purchased Assets as if it had constructed them itself in accordance with Good Electric Operating Practice and the Project Requirements;
- (www) “**Material Contract**” means any Contract:
 - (i) the termination of which, or the loss of rights under which, would reasonably be expected to result in a Material Adverse Effect; or
 - (ii) that is in respect of a Material Land Right;
- (xxx) “**Material Land Right**” means any Land Right, the termination of which, or the loss of rights under which, would reasonably be expected to result in a Material Adverse Effect;

- (yyy) “**Material Permit**” means any Permit, the termination or revocation of which, or the loss of rights under which, would reasonably be expected to result in a Material Adverse Effect;
- (zzz) “**MP**” is defined above on page 1;
- (aaaa) “**MP Granted Lease**” means a lease, easement, utility right of way or other right of surface access between the MP, as grantor, and the TFO, relating to some or all of the Owned Lands in respect of which (and to the extent that) the TFO has agreed pursuant to Section 2.3 to accept such MP Granted Lease in the place of the associated Land Right;¹³
- (bbbb) “**MP Indemnified Parties**” means the MP and/or its Personnel, to the extent that any such Person is indemnified under any provision of ARTICLE 9;
- (cccc) “**MPC Policy Objectives**” means the objectives set out in the Alberta Energy Market Participant Choice for Transmission Connections Policy Paper last revised on December 11, 2013 repeated as follows:
- *To enable Market Participants to build their own connection facilities;*
 - *To maintain the integrity and reliability of the AIES;*
 - *To minimize incremental costs or risks to TFOs; and*
 - *To minimize incremental costs or risks to electricity customers;*¹⁴
- (dddd) “**Notice**” means any notice, demand, request, consent, approval or other communication which is required or permitted by this Agreement to be given or made by a Party;
- (eeee) “**Operations Documents**” means the documents described in Schedule “C”, including Contracts and Permits;
- (ffff) “**Owned Lands**” means all of the Land Rights used in connection with the Project for which a certificate of title has or could be issued to the MP;
- (gggg) “**Parties**” means the MP and the TFO, and “**Party**” means either one of them;

¹³ **User Guide:** During the Section 2.3 process, the MP may include in the Schedule “B” Land Rights, its proposed MP Granted Leases. In the normal course, it is expected that all the surface land rights associated with the Project will be conveyed to the TFO. However, in some instances, it may not be possible or practical to do so; for example, if the MP’s surface land rights also include the site of certain of the MP’s other, retained assets. In those situations, the MP may desire to grant to the TFO a sublease or other subsidiary right that is adequate for the TFO’s operation of the Project, subject to all necessary subdivision or other approvals.

¹⁴ **User Guide:** At the time of execution of this Agreement, the Parties are to conform this definition with the most recent date and version of the policy.

(hhhh) **“Permits”** means all authorizations, registrations, permits, certificates of approval, approvals, grants, licences, quotas, consents, commitments, rights or privileges (other than those relating to the Intellectual Property) issued or granted by any Governmental Authority to the MP in respect of the Project and the Purchased Assets, including the permit to construct and the licence to operate the Project;

(iiii) **“Permitted Encumbrances”** means:

- (i) unregistered liens for municipal taxes, assessments or similar charges suffered or incurred by the MP in the ordinary course of the Project that are not yet due and payable or, if due and payable, are to be adjusted between the MP and the TFO on Closing;
- (ii) inchoate mechanics’, builders’, construction and carriers’ liens and other similar liens arising by operation of law or statute in the ordinary course of the Project for obligations which are not delinquent and will be paid or discharged in the ordinary course of the MP’s business;
- (iii) unregistered Encumbrances of any nature claimed or held by Her Majesty The Queen in Right of Canada, Her Majesty The Queen in right of Alberta, or by any Governmental Authority under any applicable legislation, statute or regulation, except for unregistered liens for unpaid realty taxes, assessments and public utilities;
- (iv) title defects which are of a minor nature and in the aggregate, in the reasonable opinion of the TFO, do not materially impair the value or use of the Owned Lands or the Leased Premises;
- (v) any right of expropriation conferred upon, reserved to or vested in Her Majesty The Queen in Right of Canada, Her Majesty The Queen in right of any province of Canada in which the Owned Lands or the Leased Premises are located, or by any Governmental Authority under any applicable Law;
- (vi) zoning restrictions, easements and rights of way or other similar encumbrances or privileges in respect of real property which in the aggregate, in the reasonable opinion of the TFO, do not materially impair the value or use of the Project and which are not violated in any respect by existing or proposed structures or land use;
- (vii) Encumbrances created by others upon other lands over which there are easements, rights-of-way, licences or other rights of user in favour of the Land Rights and which do not materially impede the use of such

easements, rights-of-way, licences or other rights of user for the purposes for which they are held and described in Schedule “B”;¹⁵

- (viii) any Encumbrance which the TFO has expressly agreed to assume or accept as an Assumed Liability pursuant to Section 2.3;¹⁶
 - (ix) the reservations, limitations, provisos, conditions, restrictions and exceptions in the letters patent or grant, as the case may be, from the Crown and statutory exceptions to title; or
 - (x) those instruments registered on title to the Owned Lands or against the leasehold interest of the MP in the Leased Premises and described in Schedule “B”;¹⁷
- (jjjj) “**Person**” means an individual, body corporate, sole proprietorship, partnership, trust, unincorporated association, unincorporated syndicate, unincorporated organization, or another entity, and a natural Person acting in his or her individual capacity or in his or her capacity as executor, trustee, administrator or legal representative, and any Governmental Authority;
- (kkkk) “**Personal Information**” means information about an individual who can be identified by the Person who holds that information;
- (llll) “**Personnel**” means a Party’s shareholders, directors, officers, employees, consultants, agents and employees;
- (mmmm) “**Preliminary Review**” means the review with that name described in the Facility Acceptance Framework;
- (nnnn) “**Pre-transfer Review**” means the review with that name described in the Facility Acceptance Framework;
- (oooo) “**Privacy Laws**” means any Laws that regulate the collection, use or disclosure of Personal Information;
- (pppp) “**Project**” is defined under “Context” above on page 1;
- (qqqq) “**Project Requirements**” means the minimum technical requirements for the Project set out in Schedule “D”;
- (rrrr) “**Purchase Orders**” means all orders or Contracts outstanding for the purchase or sale of personal property relating to the Project and the Purchased Assets;
- (ssss) “**Purchase Price**” is defined in Section 3.1;

¹⁵ **User Guide:** See footnote for Section 2.2.

¹⁶ **User Guide:** See footnote for definition of Assumed Liability.

¹⁷ **User Guide:** See footnote for Section 2.2.

(tttt) “**Purchased Assets**” means all of the rights, assets, privileges, benefits and property of whatever nature or kind (including those enumerated below to the extent that they pertain to the Project) and wherever situated, that are owned or used by the MP or held by it for use primarily in, or primarily with respect to the operation of, the Project:

- (i) Fixed Assets and Equipment;
- (ii) Land Rights;
- (iii) Buildings and Improvements;
- (iv) Contracts, including the Warranty Rights;
- (v) Permits;
- (vi) Books and Records; and
- (vii) Intellectual Property, or an irrevocable, non-exclusive, non-divisible, royalty-free right and license to use the same as required to own, operate and maintain the Project in accordance with the representations, warranties and covenants of the MP contained in this Agreement;

but excluding any property and assets that are Excluded Assets;

(uuuu) “**Real Property Leases**” means the leases between the MP, as tenant, and the applicable owners, and all amendments to those leases, relating to the leasing by the MP of the Leased Premises, and is to be construed broadly to include grants of easement, right of way agreements, right of entry orders, permits, and all and any other agreements whereunder a holder of rights in respect of or related to land grants them to another Person;

(vvvv) “**Release**” means to release, spill, leak, pump, pour, emit, empty, discharge, deposit, inject, leach, dispose, dump or permit to escape;

(wwww) “**Remedial Order**” means any remedial order, including any notice of noncompliance, order, other complaint, direction or sanction issued, filed or imposed by any Governmental Authority pursuant to Environmental Laws, with respect to the existence of Hazardous Substances on, in or under Owned Lands, Leased Premises, or neighbouring or adjoining properties, or the Release of any Hazardous Substance from, at or on the Owned Lands or Leased Premises, or with respect to any failure or neglect to comply with Environmental Laws;

(xxxx) “**Served Facilities**” means the specific property and assets that were identified in the Need Identification Document approved by the AUC to obtain system access service by means of interconnection to the AIES via the Project and the Purchased Assets;

- (yyyy) “**Tariff**” means the ISO tariff as defined in the Act prepared by the ISO and approved by the AUC;
- (zzzz) “**Tax**” means all taxes, duties, fees, premiums, assessments, imposts, levies, rates, withholdings, dues, government contributions and other charges of any kind whatsoever, whether direct or indirect, together with all interest, penalties, fines, additions to tax or other additional amounts, imposed by any Governmental Authority, including all taxes levied on or measured by, or referred to as property, transfer, land transfer, registration charges, gross receipt, sales, provincial sales, use, consumption, GST, value-added, turnover, excise or stamp, all customs duties, countervail, anti-dumping and special import measures and all import and export taxes;
- (aaaaa) “**Tax Treaty**” is defined in Section 4.27;
- (bbbbb) “**TFO**” is defined above on page 1;
- (ccccc) “**TFO Indemnified Parties**” means the TFO and/or its Personnel, to the extent that any such Person is indemnified under any provision of ARTICLE 9;
- (dddd) “**TFO Usual Practices**” means the TFO’s normal practices with respect to the maintenance, repair and replacement of its Transmission Facilities (whether for emergencies or otherwise) as informed by its experience, obligations pursuant to the Law, the TFO’s terms and conditions with the ISO, and Good Electrical Operating Practice;
- (eeeee) “**Third Party**” means a Person other than one of the Parties;
- (ffff) “**Third Party Claim**” means any Claim by any Third Party against an Indemnified Party in respect of any loss, expense, personal injury or death, damage or other liability suffered or incurred by the Third Party;
- (ggggg) “**Third Party Consent**” is defined in Section 2.4(b);
- (hhhhh) “**Transmission Facility Owner**” has the same meaning as that provided for “owner” and “transmission facility” in the Act; and
- (iiii) “**Warranty Rights**” means the full benefit of all warranties, warranty rights, performance bonds and indemnities (implied, express or otherwise) against manufacturers, sellers or contractors which apply to any of the Purchased Assets.

1.2 Certain Rules of Interpretation

- (a) All terms enclosed in quotation marks that are used in this Agreement (including in the recitals to this Agreement) which are not otherwise defined herein will have the respective meanings ascribed to them in the Act and related regulations;

- (b) In this Agreement, words signifying the singular number include the plural and vice versa, and words signifying gender include all genders. Every use of the word “including” in this Agreement is to be construed as meaning “including, without limitation”;
- (c) The division of this Agreement into Articles and Sections, the insertion of headings and the provision of a table of contents are for convenience of reference only and do not affect the construction or interpretation of this Agreement;
- (d) Unless otherwise specified, time periods in this Agreement within which or following which any payment is to be made or act is to be done will be calculated by excluding the day on which the period begins and including the day on which the period ends. If the last day of a time period is not a Business Day, the time period will end on the next Business Day;
- (e) Unless otherwise specified, any reference in this Agreement to any statute includes all regulations made under or in connection with that statute from time to time, and is to be construed as a reference to that statute as amended, supplemented or replaced from time to time; and
- (f) Unless otherwise specified, any reference in this Agreement by specific name to a Governmental Authority or to a body exercising authority or performing duties under applicable Law includes all successor entities exercising or performing the same or similar authority or duties relative to the subject matter of this Agreement.

1.3 Governing Law

This Agreement is governed by, and is to be construed and interpreted in accordance with, the Laws of the Province of Alberta and the Laws of Canada applicable in that Province.

1.4 Entire Agreement

This Agreement, together with the agreements and other documents to be delivered pursuant to this Agreement and any agreement between the Parties governing Confidentiality Obligations, constitutes the entire agreement between the Parties pertaining to the subject matter of this Agreement and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the Parties, and there are no representations, warranties or other agreements between the Parties in connection with the subject matter of this Agreement (including the post-Closing maintenance and repair provisions in Section 6.8) except as specifically set out in this Agreement or the other agreements and documents delivered pursuant to this Agreement. No Party has been induced to enter into this Agreement in reliance on, and there will be no liability assessed, either in tort or contract, with respect to, any warranty, representation, opinion, advice or assertion of fact, except to the extent it has been reduced to writing and included as a term in this Agreement or in one of the other agreements and documents delivered pursuant to this Agreement.

1.5 MPC Policy Objectives – Interpretation of Agreement

The Parties adopt the MPC Policy Objectives as an aid to interpretation should any dispute arise between them with respect to the subject matter of this Agreement (including their respective rights and obligations) whether or not the dispute is referred to the Dispute Resolution Procedure. The Parties' adoption of the MPC Policy Objectives is not intended to exclude any other principles of interpretation that would otherwise apply.

1.6 Schedules

The following Schedules are attached to and incorporated by reference into this Agreement:

Schedule	Subject Matter
"A"	Description of Purchased Assets (to be attached upon finalization by the Parties pursuant to Section 2.3)
"B"	Description of Land Rights (to be attached upon finalization by the Parties pursuant to Section 2.3)
"C"	Operations Documents (to be attached upon finalization by the Parties pursuant to Section 2.3)
"D"	Project Requirements
"E"	Facility Acceptance Framework
"F"	Form of Interim Operating Authority Services and Interconnection Agreement
"G"	Dispute Resolution Procedure
"H"	Disclosure Schedule (to be attached upon finalization by the Parties pursuant to Section 2.3)
"I"	Form of General Conveyance

ARTICLE 2 PURCHASE AND SALE

2.1 Agreement of Purchase and Sale

Subject to the terms and conditions of this Agreement, on the Closing Date the MP will sell and the TFO will purchase, as of and with effect from and after the Effective Time, the Purchased Assets.

2.2 Designation of Closing Date

Following the satisfactory completion of all Stage 5 activities and requirements as described in the AESO Connection Process (and subsequently in accordance with Section 8.3 or Section 8.5),

the MP may give a Notice to the TFO designating a Closing Date (the “**Closing Date Notice**”), which will be no more than one hundred and eighty (180) days and no less than ninety (90) days (or in the case of a second Closing Date Notice in accordance with Section 8.3 or Section 8.5, no less than thirty (30) days) following the date the Closing Date Notice is received by the TFO. To be effective, the Closing Date Notice must be accompanied by the following proposed Schedules:

- (a) Schedule “A”, Description of Purchased Assets;¹⁸
- (b) Schedule “B”, Description of Land Rights; and¹⁹
- (c) Schedule “H”, Disclosure Schedule;

with the proposed content of each such Schedule completed by the MP effective as of the date the Closing Date Notice is given (i.e. the Disclosure Schedule Date), except for the information that is to be completed by the TFO pursuant to Section 2.3. If applicable, the MP will expressly describe in the proposed Disclosure Schedule the nature and extent to which it is unable as of the Disclosure Schedule Date to give the representations and warranties set forth in ARTICLE 4 without qualification or amendment.²⁰

2.3 Completion of Certain Schedules

Upon receipt by the TFO of the Closing Date Notice and the accompanying proposed Schedules, the TFO will as soon as practicable (and in any case, within fifteen (15) Business Days) provide the MP with the TFO’s proposed additions and/or deletions to the Operations Documents set out in Schedule “C”, and any additional information relating to the TFO in the Disclosure Schedule.

²¹ The Parties will discuss the Schedules proposed by one another with the objective of remedying all issues identified in the proposed Schedules “A”, “B” and “H” that are Material Adverse Effects or would reasonably be expected to result in a Material Adverse Effect, and otherwise finalizing the information and content required in such Schedules.²² In this regard,

¹⁸ **User Guide:** This schedule also includes Assumed Liabilities, Excluded Assets and Excluded Liabilities, which are to be discussed and agreed by the Parties before the schedule is to be deemed complete.

¹⁹ **User Guide:** This schedule also includes Permitted Encumbrances in addition to the standard encumbrances listed in the definition of Permitted Encumbrances, which are to be discussed and agreed by the Parties before the schedule is to be deemed complete.

²⁰ **User Guide:** Except to the limited extent that another portion of the ATA is necessarily affected by the proposed qualification or amendment of a representation and warranty, Section 2.2 and Section 2.3 do not provide the MP with the right to amend, or to propose the amendment of, any other part of the ATA. If the MP wishes to amend other portions of the ATA other than as are specifically referenced as being part of the process in Sections 2.2 and 2.3, it must raise such issues prior to the time the ATA is originally executed. See the general discussion of the User Guide on the first page regarding the effect this may have on timing of execution.

²¹ **User Guide:** When the ATA is originally executed, Schedule “C” will already have content based on the indicative requirements provided by the TFOs for the ATA template. At this juncture, after receiving the information provided by the MP, the TFO can tailor Schedule “C” to the specific Project and Purchased Assets.

²² **User Guide:** This is the juncture at which the Parties may agree to any necessary additional provisions in the ATA and include them under “Other Provisions” in the Disclosure Schedule, including in respect of the small minority of transactions where Competition Act Approval, or third party consents referenced in Section 4.7 or other approvals referenced in Section 4.9(c) or 5.5(c), or TFO withholding is required under section 116 of the

either Party may use the Dispute Resolution Procedure to resolve any disagreement; however, the MP may not use the Dispute Resolution Procedure to alter any provision of this Agreement where the TFO is described as having or acting in its “sole discretion”. The proposed Schedules and/or the body of this Agreement will be amended to the extent necessary and appropriate to incorporate the resolutions to the identified issues, either by the Parties’ agreement or pursuant to the Dispute Resolution Procedure. Unless qualified by the word “proposed”, references in this Agreement to any of Schedules “A”, “B”, “C” and “H” are references to such Schedules in the forms resolved in accordance with this Section 2.3. Failing resolution, this Agreement will terminate and be of no further force and effect with no liability to either of the Parties except as may be expressly set out elsewhere in this Agreement. Following the completion of the Disclosure Schedule, the MP will comply with its continuing disclosure obligations pursuant to Section 6.4.

2.4 Non-Assigned Assets

- (a) Nothing in this Agreement will be construed as an assignment of, or an attempt to assign to the TFO any Contract, Real Property Lease, Permit or other right that, as a matter of law or by its terms, is: (i) not assignable; or (ii) not assignable without first obtaining a Third Party Consent which has not been obtained.
- (b) Notwithstanding any other provision of this Agreement, but subject to Section 2.4(c), if any of the Contracts, Land Rights, Permits or other rights are not assignable, or are only assignable with the consent or approval of a Third Party (a “**Third Party Consent**”) that has not been obtained at or prior to Closing, the MP will not be considered to be in breach of any of its obligations under this Agreement or to be in breach of any representation or warranty made in this Agreement, provided that:²³
 - (i) the MP for a period of not less than thirty (30) days following the Closing Date, makes all reasonable efforts, in co-operation with the TFO, to secure any Third Party Consents required in connection with the assignment of the relevant Contracts, Real Property Lease, Permit or other right; and
 - (ii) pending the effective transfer of the relevant Contracts, Real Property Leases or Permits, the MP will hold all rights or entitlements that the MP has in those Purchased Assets in trust for the exclusive benefit of the TFO, provided that the TFO will pay, perform and discharge all obligations arising or accruing with respect to those Purchased Assets during that period.
- (c) Notwithstanding Section 2.4(b), if any Material Contract, Material Land Right, or Material Permit is not assigned to the TFO at the Closing, the MP will be in

ITA. See the definition of Competition Act Approval and Section 3.6 for further information. See also the template Disclosure Schedule.

²³ **User Guide:** The MP must list in the Disclosure Schedule any consents, approvals and waivers the existence of which make it impossible for the MP to provide the representation and warranty in Section 4.7.

breach of its obligations under this Agreement and any relevant representation or warranty made in this Agreement.

ARTICLE 3 PURCHASE PRICE

3.1 Purchase Price

The consideration payable by the TFO to the MP for the Purchased Assets (the “**Purchase Price**”) will be the aggregate amount of the Costs related to the Project, subject to adjustment in accordance with Section 3.3 (and if applicable, subject to withholding permitted pursuant to Section 3.6 if the MP is a non-resident of Canada) and the subsequent treatment of Disallowed Costs in accordance with Section 3.8. The TFO’s obligation to pay the Purchase Price will be satisfied by the TFO at Closing firstly by the set off of:

- (a) the estimated Purchase Price as set out in the Closing Statement of Costs (plus applicable GST); against
- (b) the Construction Contribution payable by the MP to the TFO for the Project (plus applicable GST);

and secondly, to the extent that the estimated Purchase Price is greater than the Construction Contribution payable, the payment by the TFO of the difference to the MP at Closing plus applicable GST.

3.2 Closing Statement of Costs

Not less than ten (10) Business Days before the Closing Date, the MP will deliver to the TFO a statement which will reflect good faith estimates by the MP of the Costs expended on the Project to and including the Closing Date (the “**Closing Statement of Costs**”). The Closing Statement of Costs will be prepared in accordance with the Accounting Standards, and will be accompanied by a certificate of the chief financial officer of the MP, or other senior officer of the MP acceptable to the TFO, acting reasonably, to the effect that the officer has reviewed the Closing Statement of Costs, that it represents the best estimate, made in good faith, of the Costs expended on the Project to and including the Closing Date, prepared in accordance with the Accounting Standards, and that the officer has no reason to believe that this estimate cannot be relied upon for purposes of the Closing. The Closing Statement of Costs will also be accompanied by a copy of the working papers of the MP used in its preparation, together with any other evidence supporting the amounts specified in the Closing Statement of Costs as the TFO may reasonably request.

3.3 Post-Closing Adjustment of Purchase Price

Following Closing and in accordance with the time limits mandated by the AESO Connection Process, the Parties will cooperate to provide the AESO with all necessary information and documentation to permit the AESO to issue its updated final construction contribution decision. Within twenty (20) Business Days of receipt by the TFO of such final construction contribution decision, the TFO will prepare and provide to the MP a final statement of Costs based upon the

information in the final construction contribution decision (the “**Final Statement of Costs**”), which (subject to Section 3.8) will be considered conclusive and binding for purposes of determining the Purchase Price. The Purchase Price and the Construction Contribution will be increased or decreased as applicable in accordance with the Final Statement of Costs, and to the extent they are amended by the same amount, will be deemed satisfied by the set off of one against the other. The Parties will cooperate to make any and all revisions to documents, authorizations, approvals, orders, consents, registrations, notices and filings with Governmental Authorities in order to ensure that all of the foregoing are accurate and truthful and compliant with applicable Laws.

3.4 Allocation of Purchase Price

Subject to the adjustment pursuant to Section 3.3, the Purchase Price will be allocated among the Purchased Assets in capital cost allowance categories in accordance with the Accounting Standards as modified by the ITA. The MP and the TFO will cooperate in the filing of all elections under the ITA and other taxation statutes as required to give effect to that allocation for Tax purposes. The MP and the TFO will prepare and file their respective tax returns in a manner consistent with that allocation and those elections.

3.5 Taxes

- (a) The MP will pay all Taxes relating to the ownership, operation and maintenance of the Project which arise prior to, or are related to a period of time prior to, the Closing Date.
- (b) The TFO will pay all Taxes relating to the ownership, operation and maintenance of the Project which arise from and after the Closing Date.
- (c) The Parties will complete and sign on or before the Closing Date, a joint election or joint elections (as applicable) under Section 167(1) of the ETA to permit the purchase and sale of the Purchased Assets without incurring GST. The TFO will duly file those election(s) with the appropriate Governmental Authorities within the time permitted under the ETA.
- (d) Except as provided in this Section, the TFO will be liable for and will pay all Taxes properly payable by the TFO in connection with the sale and transfer of the Purchased Assets, and, upon the reasonable request of the MP, the TFO will furnish proof of the payment of such Taxes to the appropriate Governmental Authority, where permitted.

3.6 Withholding Where MP is Non-Resident

If the MP cannot provide the representation and warranty in Section 4.27, and does not deliver to the TFO at Closing a clearance certificate under section 116 of the ITA with a certificate limit that is equal to or more than the Purchase Price, absent the TFO’s agreement (acting in its sole discretion) with the MP to arrangements that would otherwise eliminate the TFO’s obligation to withhold under section 116 of the ITA, the TFO may withhold from paying the MP, and

thereafter remit to the Receiver General of Canada on behalf of the MP, such portion of the Purchase Price as is necessary in order to comply with section 116 of the ITA.²⁴

3.7 Manner of Payment

All payments required to be made to or to the order of a Party under this Article will be made by bank draft or by wire transfer to an account designated in writing by the Party entitled to receive the payment.

3.8 Disallowed Costs

- (a) If the AESO classifies some portion of the Costs as system-related costs or determines that some portion of the participant-related Costs will be “local investment”, the Parties acknowledge that such Costs will be eligible for inclusion in the TFO’s rate base as a capital expenditure, and that following the completion of the Project, as part of their consideration of the TFO’s capital deferral account the AUC will review the reasonableness of all Costs incurred in the initial construction of the Project. The MP will exercise good judgment and prudence in managing Costs in accordance with Good Electric Operating Practice. These covenants and obligations will survive any event of force majeure.
- (b) The TFO will be responsible for preparing its regulatory application to the AUC as part of the TFO’s capital deferral account process for the AUC to review and approve the prudence of Costs incurred by the MP and payable by the TFO as the Purchase Price in respect of the Project. The MP will provide all reasonable assistance to the TFO in support of the TFO’s application to the AUC to defend the reasonableness of Costs incurred in respect of the Project. The MP will have the right to request the AUC to allow the MP to participate in the review, in which case, the MP may act independently and is under no obligation to coordinate with the TFO other than in connection with the obligation to provide information to the TFO to permit the TFO to prosecute its application without delay or hindrance.
- (c) If the AUC makes an assessment or reassessment disallowing any Costs incurred by the MP in respect of the Project (the “**Disallowed Costs**”), the MP will be responsible for, and will reimburse to the TFO, the amount of any such

²⁴ **User Guide:** Section 3.6 is to be read in conjunction with the MP’s representations and warranties as to country of residence in Section 4.27. Section 116 of the ITA is intended to prevent non-Canadian resident vendors selling property and not paying the appropriate taxes thereon. Absent receiving the assurances referred to in Section 3.6, the TFO may be liable under the ITA to pay the Receiver General of Canada on behalf of the MP, tax equal to 25 percent (and for some types of property, 50 percent) of the MP’s cost of the Purchased Assets within 30 days of Closing, regardless whether the Purchase Price was paid in cash. This would in effect be a double payment by the TFO. The impact on the MP of any withholding would be a delay in obtaining the proceeds of disposition, perhaps until the MP has completed its tax filings. If a potential delay in receipt of the proceeds of disposition is of concern to the MP, it is advised to raise the issue in conjunction with the completion of the Disclosure Schedule pursuant to Section 2.3. Significant additional provisions to the ATA may be necessary to address the issue; the MPC Working Group has not attempted to draft a generic form of provision given the wide range of unique circumstances that are likely to apply. Such additional provisions are to be incorporated in the Disclosure Schedule under “Other Provisions”. See also Section 8.1(f)(iii).

