

923 Colborne Street West, Brantford, Ontario

THE CORPORATION OF THE COUNTY OF BRANT

AND

BRANT COUNTY POWER INC.

LEASE AGREEMENT

NOVEMBER 28, 2014

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This **LEASE AGREEMENT** dated November 28, 2014 between **THE CORPORATION OF THE COUNTY OF BRANT** (the “**Landlord**”) and **BRANT COUNTY POWER INC.** (the “**Tenant**”).

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the sum of TWO DOLLARS (\$2.00) and the rents, covenants and agreements hereinafter reserved and contained on the part of the said Tenant, to be paid, observed and performed, (the receipt and sufficiency of which is hereby acknowledged) the Tenant covenants and agrees with the said Landlord, its successors and assigns, as follows:

ARTICLE 1 - DEFINITIONS

1.01 Definitions

In this Lease, in addition to the terms defined elsewhere in this Lease, the following terms shall have the meanings set forth below:

“**Affiliate**” has the meaning ascribed to such term in the Business Corporations Act (Ontario) as in force on the Commencement Date;

“**CNDHI**” means Cambridge and North Dumfries Hydro Inc. and its successors and assigns;

“**Contamination**” means; (i) any petrochemical or petroleum products, oil or coal ash, radioactive materials, radon gas, asbestos in any form that is friable, urea formaldehyde foam insulation and transformers or other equipment that contains dielectric fluid which may contain levels of polychlorinated biphenyls; and (ii) any chemicals, materials or substances defined as or included in the definition of “hazardous substances,” “hazardous wastes,” “hazardous materials,” “hazardous constituents,” “restricted hazardous materials,” “extremely hazardous substances,” “toxic substances,” “deleterious substances,” “contaminants,” “pollutants,” “toxic pollutants” or words of similar meaning and regulatory effect under any applicable Environmental Law; and (iii) any other material or substance, exposure to which is prohibited, limited or regulated by any applicable Environmental Law.

“**Dispute Notice**” means a notice issued by either Landlord or Tenant disputing any matter arising under this Lease in accordance with Article 12.0 whether or not a reference to a right to dispute is expressly set out in this Lease.

“**Energy Storage Facility**” means a facility located on the Lands that is connected to the distribution or transmission system and is capable of storing energy for a period of time.

“**Environmental Law**” means all federal, provincial, or municipal statutes, regulations, by-laws, environmental permits, orders, decisions or rules, and any legally enforceable policies or guidelines of any Governmental Authority, and any requirements or obligations arising under the common law, relating specifically to the environment, the release or threatened release of Contamination, the manufacture, processing, distribution, use, treatment, storage, transport, disposal or handling of Contamination, including the *Canadian Environmental Assessment Act* (Canada), the *Canadian Environmental Protection Act, 1999* (Canada), the *Dangerous Goods Transportation Act* (Canada), the *Energy Act* (Ontario), the *Environmental Bill of Rights* (Ontario), the *Environmental Protection Act* (Ontario), the *Fisheries Act* (Ontario), the *Gasoline Handling Act* (Ontario), the *Ontario Water Resources Act*, the *Pest Control Products Act* (Canada), the *Pesticides Act* (Ontario), the *Transportation of Dangerous Goods Act* (Canada), and the respective regulations thereunder and any municipal noise or sewer use by-law.

“**Fiscal Year**” means the period ending on December 31.

“**Governmental Authority**” means any federal, provincial, state, municipal or local government, parliament or legislature, or any regulatory authority, agency, tribunal, commission, board or department of any such government, parliament or legislature, or any court or other law, regulation or rule-making entity, or any arbitrator, each having or reasonably purporting to have jurisdiction in the relevant circumstances, including, for greater certainty, any person acting or reasonably purporting to act under the authority of any Governmental Authority.

“**Lease**” means this lease and every properly executed instrument which by its terms amends, modifies or supplements this Lease.

“**Lands**” means the lands municipally known as 923 Colborne Street West, Brantford, Ontario and legally described as Part of Lot 4, Plan 1029, designated as Part 2, Plan 2R-7652, County of Brant.

“**Prime**” means the rate of interest per annum from time to time announced by The Toronto-Dominion Bank or its successors and reported to the Bank of Canada as its prime rate for Canadian dollar loans.

“**Rent**” means the rent amount set out in Section 4.01.

“**Rental Taxes**” means any tax or duty imposed upon either Landlord or Tenant which is measured by or based in whole or in part directly upon the Rent payable under this Lease or in respect of rental or rental value of premises under the Lease whether existing at the date hereof or hereafter imposed by any Governmental Authority including, without limitation, goods and services taxes, harmonized sales taxes, value added tax, business transfer tax, sales tax, federal sales tax, excise taxes or duties or any tax similar to the foregoing.