Disallowed Costs within sixty (60) days following receipt from the TFO of an Indemnity Claim pursuant to Section 9.5.

ARTICLE 4 REPRESENTATIONS AND WARRANTIES OF THE MP

The MP represents and warrants to the TFO as follows as of either the date of this Agreement or (where so stated in the specific Section) the Disclosure Schedule Date, and also as of the Closing Date, and acknowledges that the TFO is relying upon these representations and warranties in connection with the purchase and sale of the Project and the Purchased Assets, despite any investigation made by or on behalf of the TFO. Each of the following representations and warranties must be read in conjunction with any exception or qualification thereto that is set out in the Disclosure Schedule expressly identified by reference to one or more specific individual Sections in this Article.

4.1 Corporate Existence of MP

The MP is a <@> duly <@> and validly existing under the Laws of <@>. ²⁵

4.2 Capacity to Enter Agreement

The MP has all necessary power, authority and capacity to enter into and perform its obligations under this Agreement.

4.3 Jurisdictions

As at the Disclosure Schedule Date, the MP is duly qualified, licensed or registered to carry on business and is in good standing in the Province of Alberta, and neither the character nor location of the properties owned or leased by the MP in connection with the Project, nor the nature of the Project, requires qualification to do business in any other jurisdiction.

4.4 Binding Obligation

The execution and delivery of this Agreement and the completion of the transactions contemplated by this Agreement have been duly authorized by all necessary corporate or other organizational action on the part of the MP. This Agreement has been duly executed and delivered by the MP and constitutes a valid and binding obligation of the MP, enforceable against the MP in accordance with its terms, subject to applicable bankruptcy, insolvency and other Laws of general application limiting the enforcement of creditors' rights generally and to the fact that equitable remedies, including specific performance, are discretionary and may not be ordered in respect of certain defaults.

²⁵ **User Guide:** At the time of execution of this Agreement, this Section is to be completed with the information regarding the MP. This information should be consistent with that inserted on page 1.

4.5 Absence of Conflict

None of the execution and delivery of this Agreement, the performance of the MP's obligations under this Agreement, or the completion of the transactions contemplated by this Agreement will, with or without the giving of notice or lapse of time, or both:

- (a) result in or constitute a breach of any term or provision of, or constitute a default under the articles or by-laws or any resolution of the board of directors or shareholders of the MP, or any Contract to which the MP is a party;
- (b) constitute an event which would permit any party to any Material Contract or Material Land Right with the MP to amend, cancel, terminate, sue for damages with respect to, or accelerate the obligations of the MP under, that Material Contract or Material Land Right;
- (c) result in the creation or imposition of any Encumbrance on the Purchased Assets;
- (d) contravene any applicable Law; or
- (e) contravene any judgment, order, writ, injunction or decree of any Governmental Authority.

4.6 Restrictive Covenants

As at the Disclosure Schedule Date, the MP is not a party to, or bound or affected by, any Material Contract containing any covenant expressly limiting its ability to transfer or move any of the Purchased Assets.

4.7 Consents

There is no requirement to obtain any consent, approval or waiver of a party under any Material Contract to which the MP is a party in order to complete the transactions contemplated by this Agreement.

4.8 No Other Agreements to Purchase

As at the Disclosure Schedule Date, except for any Encumbrance related to security arising in connection with any financing or financing arrangements of the MP in respect of the Project (which exception will not diminish any of the MP's other representations and warranties), no Person other than the TFO has any written or oral agreement or option or any right or privilege (whether by law, pre-emptive or contractual) capable of becoming an agreement or option for the purchase or acquisition from the MP of any of the Purchased Assets, or of forming an Encumbrance against any of the Purchased Assets.

4.9 Regulatory Approvals

No authorization, approval, order, consent of, or filing with, any Governmental Authority is required on the part of the MP in connection with the execution, delivery and performance of this

Agreement or any other documents and agreements to be delivered under this Agreement except for:

- (a) the AUC Approval;
- (b) the Competition Act Approval (if stated to be applicable in the Disclosure Schedule); and ²⁶
- (c) any other authorization, approval, order, consent of, or filing stated to be so applicable in the Disclosure Schedule.

4.10 Competition Act

As at the Disclosure Schedule Date, as determined in accordance with the Competition Act:

- (a) the aggregate value of the Purchased Assets do not exceed the “size of transaction” asset threshold; and
- (b) the annual gross revenues from sales in or from Canada generated from the Purchased Assets do not exceed the “size of transaction” revenue threshold;

in each case, as prescribed for mandatory pre-merger notification pursuant to the Competition Act. ²⁷

4.11 Title to Purchased Assets

As at the Disclosure Schedule Date, the MP owns, possesses and has good and marketable title to all of the Purchased Assets not otherwise the subject of specific representations and warranties in this ARTICLE 4, free and clear of all Encumbrances other than Permitted Encumbrances. At Closing, the MP will have the absolute and exclusive right to sell the Purchased Assets to the TFO as contemplated by this Agreement.

4.12 Real Property

As at the Disclosure Schedule Date:

- (a) Schedule “A” sets out all the Owned Lands, including complete legal descriptions, and the particulars of the Leased Premises and Real Property Leases;
- (b) the Buildings and Improvements located on the Owned Lands or forming part of the Leased Premises, and their operation and maintenance, comply with all applicable Laws, and none of those Buildings and Improvements encroaches upon any land not owned or leased by the MP;

²⁶ **User Guide:** See the footnote for Section 4.10.

²⁷ **User Guide:** If the MP cannot provide the representation and warranties required by Section 4.10, the MP must indicate in the final Disclosure Schedule that Competition Act Approval is applicable and the Parties must negotiate the additional provisions to be incorporated in the Disclosure Schedule under “Other Provisions”. See also the footnote associated with the definition of Competition Act Approval.

- (c) there are no restrictive covenants or Laws which in any way restrict or prohibit any part of the present use of the Owned Lands or Leased Premises, other than the Permitted Encumbrances;
- (d) the Owned Lands are owned in fee simple, free and clear of all Encumbrances, apart from Permitted Encumbrances; and
- (e) all of the Real Property Leases are in full force and effect, unamended, and none of them are under any threat of termination, other than in accordance with their respective terms.

4.13 Land Rights

Without limiting any other representation or warranty of the MP, as at the Disclosure Schedule Date, the Land Rights (and as of the Closing Date, the Land Rights and the MP Granted leases) comprise all the rights to land necessary for the TFO to own or lease (as applicable), access, operate and maintain the Project and the Purchased Assets in accordance with Good Electric Operating Practice. In securing the Land Rights:²⁸

- (a) the MP has not agreed to payments that exceed the TFO's schedule of Annual Structure Payments at the time such Land Rights were secured; and
- (b) the MP has not agreed to payments in respect of initial or early access bonus lump sum payments or for annual or other periodic payments that exceed fair market value at the time such Land Rights were secured.

4.14 No Expropriation

As at the Disclosure Schedule Date, none of the Purchased Assets have been taken or expropriated by any Governmental Authority and no notice or proceeding in respect of any such expropriation has been given or commenced or, to the Knowledge of the MP, is there any intent or proposal to give any such notice or commence any such proceeding.

4.15 Tax Matters

As at the Disclosure Schedule Date:

- (a) the MP has paid or made arrangements for the payment of all Taxes in respect of the Project and the Purchased Assets which are capable of forming or resulting in an Encumbrance on the Purchased Assets or of becoming a liability or obligation of the TFO, other than any of those Taxes that are included in the Assumed Liabilities;

²⁸ **User Guide:** The MP may request from the TFO details and information (e.g. amounts and key terms regarding the TFO's schedule of Annual Structure Payments, and initial or early access payments paid by the TFO) to assist the MP in complying with this provision. All such information provided by the TFO would be subject to the MP's Confidentiality Obligations.

- (b) the Disclosure Schedule sets out an accurate description of all amounts of property Taxes in respect of the Project and the Purchased Assets in respect of which the MP has made arrangements for payment following Closing;²⁹
- (c) to the Knowledge of the MP, there are no Claims either in progress, pending or threatened, in connection with any Taxes in respect of the Project or the Purchased Assets; and
- (d) the MP has deducted, withheld or collected, and remitted all amounts required to be deducted, withheld, collected or remitted by it in respect of any Taxes.

4.16 Design, Construction and Maintenance

As at the Disclosure Schedule Date, the Project and the Purchased Assets have been designed, procured, constructed, installed, maintained and operated to achieve a complete and operable Project in accordance with:

- (a) the Project Requirements;
- (b) all Permits and Laws, including the Act, the *Occupational Health and Safety Act* (Alberta), Safety Codes Act (Alberta), the Canadian Electrical Code, the HEEA, the *Electricity and Gas Inspection Act* (Canada), the Alberta Electrical Utility Code, and any codes promulgated thereunder;
- (c) all applicable ISO Rules, standards and policies;
- (d) all applicable AUC rules, orders and directives;
- (e) all applicable reliability standards; and
- (f) Good Electric Operating Practice.

4.17 Sufficiency and Good Condition of Purchased Assets

As at the Disclosure Schedule Date:

- (a) the Purchased Assets comprise all of the undertaking, assets and property necessary for the TFO to carry on the Project in accordance with Good Electric Operating Practice; and
- (b) all Fixed Assets and Equipment included in the Purchased Assets or leased under any of the Leases are in good operating condition and repair, ordinary wear and tear excepted, and are reasonably fit and usable for the purposes for which they are being used.

²⁹ **User Guide:** The MP is to complete the required information in the Disclosure Schedule in accordance with the process set out in Section 2.2.

4.18 Intellectual Property

As at the Disclosure Schedule Date:

- (a) Schedule “A” sets out all Intellectual Property;
- (b) all necessary legal steps have been taken by the MP to preserve its rights to the Intellectual Property set out in Schedule “A”;
- (c) Schedule “A” sets out all licence agreements pursuant to which the MP has been granted a right to use, or otherwise exploit Intellectual Property owned by third parties, the absence of which is a Material Adverse Effect, or would reasonably be expected to result in a Material Adverse Effect;
- (d) the Intellectual Property that is owned by the MP is owned free and clear of any Encumbrances other than Permitted Encumbrances, and no Person other than the MP has any right to use that Intellectual Property except as disclosed in the Disclosure Schedule;
- (e) the use by the MP of any Intellectual Property owned by third parties is valid, and the MP is not in default or breach of any licence agreement relating to that Intellectual Property, and there exists no state of facts which, following notice or lapse of time or both, would constitute such a default or breach; and
- (f) the conduct by the MP of the operations of the Project does not infringe the Intellectual Property of any Person.

4.19 Material Contracts

As at the Disclosure Schedule Date:

- (a) Schedule “A” sets out all Material Contracts to which the MP is a party or bound or that bind the Project or the Purchased Assets;
- (b) the MP is not in default or breach of any Material Contract, and there exists no state of facts which, following notice or lapse of time or both, would constitute such a default or breach; to the Knowledge of the MP, no counterparty to any Material Contract is in default of any of its obligations under any Material Contract, the MP is entitled to all benefits under each Material Contract, and the MP has not received any notice of termination of any Material Contract;
- (c) the Material Contracts set out in Schedule “A” are all the Contracts that are required to enable the Project to be carried on as now conducted;
- (d) all of the Contracts and Assumed Liabilities were entered into on competitive market and commercial terms (having regard to the industry) and in the ordinary course of the Project;

- (e) the MP does not retain any holdbacks under any of the Contracts; and
- (f) there are no Purchase Orders for which the TFO will be liable.

4.20 Absence of Material Adverse Effect

As at the Disclosure Schedule Date, there has not occurred any Material Adverse Effect or any event or circumstance that would reasonably be expected to result in a Material Adverse Effect.

4.21 Insurance Policies

The Disclosure Schedule lists all Insurance Policies, and also specifies the insurer, the amount of the coverage, the type of insurance, the policy number and all pending Claims with respect to each Insurance Policy. All Insurance Policies are in full force and effect, and the MP:

- (a) is not in default, whether as to the payment of premiums or otherwise, under any material term or condition of any of the Insurance Policies; and
- (b) has not failed to give notice or present any Claim under any of the Insurance Policies in a due and timely fashion.

4.22 Absence of Unusual Transactions

As at the Disclosure Schedule Date, the MP has not:

- (a) subjected any of the Purchased Assets, or permitted any of such assets to be subjected, to any Encumbrance other than the Permitted Encumbrances;
- (b) acquired, sold, leased or otherwise disposed of or transferred any assets other than in the ordinary course of the MP's business, including the Project;
- (c) made or committed to any capital expenditures in respect of the Project, except in the ordinary course of the Project;
- (d) entered into or become bound by any Contract, except in the ordinary course of the Project;
- (e) modified, amended or terminated any Material Contract (except for Contracts which expire by the passage of time);
- (f) waived or released any right which it has or had or a debt owed to it resulting in a Material Adverse Effect; or
- (g) agreed or offered to do any of the things described in this Section 4.22.

4.23 Compliance with Laws, Permits

As at the Disclosure Schedule Date:

- (a) the MP is conducting the Project in compliance with all applicable Laws;
- (b) without limiting the generality of Section 4.23(a), the MP has not received notice of any safety violations under applicable Law, and to the Knowledge of the MP, there are no existing circumstances that would result in a safety violation under applicable Law;
- (c) all Permits are set out in Schedule “A”;
- (d) the Permits are the only authorizations, registrations, permits, approvals, grants, licences, quotas, consents, commitments, rights or privileges (other than those relating to Intellectual Property) required to enable the MP to carry on the Project as currently conducted and to enable it to own, lease and operate the Purchased Assets;
- (e) all Material Permits are valid, subsisting, in full force and effect and unamended, and the MP is not in default or breach of any Material Permit;
- (f) no proceeding is pending or, to the Knowledge of the MP, threatened, to revoke or limit any Material Permit, and the completion of the transactions contemplated by this Agreement will not result in the revocation of any Material Permit or the breach of any term, provision, condition or limitation affecting the ongoing validity of any Material Permit; and
- (g) all Material Permits are renewable by their terms or in the ordinary course of the Project without the need for the MP to comply with any special qualifications or procedures or to pay amounts other than routine filing fees.

4.24 Litigation

As at the Disclosure Schedule Date:

- (a) there are no Claims, whether or not purportedly on behalf of the MP, pending or, to the Knowledge of the MP, threatened, which result in a Material Adverse Effect, or might reasonably be expected to result in a Material Adverse Effect, or which might involve the possibility of any Encumbrance against the Purchased Assets; and
- (b) there is no outstanding judgment, decree, order, ruling or injunction involving the Project or relating in any way to the transactions contemplated by this Agreement.

4.25 Environmental Conditions

As at the Disclosure Schedule Date, without limiting the generality of Section 4.24:

- (a) the MP, the conduct of the Project by the MP, and the current use and condition of each of the Leased Premises and Owned Lands have been and are in compliance with all applicable Environmental Laws and there are no facts which would give rise to non-compliance of the MP with any Environmental Laws, either in the conduct by the MP of the Project, or in the current uses and condition of each of the Leased Premises and the Owned Lands;
- (b) the MP has all Permits required by Environmental Laws for the conduct of the Project, and the MP is in compliance with all such Permits;
- (c) the MP and any Person for whom the MP is responsible pursuant to Environmental Laws, has imported, manufactured, processed, distributed, used, treated, stored, disposed of, transported, exported or handled Hazardous Substances in strict compliance with Environmental Laws;
- (d) there has been no Release of any Hazardous Substance: (i) in the course of the Project from, at, on, or under the Leased Premises or the Owned Lands; (ii) to the Knowledge of the MP, prior to the acquisition of the Leased Premises or the Owned Lands; or (iii) to the Knowledge of the MP from, or on to, any other properties, in each case except in compliance with Environmental Laws;
- (e) the MP has received no notice of any kind of any Release or possible Release of any Hazardous Substance from, at, on, or under any of the Leased Premises or Owned Lands, or from or on to any other properties;
- (f) to the Knowledge of the MP, there are no Hazardous Substances on any adjoining properties to any of the Leased Premises or Owned Lands which may adversely affect the Project, or any of the Leased Premises or Owned Lands;
- (g) there has been no Remedial Order issued to the MP in respect of the Project, or with respect to any of the Leased Premises or the Owned Lands, to the Knowledge of the MP no such Remedial Orders are threatened, and there are no facts which could rise to any such Remedial Orders;
- (h) the MP has received no notice of Claim, summons, order, direction or other communication relating to non-compliance with Environmental Laws from any Governmental Authority or other Third Party; and
- (i) there is no pending, or, to the Knowledge of the MP, threatened, matter, act or fact which could cause the MP, the Project, or any of the Leased Premises or Owned Lands, to no longer be in compliance with any Environmental Laws.

4.26 Unions

As at the Disclosure Schedule Date:

- (a) the MP does not have any labour problems that might result in a Material Adverse Effect or lead to any interruption of operations at any location associated with the Project;
- (b) the MP has not engaged in any lay-off or other activities within the preceding twelve (12) months in respect of the Project that would violate or in any way subject the MP to the group termination or lay-off requirements of the Laws of any jurisdictions where the MP operates; and
- (c) the MP is not bound by or a party to, either directly or by operation of Law, any collective bargaining agreement with any trade union or association which might qualify as a trade union, and no trade union, association, council of trade unions, employee bargaining agency or affiliated bargaining agent:
 - (i) holds bargaining rights with respect to any employees by way of certification, interim certification, voluntary recognition, designation or successor rights;
 - (ii) has, to the Knowledge of the MP, applied to be certified or requested to be voluntarily recognized as the bargaining agent of any of the Employees;
 - (iii) has, to the Knowledge of the MP, applied to have the TFO declared a related or successor employer under applicable provincial labour or employment legislation; or
 - (iv) has, to the Knowledge of the MP, filed a complaint or charge under applicable provincial labour or employment legislation.

4.27 Residence of MP

As at the Disclosure Schedule Date: ³⁰

- (a) the MP is not a non-resident of Canada for purposes of section 116 of the ITA; or
- (b) the MP is a non-resident of Canada for purposes of section 116 of the ITA, and:
 - (i) the MP is resident in the country described in the Disclosure Schedule (the “**Country of Residence**”) under the terms of the tax treaty (as defined in the ITA) between Canada and the Country of Residence (the “**Tax Treaty**”);
 - (ii) the MP is entitled to all of the benefits of the Tax Treaty; and

³⁰ **User Guide:** See the discussion in the footnote related to Section 3.6.

- (iii) the Purchased Assets are “treaty-protected property” for purposes of subsection 116(5.01) of the ITA because of the Tax Treaty.

4.28 GST Registration

As at the Disclosure Schedule Date, the MP is registered for purposes of the GST levied under the ETA and its registration number is set out in the Disclosure Schedule.³¹

4.29 Rights to Use Personal Information

As at the Disclosure Schedule Date:

- (a) all Personal Information in the possession of the MP in connection with the Project has been collected, used and disclosed in compliance with all applicable Privacy Laws in those jurisdictions in which the MP conducts, or is deemed by operation of law in those jurisdictions to conduct, the Project;
- (b) the MP has disclosed to the TFO all Contracts and facts concerning the collection, use, retention, destruction and disclosure of Personal Information, and there are no other Contracts, or facts which would restrict the ability of the MP to transfer Personal Information to the TFO in connection with the transactions contemplated by this Agreement, or which, on completion of the transactions contemplated by this Agreement, would restrict or interfere with the use of any Personal Information by the TFO in the continued ownership, operation and maintenance of the Project and the Purchased Assets as it and they existed prior to Closing; and
- (c) there are no Claims pending or, to the Knowledge of the MP, threatened, with respect to the MP’s collection, use or disclosure of Personal Information.

4.30 Books and Records

As at the Disclosure Schedule Date, the Books and Records fairly and correctly set out and disclose in accordance with the Accounting Standards in all material respects the financial position of the Project, and all financial transactions of the MP relating to the Project and comprising Costs have been accurately recorded in the Books and Records.

4.31 Disclosure

As at the Disclosure Schedule Date, the MP has provided in writing to the TFO all information in respect of the Project and the Purchased Assets that would be relevant to a TFO similarly situated to the TFO in determining whether or not to acquire the Project and the Purchased Assets. No representation or warranty or other statement made by the MP in this Agreement contains any untrue statement or omits to state any fact necessary to make it, in light of the circumstances in which it was made, not misleading.

³¹ **User Guide:** At the time of execution of this Agreement, the Parties are to insert the MP’s GST number.

ARTICLE 5 REPRESENTATIONS AND WARRANTIES OF THE TFO

The TFO represents and warrants to the MP as follows as of the date of this Agreement and also as of the Closing Date, and acknowledges that the MP is relying upon these representations and warranties in connection with the purchase and sale of the Project and the Purchased Assets, despite any investigation made by or on behalf of the MP.

5.1 Corporate Existence of TFO

The TFO is a <@> duly <@> and validly existing under the Laws of <@>. ³²

5.2 Capacity to Enter Agreement

The TFO has all necessary power, authority and capacity to enter into and perform its obligations under this Agreement.

5.3 Binding Obligation

The execution and delivery of this Agreement and the completion of the transactions contemplated by this Agreement have been duly authorized by all necessary corporate or other organizational action on the part of the TFO. This Agreement has been duly executed and delivered by the TFO and constitutes a valid and binding obligation of the TFO, enforceable against the TFO in accordance with its terms, subject to applicable bankruptcy, insolvency and other Laws of general application limiting the enforcement of creditors' rights generally and to the fact that equitable remedies, including specific performance, are discretionary and may not be ordered in respect of certain defaults.

5.4 Absence of Conflict

None of the execution and delivery of this Agreement, the performance of the TFO's obligations in this Agreement, or the completion of the transactions contemplated by this Agreement will, with or without the giving of notice or lapse of time, or both:

- (a) result in or constitute a breach of any term or provision of, or constitute a default under the articles or by-laws of the TFO or any agreement or other commitment to which the TFO is a party;
- (b) contravene any applicable Law; or
- (c) contravene any judgment, order, writ, injunction or decree of any Governmental Authority.

³² **User Guide:** At the time of execution of this Agreement, this Section is to be completed with the information regarding the TFO. This information should be consistent with that inserted on page 1.

5.5 Regulatory Approvals

No authorization, approval, order, consent of, or filing with, any Governmental Authority is required on the part of the TFO in connection with the execution, delivery and performance of this Agreement or any other documents and agreements to be delivered under this Agreement except for

- (a) the AUC Approval;
- (b) the Competition Act Approval (if stated to be applicable in the Disclosure Schedule); and ³³
- (c) any other authorization, approval, order, consent of, or filing stated to be so applicable in the Disclosure Schedule.

5.6 Competition Act

As at the Disclosure Schedule Date, as determined in accordance with the Competition Act, one or both of:

- (a) the aggregate value of the TFO's assets in Canada (together with the assets of the TFO's affiliates); and
- (b) the annual gross revenues of the TFO (together with the annual gross revenues of the TFO's affiliates) from sales from or into Canada (exports and imports);

exceed \$400 million, in each case, as prescribed for mandatory pre-merger notification pursuant to the Competition Act. ³⁴

5.7 Litigation

There is no outstanding judgment, decree, order, ruling or injunction involving the TFO or relating in any way to the transactions contemplated by this Agreement.

5.8 GST Registration

The TFO is registered for purposes of the GST levied under the ETA and its registration number is set out in the Disclosure Schedule. ³⁵

³³ **User Guide:** See the footnote for Section 5.6.

³⁴ **User Guide:** See the footnote associated with the definition of Competition Act Approval. That legislation has a two part test before approval is required. Due to the size of the TFOs, one of those tests will always be satisfied. Therefore, the question whether the Parties must seek Competition Act Approval will depend upon whether the MP can make the representation and warranty in Section 4.10.

³⁵ **User Guide:** At the time of execution of this Agreement, the Parties are to insert the TFO's GST number.

ARTICLE 6 COVENANTS

6.1 Conduct of Business Before Closing

During the period beginning on the date of this Agreement and ending at the Closing Date, the MP will:

- (a) construct and maintain the Project and the Purchased Assets properly, diligently and prudently in accordance with Good Electric Operating Practice, and refrain from entering into any Contract or Real Property Lease except in the ordinary course of the Project, or with the prior written consent of the TFO;
- (b) comply in all material respects with all Contracts, Laws and other obligations applicable to the Project and the Purchased Assets;
- (c) continue in full force the Insurance Policies;
- (d) apply for, maintain in good standing and renew all Permits; and
- (e) inform the TFO as soon as practicable of any Contracts or Real Property Leases forming part of the Purchased Assets for which the MP has been advised that a necessary consent or approval of a third party to the assignment thereof to the TFO will not be provided prior to the Closing Date.

6.2 Access for Investigation

- (a) The MP will permit the TFO through its authorized representatives, at all times prior to Closing, to have reasonable access during normal business hours to the Owned Lands and Leased Premises and to all the Books and Records of the MP and to the properties and assets of the MP, including for the purposes of compliance with the Facility Acceptance Framework. The MP will also furnish to the TFO any accounting and operating data and other information with respect to the Project as the TFO reasonably requests to enable confirmation of the accuracy of the matters represented and warranted in ARTICLE 4. The TFO will be provided ample opportunity to make a full investigation of all aspects of the Purchased Assets and the Project.
- (b) The MP authorizes all Governmental Authorities having jurisdiction to release any and all information in their possession respecting the Project, the Leased Premises, and the Owned Lands to the TFO, and further authorizes each of them to carry out inspections of the Leased Premises and Owned Lands upon the request of the TFO. The MP will execute any specific authorization pursuant to this Section 6.2(b) within three (3) Business Days following being requested to do so by the TFO.
- (c) The collection, use and disclosure of Personal Information by any of the Parties prior to Closing is restricted to those purposes that relate to the transactions

contemplated by this Agreement, and all Personal Information is subject to the Parties' respective Confidentiality Obligations.

6.3 Actions to Satisfy Closing Conditions

- (a) Each Party will take all actions that are within its power to control, and will make all commercially reasonable efforts to cause other actions to be taken which are not within its power to control, so as to ensure its compliance with, and satisfaction of, all conditions in ARTICLE 8 that are for the benefit of the other Party.
- (b) Without limiting the foregoing, the TFO will as soon as practicable give Notice to the MP of all deficiencies identified in the course of the TFO's "Pre-transfer Review" pursuant to the Facility Acceptance Framework.

6.4 Disclosure Supplements

Following the completion of the initial Disclosure Schedule pursuant to Section 2.3 (including the resolution of any issues raised by the TFO), the MP will provide Notice to the TFO of any and all changes in the content of the Disclosure Schedule that result in a Material Adverse Effect, or would reasonably be expected to result in a Material Adverse Effect, as soon as practicable following the MP becoming aware thereof. Notification under this Section 6.4 will not, in any case, be deemed to cure any breach of any representation or warranty made in this Agreement or have any effect for the purpose of determining the satisfaction of the conditions set out in ARTICLE 8 or the compliance by the MP with any covenants or agreements contained in this Agreement.

6.5 Delivery of Books and Records

The TFO will preserve the Books and Records delivered to it for such period as is required by any applicable Law, and will permit the MP or its authorized representatives reasonable access to them in connection with the affairs of the MP, but the TFO will not be responsible or liable to the MP for or as a result of any accidental loss or destruction of or damage to any Books and Records.

6.6 Risk of Loss

All of the Purchased Assets will be and remain at the risk of the MP until the Effective Time. If the Purchased Assets or any part of them should be damaged or destroyed prior to Closing such that the damage or destruction results in a Material Adverse Effect, or would reasonably be expected to result in a Material Adverse Effect, the MP will promptly give Notice of that damage or destruction (the "**Damage Notice**") to the TFO and Sections 8.3 and 8.5 will apply.

6.7 Discontinue Use of Names

The MP will, on or before the Closing Date, remove the names set out in the Disclosure Schedule in connection with this Section reference and any variation on those names (the "**Names**") from the exterior of those Purchased Assets that are displayed, presented or sold to the

public. If the MP fails to fulfill its obligation to remove the Names hereunder, the TFO will be entitled to remove the Names and to be reimbursed for its reasonable costs and expenses suffered or incurred in connection with that removal.³⁶

6.8 Post-Closing Maintenance and Repair

- (a) From and after Closing, the maintenance and trouble response provided by the TFO for the Project and the Purchased Assets will be equivalent to that provided to other similarly situated interconnected customers in accordance with the TFO Usual Practices, subject to delays in and adverse effects on the TFO's response to the extent resulting from variances between the Project and the Purchased Assets, and the TFO's own facilities (and their respective modes of operation) that are out of the ordinary course of TFO Usual Practices, including:
 - (i) the TFO's lack of familiarity with the specific materials and equipment utilized by the MP in the Project not otherwise normally used by the TFO;
 - (ii) the TFO's lack of spare parts for the equipment utilized by the MP in the Project, and not otherwise normally used by the TFO, unless the MP is able to provide spare parts to the TFO in a timely manner; and/or
 - (iii) the TFO's lack of familiarity with the specific configuration of the Project and the Purchased Assets, and the system by which the individual parts thereof have been connected to one another and function together.
- (b) To the extent that there is an inconsistency between the provisions of this Section and the provisions of the Interconnection Agreement, the provisions of this Section will prevail.
- (c) Nothing in this Section 6.8 will operate to prejudice the TFO's right to exercise its rights and remedies against the MP as otherwise permitted under this Agreement.

6.9 Land Right Obligations

The MP will make arrangements with the TFO to the TFO's satisfaction, for payment by the MP of all the amounts necessary to discharge any liability for payments in respect of any Land Rights that are in excess of the limits described in the MP's representation and warranty in Section 4.13(a) or Section 4.13(b), as applicable.

³⁶ **User Guide:** All signage or other visual depiction of the name of the MP or its affiliates or the names under which it or they have been carrying on business at the Project site must be included in the Disclosure Schedule and removed at Closing.

ARTICLE 7
NATURE AND SURVIVAL OF COVENANTS AND REPRESENTATIONS AND
WARRANTIES

7.1 Nature and Survival of Covenants and Representations and Warranties

- (a) Subject to Section 8.2 (Consents - Non-Merger), Section 9.13 (Indemnification - Non-Merger), and the remaining Sections of this ARTICLE 7, the covenants contained in this Agreement to be performed prior to Closing by the TFO or the MP, as applicable, and the respective representations and warranties contained in this Agreement of the TFO and the MP will survive Closing for two (2) years following the Closing Date despite any investigation made by or on behalf of either Party. The covenants contained in this Agreement that by their express terms are to be performed following Closing by the TFO or the MP, will survive indefinitely or otherwise in accordance with their terms.
- (b) The representations and warranties of the MP contained in Sections 4.11 (Title to Purchased Assets), 4.12 (Real Property), 4.13 (Land Rights), 4.15 (Tax Matters), 4.22 (Absence of Unusual Transactions), 4.23 (other than 4.23(b)) (Compliance with Laws, Permits), 4.24 (Litigation) and 4.31 (Disclosure) will survive and continue in full force and effect for the benefit of the TFO for five (5) years following the Closing Date despite any investigation made by or on behalf of the TFO.
- (c) The representations and warranties of the MP contained in Sections 4.16 (Design, Construction and Maintenance), 4.23(b) (no safety violations) and 4.25 (Environmental Conditions) will survive and continue in full force and effect for the benefit of the TFO for fifteen (15) years following the Closing Date despite any investigation made by or on behalf of the TFO.
- (d) If applicable, the representation and warranty in Section 4.27 (Residence of MP) will survive for as long as the TFO's liability for not remitting to the Receiver General of Canada some portion of the Purchase Price as required by the ITA remains outstanding should such representation and warranty not be true and accurate at the Closing Date.
- (e) Each of the representations and warranties of the MP contained in this Agreement will, if its breach is attributable to neglect or wilful default or fraud, continue in full force and effect for the benefit of the TFO and will survive for the same period as otherwise provided for in this Section 7.1.
- (f) Each of the representations and warranties of the MP contained in this Agreement will be effective notwithstanding: (i) any investigation, inspection or review by, or assessment of or comment thereupon by, the TFO (or on its behalf) of the Project or the Purchased Assets or any portion of either of them, or of any of the matters referred to in any of the Schedules; or (ii) the knowledge of the TFO or any of its directors, officers, employees, consultants or agents of any matter or

thing inconsistent with any of the representation or warranties of the MP; or (iii) the existence of representations and warranties in the Interim Operating Authority Services and Interconnection Agreement addressing the same or similar subject matter and the waiver, acceptance, conduct, disposition or treatment by either of the Parties with respect thereto.

- (g) The respective limitation periods for seeking a remedial order under subsection 3(1) of the *Limitations Act* (Alberta) are extended further to subsection 7(1) of the *Limitations Act* (Alberta) to five (5) years following the Closing Date for Claims arising in connection with Section 7.1(b), and to fifteen (15) years following the Closing Date for Claims arising in connection with Section 7.1(c).
- (h) The Parties acknowledge and agree that an obligation under this Agreement to provide written Notice of a Claim within the periods set out in this Section 7.1 and in a manner specified under this Agreement is intended by the Parties as a limitation of liability that represents a fair and equitable allocation of the risks and liabilities that each Party has agreed to assume in connection with the subject matter hereof and is not an agreement within the provision of subsection 7(2) of the *Limitations Act* (Alberta).

7.2 Salvage of Purchased Assets

If the AESO directs the TFO to salvage the Purchased Assets, the representations and warranties will survive for the earlier of two (2) years following completion of all salvage activities and the applicable survival period indicated above.

ARTICLE 8 CLOSING CONDITIONS

8.1 Conditions for the Benefit of the TFO

The obligation of the TFO to complete the purchase of the Purchased Assets will be subject to the fulfilment of the following conditions at or prior to the Closing Time:

- (a) **Representations, Warranties and Covenants.**
 - (i) The representations and warranties of the MP made in this Agreement, and in any other agreement or document delivered pursuant to this Agreement, will be true and accurate at the Closing Date with the same force and effect as though those representations and warranties had been made as of the Closing Date, and any representations and warranties made as at a date prior to the Closing Date will be deemed to be repeated and made as at the Closing Date.
 - (ii) The MP will have complied with all covenants to be performed, or caused to be performed, by it under this Agreement, and in any other agreement or document delivered pursuant to this Agreement, at or prior to the Closing Date.

- (iii) The delivery and receipt of the certificate of a senior officer of the MP required pursuant to Section 8.1(f)(iv) and the completion of the Closing will not be deemed to constitute a waiver of any of the representations, warranties or covenants of the MP contained in this Agreement, or in any other agreement or document delivered pursuant to this Agreement. Those representations, warranties and covenants will continue in full force and effect as provided in ARTICLE 7, or the terms of the agreement or document in which they are made.

Without limiting the foregoing, the TFO may (acting in its sole discretion) for the purposes of Closing, agree to waive all or a portion of the representation and warranty in Section 4.11 (Title to Purchased Assets), Section 4.24 (Litigation) or any other Section, if the MP provides an indemnity agreement or other form of post-Closing resolution of the failure of the representation and warranty in form and substance acceptable to the TFO.³⁷

- (b) **No Material Adverse Change or Insolvency.** Since the date of this Agreement there will not have occurred any Material Adverse Effect or any event or circumstance that would reasonably be expected to result in a Material Adverse Effect. The MP will not be Insolvent at the Closing Date.
- (c) **Facility Acceptance Framework, Energization Certificate.** The MP will have remedied to the TFO's satisfaction (acting in its sole discretion) all the deficiencies in respect of which the TFO gave notice to the MP pursuant to Section 6.3(b) in accordance with the TFO's "Pre-transfer Review" pursuant to the Facility Acceptance Framework, and all the deficiencies described in the Energization Certificate (if applicable), or if, in the opinion of the TFO acting in its sole discretion, the existence of any such deficiency has not resulted in, or would not reasonably be expected to result in, a Material Adverse Effect, the MP will have provided assurance in regard of the remediation of such deficiencies in a manner that is acceptable to the TFO within a reasonable time following Closing.
- (d) **Consents.** All filings, notifications, consents and approvals with, to or from Governmental Authorities that are in addition to those that are the subject of Section 8.6, and, subject to Section 2.4, all Third Party Consents, will have been made, given or obtained on terms acceptable to the TFO, acting reasonably, so that the transactions contemplated by this Agreement may be completed without resulting in the violation of, or a default under, or any termination, amendment or acceleration of, any obligation under any Permit, Real Property Lease, or Contract.³⁸

³⁷ **User Guide:** It is not uncommon as Closing approaches for parties to determine that they are unable for reasons not previously fully appreciated, to comply strictly with all their conditions precedent. This provision recognizes that possibility, and without obligating the TFO to agree to any proposed resolution to which it does not agree, provides an explicit opportunity for the Parties to discuss and agree on a mutually agreeable solution.

³⁸ **User Guide:** As part of the Section 2.2/2.3 process, either the MP or the TFO may identify additional approvals that may be necessary in order to Close. Such other approvals must be set out in the Disclosure Schedule. These

- (e) **Completion of Investigations.** The investigations contemplated in Section 6.2 will have been completed and the TFO will be satisfied (acting in its sole discretion) with the results of those investigations, including the accuracy of the matters represented and warranted in ARTICLE 4.
- (f) **Deliveries.** The MP will have delivered to the TFO the following in form and substance satisfactory to the TFO, acting reasonably:
 - (i) a favourable opinion of counsel to the MP in form and substance reasonably satisfactory to the TFO addressing the following matters:³⁹
 - (A) legal capacity of the MP with respect to the transaction;
 - (B) the Land Rights;
 - (C) the Permitted Encumbrances; and
 - (D) any other matter that the TFO reasonably requests;
 - (ii) the Closing Statement of Costs;
 - (iii) if applicable as a result of the MP being unable to provide the representation and warranty in Section 4.27(a) to the effect that the MP is not a non-resident of Canada for purposes of section 116 of the ITA:
 - (A) a clearance certificate under section 116 of the ITA with a certificate limit that is equal to or more than the Purchase Price; or
 - (B) if the TFO (acting in its sole discretion) has agreed with the MP to other arrangements to avoid withholding, such other documentation and agreements as set out in the Disclosure Schedule;
 - (iv) a certificate of a senior officer of the MP confirming the MP's compliance with the matters set out in Section 8.1(a)(i) and 8.1(a)(ii);
 - (v) the Interim Operating Authority Services and Interconnection Agreement executed by the Parties at Stage 5 of the AESO Connection Process;
 - (vi) a general conveyance executed by the MP substantially in the form attached as Schedule "I";
 - (vii) the Interconnection Agreement executed by the MP;

must be discussed and agreed by the Parties before the schedule is to be deemed complete. See also Sections 4.9 and 5.5.

³⁹ **User Guide:** It is anticipated that in many instances, the Parties will agree to waive the requirement for legal opinions for some, if not all, the matters listed. For example, in recent years, opinions on corporate capacity are far less frequently requested due to the nature of modern business corporations law.

- (viii) to the extent not previously paid, payment to the TFO of the amounts owed to the TFO and included in the definition of Costs;⁴⁰
- (ix) copies of the filings, notifications, consents and approvals referred to in Section 8.1(d), including the AUC Approval;
- (x) evidence that the MP has complied with all requirements of the AESO Connection Process, including the receipt of an Energization Certificate;
- (xi) if applicable, the MP Granted Leases executed by the MP;⁴¹
- (xii) if applicable, any documentation in respect of the post-Closing Land Rights arrangements agreed by the TFO pursuant to Section 6.9;
- (xiii) if applicable, any documentation in respect of the post-Closing resolution of one or more of the MP's failed representations and warranties agreed by the TFO pursuant to Section 8.1(a);
- (xiv) if applicable, any documentation in respect of the post-Closing remediation of deficiencies agreed by the TFO pursuant to Section 8.1(c);⁴²
- (xv) all Books and Records of and related to the Project, including the Operations Documents and copies of all of the Insurance Policies and, with respect to Books and Records that are corporate, financial and other records of the MP not pertaining primarily to the Project, where reasonably possible, extracts of same to the extent that they do pertain to the Project;
- (xvi) without limiting Section 8.1(f)(xv), all plans and specifications with respect to the Project, including all electrical, mechanical and structural drawings, that are either in the MP's possession, or to which it is entitled to possession;
- (xvii) without limiting Section 8.1(f)(xv), detailed descriptions of the different portions of the Purchased Assets to permit the TFO to be able to assess the values thereof for purposes of property tax assessment and payment, such descriptions to vary depending upon the type of asset, together with supporting documentation;

⁴⁰ **User Guide:** See the definition of Costs and the associated footnote for further explanation.

⁴¹ **User Guide:** See the definition of MP Granted Leases and the associated footnote for further explanation.

⁴² **User Guide:** In some instances, deficiencies related to matters that do not affect safe and reliable operation of facilities are permitted by the AESO to be remedied following issuance of the Energization Certificate. These deficiencies and others arising from the TFO's "Pre-transfer Review" will vary by project and the Parties will have to agree on appropriate remedial actions on a case-by-case basis.

- (xviii) all necessary deeds, conveyances, assurances, transfers and assignments and any other instruments necessary or reasonably required to transfer the Purchased Assets to the TFO with a good title, free and clear of all Encumbrances other than Permitted Encumbrances, including registrable transfers of land in respect of legal title to the Owned Lands, registrable discharges of Encumbrances (including from Lenders to which a Disposition was made by the MP prior to Closing as permitted pursuant to Section 11.12(b)) and, if applicable, irrevocable, non-exclusive, non-divisible, royalty-free right and license to use the Intellectual Property as required to own, operate and maintain the Project in accordance with the representations, warranties and covenants of the MP contained in this Agreement; and
- (xix) all documentation and other evidence reasonably requested by the TFO in order to establish the due authorization and completion of the transactions contemplated by this Agreement, including the taking of all corporate proceedings by the board of directors and shareholders of the MP required to effectively carry out the obligations of the MP pursuant to this Agreement.

8.2 Consents - Non-Merger

The obligation of the MP to obtain the filings, notifications, consents and approvals referred to in Section 8.1(d) will not merge on Closing, but will survive indefinitely for the benefit of the TFO, subject to Section 2.4.

8.3 Waiver or Termination by the TFO

The conditions contained in Section 8.1 are inserted for the exclusive benefit of the TFO and may be waived in whole or in part by the TFO at any time without prejudice to any of its rights in the event of non-performance of any other condition in whole or in part. If any of the conditions contained in Section 8.1 are not fulfilled or complied with by the time as required in this Agreement, the TFO may, prior to Closing, suspend Closing by notice in writing to the MP. In that event, the MP may either:

- (a) if the condition or conditions which have not been fulfilled are reasonably capable of being fulfilled or caused to be fulfilled by the MP, within one hundred and eighty (180) days following receipt of the TFO's notice to suspend Closing, exercise a one-time right to give a second Closing Date Notice to the TFO pursuant to Section 2.2 and the provisions of this Agreement will apply with the same effect as when a Closing Date Notice was given in the first instance; or
- (b) terminate this Agreement, in which case the TFO and the MP will be released from all obligations under this Agreement, except as may be expressly set out elsewhere in this Agreement.

8.4 Conditions for the Benefit of the MP

The obligation of the MP to complete the sale of the Purchased Assets will be subject to the fulfilment of the following conditions at or prior to the Closing Time:

- (a) **Representations, Warranties and Covenants.**
 - (i) The representations and warranties of the TFO made in this Agreement, and in any other agreement or document delivered pursuant to this Agreement, will be true and accurate at the Closing Date with the same force and effect as though those representations and warranties had been made as of the Closing Date, and any representations and warranties made as at a date prior to the Closing Date will be deemed to be repeated and made as at the Closing Date.
 - (ii) The TFO will have complied with all covenants and agreements to be performed or caused to be performed by it under this Agreement, and in any other agreement or document delivered pursuant to this Agreement, at or prior to the Closing Date.
 - (iii) The delivery and receipt of the certificate of a senior officer of the TFO required pursuant to Section 8.4(b)(ii) and the completion of the Closing will not be deemed to constitute a waiver of any of the representations, warranties or covenants of the TFO contained in this Agreement, or in any other agreement or document delivered pursuant to this Agreement. Those representations, warranties and covenants will continue in full force and effect as provided in ARTICLE 7, or the terms of the agreement or document in which they are made.
- (b) **Deliveries.** The TFO will have delivered to the MP the following in form and substance satisfactory to the MP, acting reasonably:
 - (i) a favourable opinion of counsel to the TFO in form and substance reasonably satisfactory to the MP addressing the following matters:⁴³
 - (A) legal capacity of the TFO with respect to the transaction; and
 - (B) any other matter that the MP reasonably requests;
 - (ii) a certificate of a senior officer of the TFO confirming the TFO's compliance with the matters set out in Section 8.4(a)(i) and 8.4(a)(ii);
 - (iii) the Interim Operating Authority Services and Interconnection Agreement executed by the Parties at Stage 5 of the AESO Connection Process;

⁴³ **User Guide:** It is anticipated that in many instances, the Parties will agree to waive the requirement for legal opinions for some, if not all, the matters listed. For example, in recent years, opinions on corporate capacity are far less frequently requested due to the nature of modern business corporations law.

- (iv) a general conveyance executed by the TFO substantially in the form attached as Schedule "T";
- (v) the Interconnection Agreement executed by the TFO;
- (vi) payment to the MP of the amount, if any, required pursuant to Section 3.1; and
- (vii) all documentation and other evidence reasonably requested by the MP in order to establish the due authorization and completion of the transactions contemplated by this Agreement, including the taking of all corporate proceedings by the boards of directors and shareholders of the TFO required to effectively carry out the obligations of the TFO pursuant to this Agreement.

8.5 Waiver or Termination by the MP

The conditions contained in Section 8.4 are inserted for the exclusive benefit of the MP and may be waived in whole or in part by the MP at any time without prejudice to its rights of termination in the event of non-performance of any other condition in whole or in part. If any of the conditions contained in Section 8.4 are not fulfilled or complied with by the time as provided in this Agreement, the MP may, at or prior to the Closing Time, either:

- (a) if the condition or conditions which have not been fulfilled are reasonably capable of being fulfilled or caused to be fulfilled by the TFO, give a second or subsequent Closing Date Notice to the TFO pursuant to Section 2.2 and the provisions of this Agreement will apply with the same effect as when a Closing Date Notice was given in the first instance; or
- (b) terminate this Agreement, in which case the TFO and the MP will be released from all obligations under this Agreement, except as may be expressly set out elsewhere in this Agreement.

8.6 Conditions Precedent

The purchase and sale of the Purchased Assets is subject to the following conditions to be fulfilled at or prior to the Closing Date, which conditions are true conditions precedent to the completion of the transactions contemplated by this Agreement:

- (a) **No Action to Restrain.** No order of any Governmental Authority will be in force, and no action or proceeding will be pending or threatened by any Person:
 - (i) to restrain or prohibit the completion of the transactions contemplated in this Agreement, including the sale and purchase of the Purchased Assets;
 - (ii) to restrain or prohibit the MP from carrying on the Project; or
 - (iii) which would have a Material Adverse Effect.

- (b) **Competition Act.** If in the course of the completion of the Disclosure Schedule pursuant to Section 2.3, the Parties agreed that Completion Act Approval was required, the MP and the TFO will each have filed all notices and information required under Part TX of the Competition Act, and satisfied any request for additional information under that Act, and Competition Act Approval will have been obtained.⁴⁴

If any conditions precedent will have not been fulfilled at or prior to the Closing Date, this Agreement will be terminated and the Parties will be released from all obligations under this Agreement, except as may be expressly set out elsewhere in this Agreement.

ARTICLE 9 INDEMNIFICATION

9.1 Mutual Indemnifications for Breaches of Warranty, etc.

Subject to Section 9.2, if a Party fails to observe or perform any covenant, or breaches any, or has made any inaccurate, representation and warranty, contained in this Agreement, and provided Closing has occurred, it will indemnify and hold harmless the MP Indemnified Parties, or the TFO Indemnified Parties, as applicable.

9.2 Limitation on Mutual Indemnification

The indemnification obligations of each of the MP and TFO pursuant to Sections 9.1, 9.3(a), 9.3(d), 9.4(a) and 9.4(c) are subject to the limitation that there will be no indemnification provided for any Indemnity Claim made with respect to a representation, warranty or covenant if Notice of that Indemnity Claim is delivered at any time following the time that representation, warranty or covenant has ceased to survive under the terms of ARTICLE 7, or, with respect to covenants or representations and warranties contained in any other agreement or document delivered pursuant to this Agreement, under any limitations on survival contained in the agreement or document in which they are made. If the subject matter of an Indemnity Claim is addressed in more than one representation, warranty or covenant, the period that will survive the longest will be the period that applies to the associated Indemnity Claim.

9.3 TFO's Indemnities

Without limiting the generality of Section 9.1, and (except in respect of Section 9.3(d)) provided Closing has occurred, the TFO will indemnify and save harmless the MP Indemnified Parties from and against all Losses suffered or incurred by the applicable MP Indemnified Parties relating to or arising from:

- (a) any non-fulfilment of any covenant on the part of the TFO under ARTICLE 6, subject to the limitations set out in Section 9.2;
- (b) the non-payment or non-performance on or after the Closing Date by the TFO of the Assumed Liabilities;

⁴⁴ **User Guide:** See the footnote associated with the definition of Competition Act Approval.

- (c) the failure of the TFO to pay or remit any Taxes in respect of the purchase and sale of the Purchased Assets, including without limitation, any GST that may be collectible by the TFO if the joint election under section 167 of the ETA is unavailable for any reason;
- (d) the negligence or willful misconduct of the TFO or its Personnel while acting within the scope of their authority or employment to the extent that the Claims of the MP Indemnified Parties relate to, or arise in connection with the exercise by the TFO of its rights of inspection of the Project pursuant to this Agreement and the Facility Acceptance Framework, subject to the limitations set out in Section 9.2; and
- (e) the Project or the Purchased Assets on or after the Closing Date which are not Excluded Liabilities.

9.4 MP's Indemnities

Without limiting the generality of Section 9.1, and (except in respect of Sections 9.4(c) and 9.4(d)) provided Closing has occurred, the MP will indemnify and save harmless the TFO Indemnified Parties from and against all Losses suffered or incurred by the applicable TFO Indemnified Parties relating to or arising from:

- (a) any non-fulfilment of any covenant on the part of the MP under ARTICLE 6, subject to the limitations set out in Section 9.2;
- (b) the failure of the MP to pay or remit any Taxes in respect of the purchase and sale of the Purchased Assets, including without limitation, any GST that may be collectible by the MP if the joint election under section 167 of the ETA is unavailable for any reason;
- (c) the negligence or willful misconduct of the MP or its Personnel while acting within the scope of their authority or employment, to the extent the Claims of the TFO Indemnified Parties relate to, or arise in connection with, the exercise by the TFO of its rights of inspection of the Project pursuant to this Agreement and the Facility Acceptance Framework, subject to the limitations set out in Section 9.2;
- (d) the negligence or willful misconduct of the MP or its Personnel while acting within the scope of their authority or employment, to the extent the Claims of the TFO Indemnified Parties relate to, or arise in connection with if applicable, the post-Closing remediation by the MP of deficiencies agreed by the TFO pursuant to Section 8.18.1(c);
- (e) the Excluded Assets and Excluded Liabilities, including Disallowed Costs related to the Project;
- (f) any liability to pay, or failure to pay, amounts in respect of Land Rights in respect of any Land Right that is in excess of the limits described in the MP's

representation and warranty in Section 4.13(a) or Section 4.13(b), as applicable;
and

- (g) the Project or the Purchased Assets prior to the Closing Date which are not Assumed Liabilities.

9.5 Notice of Claim

If an Indemnified Party becomes aware of a Loss or potential Loss in respect of which the Indemnifying Party has agreed to indemnify it under this Agreement, the Indemnified Party will promptly give Notice of its Claim or potential Claim for indemnification (an “**Indemnity Claim**”) to the Indemnifying Party. The Notice must specify whether the Indemnity Claim arises as the result of a Third Party Claim made against the Indemnified Party or as a result of a Direct Loss that was suffered or incurred by the Indemnified Party, and must also specify with reasonable particularity (to the extent that the information is available):

- (a) the factual basis for the Indemnity Claim;
- (b) the actual or potential for recourse under Warranty Rights to mitigate the Indemnifying Party’s liability; and
- (c) the amount of the Indemnity Claim, if known.

If, through the fault of the Indemnified Party, the Indemnifying Party does not receive Notice of an Indemnity Claim in time effectively to contest the determination of any liability capable of being contested, the Indemnifying Party will be entitled to set off against the amount claimed by the Indemnified Party the amount of any Loss suffered or incurred by the Indemnifying Party resulting from the Indemnified Party’s failure to give the Notice on a timely basis.

9.6 Direct Losses

Following receipt of Notice from the Indemnified Party of a Direct Loss, the Indemnifying Party will have fifteen (15) Business Days from the date of its receipt of the Notice to make any investigations it considers necessary or desirable. For the purpose of those investigations, the Indemnified Party will make available to the Indemnifying Party on a without-prejudice basis the information relied upon by the Indemnified Party to substantiate the Direct Loss, together with all other information that the Indemnifying Party may reasonably request. If both Parties agree at or before the expiration of such fifteen (15) Business Day period (or any mutually agreed upon extension) to the validity and amount of the Direct Loss, the Indemnifying Party will immediately pay the full amount of that Loss to the Indemnified Party, failing which the Claim in respect of the Direct Loss will be submitted to resolution in accordance with the Dispute Resolution Procedure. Notwithstanding the foregoing, if the Direct Loss is in respect of Disallowed Costs, the assessment or reassessment by the AUC referred to in Section 3.8(c) will be conclusive for all purposes and no recourse to the Dispute Resolution Procedure will be available to the Indemnifying Party.

9.7 Third Party Claims

- (a) If the Indemnity Claim relates to a Third Party Claim that the Indemnified Party is required by applicable Law to pay without a prior opportunity to contest it, the Indemnified Party may, despite Sections 9.7(c) and 9.7(d) and 9.7(e)(i), make the payment without affecting its right to make an Indemnity Claim in accordance with this Agreement;
- (b) The Indemnified Party will promptly deliver to the Indemnifying Party copies of all correspondence, notices, assessments or other written communication received by the Indemnified Party in respect of any Third Party Claim;
- (c) The Indemnified Party will not negotiate, settle, compromise or pay any Third Party Claim with respect to which it has asserted or proposes to assert an Indemnity Claim, without the prior consent of the Indemnifying Party, which consent will not be unreasonably withheld;
- (d) The Indemnified Party will not cause or permit the termination of any right of appeal in respect of any Third Party Claim which is or might become the basis of an Indemnity Claim without giving the Indemnifying Party Notice of the contemplated or potential termination in time to grant the Indemnifying Party an opportunity to contest the Third Party Claim;
- (e) If the Indemnifying Party first acknowledges in writing its obligation to satisfy an Indemnity Claim to the extent of any binding determination or settlement in connection with a Third Party Claim (or enters into arrangements otherwise satisfactory to the Indemnified Party), in any legal or administrative proceeding in connection with the matters forming the basis of a Third Party Claim, the following will apply:
 - (i) the Indemnifying Party will have the right, subject to the rights of any insurer or Third Party having potential liability for it, by Notice delivered to the Indemnified Party within ten (10) Business Days of receipt by the Indemnifying Party of the Notice of the Indemnity Claim to assume carriage and control of the negotiation, defence or settlement of a Third Party Claim and the conduct of any related legal or administrative proceedings at the expense of the Indemnifying Party and by its own counsel;
 - (ii) if the Indemnifying Party elects to assume carriage and control, the Indemnified Party will have the right to participate at its own expense in the negotiation, defence or settlement of a Third Party Claim assisted by counsel of its own choosing;
 - (iii) each of the Indemnified Party and the Indemnifying Party will make all reasonable efforts to make available to the Party who has assumed carriage and control of the negotiation, defence or settlement of a Third Party Claim those employees whose assistance or evidence is necessary to

assist such Party in evaluating and defending that Third Party Claim and all documents, records and other materials in the possession or control of such Party required for use in the evaluation and the defence of that Third Party Claim;

- (iv) notwithstanding Sections 9.7(e)(i), 9.7(e)(ii) and 9.7(e)(iii), the Indemnifying Party (if the MP) will not settle a Third Party Claim or conduct any related legal or administrative proceeding in a manner which would reasonably be expected to result in a Material Adverse Effect, except with the TFO's prior written consent; and
- (v) the Indemnifying Party will indemnify and hold harmless the Indemnified Party of and from any Loss suffered or incurred as a result of the Indemnifying Party's settlement of the Third Party Claim or conduct of any related legal or administrative proceeding.
- (f) When the amount of the Loss with respect to a Third Party Claim is finally determined in accordance with this Section 9.7, including any amount described in Section 9.7(e)(v), the Indemnifying Party will immediately pay the full amount of that Loss to the Indemnified Party. If the Indemnified Party has been permitted by the Indemnifying Party to assume the carriage and control of the negotiation, defence, or settlement of the Third Party Claim, will be conclusive for all purposes and no recourse to the Dispute Resolution Procedure will be available to the Indemnifying Party. The Indemnifying Party will have no obligation to make any payment with respect to any Third Party Claim that is settled or contested in violation of the terms of this Section 9.7.

9.8 No Delay

The Indemnified Party will pursue any Indemnity Claim made by the Indemnified Party under this Agreement with reasonable diligence and dispatch, and without unnecessary delay.

9.9 Set-off

Each of the Parties will be entitled to set-off the amount of any Loss for which indemnification is sought under ARTICLE 9 upon, if applicable, such Loss being finally determined in accordance therewith, as damages or by way of indemnification against any other amounts payable by such Party to the other Party whether under this Agreement or otherwise.

9.10 Tax and Other Adjustments

The amount of any Loss for which indemnification is provided under this ARTICLE 9 will be net of any amounts actually recovered by the Indemnified Party under insurance policies with respect to that Loss and will be: (a) increased to take account of any net Tax cost incurred by the Indemnified Party arising from the receipt of indemnity payments under this Agreement; and (b) reduced to take account of any net Tax benefit realized by the Indemnified Party arising from the incurrence or payment of that Loss, to the extent necessary to ensure that the Indemnified Party receives a net amount which, taking into account any net Tax cost or net Tax benefit, is

sufficient to fully compensate for the Loss, but results in no net gain to the Indemnified Party. In computing the amount of any such net Tax cost or net Tax benefit, the Indemnified Party will be deemed to recognize all other items of income, gain, loss deduction or credit before recognizing any item arising from the receipt of any indemnity payment hereunder or the incurrence or payment of any indemnified Loss.

9.11 Limitations on Liability

Notwithstanding anything to the contrary contained in this Agreement:

- (a) neither Party will be liable to the other Party for any Loss suffered or incurred by the other Party which arises due to such other Party's negligence, willful misconduct or failure to perform its obligations under this Agreement; however, none of the actions or omissions to act or matters described in Section 7.1(f) will be construed as negligence, willful misconduct or failure to perform obligations under this Agreement;
- (b) except in respect of the liability of the MP for Disallowed Costs, neither Party will be liable to the other Party for any loss of revenue, loss of profits, loss of production, loss of earnings, loss of contract, cost of purchased or replacement capacity and energy, cost of capital and loss of the use of any facilities or property owned, operated, leased or used by the other Party), or for any Loss of an indirect or consequential nature, which arises for any reason, howsoever and whensoever caused, and whether arising in contract, negligence or other tort liability, strict liability, or otherwise, even if advised of the possibility thereof;
- (c) except in respect of the liability of the MP for Disallowed Costs, neither Party will be liable to the other Party for any Loss suffered or incurred by the other Party which arises due to the performance or failure by the AESO to perform any of its duties and functions or the failure by a Party to perform any obligation under this Agreement to the extent such failure is a result of: (i) a direction or other action by the AESO; or (ii) failure by the AESO to perform its duties or functions; and
- (d) neither Party will be liable to the other Party for any Loss suffered or incurred by the other Party in respect of which such Party enjoys statutory liability protection granted under applicable Law including the Act and the *Liability Protection Regulation* (Alberta).

9.12 Exclusive Remedy

Except in respect of any rights or remedies provided to the TFO pursuant to Law (which rights and remedies are hereby specifically reserved by and to the TFO and not waived), the rights of indemnity in this ARTICLE 9 are the sole and exclusive remedy of each Party and each of its Indemnified Parties:

- (a) in respect of Third Party Claims which may be brought against it; and

- (b) for monetary compensation for any Loss which it may suffer or incur as a result of, in respect of, or arising out of any non-fulfillment of any covenant or agreement by the other Party, or any incorrectness in or breach of any representation or warranty by the other Party, contained in this Agreement or in any other agreement or document delivered pursuant to this Agreement.

Nothing in this Section 9.12 will prevent a Party from seeking equitable remedies with respect to a breach of the Confidentiality Obligations. This Section 9.12 will remain in full force and effect in all circumstances and will not be terminated by any breach (fundamental, negligent or otherwise) by any Party of its covenants, representations or warranties in this Agreement or under any agreement or other document delivered pursuant to this Agreement, or by any termination or rescission of this Agreement.

9.13 Indemnification - Non-Merger - Survival

The indemnification covenants contained in this ARTICLE 9 will not merge on Closing, and in addition the indemnification covenants contained in Sections 9.3(d) and 9.4(c) will not be terminated by any termination or rescission of this Agreement prior to Closing, but in each of the foregoing cases the indemnification covenants will survive indefinitely in accordance with their respective terms, subject only to any limits expressly imposed by this ARTICLE 9.

9.14 Third Party Indemnification

For the purposes of ensuring that the indemnities provided by each of the MP and the TFO to the other's Indemnified Parties are enforceable, it is agreed by the Parties that each of the MP and TFO is acting as agent for its respective Indemnified Parties with respect to the indemnities intended to be given to those Persons under this Article. Each of the MP and the TFO agrees that it will hold any right to indemnification that any such Indemnified Party is intended to have under this Article in trust for that Person and that funds received by the MP or TFO in respect of any Claims by any such Indemnified Party will be held in trust for that Person.

ARTICLE 10 CLOSING ARRANGEMENTS

10.1 Closing

The Closing will take place at the Closing Time on the Closing Date at the head office of the TFO or such place as the Parties may agree.

10.2 Closing Procedures

At the Closing Time:

- (a) the MP will sell and the TFO will purchase as of the Effective Time the Purchased Assets for the Purchase Price as provided in this Agreement;
- (b) the MP will deliver or cause to be delivered to the TFO all documents referred to in Sections 8.1(a) and 8.1(f);

- (c) the TFO or MP, as applicable, will deliver or cause to be delivered to the other Party payment representing the excess amount remaining following the operation of the set off in Sections 3.1 and 3.2; and
- (d) the TFO will deliver or cause to be delivered the documents referred to in Sections 8.4(a) and 8.4(b).

ARTICLE 11 GENERAL

11.1 Submission to Jurisdiction

Without prejudice to the ability of any Party to enforce this Agreement in any other proper jurisdiction, each of the Parties irrevocably submits and attorns to the exclusive jurisdiction of the courts of the Province of Alberta to determine all issues, whether at law or in equity arising from this Agreement. To the extent permitted by applicable Law, each of the Parties irrevocably waives any objection (including any claim of inconvenient forum that it may now or hereafter have) to the venue of any legal proceeding arising out of or relating to this Agreement in the courts of that Province, or that the subject matter of this Agreement may not be enforced in the courts, and irrevocably agrees not to seek, and waives any right to, judicial review by any court which may be called upon to enforce the judgment of the courts referred to in this Section 11.1, of the substantive merits of any such suit, action or proceeding. To the extent a Party has or may acquire any immunity from jurisdiction of any court or from any legal process (whether through service or notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise) with respect to itself or its property, that Party irrevocably waives that immunity in respect of its obligations under this Agreement.

11.2 Payment and Currency

Except as otherwise provided in Section 3.7, any money to be paid or tendered by one Party to another pursuant to this Agreement must be paid by bank draft or wire transfer of immediately available funds payable to the Person to whom the amount is due. Unless otherwise specified, the word “dollar” and “\$” sign refer to Canadian currency, and all amounts to be advanced, paid or calculated under this Agreement are to be advanced, paid or calculated in Canadian currency.

11.3 Tender

Any tender of documents or money pursuant to this Agreement may be made upon the Parties or their respective counsel.

11.4 Costs and Expenses

Except as otherwise specified in this Agreement (including the definition of Costs), all costs and expenses (including the fees and disbursements of accountants, legal counsel and other professional advisers) suffered or incurred in connection with this Agreement and the completion of the transactions contemplated by this Agreement are to be paid by the Party suffering or incurring those costs and expenses. If this Agreement is terminated, the obligation of each Party

to pay its own costs and expenses is subject to each Party's respective rights arising from a breach or termination.

11.5 Time of Essence

Time is of the essence in all respects of this Agreement.

11.6 Notices

All Notices must be in writing and either:⁴⁵

- (a) personally delivered (including by reputable courier service); or
- (b) sent by facsimile, e-mail or functionally equivalent electronic means of communication.

All Notices must be sent to the intended recipient at its address as follows:

to the MP at:

<@> <Insert Address>

Attention: <@>

Facsimile No.: <@>

to the TFO at:

<@><Insert Address>

Attention: <@>

Facsimile No.: <@>

with a copy to:

<@>

Attention: <@>

Facsimile No.: <@>

or at any other address as any Party may from time to time advise the other by Notice given in accordance with this Section 11.6. Any Notice delivered to the Party to whom it is addressed will be deemed to have been given and received on the day it is so delivered at that Party's address, provided that if that day is not a Business Day then the Notice will be deemed to have been given and received on the next Business Day. Any Notice transmitted by facsimile or other form of electronic communication will be deemed to have been given and received on the day on which it was transmitted (but if the Notice is transmitted on a day which is not a Business Day or

⁴⁵ **User Guide:** At the time of execution of this Agreement, the Parties are to insert their contact information for Notices.

after 3:00 p.m. (local time of the recipient)), the Notice will be deemed to have been received on the next Business Day.

11.7 Further Assurances

Each Party will, at the requesting Party's cost, execute and deliver any further agreements and documents and provide any further assurances as may be reasonably required by the other Party to give effect to this Agreement and, without limiting the generality of the foregoing, will do or cause to be done all acts and things, execute and deliver or cause to be executed and delivered all agreements and documents and provide any assurances, undertakings and information as may be required from time to time by all Governmental Authorities or stock exchanges having jurisdiction over the TFO's affairs or as may be required from time to time under applicable securities legislation.

11.8 No Broker

Each Party represents and warrants to the other that all negotiations relating to this Agreement and the transactions contemplated by this Agreement have been carried on between them directly, without the intervention of any other Person on behalf of any Party in such manner as to give rise to any valid Claim against the TFO for a brokerage commission, finder's fee or other similar payment.

11.9 Public Notice

All public notices to third parties and all other announcements, press releases and publicity concerning this Agreement and/or the transactions contemplated by this Agreement must be jointly planned and co-ordinated by the MP and the TFO, and neither Party will act unilaterally in this regard without the prior consent of the other Party unless, and only to the extent that, disclosure is required to meet the timely disclosure obligations of any Party under securities Laws or stock exchange rules in circumstances where prior consultation with the other Party is not practicable, or the disclosure is to the Party's board of directors, senior management and its legal, accounting, financial or other professional advisers.

11.10 Amendment and Waiver

No supplement, modification, amendment, waiver or termination of this Agreement is binding unless it is executed in writing by the Party to be bound. No waiver of, failure to exercise or delay in exercising, any provision of this Agreement constitutes a waiver of any other provision (whether or not similar) nor does any waiver constitute a continuing waiver unless otherwise expressly provided.

11.11 Remedies Cumulative

Except to the extent expressly set out in Section 9.12, the rights and remedies under this Agreement are cumulative and are in addition to and not in substitution for any other rights and remedies available at law or in equity or otherwise. No single or partial exercise by a Party of any right or remedy precludes or otherwise affects the exercise of any other right or remedy to which that Party may be entitled.

11.12 Assignment and Enurement

- (a) Except as expressly provided in Section 11.12(b), the MP may not effect a Disposition without the prior written consent of the TFO, which consent may be withheld in the exercise of its sole discretion, and any such purported Disposition will be null and void.
- (b) Upon providing prior written notice to the TFO, the MP may without the consent of the TFO:
 - (i) prior to Closing, effect a Disposition as security to Lenders in connection with any financing or other financial arrangements, provided that:
 - (A) notwithstanding any such Disposition, the MP will remain liable for all the obligations and liabilities under this Agreement;
 - (B) such Disposition will be deemed a Permitted Encumbrance until immediately prior to Closing; and
 - (C) upon the reasonable request of the MP, the TFO will, at the MP's expense:
 - (I) execute such agreements, documents, consents, acknowledgements and instruments as are reasonably and customarily required by Lenders to give effect to the Disposition to the Lenders; and
 - (II) on a without-liability basis prepare and provide to the MP such information in connection with this Agreement as may be reasonably required by such Lenders, to the extent the MP does not have such information available to it;
 - (ii) prior to or following Closing, effect a Disposition to any Person succeeding to all or substantially all the Served Assets if:
 - (A) such Disposition is of an undivided interest in all rights, benefits, interests, accounts, revenues, proceeds, obligations and liabilities of the MP under this Agreement;
 - (B) each Person receiving a Disposition agrees in writing to be bound by and comply with this Agreement, the Interconnection Agreement and any other collateral arrangements by which the Served Facilities obtain system access service by means of interconnection to the AIES via the Project and the Purchased Assets; and
 - (C) if the result of such Disposition is that, relative to the TFO, there are more than two (2) Persons holding the rights, benefits,

interests, accounts, revenues, proceeds, obligations and liabilities that the MP enjoys or is subject to under this Agreement, all such Persons agree to be jointly and severally liable thereunder, and to designate a single agent or trustee to act on behalf of them all relative to the TFO.

- (c) If the MP desires to effect a Disposition of the Served Facilities (or any portion thereof) without simultaneously effecting a Disposition of the corresponding interest in this Agreement in accordance with and subject to the other provisions of this Section 11.12, the MP must request the TFO's prior consent, which consent the TFO can refuse in its sole discretion.
- (d) Subject to the foregoing, this Agreement will enure to the benefit of and is binding upon the Parties and their respective heirs, executors, administrators, successors and permitted assigns.

11.13 Severability

Each provision of this Agreement is distinct and severable. If any provision of this Agreement, in whole or in part, is or becomes illegal, invalid or unenforceable in any jurisdiction, the illegality, invalidity or unenforceability of that provision will not affect the legality, validity or enforceability of the remaining provisions of this Agreement, or the legality, validity or enforceability of that provision in any other jurisdiction.

11.14 Counterparts

This Agreement may be executed and delivered by the Parties in one or more counterparts, each of which when so executed and delivered will be an original, and those counterparts will together constitute one and the same instrument.

11.15 Facsimile Signatures

Delivery of this Agreement by facsimile, e-mail or functionally equivalent electronic transmission constitutes valid and effective delivery.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

Each of the Parties has executed and delivered this Agreement as of the date noted at the beginning of the Agreement.⁴⁶

<@> [MP]

Per: _____

Name:

Title:

Per: _____

Name:

Title:

<@> [TFO]

Per: _____

Name:

Title:

Per: _____

Name:

Title:

⁴⁶ **User Guide:** At the time of execution of the ATA, the Parties are to insert their respective legal names. Execution by two signing officers is not required if the Party's internal requirements do not mandate such.

**SCHEDULE “A”
DESCRIPTION OF PURCHASED ASSETS** ⁴⁷

[To be completed by the MP and provided to TFO as of the date that the Closing Date Notice is given as per Section 2.2, subject to review by and agreement with the TFO in accordance with Section 2.3.]

PURCHASED ASSETS

Fixed Assets and Equipment

Land Rights (See Schedule “B”)

Buildings and Improvements

Material Contracts (including Warranty Rights)

Permits

Books and Records

Intellectual Property (including all licence agreements) ⁴⁸

ASSUMED LIABILITIES

Permitted Encumbrances, if applicable ⁴⁹

Other ⁵⁰

EXCLUDED ASSETS

Inventories

Other ⁵¹

⁴⁷ **User Guide:** See Sections 2.2 and 2.3 and the associated footnotes for further description regarding the completion of this Schedule. Schedule “A” is to be completed by the MP and provided to TFO as of the date that the Closing Date Notice is given.

⁴⁸ **User Guide:** See Section 4.18(c).

⁴⁹ **User Guide:** As part of the process under Section 2.2 whereby the MP provides a proposed Schedule “A”, the MP may propose that an Encumbrance be included as a Permitted Encumbrance by including it under Assumed Liabilities. See also the definition of Permitted Encumbrance and associated footnote for further instructions.

⁵⁰ **User Guide:** See the definition of Assumed Liabilities and associated footnote for further instructions.

⁵¹ **User Guide:** See the definition of Excluded Assets and associated footnote for further instructions.

EXCLUDED LIABILITIES

Other⁵²

⁵² **User Guide:** See the definition of Excluded Liabilities and associated footnote for further instructions.

SCHEDULE “B”
DESCRIPTION OF LAND RIGHTS AND ENCUMBRANCES

[To be completed by the MP and provided to TFO as of the date that the Closing Date Notice is given as per Section 2.2, subject to review by and agreement with the TFO in accordance with Section 2.3.]

Land Rights, including Owned Lands, Leased Premises and Real Property Leases

Permitted Encumbrances

User Guide: See the definition of Permitted Encumbrances and associated footnotes. As part of the Section 2.2/2.3 process, the MP may describe certain exceptions. With respect to item (x) of the definition of Permitted Encumbrances, the TFO may dispute whether the those instruments registered on title to the Owned Lands or against the leasehold interest of the MP in the Leased Premises that the MP wishes to set out in as permitted encumbrances are appropriate.

MP Granted Leases

User Guide: See definition of MP Granted Leases for further instructions.

**SCHEDULE “C”
OPERATIONS DOCUMENTS ⁵³**

[To be prepared by the TFO and provided to the MP pursuant to Section 2.3.]

General

AESO Functional Specification (Final)	.pdf (separate file)
PDUP Documentation	.pdf (separate file)
AESO Energization Certificate	.pdf (separate file)
NID Documentation	.pdf (separate file)
FA Documentation	.pdf (separate file)

Project Cost Information

Final Project Cost Breakdown (USA/MFR)	.pdf (separate file)
Invoices, purchase orders	.pdf (separate file)

Transmission Lines

Structure List	.xls and .pdf (separate file)
GPS Coordinates - Above-ground Facilities	.xls and .pdf (separate file)
GPS Coordinates - Underground Facilities	.xls and .pdf (separate file)
Line Data Summary	.pdf (separate file)
Line Impedance Modeling Sheets - Line Impedance Modeling Information	.pdf (separate file)
Line Impedance Modeling Sheets - Parallel Circuit Modeling Information	.pdf (separate file)
Design Criteria	.pdf (separate file)
Plan and Profile	.pdf (separate file)
Sag and Stringing Data - Sag Data	.pdf (separate file)
Sag and Stringing Data - Stringing Data	.pdf (separate file)
Equipment Documentation - Transmission Line Airbreak Switch Summary Data Sheet	.pdf (separate file)
Soil/Geotech Report and Foundation Study	.pdf (separate file)
Electrical Effect Reports - Radio/TV Interference	.pdf (separate file)

⁵³ **User Guide:** This template represents a sample of Operations Documents that was developed by the TFO Group. The precise scope of future Market Participant Choice Projects is unknown and will vary. Therefore, the TFO Group developed this template to be indicative of the types of Operations Documents that will be required. The expectation is that Market Participants and TFOs will work together cooperatively to amend this template in ways that maintain the intent of the Market Participant Choice Framework in alignment with specific Project scopes and continuous improvement of the process. The intent of the Market Participant Choice framework is to provide Market Participants with the opportunity to actively manage Project costs and schedule, while preserving a minimum technical standard that supports the safe and reliable operation and maintenance of Market Participant Choice facilities by TFOs.

Electrical Effect Reports - Audible Noise	.pdf (separate file)
Maps - GIS Route Map Index (RMI)	.pdf (separate file)
Maps - GIS Route Map Strips (RMS)	.pdf (separate file)
Maps - GIS Focus Maps	.pdf (separate files)
Maps - *Maintenance Work Maps	.pdf (separate file)
Agency Approval Documents and Drawings	.pdf (separate files)
QA/QC Documents - QA/QC Checklist	.pdf (separate file)
QA/QC Documents - QA/QC Documents	.pdf (separate files)
As-Built/As-Recorded Drawing List	.xls (separate file)
As-Built/As-Recorded Drawing Package - Structures, Assemblies	.dgn (separate files)
As-Built/As-Recorded Drawing Package - Material/Hardware	.dgn (separate files)
As-Built/As-Recorded Drawing Package - Anchoring	.dgn (separate files)
As-Built/As-Recorded Drawing Package - Foundation/Footing	.dgn (separate files)
As-Built/As-Recorded Drawing Package - Phasing Diagram	.dgn (separate files)
GIS Data - Geodatabase file	.gdb
GIS Data - ArcMap file - RMI	.mxd
GIS Data - ArcMap file - RMS	.mxd
PLS-CADD Model	.bak
Photographs	.jpeg
Crossing Agreements (railway, pipeline, etc.)	.pdf (separate files)

Substations General

As Built/As Recorded Drawing List	.xls
As Built/As Recorded Drawing Package	.pdf
As Built/As Recorded Drawing Package	.dwg
Soil / Geotechnical Report	.pdf
Noise Measurement Report	.pdf
RFI Measurements Report	.pdf
Foundation Design Models	.pdf
Structural Model	S-Frame electronic file (.tel)
Insulation Coordination Study	.pdf
Bus Electrical and Mechanical Design	.pdf
Ground Grid Report	.pdf
Ground Grid Resistance Test (GRT) Report	.pdf
Ground Grid (CDEGS) Computer Model	.F05
Soil Resistivity (CDEGS) Computer Model	.F05
Soil Resistivity Test (SRT) Report	.pdf
Gravel Resistivity Test Report	.pdf
Photograph	.jpeg

Control Building

Purchase Information Package - PO Package	.pdf
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Purchase Information Package - Bid Evaluation	.pdf
Manufacturer Drawings - Outline	.dwg
Manufacturer Drawings - Plan	.dwg
Manufacturer Drawings - Elevation	.dwg
Manufacturer Drawings - Section	.dwg
Manufacturer Drawings - Electrical	.dwg
Instruction Manuals	.pdf
HVAC System Design Studies	.pdf

AC/DC Systems

Station Service AC & DC Study	.pdf
DC Sizing Worksheet	.xls
Manufacturer Instruction Manuals - Battery Bank	.pdf
Manufacturer Instruction Manuals - Battery Charger	.pdf
Battery Charger ID Sheet	.pdf
Battery Factory Test	.pdf
Battery Field Acceptance Test	.xls
Battery Manufacturer Drawings	.dwg
Station Service Transformer Drawings - Nameplate (Rating Plate)	.pdf
Station Service Transformer Drawings - outline	.pdf
Backup Generator Manual	.pdf

Transformers

Purchase Information Package - Purchase Order Package	.pdf
Purchase Information Package - Bid Evaluation	.pdf
Manufacturer Drawings - Nameplate (Rating Plate)	.dwg
Manufacturer Drawings - Outline	.dwg
Manufacturer Drawings - Schematic	.dwg
Manufacturer Drawings - Wiring	.dwg
Manufacturer Instruction Manual	.pdf
Factory Test Report	.pdf
Purchaser QA Inspection Report	.pdf
Acceptance Guide Receiving Report	.pdf
Acceptance Guides Test Results	.pdf
Field Acceptance Tests - Doble Power Factor and Excitation Test	.xml
Field Acceptance Tests - SFRA Test	.sfra
Field Acceptance Tests - DGA & Oil Quality Test Results	.csv
Photograph - Nameplate (Rating Plate)	.jpeg
Voltage Regulating Setting	.pdf

Circuit Breakers

Purchase Information Package - Purchase Order Package	.pdf
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Purchase Information Package - Bid Evaluation	.pdf
Manufacturer Drawings - Nameplate (Rating Plate)	.dwg
Manufacturer Drawings - Outline	.dwg
Manufacturer Drawings - Schematic	.dwg
Manufacturer Drawings - Wiring	.dwg
Manufacturer Instruction Manual	.pdf
Factory Test Report	.pdf
Acceptance Guides Test Results	.pdf
Photograph - Nameplate (Rating Plate)	.jpeg

Voltage Transformers

Purchase Information Package - Purchase Order Package	.pdf
Purchase Information Package - Bid Evaluation	.pdf
Manufacturer Drawings - Nameplate (Rating Plate)	.dwg
Manufacturer Drawings - Outline	.dwg
Manufacturer Drawings - Schematic	.dwg
Manufacturer Drawings - Wiring	.dwg
Manufacturer Instruction Manual	.pdf
Factory Test Report	.pdf
Acceptance Guides Test Results - Acceptance Guide	.pdf
Acceptance Guides Test Results - Ratio test Report	.pdf
Field Acceptance Tests - Doble Power Factor and Excitation Test	.pdf
Photograph - Nameplate (Rating Plate)	.jpeg

Current Transformers

Purchase Information Package - Purchase Order Package	.pdf
Purchase Information Package - Bid Evaluation	.pdf
Manufacturer Drawings - Nameplate (Rating Plate)	.dwg
Manufacturer Drawings - Outline	.dwg
Manufacturer Drawings - Schematic	.dwg
Manufacturer Drawings - Wiring	.dwg
Manufacturer Instruction Manual	.pdf
Factory Test Report	.pdf
Field Acceptance Tests - Doble Power Factor and Excitation Test	.xml
Acceptance Guides Test Results	.pdf
Acceptance Guides Test Results - Ratio Test Report	.pdf
Photograph - Nameplate (Rating Plate)	.jpeg

Capacitor Banks

Purchase Information Package - Purchase Order Package	.pdf
Purchase Information Package - Bid Evaluation	.pdf
Manufacturer Drawings - Nameplate (Rating Plate)	.dwg

Manufacturer Drawings - Outline	.dwg
Manufacturer Drawings - Schematic	.dwg
Manufacturer Drawings - Wiring	.dwg
Manufacturer Drawings - layout	.dwg
Manufacturer Instruction Manual	.pdf
Factory Test Report	.pdf
Acceptance Guides Test Results	.pdf
Photograph - Nameplate (Rating Plate)	.jpeg
Monitor Setting File	Native Monitor File Format

Disconnect Switches

Purchase Information Package - Purchase Order Package	.pdf
Purchase Information Package - Bid Evaluation	.pdf
Manufacturer Drawings - Nameplate (Rating Plate)	.dwg
Manufacturer Drawings - Outline	.dwg
Manufacturer Drawings - Schematic	.dwg
Manufacturer Drawings - Wiring	.dwg
Manufacturer Drawings - Motor Mechanism Drawing	.dwg
Manufacturer Instruction Manual - Switch instruction Manual	.pdf
Manufacturer Instruction Manual - Motor Mechanism Manual	.pdf
Factory Test Report	.pdf
Acceptance Guides Test Results	.pdf
Photograph - Nameplate (Rating Plate)	.jpeg

Switchgear

Purchase Information Package - Purchase Order Package	.pdf
Purchase Information Package - Bid Evaluation	.pdf
Manufacturer Drawings - Nameplate (Rating Plate)	.dwg
Manufacturer Drawings - Outline	.dwg
Manufacturer Drawings - Schematic	.dwg
Manufacturer Drawings - Wiring	.dwg
Manufacturer Drawings - Building	.dwg
Manufacturer Instruction Manual	.pdf
Factory Test Report	.pdf
Acceptance Guides Test Results	.pdf
Photograph - Nameplate (Rating Plate)	.jpeg

Protection and Control

Manufacturer Instruction Manual	.pdf
Relay Setting Support Documents	.pdf
Purchase Information Package	.pdf

Relay Admin Information	Powerbase Record
Relay Setting Record (Approved)	Powerbase Record
Relay Setting File (As left)	Native Relay File Format
Relay Setting Report (As-Built/As-Recorded)	.pdf
Distance (Impedance Relay) Test Document Checklist	.pdf
Line Current Differential Relay Test Document Checklist	.pdf
Numeric Multi-function Overcurrent Relay Test Document Checklist	.pdf
Protection and Control Commissioning Checklist	.pdf
Transformer Differential Relay Test Document Checklist	.pdf
Other/Additional Device Test Reports	.pdf

Telecommunications

AL-TEL-G0100 Telecommunication Asset Return Data Form	.xls
Station Load Calculations	.xls
Purchase Order Information - Purchase Order Package	.pdf
Purchase Order Information - Bid Evaluation	.pdf
Manufacturer Instruction Manuals	.pdf
Manufacturer Drawings - Nameplate (Rating Plate)	.dwg
Pathloss File	.pl4, .gr4, .bkg, .bmp
Factory Test Report	.pdf
Fiber Optic OTDR Trace	.pdf
Setting Sheet	.pdf
Facility Acceptance Checklist and Test Results	.pdf
Equipment Config Files - MPLS	Native Equip File Format
Equipment Config Files - LAN Equipment	Native Equip File Format

Telecommunication Tower

AL-TEL-G0102 Telecommunications Tower Return Data Form	.xls
Purchase Information Package - Purchase Order Package	.pdf
Purchase Information Package - Bid Evaluation	.pdf
Manufacturer Drawings - Tower	.dwg
Manufacturer Drawings - Tower Lights	.dwg
Manufacturer Drawings - Fall Arrest	.dwg
Manufacturer Instruction Manuals - Tower	.pdf
Manufacturer Instruction Manuals - Tower Lights	.pdf
Manufacturer Instruction Manuals - Fall Arrest	.pdf
Tower Analysis Report	.pdf
Design Criteria & Validation - Radio Path Design	.pdf

Soil Geotechnical Report	.pdf
Wave Guide Coax Sweep	.pdf

SCADA

SCADA Installation Checklist	.xls
SCADA Data Files - HMI Configuration	.sub
SCADA Data Files - Supervisory Book Spreadsheet	.xls
SCADA Points list	.xls
SCADA Data Files - RTU Configuration (Settings/Database)	.zip and/or .par and/or .ssnet
SCADA Equipment List	.xls
Manufacturer instruction Manuals - Installed Equipment	.pdf

SCHEDULE “D” PROJECT REQUIREMENTS ⁵⁴

1. TRANSMISSION LINE REQUIREMENT

1.1 Design Criteria

Transmission line must be designed in accordance with following:

- Alberta Electric System Operator – ISO Rules Section 502.2.
- Alberta Electric System Operator – Information Document #2010-005R.

1.2 Right-of-Way

1.2.1 ROW Specification

- Single Pole – Conductor must remain on ROW plus flashover under all conditions. ATCO Electric Ltd. lines are typically centred on 18m ROW. The nearest horizontal distance to any foundation installation must be minimum 1m offset from property/fence lines.
- H-frame - Conductor must remain on ROW plus flashover under all conditions. ATCO Electric Ltd. lines are typically centred on 30m ROW. The nearest horizontal distance to any foundation installation must be minimum 1m offset from property/fence lines.

⁵⁴ **User Guide:** This template represents a sample of Project Requirements that was developed by the Market Participant Choice Working Group. The precise scope of future Market Participant Choice Projects is unknown and will vary. Additionally, technical requirements are likely to evolve as industry gains experience with the Market Participant Choice framework. Therefore, the Market Participant Choice Working Group developed this template to be indicative of the minimum technical topics requiring consideration by parties as well as the level of prescription envisioned within the Market Participant Choice framework. The expectation is that Market Participants and TFOs will work together cooperatively to amend this template in ways that maintain the intent of the Market Participant Choice Framework in alignment with specific Project scopes and continuous improvement of the process. The intent of the Market Participant Choice framework is to provide Market Participants with the opportunity to actively manage Project costs and schedule, while preserving a minimum technical standard that supports the safe and reliable operation and maintenance of Market Participant Choice facilities by TFOs.

Although not widely expected to occur, there may be certain circumstances where an MP asks the TFO to entertain a specific variation from these default technical requirements prior to execution of the ATA. For example, the MP may wish to fully fund and build in equipment or inventory redundancy to a standard in excess of the default minimum technical requirements. In these circumstances, the MP should notify the TFO of its desire with the objective of agreeing to incorporate the variation as part of these Schedule “D” requirements. In this example, the result might be that when such redundant equipment reached the end of its useful life, the TFO and MP would be obligated to review the ongoing MP requirement, and if equipment beyond the TFO standard minimum requirement (as it exists at such later date) was still desired or needed by the MP, the MP would pay all associated costs incremental to the TFO standard.

- Vegetation Control Easement Width – removing vegetation outside of EZE based on achieving a 10-year vegetation clearance. (Trees outside of right of way will not present a fall-in risk to the transmission line based on 10 years of projected growth).

1.2.2 Land Rights

ROW Agreement – Use of standard Right-of-Way Agreement required (see attached template) to ensure transferability, standard liability and insurance clauses are in place.⁵⁵

- No additional addendums or schedules and no use of conditions addendums.
- Occupant consent must be received whether their interests are registered on title or not.
- ROW Agreement must be restricted to registered survey plan post- construction (“as built”).
- Annual structure payment rates must be paid according to TFO’s schedule of payments. (See Table)
- Relocation Agreements – Obligations related to future relocation of any assets will not be assumed by the TFO.
- Abandonment – Obligations related to abandonment will not be assumed by the TFO.

Land Purchases – Purchase and Sale Agreement, must be provided.

- No Liens or unacceptable encumbrances can be registered on title.
- Phase 1 or Phase 2 (if required) Environmental Assessment must be completed and results provided.

Crown Dispositions – All LOAs and final Crown dispositions must be transferred. All Environmental Field Reports, Forest Management Agreements, Consents of Occupants, First Nations adequacy letters and environmental plans associated with Crown disposition applications must be provided.

Railway Crossings – All railway crossing agreements (e.g. CN and CP) must be provided.

Access Agreement – Use of standard Access Agreement required (e.g. CAPP Template for crossing and road use agreements) to ensure standard liability and insurance clauses are in place.

⁵⁵ **User Guide:** The TFO must attach the then current form of Right-of-Way Agreement at the time of execution.

- No additional addendums or schedules and no use of conditions addendums.
- Agreements should be permanent wherever required to operate and maintain the asset in the future. Registered right of way plans must be provided.

Registrations – Copies of all land registrations must be provided, including survey plans and right of way plans.

1.2.3 Construction Damages

- **Damage Liability** – All damage waivers executed by Market Participant must be provided upon transfer. Obligation to resolve outstanding damage settlements and claims on all damages having occurred prior to transfer of the facilities will not be assumed by the TFO.

1.2.4 Third Party Consents and Approvals

Crossing Agreements – Third Party Crossing Agreement/Consent must be acquired and copies provided to TFO upon transfer.

- Agreement to relocate any party's facilities in the future must be reviewed and approved by TFO.
- Obligation to upgrade any party's facilities to the future standard of the day will not be assumed by the TFO.
- Induction studies required through Crossing Agreements and confirmation of mitigation installation completion must be provided to TFO.

1.2.5 Regulatory

Alberta Utilities Commission

- **Proceeding Documentation** - All proceeding documentations must be provided, including application, amendments, enquires, Information Requests and Responses, other proceeding evidence, hearing transcripts, etc.
- **Cross Section Alignments** – Confirmation must be received that actual location of facilities (center line) matches corresponding application cross section alignments exactly.
- **Valid Permits for Regulated Facilities** – All permits for all facilities must be transferred.

Also, all valid federal, provincial and municipal permits including but not limited to permanent impacts to wetlands, proximity to highways and highway crossings, crossings of navigable waters, Aeronautical Observation Clearance form and Historical Resources

Act Clearance must be transferred to the TFO before the facility is transferred to the TFO.

1.2.6 Commitments

- Obligation to resolve any outstanding construction-related commitments to landowners will not be assumed by the TFO.
- List of ongoing operational commitments must be provided (e.g. maintenance notification protocols, access protocols, etc.).

1.2.7 Map Production

- Final Alignment Sheet series must be provided (showing constraints, environmental conditions, access and relevant infrastructure locations).
- Spatial Data including all relevant shape files must be provided (residences within 800m, wetlands, land use, facility location, environmental constraints, etc.).

1.2.8 First Nation Communities

- Adequate Consultation – Consultation records must be provided. Letters of Non-Objection from FN communities must be provided if received. Documents submitted to and approved by AESRD must be provided. Evidence that the Market Participant made First Nation Communities aware of the intent to transfer facilities to a TFO must be provided.
- Consultation records must be provided – This would include the following:
 - A copy of the First Nation Consultation (FNC) request that the Market Participant sent to AESRD.
 - A copy of the First Nation Consultation (FNC) direction provided by AESRD to that the Market Participant. This will identify the First Nation communities that the Market Participant had to consult with and the level of consultation that was required.
 - A copy of the First Nation Consultation (FNC) Record that was sent to AESRD.
 - A copy of the First Nation Consultation (FNC) adequacy letter received from AESRD. This adequacy letter is for any Crown disposition applications.
- Commitments – Obligation to resolve any outstanding construction-related commitments to First Nation Communities will not be assumed by the TFO. List of ongoing operational commitments must be provided (e.g. maintenance notification protocols, access protocols, etc.).

- Economic Benefits – Obligation to provide any outstanding construction or project-related economic benefits or benefits of economic value to First Nation Communities will not be assumed by the TFO. Market Participant must provide confirmation that no further outstanding economic benefits in relation to the transmission facility exist at time of transfer.

1.3 Foundation

- Foundation design must be based on geotechnical studies (studies to be provided).
- Concrete foundations design must conform to CSA A23.3.
- Steel foundations and tension anchors must have cathodic protection. Typically, magnesium anodes are preferred.

1.4 Structure Design Criteria

- Structures must be designed for maintenance per ISO Rule 502.2 Section 26.

1.5 Conductor and Insulators

- Size and type of conductor and insulator type design must conform to ISO 502.2.

1.6 Grounding

- Engineering study to demonstrate adequacy of grounding is required.
- Appropriate ground rod and bonding as required.
- Ground mats must be provided for gang-operated disconnect switches on line structures.
- Follow IEEE Standard 80 and Alberta Electrical Utility Code Section 6.

1.7 Shielding

- If the telecommunication link is OPGW (fiber optic), then the OPGW installed above the transmission line can be used as a shield wire. OPGW mechanical properties must be similar to the equivalent overhead shield wire.

1.8 Line Hardware

- Line hardware must comply with CSA C83 and ISO Rule 502.2.

2. SUBSTATION REQUIREMENT

2.1 Design Criteria

Design references:

- CSA-C71-1, “Insulation co-ordination Part 1 Definitions, principles and rules”.
- CSA-C71-2, “Insulation co-ordination Part 2 Application Guide”.
- IEEE Std C62.82.1, “IEEE Standard for Insulation Coordination – Definitions, Principles, and Rules”.
- IEEE Std 1313.2, “IEEE Guide for Application of Insulation Coordination”.
- IEEE Std 1427, “IEEE Guide for Recommended Electrical Clearances and Insulation Levels in Air-Insulated Electrical Power Substations”.

In addition to the AEUC the following additional requirements for design clearances.

Voltage Classification Phase-to-Phase (kV)	BIL (KV)	Minimum Height of Grounded Apparatus (mm)	Personnel Walk Through Clearance (mm)	Vehicle Access Road Clearance (mm)
245	1050	2500	4860	6400
145	650	2500	4060	5600
72.5	350	2500	3420	4970
35	200	2500	3135	4680
27.5	150	2500	3040	4590
15	110	2500	3000	4510
5	75	2500	3000	4500

Maintenance access to all equipment must be maintained to all equipment. Minimum 8m from the HV equipment to the exterior fence and maintenance access on minimum 1 side of HV breaker bays.

All control cabinets and junction box for the yard must be NEMA Type 3 Enclosure Standards as outlined in CSA C22.2 No. 94.

2.2 Site Grading and Access Road to the Substation

The substation site must allow a minimum 2 meter shoulder provided outside the fenced perimeter. This will allow space for the fence perimeter grounding as well as for erosion control.

The substation area must be designed and built so that it does not interrupt the natural drainage of the area as well as consideration of the customer's adjacent facility will have to be taken into account for the coordination of drainage with their site.

Documentation must be provided describing the location of the topsoil stored for future substation reclamation.

2.3 Grounding

Grounding practices in the substation will be determined based on grounding study of the soils resistivity measurement to ensure GPR and step/touch potentials remain within tolerable values.

Follow IEEE Standard 80 and Alberta Electrical Utility Code Section 6. A body weight of 50 kg will be used.

Gravel is to extend minimum of 2m out from the exterior substation fence.

Fault level and clearing time in design is required.

2.4 Foundation

The foundation type must be based on the geotechnical report (report to be provided).

Listing of Applicable Standards, Codes and Regulations:

- Alberta Electrical Utility Code.
- CSA C22.3 No. 1 – Overhead Systems (Grade 1 Construction to be used).
- National Building Code of Canada (NBCC).
- Alberta Building Code.

2.5 Transformer Oil Containment

A site specific risk assessment must be performed to identify the environmental aspects. This assessment is required to support the application of oil containment or the decision to omit it from the project scope. Factors included to be considered include:

- Proximity to water bodies.
- Soil permeability and water table.
- Species at risk and native vegetation.
- Land use.
- Proximity to other facilities/buildings.

- The size of the transformer.

Oil containment requirement may be based on the following:

- IEEE Standard 980 IEEE Guide for containment and control of oil spills in substations.
- ASTM D2487 - Standard Practice for Classification of Soils for Engineering Purposes (Unified Soil Classification System).
- Minimum 30% volume containment subject to environmental assessment.

2.6 Lightning Protection

The substation yard will have appropriate lightning protection for the yard. Follow IEEE Guide for Direct Lightning Stroke Shielding of Substations, IEEE Standard 998.

2.7 Major Apparatus

The following environmental conditions exist in Alberta:

1.	Elevation above sea level	<1000 m
2.	Ambient temperature range	-50°C to +40°C
3	Rate of temperature change	± 15°C hour
4.	Wind loading (maximum)	160 km/hr
5.	Pollution level	IEC medium
6.	Ice Class	19 mm of clear ice coating
7.	Seismic Withstand	IEEE 693 - Low

2.7.1 Power Transformer Applicable Standards, Codes and Regulations:

Following will apply to ATCO Electric Ltd.:

- CSA C22.1 - Canadian Electrical Code, Part I, Safety Standard for Electrical Installations.
- CSA-C88-M90 - Power Transformers & Reactors.
- CSA C60044-Part 1 - Instrument transformers Part 1: Current Transformers.
- CSA C50-08 - Mineral insulating oil, electrical, for transformers and switches.
- CSA C802.3-01 - Maximum Losses for Power Transformers.
- IEEE C57.116 - Transformers connected to generators.

- IEEE C57.19.01 - Performance Characteristics and Dimensions for Outdoor Apparatus Bushings.
- IEEE C57.91 - Guide for Loading Mineral-Oil-Immersed Transformers.
- IEEE C57.131 - Standard Requirements for Load Tap Changers.
- EEMAC L10-1 - Load tap changing paralleling schemes.
- IEC 60076-1 - Power transformers – Part 1: General.

In addition to the above, the following will apply to AltaLink L.P.:

- IEEE C57.12.00 Standard General Requirements for Liquid-Immersed Distribution, Power, and Regulating Transformers.
- IEEE C57.12.70 Standard Terminal Markings and Connections for Distribution and Power Transformers.
- IEEE C57.12.90 Standard Test Code for Liquid-Immersed Distribution, Power and Regulating Transformers.
- IEEE C57.19.00 Standard General Requirements and Test Procedures for Outdoor Power Apparatus Bushings.

Surge Arrestors are required adjacent to the transformer terminals.

2.7.2 Power Transformer Technical Specifications (must be followed)

Bushings	<i>The bushings must have the following characteristics:</i> <ul style="list-style-type: none"> ➤ Conformance with ANSI C57.19 ➤ Capacitive tap test terminal
Current Transformers	'bushing type' and must conform to CSA C60044-1 latest edition. 2.5LX. Measurement Canada approval for revenue metering is require on one core
General Construction	Mineral oil filled with oil conservator
Tap Changer	<i>In-tank Resistive Vacuum Type</i>
Fall Arrest System	In accordance with OHSA (Alberta) requirements
Ladder	Lockable panel to restrict access

<p>Mechanical Protections</p>	<ul style="list-style-type: none"> • Buchholz relay (Slow gas Alarm, Rapid liquid flow between Tx and Conservator tank Trip, Tx Low oil Trip) • Sudden Pressure Relay Trip • A minimum of one pressure relief device must be installed for every 45,000 liters of oil, or part thereof • Winding temperature trip
<p>Condition Monitoring</p>	<ul style="list-style-type: none"> • Temperature Indicators <ul style="list-style-type: none"> ○ Top oil ○ Winding <p>Following are options:</p> <ul style="list-style-type: none"> • Bushing Monitors (Doble typical) • Online Gas in oil • Electronic temperature monitor
<p>Valves</p>	<ul style="list-style-type: none"> • Main drain valve (Min 4” IPS gate) • Liquid sampling valve (1” IPS ball) • 6.4” IPS Vacuum outlet (opposite to filling valve) • Transformer Filling Valve (2” IPS Ball) <p>Following are options:</p> <ul style="list-style-type: none"> • Liquid level Valve (1” IPS ball) • Gas-in-oil Monitor valve (min 1.5” IPS ball)
<p>Gas Detector Trip cut off Panel (Dev 29GT)</p>	<p>Local control switch in cabinet required for disabling non-electrical trips from the transformer cabinet. Visual and remote indicate of 29 GT status is required</p>
<p>Control cabinets and enclosures</p>	<p>NEMA Type 3 Enclosure Standards as outlined in CSA C22.2 No. 94</p>
<p>Transformer Oil</p>	<p>The insulating oil must be a CSA C50, Class A, Type II oil, with a minimum inhibitor content of 0.2% by weight and suitable for use at - 50°C and must not contain detectable amounts of PCB</p>

AltaLink L.P. and ATCO Electric Ltd. Approved Power Transformer Vendor List:

The power transformer supplied from following manufacturers and locations are preferred.

ABB	ABB Inc., 4350 Semple Avenue, Saint Louis, 63120-2241, Missouri, USA
Hyundai	Hyundai Heavy Industries (HHI), 1 Jeonha-dong, Dong-gu, Ulsan, Korea
Siemens	Siemens Transformadores, S.A. de C.V. Km. 8 Carr. Guanajuato – Silao, 36250, Guanajuato, Mexico
CG Power Systems	CG Power Systems Canada Inc., 101 Rockman Street, Winnipeg, MB R3T 0L7, Canada

2.7.3 Circuit Breaker Applicable Standards, Codes and Regulations:

- ANSI C37.04 - IEEE standard rating structure for AC High Voltage Circuit Breakers.
- IEC 62271-100 - High Voltage Switchgear and Control gear – Part 100: Alternating Current Circuit Breaker.
- ANSI C29.2 - Wet Process Porcelain Insulators.
- ANSI C29.1 - Test Methods for Electrical Power Insulators.
- IEEE C37.11 - Electrical controls for HV Circuit Breakers.
- IEC 60068-2-1 - Environmental Testing Procedures.
- IEC 600376 - Specification for technical grade SF6 for use in electrical equipment.
- ASTM D2472 - Standard Specification for Sulphur Hexafluoride.

2.7.4 Circuit Breaker Technical Specifications (must be followed)

- Duplicate Trip function required for Breaker over 69 kV.
- Creepage distance IEC Medium Pollution 34.6 mm / kv (Phase to ground).
- Pole discrepancy tripping.
- C2 and M2 Class breakers.

SYSTEM VOLTAGE		72 kV	144 kV	240 kV
Type				
a)	Class	Outdoor		
b)	Tank type	Either Live tank or Dead tank		
c)	Interrupting media	SF ₆ and N ₂ or CF ₄ mixture		
Rated continuous normal current		3150	3150	4000
Required voltage class kV rms		78 minimum	170	300
Rated frequency		60 Hz		
Rated short circuit breaking current:				
a)	AC component, symm. 3Ø	31.5	31.5	40 kA
Rated operating:				
a)	normal	O-180s-CO-180s-CO CO-15s-CO		
b)	high speed auto re-closure (duty cycle)	O-0.3s-CO-180s-CO		
Breaker class		S2		
Endurance class		E1-C2-M2		
Lightning Impulse Level, full wave (kV peak)		350	650	1050
Minimum clearance between live part & grounded metallic part (mm)		750	1350	2300
Minimum creepage distance (mm)		1800	3050	5250
RIV test voltage (L-G, kV rms)		-	100	182
Maximum RIV @ 110% of rated phase to ground voltage (open or closed)		-	250 µV	
First-pole-to-clear factor:				
a)	Terminal fault (100% S.C. current)	1.3		
b)	Out of phase breaking	2.0		

2.7.5 Indoor Switchgear (if utilized)

Indoor switchgear must conform to the following standards:

- ANSI C37.57 Switchgear Assemblies Conformance Testing.
- ANSI C37.20 IEEE Standard for Switchgear Assemblies Including Metal Enclosed Bus.

Technical Requirements

- Switchgear will have an arc resistant rating that covers all exterior surfaces of the gear. Each switchgear compartment containing high voltage components will be adequately vented as proven through type testing.

- Provision for grounding will be provided for each phase of each line and incomer cell. These grounding facilities will be located at a convenient position which does not require the removal of barrier boards to install portable grounds.
- Circuit breakers will be vacuum type. All circuit breakers of the same rating will be interchangeable within the switchgear lineup.
- Breakers will be withdrawable to establish visible clearance points for Guarantee of Isolation purposes.
- A mechanical interlock will be provided so that a breaker cannot be withdrawn or inserted unless in the open position. The cubicle will have metallic shutters activated by the breaker to protect the operator when the breaker has been withdrawn. The breaker will maintain case ground connection in all positions until it is physically withdrawn from the cell.
- All racking of breakers from connected to test or disconnected positions will be accomplished with the cell door closed. Position indicators will be supplied that show breaker position: connected, test, disconnected. The switchgear will be capable of operation with a breaker withdrawn and the line connections energized in a breaker bypass arrangement.
- Spring operated circuit breakers will have a mechanical interlock to ensure the spring is released and blocked when racked out.
- If the circuit breaker is cradle mounted, it will be capable of being removed from the cubicle with the aid of a breaker dolly that is to be supplied with the switchgear.
- Breaker cells will be in a one high arrangement.

2.7.6 CT & VT Requirements (must be followed)

Free standing CT's must conform to the following standards:

- Instrument Transformers CSA C60044 with Canadian Deviations.
- Insulating Oil, Electrical for Transformers and Switches CSA C50-08.
- CT's must conform to CSA C60044 latest edition and be based on 2.5LX.
- CT's must be minimum internal arc Class 1 CSA C60044.

VT's must conform to the following standards:

- Capacitor voltage transformers CSA C60044-5 with Canadian Deviations.
- Inductive voltage transformers CSA C60044-2 with Canadian Deviations.

- Insulating Oil, Electrical for Transformers and Switches CSA C50-08.
- VT's must be installed with a fused NEMA 3 junction box for isolation purposes.
- VT's will also have dual core secondary and multi ratio secondary (Typically 120V / 69V or 120V / 72V) for voltages greater than 60 kV.
- Inductive VT's must be minimum internal arc class 1 CSA C60044.
- VT's must have Measurement Canada approval for revenue metering.

2.7.7 Disconnect Switches

- Vertical break disconnect switches will have an opening angle of 91 degrees or greater.
- All motor mechanisms will be provided with a fused terminal block (disconnectable) to isolate the DC supply to the motor and control circuits.
- Provision for de-coupling the motor mechanism from the operating drive pipe will be provided such that the drive pipe is lockable in both the open and closed positions. The de-coupling method will be hand operated with a single motion.
- Earthing switch requirement (if required).
- All earthing switches will be motor operated.
- The earthing switch blades will be coated with permanent weatherproof paint for identification.

2.8 **Control Building**

Control buildings are to be designed and constructed to meet the latest issues of the following codes:

- The Alberta Building Code.
- The National Building Code.
- The Alberta Fire Code.
- The Canadian Electrical Code C22.1 part 1.
- Alberta Electrical Utility Code.

The building and its structural components must be designed to have sufficient strength and stability so that the factored resistance is greater than or equal to the effect of factored loads, as specified in the Alberta Building Code. The control building must be

designed to resist possible overturning, uplifting or sliding caused by the effect of loads and climatic loadings.

The control building must have enough space to install all control and protection panels, overhead cable trays, battery bank, battery charger and other devices and maintain sufficient safe working space. In addition, due consideration for potential future expansions must be included in the design and size of the control building.

Additional requirements:

- Ceiling height minimum in the building 2.5 meters. If overhead cable trays on top of the racks are used.
- Sheet metal underbelly to prevent deterioration of flooring members and prevent entry of rodents.
- Door canopies must be provided on longitudinal sides to protect personnel entering the building from falling snow and ice.
- The building is to have a lighting level of about 70 foot candles, 700 lux, at 750 mm above the floor. Lights must be spaced to provide lighting in both the front and rear of control panels. Two external incandescent light fixtures on the Building exterior.
- The insulation values must be chosen to keep the building heating and air conditioning loads as low as possible.
- Electric heaters that rely on fans are not allowed. All heaters in each room are controlled by one thermostat. In the main relay room the thermostat will control 2 contactors that switch the heaters. Two contactors are specified to prevent total loss of heating if one contactor fails. The number of baseboard heaters required (and their locations) must be calculated using the appropriate standards. The number of heaters must include at least 33% overcapacity for safety factor and allow more heaters for proper heat distribution.
- Thermostatically controlled air-conditioning must be provided to maintain an indoor temperature of not more than 30 deg. C with an outside temperature of 37 deg. C and relative humidity defined by ASHRE, (American Society of Heating, Refrigeration & Air Conditioning Engineers), climate tables for the area of Alberta where the building will be located. The site altitude and heat produced by installed equipment must be included in the air conditioning calculations. Air conditioning and heating must not run simultaneously.
- Battery room ventilation is to be provided instead of air conditioning. The inlet must be filtered and the fan must provide at least 20 air changes per hour. The fan must be thermostatically controlled.
- Grounding points must be installed on opposite corners of the building.

- Anti-skid flooring must be used.
- Two exterior insulated steel doors must conform to CAN/CGSB-82.5M. Doors will be complete with door closers, check chains, drip rails, weather stripping and panic bar on the interior.
- Galvanized Entry Stairways (twice the width of the door) for the entrance to both doors complete with railing and foot scrapers.
- The control building must be supplied with a smoke detector alarm in both rooms including alarms outputs, a building intrusion alarm, high temperature alarm (42 C) and low temperature alarm (5 C), and outside (yard) lighting switch, which must all be wired to terminal blocks in a common junction box.
- A battery powered emergency lighting for main room is required.
- Telephone with outside bell.
- Computer desk, Chair and Legal size file cabinet.

2.9 AC/DC System

2.9.1 Station Service Power

Station Service AC Supply

The station will have an AC load study for worst case scenario (winter or summer loading) to determine the size of station service transformer. The design must account for the ultimate design of the station and include a 10% design margin for growth.

The station service transformer will be connected via a fused disconnect of an appropriate size, voltage and BIL rating. The fuses must be current limiting design.

The secondary side fuses must be 600V AC RATED CLASS 'C' fuses, mounted a junction box adjacent to the transformer or in the Main Distribution Panel. All fuses must be sized for the appropriate transformer size according to CEC C22.1. The above devices provide visual isolation and protection of supply.

Each main panel board must be equipped with a Station service Alarm relay.

2.9.2 Batteries

Sizing Concept

Substation batteries bank are required for the operation of equipment to restore station service during an extended outage period. The batteries must be of sufficient capacity to supply the DC loads defined in the Load profile/Duty cycle described herein over a period of eight (8) hours without battery voltage dropping below a specified minimum

voltage (105Vdc). Load profile must be calculated in accordance with requirements described in IEEE 485.

Design Requirements

The battery bank must comprise of flooded lead-calcium batteries or sealed system. The battery bank must be located at a minimum of 0.3 meter away from the control building wall. Battery rack configuration must be 2-tiers-1-step

Battery Requirements

Nominal voltage.....	125 V
Full-float voltage.....	130.5 V
Maximum allowable voltage.....	138 V
Minimum allowable voltage.....	105 V
Number of cells.....	58 cells

2.9.3 Battery Chargers

Design Concept

The substation battery charger is intended to return a battery bank that has been discharged to 105 volts to its fully charged state within eight (8) hours following restoration of power after an eight (8) hours outage, and while the charger continues to supply its normal standing load.

The charger may also be used independently of the battery to supply normal standing load plus operating current for the largest random momentary load imposed by operating any apparatus in the substation.

If the load of the DC system exceeds the maximum output of the battery charger or if there's a failure of the AC power supply to the charger or a charger failure, the battery will supply all of the DC power required by the loads.

The AC supply to the battery charger must be fed from a separate three-pole breaker in the control building AC load center.

2.9.4 DC Supply Philosophy

The DC system must be fused with the following requirements:

- The minimum rating of any fuse in a tripping circuit is to be 30 amps.

- The DC supply for each piece of equipment must be independently fused directly from the DC fuse panel. A short circuit in circuits of any equipment must not affect the circuits of any other equipment.
- A short circuit in the DC tripping circuit of any breaker or its associated tripping controls will disable the tripping and closing of that breaker only.
- Circuit breakers having two trip coils must have them independently fused so that a fault in any tripping circuit of one trip coil will not make the tripping or protective circuits of the other trip coil or protective circuits inoperative. The second trip coil, its protection, and interwiring with other devices must be suitably isolated to the degree that in the future it can be supplied by a second bank of batteries.
- A short circuit in the DC closing control circuit of a circuit breaker must not affect the ability of the breaker to trip normally.
- A short circuit in any line or equipment protection module or its associated circuits will only make that particular protective function inoperative.
- The battery charger must be supplied with circuit breakers on both the AC input and the DC output to allow isolation of the power supply from the AC and DC systems without disconnecting the battery from the load.
- All cables must be sized at a minimum for the power requirements of the circuit such that there is no excessive voltage drop, i.e. greater than 15 VDC in closing circuits and 35 VDC in tripping circuits, in the cable supplying the equipment.

2.9.5 Station Cabling

All control cable and LV power cables must be rated for minimum 600V, insulation of XLPE and follow CSA C22.2 No 239-09.

All control cable extending beyond the control building must have a copper shield with an overall outer non-metallic jacket. Cable mechanical armour is not an acceptable shield.

Outdoor cable installation may be direct buried, cable tray or combination of both.

Control cable runs must be installed at right angles to high voltage buses where possible to prevent electromagnetic and electrostatic coupling.

2.9.6 Power cables 2 kV – 35kV

Cables selected and installed based upon the following codes or standards:

Selection and Installation

- CSA C68.5-07, Primary shielded and concentric neutral cable for distribution utilities.
- Alberta Electrical Utility Code (2007).
- IEEE-835, IEEE Standard Power Cable Ampacity Tables.
- CSA C22.1, Canadian electrical code, part 1 safety standard for electrical installations.

Power Cable Construction

- **Preferred cable sizes:** #1, 500 MCM, 750 MCM.
- **Core:** Solid or compact stranded aluminum (alloy 1350) or copper.
- **Conductor Shield:** Extruded semi-conducting thermoset extra-clean, super smooth material meeting CSA Standard C68.5.
- **Insulation:** TRXLPE (Tree-Retardant Cross-linked Polyethylene Compound), 90 degree Celsius operation, 133% Insulation level. Follow CSA 68.5.
- **Insulation shield:** Will be Union Carbide HFDC-0692 or equivalent. Requirements as per CSA C68.5.
- **Concentric neutral:** The concentric neutral will be composed of bare copper wires encapsulated in the black LLDPE Jacket wound helically over the insulation shield with spacing between the wires not to exceed 276 mils following CSA 68.5. The number and size of the concentric neutral wires will follow CSA 68.5 Annex-H.
- **Jacket:** The jacket will extruded-to-fill black LLDPE which will contain three extruded red stripes, made of polyethylene compound, spaced 120 degrees apart and each 6mm wide for identification, meeting the requirements of CSA 68.5, over the entire cable length. The jacket material will be in contact with the insulation shielding, but will strip freely.

Cable ID and marking

In accordance with CSA 68.5 and CSA 22.3.

- **Terminations:** Will be cold shrink outdoor type appropriately sized for the conductor.

Power Cable Installation Requirements

- Power cable risers, will be covered above ground to a minimum height of 2 meters for mechanical protection and to guard against touch potential under fault conditions.
- Power cable entrance ways under substation fence will be well sealed to prevent animal entry.
- 1 complete loop following the minimum allowed bending radius for the cable will be buried at each termination point for emergency replacement of terminator.
- Before placing the backfill, 2'' x 8'' wooden planks extending 50mm beyond the outer cables and 1525mm beyond the substation fence should be installed over the bedding.
- Direct buried power cables minimum of 1000mm below grade.
- For direct buried cables a warning tape will be placed minimum of 600mm above each set of cables and throughout the length of the trench for positive identification when digging.

2.10 Protection/Control and Metering

2.10.1 Protection/Control

- Must be in full compliance with ISO (AESO) Rules 502.3 – Interconnection Electric System Protection Requirements.
- Must be in full compliance with all ARS (Alberta Reliability Standards).
- Typical vendors for 240 kV, 144 kV and 138 kV Protections are:

Category of Protection	AltaLink’s typical vendor	ATCO’s typical vendor
Line Protection	GE, SEL, Siemens	SEL, Siemens
Breaker Failure Protection	GE	SEL, Siemens
Power Transformer Protection	GE, SEL, Siemens	SEL, Siemens
Substation Bus Protection	GE, SEL, Siemens, Schneider Electric	SEL, Siemens
Capacitor Bank Protection	GE, SEL, Siemens	ABB, Trench

- For each 25 kV feeder, one over-current protection system must be installed to detect all phase-to-ground, phase-to-phase-to ground, phase-to-phase and three (3) phase faults on the protected feeder. The protection system must initiate isolation of the faulted feeder.

- Typical vendors for 25 kV Feeder Protections are:

AltaLink's typical vendor	ATCO's typical vendor
GE, SEL	SEL, Siemens

2.11 Metering

- The metering must comply with the AESO System Measurement Standard Revision 1.0 and AUC Rule 021 Version 1.1.

2.12 Telecontrol

- Design must comply with AESO 502.8 SCADA Rule.
- Hardware must follow IEEE 1686 and/or 61850-3 hardened devices.
- Points List I/O and analog must comply with AESO 502.8.
- RTU and Communications Circuit must follow IEE 1815 via IP or serial interface.
- Substation HMI must provide 4 state alarm annunciation (all available alarms, alarm components, device status and device failures). SLD with all TFO Operation Control Center controls and measurements.

2.13 Telecom

Telecommunications for power-system interconnection projects must be planned, engineered, and built to meet applicable AESO, WECC and NERC design requirements.

- Typically these designs will be via Microwave Radio or Fiber Optic (OPGW) and will be subject to TFO's review.
- Telecommunications must meet the functional requirements of the project, as specified by the AESO.
- Interconnecting TFO's must be consulted during design and prior to construction of any new telecommunication link to insure technical compatibility of transport (fiber, microwave) and switching (TDM, IP/MPLS) equipment. Unlike most substation equipment, telecommunications and network equipment is vendor-specific and must be compatible to operate properly.
- All network services (Teleprotection, SCADA, emergency voice, LAN access) must be identified and network service requests sent to the TFO a minimum of 8 weeks prior to facility energization. This would apply to services necessary for electrical interconnection.

- Any use of leased facilities must include contracts not exceeding three years beyond the identified ISD / turn-over date to the respective TFO.

2.14 SCADA

- MP will be responsible for sending all required Supervisory Control and Data Acquisition (“SCADA”) points specified in the ISO issued functional specification and those identified by TFO to TFO’s control centre.
- MP will ensure that TFO is provided with such remote connectivity to protection devices and disturbance monitoring devices of the MP’s Transfer Facilities (as that term is defined in the Interim Operating Authority Services and Interconnection Agreement) as is required for TFO to fulfill compliance reporting obligation for the MP’s Transfer Facilities.

2.15 Yard Lighting

Switchyard lighting must be laid out to provide general illumination in the areas of all apparatus and auxiliary equipment within the substation so that switching or maintenance may be carried out safely and efficiently.

3. ENVIRONMENTAL

Market Participant to provide an appropriate environmental assessment of the areas impacted by construction activities following completion of all construction activities. See also 1.2.2 Land Rights section.

SCHEDULE “E” FACILITY ACCEPTANCE FRAMEWORK ⁵⁶

Scope

Facility Acceptance for the assets to be transferred will consist of a high level due diligence review of the design and construction of the assets related to safety, operability, and access. The review will consist of two checkpoints throughout the execution of the Project; one at the design stage of the Project and one near completion of the construction.

For clarity, the due diligence review is not the following:

- (a) an engineering check, validation, or approval;
- (b) a confirmation that the facilities meet all applicable codes, regulations, rules or standards; or
- (c) a confirmation that the facilities are constructed as designed.

The MP will be accountable for the above items and will be responsible to have the required engineering, quality assurance and quality control programs in place to adequately address these items, including authenticated confirming documentation. At the request of the MP, the TFO will make its personnel available to discuss best practices and preferences with the MP.

Preliminary Review

The preliminary review will consist of a high level review of select design documents outlined below to ensure any safety, operability, or access concerns are identified. Design documents could include the following items:

- (a) switching single line diagram;
- (b) AC & DC Control Single Line Diagram drawings;
- (c) site plan drawing;
- (d) substation plan/layout and elevation drawings;

⁵⁶ **User Guide:** This template represents a sample of a Facility Acceptance Framework that was developed by the Market Participant Choice Working Group. The precise scope of future Market Participant Choice Projects is unknown and will vary. Additionally, technical requirements are likely to evolve as industry gains experience with the Market Participant Choice framework. Therefore, the Market Participant Choice Working Group developed this template to be indicative of the topics requiring consideration by the Parties as well as the level of prescription envisioned within the Market Participant Choice framework to ensure a smooth transition of facilities from the Market Participant to the TFO. The expectation is that Market Participants and TFOs will work together cooperatively to amend this template in ways that provide a clear indication of facility review and acceptance requirements, the stage of the Project at which requirements must be met, the time the TFO requires to complete review and acceptance steps in the process and a schedule that both TFOs and Market Participants are working toward to meet the connection requirements of the Market Participant.

- (e) grounding design and drawings;
- (f) site grading and access road details;
- (g) control building layout;
- (h) SCADA and Telecom design, block diagrams, schematics;
- (i) line routing and access drawings;
- (j) line design criteria, plan and profile drawings, foundation design;
- (k) pipeline/road/water crossing drawings; and
- (l) Schedule “D” Project Requirements documentation defined in the asset transfer agreement.

The TFO will notify the MP of any concerns within twenty-one (21) Business Days of the review.

Pre-transfer Review

The pre-transfer review will consist of a high level inspection of the constructed facilities and select test results to ensure any safety, operability, or access concerns are identified. The pre-transfer review could include the following activities:

- (a) sample review of the MP’s qa/qc documentation;
- (b) review of grounding test results;
- (c) field inspection of below ground facilities prior to burial (e.g. ground grid, footings) (optional);
- (d) field inspection of substation facilities and lines prior to energization;
- (e) spot checks on line spans and crossings to confirm adequate clearances;
- (f) sample review of protective device test results (i.e. relays);
- (g) sample review of equipment test results (i.e. breakers);
- (h) review of authenticated as-built drawings and reports to confirm facilities were constructed as designed (i.e. foundations, etc.);
- (i) demonstrate compliance by providing completed AESO Energization Package Deliverable Requirements. Energization checklist/Deficiency List; Energization completion certificate, joint operating plan, etc.;

- (j) all Substation and lines equipment commissioning plans and test results, prior to energization;
- (k) apparatus and equipment manuals, drawings and documentation;
- (l) Schedule "D" Project Requirements documentation defined in the asset transfer agreement;
- (m) demonstrate compliance to all Alberta Reliability Standards (ARS). Ensure compliance to ARS for energized facilities prior to handover to the TFO;
- (n) substation protection and control equipment setting and configuration files; and
- (o) identify deficiencies list with the TFO and schedule resolution plan.

Inspections will be completed in accordance with applicable Laws and agreements. Any such investigations, inspections and tests are subject to the terms and conditions of all agreements for Land Rights.

Pursuant to Section 6.3(b) of the Agreement, the TFO will notify the MP of any critical deficiencies, the resolution of which will be a condition precedent to the TFO's obligation to close pursuant to Section 8.1(c) of the Agreement.

**SCHEDULE “F”
INTERIM OPERATING AUTHORITY SERVICES AND INTERCONNECTION
AGREEMENT**

{Enter month and year agreement was finalized}

GENERAL: *The following template represents a consensus draft Operating Authority Services and Interconnection Agreement based on the work of the Market Participant Choice Working Group. The template is the result of extensive negotiations involving representatives of TFOs and Market Participants and represents a consensus view of appropriate allocation of risk as of October<@>, 2013. Users of the template in future are free to amend the template to meet the particular business needs of the Parties based on mutual agreement, although significant modification of the template should not be expected. Where parties cannot agree to amendments, however, the wording in the template will prevail. The ability of the Parties to agree to modify the template is acknowledged not to be inconsistent with the principle of non-discriminatory access.*

USER GUIDE FOOTNOTES: *To assist future users of this template, a form of user guide has been included by way of footnotes. In some instances, depending upon the identity of the Parties, it is contemplated that optional language that has been enclosed in [brackets] will be deleted; for example, when the MP vendor receiving the proceeds of sale is a not a non-Canadian, or if the size of the transaction is such that Competition Act (Canada) approval is not required.*

In other instances, the footnotes alert the users to the potential to address other matters in a manner that varies from the default position.

ATA AND CLOSING PROCESS: *The execution of the ATA (to which this Agreement is a schedule) is designated as a stage [3] requirement in the AESO Connection Process (as amended to incorporate Market Participant Choice). Users should note that, unlike a typical purchase and sale transaction, when the asset purchase agreement is executed, many of the details of the Project (as defined in the ATA) and the Purchased Assets (as defined in the ATA) will not and cannot be known. Accordingly, several of the schedules will initially be blank. At such time as the MP forms the view that the Project will be complete within 90 to 180 days, it would send a Closing Date Notice to the TFO. At the same time, the MP must complete certain of the schedules (including this form of Operating Authority Services and Interconnection Agreement) with, amongst other matters, details of the Purchased Assets and exceptions to the MP’s representations and warranties, and the MP’s proposed consequential amendments to the asset purchase agreement, if any.*

It is at this juncture that the Parties must determine the extent and nature of changes to the template. In these discussions, either Party is entitled not to agree to any amendment if it believes the amendment is inconsistent with its interests and responsibilities, including the MPC Policy Objectives. If the Parties cannot agree, the matters can be resolved through the binding dispute resolution process.

Interim Operating Authority Services and Interconnection Agreement

between

{enter name of TFO}

and

{enter name of MP}

For operating services provided by *{Insert TFO's name}* in relation to *{Insert MP's name and MP's Transfer Facility}* and for the interconnection of *{Insert MP's Facility}* to *{Insert TFO's name}'s {Insert TFO's facility}*

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This Agreement is made as of the _____ day of _____, 201__ between:

{enter name of TFO}, a [●] existing under the laws of [●] with offices at the City of {enter name of city} in the Province of [●] (hereinafter referred to as "TFO")

-and-

{enter name of MP}, a [●] existing under the laws of [●] with offices at the City of {enter name of city} in the Province of [●], (hereinafter referred to as "MP")

(TFO and MP being hereinafter referred to as the "**Parties**," or separately as a "**Party**").

WHEREAS TFO has agreed to buy and MP has agreed to sell certain assets, including MP's Transfer Facility, pursuant to an asset transfer agreement dated the _____ day of _____, 201__ (the "**ATA**"); and

WHEREAS it is a condition required for the Closing of such ATA that the Parties execute an interim operating authority services and interconnection agreement for a limited period of time to establish and ensure, inter alia, that the operating authority, responsibility, and liability between the Parties is clearly assigned and understood in order to ensure the safe and efficient operation of the Interconnected Facilities.

NOW THEREFORE for valuable consideration (the receipt and sufficiency of which the Parties acknowledge) the Parties agree on the following terms and conditions upon which TFO will: (i) provide interim operating services in relation to MP's Transfer Facility; and (ii) interconnect TFO's Facility with MP's Facility.

ARTICLE 1 CONTRACT DOCUMENTS

The documents ("**Contract Documents**") forming this Agreement consist of the following, in order of precedence:

1. The main body of the Agreement.
2. Exhibit "A" – Special Conditions.
3. Exhibit "B" – Facility Description, and Ownership and Operating Authority Boundaries.
4. Exhibit "C" – Interim Operating Procedure.
5. Exhibit "D" – Interconnection Agreement.

Where any conflict or inconsistency exists between the provisions of any Contract Documents, the provisions of the Contract Document which ranks highest in the above list shall have priority.

ARTICLE 2 DEFINITIONS

In this Agreement, including the recitals and Exhibits, the following words and expressions have the following meanings and any capitalized terms not otherwise defined herein shall have the same meanings as are ascribed to such terms in the Act:

- (a) "**Act**" – means the *Electric Utilities Act* (Alberta), as may be amended, replaced or supplemented from time to time;
- (b) "**Agreement**" – means this agreement between TFO and MP addressing (i) the provision of interim Operating Services in relation to MP's Transfer Facility; and (ii) the interconnection of TFO's Facility and MP's Facility;
- (c) "**AIES**" – means the Alberta Interconnected Electric System;
- (d) "**Alberta Reliability Standards**" or "**ARS**" – means the reliability standards adopted, and as may be amended from time to time, in Alberta pursuant to section 19 of the *Transmission Regulation* enacted pursuant to the Act;
- (e) "**Ancillary Services**" – means "ancillary services" as defined in the Act;
- (f) "**ATA**" – has the meaning set forth in the recitals hereto;
- (g) "**AUC**" – means the Alberta Utilities Commission or its successor organization established under the *Alberta Utilities Commission Act* (Alberta);
- (h) "**Authorizations**" – has the meaning set forth in Section 15.7 hereto;
- (i) "**Business Day**" – means any day excluding a Saturday, Sunday or statutory holiday in the Province of Alberta, and also excluding any date on which the principal chartered banks located in the City of {*enter name of city*} are not open for business during normal banking hours;
- (j) "**Claim**" – means any claim, demand, action, cause of action, suit, arbitration, investigation, proceeding, complaint, grievance, charge, prosecution, assessment or reassessment, including any appeal or application for review;
- (k) "**Closing**" – means the completion of the sale to, and purchase by, TFO of certain assets, including MP's Transfer Facility as set forth in the ATA;
- (l) "**Contract Documents**" – has the meaning set forth in Article 1 hereto;
- (m) "**Contingency**" – means the failure or outage of a generating unit or a system component including a generator, transmission line, circuit breaker, switch, or other electrical element;
- (n) "**Dispute Resolution Procedure**" – means the procedure described in Schedule "G" of the ATA;

- (o) "**Emergency Operating Limits**" – means the limits beyond the Normal Operating Limits established by TFO and MP from time to time with respect to their respective Facilities as the level expressed in appropriate units of current, voltage and frequency, that its respective facility and various elements thereof can support or withstand for a specified period during an emergency without a loss of equipment life that is unacceptable to the respective Facility owner, or without exceeding any physical or safety limitations for the equipment involved;
- (p) "**Energization**" – has the meaning as defined in the ATA;
- (q) "**Energization Certificate**" – has the meaning as defined in the ATA;
- (r) "**Energization Date**" – means the date on which a Project, including a Project that is energized in stages, is fully energized and operational, as specified in an energization certificate or energization checklist of the ISO;
- (s) "**Facility**" – means, as the case may be, TFO's Transmission Facility or MP's Transmission Facility where MP's Transmission Facility includes MP's Transfer Facility, and Generating Unit(s), if any, and described in Exhibit "B", as altered from time to time;
- (t) "**Facility Acceptance Framework**" – has the meaning ascribed to such term in the ATA;
- (u) "**Force Majeure**" – means, with respect to either Party, any occurrence which is beyond the reasonable control of the Party (the "**Non-Performing Party**") which could not have been avoided through the use of Good Electric Operating Practice and which renders the Non-Performing Party unable to perform its obligations under this Agreement, including, but not limited to:
 - (i) acts of God, strikes, lockouts or other industrial disturbances;
 - (ii) acts of public enemy, acts of terrorism, acts of the Queen's enemies, wars, blockades, insurrections, riots;
 - (iii) epidemics, pandemics, landslides, lightning, earthquakes, storms, floods, tornadoes, explosions, fires;
 - (iv) civil disturbance, mechanical breakdowns; intervention of federal, provincial, state or local government or from any of their agencies or boards, the order or direction of any court having jurisdiction over the Parties or the applicable assets; or
 - (v) any other causes, acts or events whether of the kind herein enumerated or otherwise provided that in all cases of the foregoing, the occurrence of the act or event was not within the reasonable control of the Party claiming relief and which, by the exercise of reasonable diligence and at a reasonable cost such Party, is unable to prevent or overcome;
- (v) "**Generating Unit**" – means a "generating unit" as defined in the Act;

- (w) **"Good Electric Operating Practice"** – means, at any particular time, (i) any of the practices, methods and acts engaged in or approved by a significant portion of the Canadian electric transmission industry prior to such time and by constructors, owners, operators or maintainers of facilities similar in size and operational characteristics to TFO's Facility or MP's Facility, as applicable, or (ii) any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at the lowest reasonable costs consistent with applicable Law and the Permits, environmental considerations, good business practices, reliability, safety, expedition and the manufacturer's maintenance requirements, provided that "Good Electric Operating Practice" is not intended to be limited to the optimum practices, methods or acts to the exclusion of all others, but rather to be a spectrum of the acceptable practices methods or acts generally accepted in such industry having due regard for, among other things, the manufacturer's maintenance requirements, the requirements of Governmental Authorities and any applicable agreements;
- (x) **"Governmental Authority"** – means any federal, provincial, state, local, municipal, regional, territorial, aboriginal, or other government, governmental or public department, branch, ministry, or court, domestic or foreign, including any district, agency, commission, board, arbitration panel or authority exercising or entitled to exercise any administrative, executive, judicial, ministerial, prerogative, legislative, regulatory or taxing authority or power of any nature as well as any quasi- governmental or private body exercising any regulatory, expropriation or taxing authority under or for the account of any of them, and any subdivision of any of them;
- (y) **"Independent System Operator"** or **"ISO"** – has the meaning ascribed to such term in Section 1 of the Act;
- (z) **"Interconnected Facilities"** – means TFO's Facility and MP's Facility upon interconnection of TFO's Facility and MP's Facility;
- (aa) **"Interconnection Services"** – has the meaning ascribed to such term in Article 6;
- (bb) **"ISO Rules"** – means the rules made by the ISO operating as the Alberta Electric System Operator pursuant to the Act;
- (cc) **"Interim Operating Procedure"** or **"IOP"** – means an operating agreement as amended from time to time, between the Parties to this Agreement establishing MP's operational directions and the operating policies and procedures to be followed to ensure the safe, reliable and coordinated operation of the Interconnected Facilities;
- (dd) **"Knowledge of MP"** – means the knowledge that MP either has, or would have obtained, after having made or caused to be made all reasonable inquiries necessary to obtain informed knowledge, including inquiries of the records and management employees of MP, and of MP's affiliates, who are reasonably likely to have knowledge of the relevant matter;

- (ee) "**Law**" or "**Laws**" – means all laws, statutes, codes, ordinances, decrees, rules, regulations, by-laws, statutory rules, principles of law, published policies, procedures and guidelines, judicial or arbitral or administrative or ministerial or departmental or regulatory judgments, orders, decisions, rulings, or awards, including those of the AUC and the ISO and general principles of common and civil law, and the terms and conditions of any grant of approval, permission, authority or licence of any Governmental Authority, and the term "applicable" with respect to Laws and in a context that refers to one or more Persons, means that the Laws apply to the Person or Persons, or its or their business, undertaking or property, and emanate from a Governmental Authority having jurisdiction over the Person or Persons or its or their business, undertaking or property;
- (ff) "**MP**" – has the meaning set forth in the recitals hereto;
- (gg) "**MP's Transfer Facility**" – means those facilities contemplated to be purchased by TFO pursuant to the ATA, such facilities constituting all [or a portion] of MP's Facility and described in Exhibit "B", as altered from time to time;
- (hh) "**MP's Transmission Facility**" - means the Transmission Facility owned by MP and described in Exhibit "B" as altered from time to time;
- (ii) "**Non-Performing Party**" – has the meaning set forth in the definition for Force Majeure set forth herein;
- (jj) "**Normal Operating Limits**" – means the limits established by TFO and MP from time to time as the level, expressed in appropriate units of current, voltage, and frequency, that their respective Facilities and various elements thereof can support or withstand through the daily demand cycles without abnormal loss of equipment life;
- (kk) "**Notice**" – means any notice, demand, request, consent, approval or other communication which is required or permitted by this Agreement to be given or made by a Party;
- (ll) "**Operating Policy and Procedure**" or "**OPP**" – means an operating policy or procedure established by the ISO in relation to the operation of a transmission system as may be amended, replaced or supplemented from time to time;
- (mm) "**Operating Services**" – has the meaning ascribed to such term in Article 5;
- (nn) "**Parties**" or "**Party**" – have the meanings set forth in the recitals hereto;
- (oo) "**Permits**" – means all authorizations, registrations, permits, certificates of approval, approvals, grants, licences, quotas, consents, commitments, rights or privileges issued or granted by any Governmental Authority to MP in respect of the MP's Transfer Facility;
- (pp) "**Person**" – means an individual, body corporate, sole proprietorship, partnership, trust, unincorporated association, unincorporated syndicate, unincorporated organization, or another entity, and a natural Person acting in his or her individual

capacity or in his or her capacity as executor, trustee, administrator or legal representative, and any Governmental Authority;

- (qq) "**Project**" – has the meaning as defined in the ATA;
- (rr) "**Requested Information**" – means any information (including the information identified in the Exhibits attached to this Agreement) that is reasonably necessary for TFO or MP to discharge its duties and functions under the Act and the regulations made thereunder;
- (ss) "**SCADA**" – has the meaning set forth in Section 6.5(a)(i) hereto;
- (tt) "**Services**" – means any services to be provided by TFO under this Agreement including any Interconnection Services and any Operating Services;
- (uu) "**System Access Services**" – means "system access services" as defined in the Act;
- (vv) "**Term**" – has the meaning ascribed to such term in the Article 7;
- (ww) "**TFO**" – has the meaning set forth in the recitals hereto;
- (xx) "**TFO's Terms and Conditions**" – means the terms and conditions of service upon which TFO will provide Transmission Services to the ISO, as may be amended, altered or replaced from time to time;
- (yy) "**TFO's Facility**" – means the Transmission Facility owned by TFO and described in Exhibit "B", as altered from time to time;
- (zz) "**Transmission Facility**" – means the "transmission facility" of either of the Parties as defined in the Act, which for greater clarity excludes generating units and distribution systems;
- (aaa) "**Transmission Facility Operator**" – means a Person that is given express authority to, and accepts the obligation to operate another Person's Transmission Facility on such other Person's behalf; and
- (bbb) "**Transmission Services**" – means the services to be provided by TFO, by means of TFO's Transmission Facility, in order for the ISO to provide System Access Service and Ancillary Services to manage the financial risk associated with the cost of transmission line losses as required by the Act.

2.1 Certain Rules of Interpretation

- (a) In this Agreement, words signifying the singular number include the plural and vice versa, and words signifying gender include all genders. Every use of the word "including" in this Agreement is to be construed as meaning "including, without limitation" (See Section 15.15);
- (b) The division of this Agreement into Articles and Sections, the insertion of headings and the provision of a table of contents are for convenience of reference

only and do not affect the construction or interpretation of this Agreement (See Section 15.9);

- (c) Unless otherwise specified, time periods in this Agreement within which or following which any payment is to be made or act is to be done will be calculated by excluding the day on which the period begins and including the day on which the period ends. If the last day of a time period is not a Business Day, the time period will end on the next Business Day;
- (d) Unless otherwise specified, any reference in this Agreement to any statute includes all regulations made under or in connection with that statute from time to time, and is to be construed as a reference to that statute as amended, supplemented or replaced from time to time; and
- (e) Unless otherwise specified, any reference in this Agreement by specific name to a Governmental Authority or to a body exercising authority or performing duties under applicable Law includes all successor entities exercising or performing the same or similar authority or duties relative to the subject matter of this Agreement.

ARTICLE 3 CONFLICTS WITH OTHER AGREEMENTS

3.1 TFO Agreements with ISO and MP

- (a) This Agreement is not intended in any way to modify, abrogate, alter or diminish any of the terms and conditions of any contracts or written agreements (including any conditions precedent, covenants, representations, warranties, indemnities or survival periods) between the ISO and MP, between MP and TFO (including the ATA and any confidentiality agreement), or between TFO and the ISO.
- (b) For clarity, in the event of any conflict between either of this Agreement and:
 - (i) TFO's Terms and Conditions, or
 - (ii) the ATA;

then TFO's Terms and Conditions or the ATA, as applicable, shall prevail unless waived in writing by each of the applicable parties.

The Parties acknowledge and agree that the satisfaction or waiver by a Party of any representation and warranty made in this Agreement will not constitute, or be deemed to constitute, the satisfaction or waiver by such Party of any representation and warranty made in the ATA.

ARTICLE 4 COVENANTS, REPRESENTATIONS AND WARRANTIES

4.1 MP Representations and Warranties

MP represents and warrants that:

- (a) MP's Transfer Facility has been designed, procured, constructed, and installed in accordance with all of MP's covenants, representations and warranties set forth in the ATA such that MP's Transfer Facility is ready to operate for the purposes of energization and interconnection;
- (b) all deficiencies with MP's Transfer Facility which impact safe and reliable operation of the Interconnected Facilities and previously identified by TFO through the Facility Acceptance Framework, in accordance with the terms and conditions of the ATA, have been remedied to TFO's satisfaction;
- (c) to the Knowledge of MP, there are no safety violations, or any existing circumstances that may result in a safety violation under applicable Laws in relation to MP's Transfer Facility;
- (d) MP has completed a hazard assessment in accordance with Good Electric Operating Practice for the operation of MP's Transfer Facility and made TFO aware by written notice of any potential hazards and associated preventive and emergency procedures and measures;
- (e) MP has obtained and provided TFO with copies of all required Permits that allow TFO to operate MP's Transfer Facility;
- (f) MP has provided to TFO all information, including all manuals, drawings and documents, pertaining to the operation of MP's Transfer Facility in the format specified by TFO, as applicable;
- (g) MP has provided TFO with all necessary training related to the operation and maintenance of MP's Transfer Facility on MP's sites and MP has received a written acknowledgement from the TFO that such training has been received; and
- (h) A satisfactory energization certificate or checklist has been issued by the ISO for the Project.

4.2 MP Covenants

MP covenants that it shall:

- (a) maintain MP's Transfer Facility to achieve a complete and operable Transmission Facility in accordance with all of MP's covenants, representations and warranties set forth in the ATA such that MP's Transfer Facility is ready to operate for the purposes of energization and interconnection;
- (b) provide all necessary access to TFO for operation of MP's Transfer Facility;
- (c) meet all technical interconnection requirements with respect to the connection of MP's Facility with TFO's Facility substantially in accordance with the Interim Operating Procedure, Good Electric Operating Practice, then current ISO Rules and policies, the ARS, and pursuant to all applicable Laws as amended from time to time, including, without limitation, the Act and regulations thereunder;

- (d) operate MP's Facility (excluding MP's Transfer Facility) in accordance with the Interim Operating Procedure and Good Electric Operating Practice;
- (e) promptly and effectively, consistent with Good Electric Operating Practice, resolve any problems caused (in whole or in part) by MP's Facility that can be shown by TFO to materially diminish the operating reliability of the Interconnected Facilities or any part thereof; and
- (f) identify and document all directions and/or instructions with respect to the operation of MP's Transfer Facility in the IOP.

4.3 TFO Covenants

TFO covenants that it shall:

- (a) meet all technical interconnection requirements with respect to the connection of TFO's Facility with MP's Facility substantially in accordance with the Interim Operating Procedure, Good Electric Operating Practice, then current ISO Rules and policies, the ARS, and pursuant to all applicable Laws as amended from time to time, including the Act and regulations thereunder;
- (b) operate TFO's Facility in accordance with the Interim Operating Procedure and Good Electric Operating Practice; and
- (c) promptly and effectively, consistent with Good Electric Operating Practice, resolve any problems caused (in whole or in part) by TFO's Facility that can be shown by MP to materially diminish the operating reliability of the Interconnected Facilities or any part thereof.

4.4 Acknowledgment

Each of the Parties acknowledges that the other Party is relying on the provisions of this Article 4 in entering into this Agreement and providing the services herein contemplated.

ARTICLE 5 OPERATING SERVICES

5.1 TFO Operating Services

- (a) During the Term, MP authorizes and designates TFO and TFO agrees to operate MP's Transfer Facility under the direction of MP and in accordance with the IOP as the Transmission Facility Operator under the terms and conditions in this Agreement. For reference, MP's Transfer Facility description, and ownership and operating authority boundaries are described in Exhibit "B" of this Agreement.
- (b) TFO will provide the following operating services in accordance with MP's directions in the IOP and the transmission line and substation operating information, manuals, drawings and specifications provided by MP:
 - (i) operate MP's Transfer Facility according to the Normal Operating Limits and Emergency Operating Limits as established by MP;

- (ii) develop switching order and perform, or direct a subcontractor to perform associated switching;
 - (iii) monitor area voltages and coordinate area voltage adjustments;
 - (iv) monitor major alarms, take action as required and contact MP for appropriate maintenance or repair; and
 - (v) schedule maintenance with the ISO;
- (collectively, the "**Operating Services**").
- (c) In addition to any priorities required by applicable Laws including Alberta Reliability Standards and ISO directives, it is acknowledged and agreed that operational requirements of the AIES will take precedence over MP's operational requirements.
 - (d) TFO agrees to provide the Operating Services in accordance with directions provided by MP in accordance with the IOP as set forth in Section 5.2 and such Operating Services will be provided in accordance with Good Electric Operating Practice.

5.2 MP's Maintenance and Engineering of MP's Transfer Facility

- (a) Notwithstanding that TFO shall operate MP's Transfer Facility as Transmission Facility Operator, MP is and shall remain solely responsible for all engineering and maintenance of MP's Transfer Facility including:
 - (i) planning and execution of preventive maintenance, corrective maintenance, and emergency maintenance;
 - (ii) fault and outage analysis;
 - (iii) asset management;
 - (iv) vegetation management;
 - (v) Contingency planning;
 - (vi) Site Safety;
 - (vii) Site Security;
 - (viii) Reviewing Outcomes of Equipment Tests;
 - (ix) sparing of equipment and special tools; and
 - (x) any and all documentation related to MP's obligations pursuant to this Section 5.2.

- (b) MP is responsible for providing a switching or outage schedule for MP's Transfer Facility to TFO. TFO will coordinate and complete outage scheduling with the ISO.
- (c) MP is responsible to identify in the IOP all operational directions or instructions TFO is required to follow prior to MP performing maintenance activities.
- (d) Before performing maintenance work on MP's Transfer Facility, MP is required to obtain a copy of TFO's current standards or process document for work clearance and permitting processes. MP shall adhere to such standards or processes when performing maintenance work on the Transfer Facility.

ARTICLE 6 INTERCONNECTION SERVICES

6.1 Connection to TFO's Facility

- (a) TFO shall connect MP's Facility to TFO's Facility as required under the applicable ISO System Access Service Agreements and subject to the terms and conditions set out in this Agreement (the "**Interconnection Services**"). The Facility descriptions and ownership boundaries are described in Exhibit "B" of this Agreement.
- (b) The Parties agree, by written notice, to inform each other of any revisions to the IOP that are necessary, from time to time, as a result of changes in the operation of their respective Facility prior to undertaking such changes.
- (c) Transmission interconnection will be provided by TFO and made available within the Normal Operating Limits and Emergency Operating Limits, as established by each of TFO and MP from time to time for its Facility.
- (d) Following a Contingency, each of TFO and MP will return the operation of its Facility to within Normal Operating Limits as soon as reasonably possible.
- (e) Notwithstanding any other provision of this Agreement, TFO may, without liability of any kind to MP, interrupt or disconnect the interconnection of the Interconnected Facilities under its operating authority in the following circumstances:
 - (i) to allow each of TFO or MP to carry out planned work, maintenance, testing or inspections, construction, installation, improvements, alterations, repairs or replacements of its Facility;
 - (ii) if either Party, acting reasonably, determines that public safety, personnel safety or the physical integrity of its Facility, or any transmission facility or electric system of a neighbouring jurisdiction to which TFO's Facility or MP's Facility is interconnected are at risk, including conditions of forced outage to protect TFO's Facility or MP's Facility;
 - (iii) as required to comply with Permits or applicable Laws;

- (iv) for the purpose of coordinating physical operations of TFO's Facility or MP's Facility with an interconnecting transmission facility of a third party or an electric system of a neighbouring jurisdiction;
- (v) to comply with written and verbal directions provided by the ISO;
- (vi) as may be specified in any OPP or the IOP;
- (vii) where such interruption or disconnection is required in order to adhere to Good Electric Operating Practice; or
- (viii) where necessary for the retirement of TFO's Facility or MP's Facility, as approved by the AUC.

TFO shall, on a commercially reasonable basis and when time permits, provide MP prior notice of such interruption or disconnection.

6.2 Reasonable Precautions

TFO and MP will each take reasonable precautions through their respective maintenance practices, consistent with Good Electric Operating Practice, to guard against unscheduled interruptions or disconnection of the interconnection of the Interconnected Facilities due to Facility failure. TFO and MP will each make reasonable efforts, consistent with Good Electric Operating Practice to minimize the duration of unplanned Interconnected Facility outages.

6.3 Planned Outages

The Parties acknowledge and agree as follows:

- (a) TFO and MP may each require planned outages on their respective Interconnected Facilities for maintenance according to their own respective maintenance standards or for construction of new Facilities;
- (b) MP is responsible for putting forward requests to TFO for planned outages on MP's Transfer Facility; and
- (c) planned maintenance outages will be coordinated between TFO, MP, and the ISO in accordance with ISO's outage scheduling OPP. TFO and MP will each make reasonable efforts to minimize the duration of planned maintenance outages consistent with Good Electric Operating Practice.

6.4 Power Quality

The Parties agree to co-operate with each other and with the ISO, and take such measures in resolving power quality problems detected on TFO's Facility or MP's Facility as may be required in order to comply with applicable ISO requirements. As between the Parties, a Party shall be responsible for the cost of mitigating and resolving power quality problems originating on its Facility.

6.5 SCADA

The Parties hereby acknowledge and agree that:

- (a) For MP's Transfer Facility:
 - (i) MP shall be responsible for sending all required Supervisory Control and Data Acquisition ("**SCADA**") points specified in the ISO issued functional specification and those identified by TFO to TFO's control centre; and
 - (ii) TFO will forward those ISO required SCADA points for MP's Transfer Facility to the ISO.
- (b) For MP's Facility other than MP's Transfer Facility:
 - (i) Each of TFO and MP will exchange agreed upon system data points from its Facility as outlined in the IOP; and
 - (ii) MP is responsible for sending all ISO required SCADA points to the ISO.
- (c) In each of the circumstances set forth in Sections 6.5(a) and 6.5(b):
 - (i) TFO shall not be liable for MP's SCADA data including the timeliness, integrity, accuracy, or completeness of such data; and
 - (ii) MP shall be responsible for all costs associated with routing the data applicable to it to the TFO's Facility including the reasonable and verifiable cost of any additions required within TFO's Facility to accommodate the data.

6.6 Compliance Reporting

The Parties hereby acknowledge and agree that:

- (a) TFO shall fulfill compliance reporting and evidence documentation obligations for MP's Transfer Facility in accordance with ISO Rules and the ARS.
- (b) MP shall designate TFO to fulfill compliance reporting obligations through ISO's "Designation of Documentation Provider" form.
- (c) TFO shall identify requirements MP needs to meet to facilitate TFO's compliance reporting and evidence documentation.
- (d) MP shall ensure that TFO is provided with such remote connectivity to protection devices and disturbance monitoring devices of the MP's Transfer Facility as are required for TFO to fulfill compliance reporting obligation for the MP's Transfer Facility.
- (e) MP shall coordinate with TFO in the development of compliance plans for MP's Transfer Facility including but not limited to:

- (i) identifying MP's Transfer Facility;
 - (ii) evaluating which portion of MP's Transfer Facility is reportable under Alberta Reliability Standards or the ISO Rules;
 - (iii) designating roles and responsibilities; and
 - (iv) developing a procedure to provide all necessary information to TFO for TFO's compliance reporting.
- (f) MP shall be responsible to provide TFO with accurate and complete information and documentation required for compliance reporting within any timeline specified by TFO.

ARTICLE 7 TERM

7.1 Term

This Agreement shall commence on the Energization Date and will remain in effect until the earliest of:

- (a) six months immediately following the Energization Date;
 - (b) the effective date of Closing; and
 - (c) termination upon the occurrence of any of the events identified in Article 8 of this Agreement,
- (the "**Term**").

The Term can be extended by written agreement of the Parties.

ARTICLE 8 TERMINATION AND SUSPENSION

8.1 End of Term

This Agreement will automatically terminate at the end of the Term. Should arbitration arise without mutual agreement to extend the Term, the Agreement will remain in force until an arbitration decision has been determined, provided that in no event shall this Agreement remain in force after the Closing or after it is terminated upon the occurrence of any of the events identified in Section 8.2 or Section 8.3.

8.2 Termination for Convenience

Provided that a dispute has not been referred for resolution pursuant to the Dispute Resolution Procedure, either Party may terminate this Agreement at any time for convenience by providing to the other written notice of such termination at least one month prior to the effective date of such termination.

This Agreement may be terminated by written agreement of the Parties.

8.3 Termination for Cause

Subject to Section 8.4, TFO may, on the occurrence of any one of the following events, immediately terminate this Agreement by providing to MP written notice of such termination:

- (a) if MP becomes bankrupt or insolvent, or commits or suffers any act of bankruptcy or insolvency or seeks debtor relief protection under applicable Law or is placed in receivership, or is subject to involuntary dissolution or is unable to pay its debts as they fall due in the usual course of business; or
- (b) if MP breaches any material term of a Contract Document.

8.4 Temporary Suspension

- (a) If TFO at any time believes, in its sole discretion, that the MP's Transfer Facility is unsafe to operate, violates any applicable Laws, codes, standards, including the ARS, ISO Rules or regulations, or may cause losses or damages, TFO may on a temporary basis suspend its Services and notify MP immediately. The Services will resume when TFO is satisfied that the potential risks identified by the TFO in the notice delivered in accordance with this Section, have been remedied.
- (b) MP acknowledges that TFO will terminate or suspend Services, if directed to do so by any Governmental Authority having jurisdiction over the Services or any of the Parties.

8.5 Closing of ATA

If this Agreement terminates upon the Closing of the ATA, then it shall be replaced by an interconnection agreement between the Parties in the form attached hereto as Exhibit "D", as such form may be amended by agreement of the Parties, provided that the final terms of such interconnection agreement shall be in accordance with Good Electric Operating Practice. If this Agreement terminates or suspends upon any other reasons, TFO will cease to provide the Services.

ARTICLE 9 COSTS OF OPERATING SERVICES

9.1 Costs

The costs of Services provided under this Agreement will, in TFO's sole discretion, be characterized as part of TFO's incremental internal and external costs and expenses for the Project (as such term is defined in the ATA, and for greater clarity, included as part of Costs as defined in the ATA). Such costs of Services will be included in the obligations of MP and paid by MP to TFO in accordance with the applicable financial commitment agreement entered into by the Parties.

ARTICLE 10
PROVISION OF INFORMATION

10.1 Provision of Information

Each of TFO and MP shall provide the other Party with sufficient information about its Facility for the other Party to study and to understand the impact of the operation and interconnection on its Facility. Subject to the restrictions set forth in any applicable confidentiality agreement between the Parties, each of TFO and MP can request the other Party to provide and the other Party shall thereafter promptly provide Requested Information.

ARTICLE 11
INDEMNITY AND CONSEQUENTIAL LOSS

11.1 Indemnity and Consequential Loss

- (a) Subject to Section 11.1(d) and Article 12, TFO or MP, as the case may be, will be liable to and shall indemnify the other Party from and against any damage, cost (including reasonable legal fees and disbursements on a solicitor-client basis), expense, injury, loss, or Claim suffered, sustained, paid or incurred by the other Party, its agents or employees, including Claims advanced by third parties, which arise in connection with the indemnifying Party's failure to perform its obligations under or conduct itself in accordance with this Agreement or the negligence or willful misconduct of the indemnifying Party, its agents or employees acting within the scope of their authority or employment. For the purposes of this Article, "willful misconduct" means any act or omission which is an intentional tort or an intentional breach of any of the obligations under this Agreement.
- (b) Subject to Section 11.1(d) and Article 12, and without restricting the generality of Section 11.1(a), MP will be liable to and shall indemnify TFO from and against any Claim suffered, sustained, paid or incurred by TFO, its agents or employees, including Claims advanced by third parties, which arise in connection with any one or more of the following:
 - (i) any matter attributable to MP's Transfer Facility;
 - (ii) TFO operating MP's Transfer Facility according to this Agreement; or
 - (iii) TFO operating MP's Transfer Facility under the verbal and written direction of MP including MP established operating manuals.
- (c) TFO is not liable to MP for any losses and liabilities, or any consequential damages or losses, or any penalties or consequences due to non-compliance of ISO Rules or the ARS, as a result of providing the Services, unless negligence or willful misconduct of TFO has been proven.

It is understood and agreed that, notwithstanding anything to the contrary contained in this Agreement, neither Party, its agents, contractors or employees will be liable to or required to indemnify the other for any Claims, including Claims by third parties, of an indirect or consequential nature suffered, sustained, paid or incurred by the other Party, its agents or employees, which arise due to the

other Party's failure to perform its obligations under or comply with this Agreement, or due to the negligence or willful misconduct of such Party, its agents or employees, howsoever and whensoever caused, and whether arising in contract, negligence or other tort liability, strict liability or otherwise. Without limiting the generality of the foregoing, Claims of an indirect or consequential nature shall include loss of revenue, loss of profits, cost of capital, business interruption and loss of the use of any facilities or property owned, operated or used by the other Party or a third party.

- (d) Nothing in this Agreement, including this Article 11, shall be construed or deemed to amend, limit, derogate from or otherwise supersede any limitation or exclusion of liability in favour of a Party pursuant to the Act or that Party's terms and conditions of service pursuant to the Act.

ARTICLE 12 FORCE MAJEURE

12.1 Force Majeure Relief

TFO or MP, as the case may be, is relieved of its obligations hereunder, and shall not be liable for any failure to perform any term of this Agreement to the extent that and when such failure is due to, or is a consequence of, an event of Force Majeure.

12.2 Exclusions

Notwithstanding Section 12.1, lack of funds including any lack of funds resulting from a decision, direction or order made by the AUC in the normal course of it exercising its authority to establish the appropriate revenue requirement of the Facility owner, and insolvency of any Party shall not be an event of Force Majeure.

12.3 Notice

The Party claiming relief from liability under the provisions of Article 12 shall promptly give the other Party notice of the Force Majeure including full particulars thereof and shall promptly give the other Party notice when the Force Majeure ceases to prevent performance of the applicable term or condition of this Agreement.

12.4 Obligation to Remedy

The Party claiming relief from liability under the provisions of Article 12 shall promptly remedy the cause and effect of the Force Majeure insofar as it is reasonably able to do so.

12.5 Strikes and Lockouts

Notwithstanding any other provision of this Agreement, the settlement of any strike, lockout or other industrial disturbance shall be wholly in the discretion of the Party claiming relief from liability and such Party may settle such strike, lockout or industrial disturbance at such time and on such terms and conditions as it may deem appropriate and no failure or delay in settling such strike, lockout or industrial disturbance shall constitute a cause or event within the control of such Party or deprive such Party of the benefits of this Article 12.

ARTICLE 13 INSURANCE

13.1 Required Insurance

MP shall procure and maintain throughout the Term, at its sole cost and expense, with an insurance company authorized to do business in the jurisdiction in which work or Services in relation to the Interconnected Facilities is being performed and having an assigned rating not less than A- VII by A.M. Best or equivalent, unless otherwise agreed upon by both Parties, the following insurance policies:

- (a) Employer's Liability insurance covering MP's personnel and providing limits of not less than two million (\$2,000,000) dollars where such personnel are not covered by applicable workers' compensation coverage;
- (b) Automobile public liability insurance covering MP vehicles used in the performance of work or Services in relation to the MP's Transfer Facility and providing limits of not less than two million (\$2,000,000) dollars per occurrence for bodily injury, death and property damage;
- (c) Commercial General Liability insurance providing coverage for a combined single limit of not less than five million (\$5,000,000) dollars (plus associated defense costs) for each occurrence resulting in bodily injury, including death, sustained by any person or persons, or resulting in injury to or destruction of property arising out of the operations of MP, officers, directors, employees and agents. Coverage shall include, but is not limited to, owners and contractor's protective liability, broad form property damage, cross liability, blanket contractual liability, non-owned automobile liability, loss of use without prior physical damage, and products & completed operations liability. Where applicable the MP's Commercial General Liability insurance should also contain a sub limit of not less than five million (\$5,000,000) dollars (plus associated defense costs) for forest fire fighting expenses. The policy shall show TFO as an additional insured;
- (d) Errors and Omissions insurance in the amount of two million (\$2,000,000) dollars (where design work and or construction management is involved and performed by MP);
- (e) Any other insurance that the Parties, each acting reasonably, may require from time to time; and
- (f) Any other insurance that MP is required by Law to provide.

Nothing in this Agreement obliges TFO to procure and maintain insurance coverage for the MP's Transfer Facility.

13.2 General Insurance Requirements

With respect to the policies of insurance procured and maintained by MP and its contractors and subcontractors in this Article 13:

- (a) each policy above shall contain an undertaking by the respective insurer to notify TFO in writing not less than thirty (30) days prior to any reduction in coverage or cancellation of the insurance policy in question;
- (b) each policy shall be maintained in effect during the Term, provided that any policies written on a "claims made" basis shall be maintained for at least one year following the expiry of this Agreement;
- (c) all property insurance policies shall contain a waiver of subrogation rights that MP's insurers may have against TFO and against those for whom TFO is in Law responsible;
- (d) each policy shall contain a provision that the insurance thereunder shall be primary and shall not call into contribution any other insurance available to TFO; and
- (e) if requested by TFO, MP shall cause its insurers to provide a certificate of insurance to TFO evidencing compliance with the insurance requirements set forth in this Article 13.

13.3 Contractor Insurance

MP shall use its best efforts to ensure that its contractors and subcontractors procure and maintain throughout the Term, with an insurance company authorized to do business in the jurisdiction in which work or Services in relation to the Interconnected Facilities is being performed and having an assigned rating not less than A- VII by A.M. Best or equivalent, unless otherwise agreed upon by both Parties, the following insurance policies:

- (a) Employer's Liability insurance covering MP's contractors' and subcontractors' personnel and providing limits of not less than two million (\$2,000,000) dollars where such personnel are not covered by applicable workers' compensation coverage;
- (b) Automobile public liability insurance covering MP's contractors' and subcontractors' vehicles used in the performance of work or Services in relation to the MP's Transfer Facility and providing limits of not less than two million (\$2,000,000) dollars per occurrence for bodily injury, death and property damage;
- (c) Commercial General Liability insurance providing coverage for a combined single limit of not less than five million (\$5,000,000) dollars (plus associated defense costs) for each occurrence resulting in bodily injury, including death, sustained by any person or persons, or resulting in injury to or destruction of property arising out of the operations of MP's contractors, and the officers, directors, employees and agents of MP's contractors. Coverage shall include, but is not limited to, owners and contractor's protective liability, broad form property damage, cross liability, blanket contractual liability, non-owned automobile liability, loss of use without prior physical damage, and products & completed operations liability. Where applicable the Commercial General Liability insurance should also contain a sub limit of not less than five million (\$5,000,000)

dollars (plus associated defense costs) for forest fire fighting expenses. The policy shall show TFO as an additional insured; and

- (d) Errors and Omissions insurance in the amount of two million (\$2,000,000) dollars (where design work and or construction management is involved and performed by MP's contractors).

ARTICLE 14 DISPUTE RESOLUTION

14.1 Dispute Resolution

A dispute which arises with respect to this Agreement between TFO and MP shall be resolved following the Dispute Resolution Procedure.

ARTICLE 15 GENERAL PROVISIONS

15.1 Amendments to the Exhibits and the Agreement

- (a) The Exhibits to this Agreement may be amended from time to time, as is necessary to permit TFO or MP to discharge their respective duties and functions under this Agreement, or relevant legislation, and the regulations made thereunder.
- (b) Either TFO or MP may from time to time, by notice to the other Party, request that an Exhibit to this Agreement be amended. Such notice shall describe the proposed amendment and reason that the proposed amendment is necessary. If the Parties are unable to agree within fifteen (15) Business Days after such notice is given that the proposed amendment is necessary, the dispute shall be resolved in accordance with the Dispute Resolution Procedure.
- (c) Except as specifically provided herein, this Agreement shall not be amended other than by written agreement of the Parties.

15.2 Assignment

MP shall not assign this Agreement or any of its rights or obligations contained herein except in accordance with the terms and conditions contained within Section 11.12 of the ATA.

15.3 Maintenance of Records

- (a) TFO and MP will maintain accurate records for a period of at least two years from the date such records created relating to the matters associated with this Agreement are closed or such other period as may be required pursuant to applicable Laws. The records will be maintained in such a manner that any data required to verify any information provided by either Party will be available to the other Party when necessary.
- (b) TFO and MP shall each have the right, upon reasonable notice to the other Party and at its own cost, and further without unduly interfering with the business of the

other Party, to verify information or data provided to it under this Agreement for a period of one year following the date upon which such information or data is provided to it or longer if the data is still available, provided however that in no event shall a Party provide access to information in respect of which the Party owes an obligation of confidentiality to another person or otherwise pursuant to law, or that is not directly and necessarily required to verify the information or data provided under this Agreement.

15.4 Notifications

- (a) All Notices must be in writing and either:
 - (i) personally delivered (including by reputable courier service); or
 - (ii) sent by facsimile, e-mail or functionally equivalent electronic means of communication.

- (b) All Notices must be sent to the intended recipient at its address as follows:

to MP at:

[•]

Attention: [•]

Facsimile No.: [•]

to TFO at:

<@><Insert Address>

Attention: [•]

Facsimile No.: [•]

[with a copy to:

[•]

Attention: [•]

Facsimile No.: [•]

or at any other address as any Party may from time to time advise the other by Notice given in accordance with this Section 15.4.

- (c) Any Notice delivered to the Party to whom it is addressed will be deemed to have been given and received on the day it is so delivered at that Party's address, provided that if that day is not a Business Day then the Notice will be deemed to have been given and received on the next Business Day. Any Notice transmitted by facsimile or other form of electronic communication will be deemed to have been given and received on the day on which it was transmitted (but if the Notice is transmitted on a day which is not a Business Day or after 3:00 p.m. (local time

of the recipient)), the Notice will be deemed to have been received on the next Business Day.

15.5 Severability

If any provision of this Agreement is determined to be invalid or unenforceable in whole or in part, such invalidity or unenforceability will attach only to such provision or part thereof and such provision or part thereof will be deemed to be severed from this Agreement, and the remaining part of such provision and all other provisions hereof will continue in full force and effect.

15.6 Enforceability

This Agreement shall remain in full force and effect during the Term until it is amended by agreement of the Parties or terminated according to the provisions in Article 7.

15.7 Authorizations

The performance by TFO or MP of its respective obligations hereunder is subject to TFO or MP obtaining, and complying with, all governmental orders, permits, licenses, approvals, consents and other authorizations (collectively the "**Authorizations**") required by law for the satisfaction of such obligations. Each Party will use reasonable efforts to obtain, maintain, comply with or renew, as expeditiously as possible, all required Authorizations; and will promptly advise the other Party as soon as it becomes aware that its performance hereunder may be materially adversely affected by a failure or delay in obtaining, maintaining, complying with or renewing any such Authorization or by materially adverse terms of any Authorization, as granted.

15.8 Waiver

No waiver of any breach of any term or provision of this Agreement will be effective or binding unless made in writing and signed by the Party purporting to give the same and, unless otherwise provided in the written waiver, will be limited to the specific breach waived.

15.9 Headings

The division of this Agreement into Articles and Sections and the insertion of headings are for convenience of reference only and do not affect the construction or interpretation of this Agreement (See Section 2.1 (b)).

15.10 Relationship to the Independent System Operator

Notwithstanding any other provision of this Agreement, neither TFO nor MP will have any liability with respect to the performance or failure to perform by the ISO of any of its duties and functions or for any failure by TFO or MP to perform any obligation under, or to comply with any term of, this Agreement to the extent such failure is a result of a direction or other action or inaction by the ISO, or failure by the ISO to perform any of its duties or functions.

15.11 Entire Agreement

Subject to Article 3, this Agreement (which for clarity includes the Contract Documents) supersedes all prior discussions and agreements between the Parties with respect to the Services.

15.12 Governing Law

This Agreement shall be subject to, interpreted, construed and enforced according to the Laws of the Province of Alberta and the Federal Laws of Canada applicable therein.

15.13 Enurement

This Agreement shall enure to the benefit of and be binding upon the Parties, their successors and permitted assigns. The rights and remedies of the Parties under this Agreement are cumulative and in addition to any other rights and remedies that the Parties may have at Law or in equity.

15.14 Survival

- (a) Notwithstanding termination of this Agreement, any rights and obligations which by their nature are intended to survive such termination shall continue in full force and effect until discharge of the right or obligation or the Parties mutually agree to the release of such right or obligation.
- (b) Without limiting the generality of Section 15.14(a), notwithstanding any termination of this Agreement: (i) all rights and obligations of the Parties that have accrued prior to termination shall continue in effect until satisfied; and (ii) the provisions of Articles 11 and 14 shall survive termination of this Agreement.
- (c) The survival of any rights and obligations pursuant to this Section 15.14 is subject always to any applicable limitation periods pursuant to applicable Laws.

15.15 Expanded Meanings

Unless otherwise expressly specified herein, wherever used in this Agreement, words importing the singular include the plural and vice versa, words importing gender include all genders, and the term "including" means "including, without limitation," and the terms "include" and "includes" have similar meanings, all as the context requires (See Section 2.1 (a)).

15.16 Worker's Compensation and Other Applicable OH&S Clauses

For the purposes of the Occupational Health and Safety Act, regulations thereunder and other applicable Laws, MP shall be the prime contractor (as defined under the Occupational Health and Safety Act) during the Term.

15.17 Time is of the Essence

Time is of the essence in this Agreement.

15.18 Remedies

No single or partial exercise by a Party of any right or remedy precludes or otherwise affects the exercise of any other right or remedy to which that Party may be entitled. No waiver by a Party of any breach of any of the provisions of this Agreement will take effect or be binding upon the Party unless expressed in writing and signed by such Party. Unless otherwise provided therein,

such waiver will not limit or affect the rights of such Party with respect to any other or further breach.

15.19 Public Notices

The Parties shall jointly plan and co-ordinate any public notices, press releases, and any other publicity concerning the transactions contemplated by this Agreement and no Party shall act in this regard without the prior approval of the other Party, such approval not to be reasonably withheld, unless such disclosure is required to meet timely disclosure obligations of any Party under applicable Laws and stock exchange rules in circumstances where prior consultation with the other Party is not practicable and a copy of such disclosure is provided to the other Party at such time as it is made to the regulatory authority.

15.20 Further Assurances

The Parties shall, with reasonable diligence, do all such things and provide all such reasonable assurances as may be required to consummate the transactions contemplated by this Agreement, and each Party shall provide such further documents or instruments required by any other Party as may be reasonably necessary or desirable to effect the purpose of this Agreement and carry out its provisions.

15.21 Counterparts

This Agreement may be executed and delivered by the Parties in one or more counterparts, each of which when so executed and delivered will be an original, and those counterparts will together constitute one and the same instrument.

15.22 Facsimile Signatures

Delivery of this Agreement by facsimile, e-mail or functionally equivalent electronic transmission constitutes valid and effective delivery.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF this Agreement has been duly executed by the Parties as of the date first above written.

{TFO}

{MP}

Per: _____
[Name]
[Title]

Per: _____
[Name]
[Title]

Per: _____
[Name]
[Title]

Per: _____
[Name]
[Title]

EXHIBIT "A"
SPECIAL CONDITIONS

{This section contains information on any special conditions that may be in place between the two Parties such as access to Facilities, etc.}

EXHIBIT "B"
FACILITY DESCRIPTION AND OWNERSHIP BOUNDARIES

EXHIBIT "C"
INTERIM OPERATING PROCEDURE

{This section contains information on the following:

- *MP's directions and instructions to TFO in relation to the operation of MP's Transfer Facility.*

- *Operating policies and procedures to be followed to ensure the safe, reliable and coordinated operation of the Interconnected Facilities;}*

EXHIBIT "D"
INTERCONNECTION AGREEMENT

(to be provided after initiation of a Project under the Market Participant Choice framework and prior to the signing of this Agreement.)

SCHEDULE “G” DISPUTE RESOLUTION PROCEDURE

Scope

This Schedule “G” sets forth the procedure (“**Dispute Resolution Procedure**”) pursuant to which each Party agrees to resolve disputes that may arise under this Agreement (unless recourse thereto is specifically excluded) without resort to litigation. In furtherance of the foregoing, each of the Parties irrevocably waives its right to commence any form of litigation against the other Party in relation to a dispute arising from the subject matter of this Agreement unless and until it has exhausted its rights and remedies pursuant to this Dispute Resolution Procedure, except to the extent contemplated and permitted by this Dispute Resolution Procedure.

The Parties have specifically excluded recourse to this Dispute Resolution Procedure in the following situations: (a) in Section 2.3 of the Agreement, where the MP is prohibited from using the Dispute Resolution Procedure to alter any provision of this Agreement where the TFO is described as having or acting in its “sole discretion”; (b) in Section 9.6, where the MP is prohibited from using the Dispute Resolution Procedure to dispute a Direct Loss if an assessment or reassessment in respect of Disallowed Costs by the AUC as referred to in Section 3.8(c) gives rise to such Direct Loss; and (c) in Section 9.7(f), where an Indemnifying Party is prohibited from using the Dispute Resolution Procedure to dispute the amount of a Third Party Claim if the Indemnified Party has been permitted by the Indemnifying Party to assume the carriage and control of the negotiation, defence, or settlement of such Third Party Claim; and in all the foregoing cases, recourse to litigation is likewise prohibited with respect thereto. This Dispute Resolution Procedure is only effective once the Agreement has been executed, unless the Parties expressly agree otherwise.

Section 2.3 of the Agreement specifically contemplates that a Party may propose the qualification or amendment of representations and warranties, and the inclusion or exclusion of certain assets and liabilities from the Purchased Assets, once the MP provides a Closing Date Notice; the rationale is that at such juncture, the Parties have a more fulsome understanding of the Project and its various components. A disagreement between the Parties regarding the foregoing and arising out of the Section 2.3 process, is specifically contemplated to be a potential subject for this Dispute Resolution Procedure.

In addition, various provisions provide a Party with the right to make a determination with respect to certain matters. Absent a qualification that the Party can make that determination at its “sole discretion” (or similar such wording), the exercise of the Party’s judgement may be the subject of a dispute under this Dispute Resolution Procedure.

Matters of interpretation are also the proper subject of this Dispute Resolution Procedure. However, this Dispute Resolution Procedure may not be utilized by a Party to amend a provision of the Agreement other than as specifically contemplated by in the Agreement, for example, pursuant to the Section 2.3 process.

All disputes that become the subject of this Dispute Resolution Procedure will be resolved by the Parties and the appointed arbitrators using the principles of interpretation that are applicable to the Agreement, including Section 1.5.

Confidentiality

All information disclosed by a Party pursuant to the Negotiation Procedure (as set out below) or the Arbitration Procedure (as set out below) will be treated as privileged, confidential, without prejudice, and neither the delivery nor disclosure of information will represent any waiver of privilege by a Party disclosing the same. Information provided by any other Party for the purposes hereof will be to any other Person for any other purpose. Further, subject to the powers of Governmental Authorities to compel disclosure, such information will not be used in any subsequent proceedings without the consent of the Party who has made disclosure of the same. No arbitrator appointed hereunder will be subpoenaed or otherwise compelled as a witness in any proceedings for any purpose whatsoever in relation to the Agreement. This paragraph is in addition to, and not in substitution of, the Parties' Confidentiality Obligations.

Negotiation Procedure

Except for interlocutory proceedings for the immediate performance or cessation of conduct, all disputes which arise with respect to this Agreement that cannot be resolved at the operating level will promptly be referred to senior representatives appointed by each Party with authority to resolve the dispute upon either Party requesting such a reference in writing.

For the purposes of this Dispute Resolution Procedure, "**Senior Representatives**" means <@>.
⁵⁷

The Senior Representatives will promptly meet and attempt, with reasonable diligence, to resolve the dispute. If the senior representatives of the Parties have not resolved the dispute within twenty (20) Business Days of the reference to them, either Party may refer the dispute to arbitration pursuant to the following Arbitration Procedure.

Arbitration Procedure

Location and Rules

If the Parties are unable to resolve the dispute through the Negotiation Procedure as set out above, either Party may submit the dispute to binding arbitration before a board of three (3) arbitrators (unless the Parties concur in the appointment of a single arbitrator) in the City of [Calgary OR Edmonton], Alberta.⁵⁸

Unless otherwise agreed between the Parties the arbitration will be administered by the ADR Institute of Canada ("**Institute**") in accordance with its "National Arbitration Rules" ("**Rules**"),

⁵⁷ **User Guide:** At the time of execution of the ATA, the Parties must complete this paragraph by inserting the names and titles of their respective Senior Representatives.

⁵⁸ **User Guide:** The choice of city should be the same as that used for the definition of "Business Day". The Parties should delete the name of the other city.

except as modified herein. The “**Act**” referred to in Rule 2(1) will be the *Arbitration Act* (Alberta). If there is a conflict between the Rules (as modified herein) and the provisions of such Act, the Rules will prevail.

Appointment of Arbitrators

- (i) A Party (“**Initiating Party**”) wishing to submit the dispute to arbitration will select one (1) arbitrator. The Initiating Party will send a Notice of a request to arbitrate in the form prescribed by the Rules (“**Arbitration Notice**”) to the other Party setting out the name of its arbitrator. The Initiating Party will be responsible for notifying the Institute of the Arbitration under its Rules and for paying the administrative fee for the arbitration to the Institute.
- (ii) The other Party (“**Receiving Party**”) will have ten (10) Business Days from receipt of the Arbitration Notice to select its own arbitrator and to notify the Initiating Party of the name of the arbitrator selected by the Receiving Party.
- (iii) Promptly upon their selection and, in any event within twenty-one (21) Business Days of notification of the appointment of the Initiating Party’s arbitrator, the arbitrators then appointed will appoint a third arbitrator.
- (iv) If the Receiving Party fails to appoint an arbitrator, or the selected arbitrators fail to agree upon a third arbitrator, then pursuant to the Rules, either Party or its representative may request the Institute to promptly appoint the arbitrators and to notify the Parties of such appointment. If the Institute or its successor or replacement body no longer exists, the selection and appointment of arbitrators will be made in accordance with this Dispute Resolution Procedure and the *Arbitration Act* (Alberta).
- (v) The arbitrators appointed pursuant hereto will be qualified by education and experience to determine the matter in dispute, and without limiting the foregoing, the third arbitrator appointed pursuant to subsection (iii), must have regulatory experience in the Canadian electrical industry.
- (vi) Each arbitrator appointed must be independent and sign a certificate to that effect in accordance with the Rules.

Procedure

- (i) The Parties will agree in advance as to the manner in which the arbitrator will promptly hear witnesses and arguments, review documents and otherwise conduct the arbitration procedures. Failing such agreement within ten (10) Business Days from the date of selection or appointment of the third arbitrator, the arbitrators will use the Rules and promptly commence and expeditiously conduct the arbitration proceedings.
- (ii) Nothing herein will prevent a Party from applying to the court pursuant to the *Arbitration Act* (Alberta) pending final disposition of the arbitration proceeding for such relief as may be necessary to assist the arbitration process, to ensure that the arbitration is carried

out in accordance with this Arbitration Procedure or to prevent manifestly unfair or unequal treatment of any Party to the arbitration.

- (iii) In no event will the arbitrators have the jurisdiction to amend or vary the terms of this Dispute Resolution Procedure.

Awards

- (i) The arbitration award will be given in writing, will be final and binding on the Parties, not be subject to any appeal and will deal with the question of costs of the arbitration and all other related matters.
- (ii) Judgment upon the arbitration award may be entered in any court having jurisdiction, or, application may be made to such court for a judicial recognition of the arbitration award or an order of enforcement thereof, as the case may be.
- (iii) The costs of the arbitration venue and the arbitrators, and the other out-of pocket legal (on a solicitor and its own client basis) and other costs suffered or incurred by the Parties to argue their positions will be borne by the Parties as awarded by the arbitrators.

Subject to (ii) immediately above, and except for interlocutory proceedings for the specific performance or cessation of conduct, the Parties agree that arbitration pursuant to this Dispute Resolution Procedure will be the final and exclusive forum for the resolution of a dispute.

**SCHEDULE “H”
DISCLOSURE SCHEDULE**

User Guide: See Sections 2.2 and 2.3 and the associated footnotes for further description regarding the completion of this Schedule. These must be discussed and agreed by the Parties before this schedule is to be deemed complete.

ARTICLE 4 REPRESENTATIONS AND WARRANTIES OF THE MP

User Guide: If the MP is unable to provide any representation and warranty as written in ARTICLE 4, it must set out its proposed exception or qualification below. The template ATA sets out below the specific Sections where exceptions or qualifications are most likely, and where ARTICLE 4 otherwise requires information to be recorded.

Section 4.7 Consents

User Guide: The MP must describe all consents, approvals and waivers of a party under any Material Contract to which the MP is a party in order to complete the transactions contemplated by this Agreement.

Section 4.9 Regulatory Approvals

User Guide: In addition to those set out in the template ATA, the MP is to describe any other authorization, approval, order, consent of, or filing with, any Governmental Authority required on the part of the MP in connection with the execution, delivery and performance of the ATA or any other documents and agreements to be delivered under the ATA.

Section 4.10 Competition Act

User Guide: In the small minority of transactions where Competition Act Approval is required, the Parties are to note here that their associated representations and warranties are inapplicable, agree to any necessary additional provisions in the ATA, which are to be recorded below under “Other Provisions”. See the definition of Competition Act Approval for further information.

Section 4.15(b) Tax Matters

User Guide: The MP must describe all amounts of property Taxes in respect of the Project and the Purchased Assets in respect of which the MP has made arrangements for payment following Closing.

Section 4.18(d) Intellectual Property

User Guide: The MP must describe if any Person other than the MP has any right to use Intellectual Property.

Section 4.21 Insurance Policies

User Guide: The MP must describe all Insurance Policies, specifying the insurer, the amount of the coverage, the type of insurance, the policy number and any pending Claims with respect to each Insurance Policy.

Section 4.28 Residence of MP

User Guide: In the small minority of transactions where TFO withholding is required under section 116 of the ITA, the Parties are to note here that their associated representations and warranties are inapplicable, and agree to any necessary additional provisions in the ATA, which are to be recorded below under “Other Provisions”. See Section 3.6 for further information.

Section 4.27 GST Registration

User Guide: The MP is to provide its GST registration number.

ARTICLE 5 REPRESENTATIONS AND WARRANTIES OF THE TFO

Section 5.5 Regulatory Approvals

User Guide: In addition to those set out in the template ATA, the TFO is to describe any other authorization, approval, order, consent of, or filing with, any Governmental Authority required on the part of the TFO in connection with the execution, delivery and performance of the ATA or any other documents and agreements to be delivered under the ATA.

Section 5.8 GST Registration

User Guide: The TFO is to provide its GST registration number.

OTHER MATTERS

Section 6.8 Discontinue Use of Name

User Guide: The MP should set out all names that must be removed from the exterior of the Purchased Assets as referenced in Section 6.8.

OTHER PROVISIONS

User Guide: Rather than amending the body of the ATA, in the few cases where additional provisions are agreed to be required (including Competition Act Approval, other required approvals, withholding for ITA purposes as discussed in Section 3.6, or any agreement between

the Parties related to equipment redundancy arising out of a discussion regarding Schedule “D”), such provisions should be included here.

**SCHEDULE “T”
GENERAL CONVEYANCE**

THIS GENERAL CONVEYANCE (“**General Conveyance**”) is made effective the <@> day of <@>, 20<@> with an Effective Time of <@>a.m. / p.m.

BETWEEN:

<@>, a [body corporate] formed pursuant to the Laws of the [Province of Alberta] (the “**Vendor**”)

- and -

<@>, a [body corporate] formed pursuant to the Laws of the [Province of Alberta] (the “**Purchaser**”)

CONTEXT:

- A. Pursuant to the terms of an Asset Transfer Agreement between the Purchaser and the Vendor effective <@> day of <@>, 20<@> (the “**ATA**”), the Purchaser has agreed to acquire the Purchased Assets from the Vendor on the terms and conditions contained in the ATA;
- B. The Vendor and the Purchaser wish to enter into this General Conveyance pursuant to the terms of the ATA for the purpose of evidencing the conveyance, assignment and assumption of the Purchased Assets to and by the Purchaser in accordance with the terms of the ATA;

THEREFORE, in consideration of the premises and the mutual agreements set out in the ATA and this General Conveyance and for other good and valuable consideration (the receipt and sufficiency of which is acknowledged), the Parties hereby agree as follows:

- 1. **Defined Terms.** All capitalized terms used in this General Conveyance (including in the recitals to this General Conveyance) which are not otherwise defined herein will have the meanings ascribed to them in the ATA.
- 2. **Conveyance.** Pursuant to the terms and for the consideration provided for in the ATA, the Vendor hereby sells, assigns, transfers, grants and conveys unto the Purchaser, and the Purchaser hereby purchases and accepts from the Vendor, as of and from the date of this General Conveyance, the entire right, title, estate and interest of the Vendor in, to and under the Purchased Assets, but excluding the Excluded Assets, in accordance with the terms and conditions of the ATA.
- 3. **Further Assurances.** Each of the Parties will from time to time from and after the date of this General Conveyance do, make, execute or deliver, or cause to be done, made,

executed or delivered, all such further acts, documents, assurances and things as the other may reasonably require from time to time for the purpose of giving effect to any of the provisions of this General Conveyance or to the ATA and the transactions contemplated thereby.

4. **No Derogation.** This General Conveyance will in no way limit or derogate from, will not merge with and is without prejudice to the covenants, agreements, representations, warranties, indemnities and obligations of the Parties contained in the ATA, all of which will continue in full force and effect in accordance with the terms thereof. In the event of any conflict or inconsistency between this General Conveyance and the ATA, the ATA will prevail.
5. **Survival.** This General Conveyance will survive the Closing of the transactions contemplated in the ATA.
6. **Successors and Assigns.** This General Conveyance will enure to the benefit of and is binding upon the Parties and their respective heirs, executors, administrators, successors and permitted assigns. This General Conveyance will be subject to the assignment provisions of the ATA.
7. **Gender and Number.** Words in this General Conveyance which import the singular connotation will be interpreted as plural, and vice versa, and words which import the masculine gender will be interpreted as the feminine or neutral gender, and vice versa, each as the identity of the parties hereto or objects referred to may require.
8. **Time of Essence.** Time is of the essence in all respects of this General Conveyance.
9. **Governing Law.** This General Conveyance is governed by, and is to be construed and interpreted in accordance with, the Laws of the Province of Alberta and the Laws of Canada applicable in that Province.
10. **Amendment and Waiver.** No supplement, modification, amendment, waiver or termination of this General Conveyance is binding unless it is executed in writing by the Party to be bound. No waiver of, failure to exercise or delay in exercising, any provision of this General Conveyance constitutes a waiver of any other provision (whether or not similar) nor does any waiver constitute a continuing waiver unless otherwise expressly provided.
11. **Severability.** Each provision of this General Conveyance is distinct and severable. If any provision of this General Conveyance, in whole or in part, is or becomes illegal, invalid or unenforceable in any jurisdiction, the illegality, invalidity or unenforceability of that provision will not affect the legality, validity or enforceability of the remaining provisions of this General Conveyance, or the legality, validity or enforceability of that provision in any other jurisdiction.
12. **Counterparts.** This General Conveyance may be executed and delivered by the Parties in one or more counterparts, each of which when so executed and delivered will be an original, and those counterparts will together constitute one and the same instrument.

13. **Facsimile Signatures.** Delivery of this General Conveyance by facsimile, e-mail or functionally equivalent electronic transmission constitutes valid and effective delivery.

Each of the Parties has executed and delivered this General Conveyance as of the date noted at the beginning of the General Conveyance.

Per: _____
Authorized Signatory

Per: _____
Authorized Signatory

Per: _____
Authorized Signatory

Per: _____
Authorized Signatory