“**Taxes**” means the aggregate of all real property taxes, rates, charges, levies and assessments accruing in respect of the calendar year in which each Fiscal Year begins and imposed by any competent taxing or assessing authority upon or in respect of the Lands and all improvements therein or thereon, as well as all corporate, income, excess profits and business tax imposed upon the income of Landlord and any other impost of a personal nature charged or levied against Landlord, and any other taxes which may be payable or imposed upon or against Landlord or the Lands.

“**Tenant Default**” has the meaning set out in Section 10.03.

“**Term**” has the meaning given to in Section 3.01.

“**Transfer**” means all or any of the following, whether by conveyance, written agreement or otherwise, and whether or not by operation of law: an assignment of this Lease or any interest in this Lease, in whole or in part; any mortgage, charge, debenture (floating or otherwise), or encumbrance of this Lease or interest in this Lease, in whole or in part; a sublease, or sharing or parting with possession of all or any part of the Lands by Tenant; a change in a partnership if the change results in a change in the effective control and, a transfer or other dealing in respect of all or part of the ownership interests whether corporate shares, partnership interests or other, or of an affiliate that results in a change in effective control but shall be deemed not to include the transfer of the shares of the Tenant to CNDHI, the amalgamation of the Tenant with CNDHI and/or the assignment or subletting of this Lease to CNDHI or to any affiliate of CNDHI. “**Transferor**” and “**Transferee**” have meanings corresponding to this definition of “**Transfer**” and in the case of a Transfer involving ownership interests including corporate shares or partnership interests, the “**Transferor**” is the person or entity with effective control before the Transfer and the Transferee is the person or entity with effective control after the Transfer.

“**Work**” has the meaning given to it in Section 6.03.

ARTICLE 2 - GRANT OF LEASE

2.01 Grant

Landlord hereby demises and leases the Lands to Tenant, and Tenant hereby leases and accepts the Lands from Landlord, in a “as is where is” condition, to have and to hold during the Term, subject to the terms and conditions of this Lease.

2.02 Quiet Enjoyment

If Tenant pays the Rent in accordance with the terms of this Lease, fully performs all its obligations under this Lease and is not in default under this Lease beyond any applicable cure period provided hereunder, Tenant shall be entitled to peaceful and quiet enjoyment of the Lands for the Term without interruption or interference by Landlord or any person claiming through Landlord.

2.03 Covenants of Landlord and Tenant

Landlord covenants to observe and perform all of the terms and conditions to be observed and performed by Landlord under this Lease. Tenant covenants to pay the Rent when due under this Lease and to observe and perform all of the terms and conditions to be observed and performed by Tenant under this Lease.

2.04 Net Lease

Tenant acknowledges and agrees that it is intended that the Lease and Rent payable hereunder are completely net and carefree to Landlord.

ARTICLE 3 - TERM AND EARLY TERMINATION

3.01 Term

This Lease shall be in effect for a period of ten (10) years commencing on the date first written above (the “**Term**”) and shall be automatically extended for additional periods of two (2) years each unless the Tenant delivers notice of its intention to terminate the Lease pursuant to Section 3.02 herein.

3.02 Early Termination

The Tenant shall have the right to terminate the Lease at any time during the Term or any renewal or extension thereof, provided that the Tenant shall be required to have provided the Landlord with at least 30 days advance written notice and the Tenant is not then in default of the Lease.

3.03 No Holdover

The Tenant shall not be permitted to stay in possession or occupation of the Lands after the expiration or other termination of the Term and any renewal or extension thereof.

ARTICLE 4 - RENT, OPERATING COSTS AND TAXES

4.01 Rent

Tenant shall pay to Landlord as Rent the amount of Ten (\$10) Dollars of lawful money of Canada per annum, commencing on the date first written above and again each year thereafter on the anniversary of such date for the balance of the Term.

4.02 Taxes

Tenant shall pay directly to the responsible Governmental Authority all Taxes assessed against the Lands and shall provide the Landlord with evidence of same.

4.03 Rental Taxes

Tenant shall pay to Landlord all Rental Taxes applicable from time to time. Landlord shall calculate the amount of Rental Taxes payable by Tenant in accordance with the applicable legislation and Tenant shall pay such amount together with annual installments of Rent. The amount payable by the Tenant under this Section 4.03 shall be deemed not to be Rent for the purpose of such calculation but in the event of a failure by Tenant to pay under this Section 4.03, Landlord shall have the same rights and remedies as it has in the event of default by Tenant in the payment of Rent.

4.04 Payment of Rent – General

Unless otherwise provided herein, all amounts payable by Tenant under this Lease, shall be deemed to be Rent and shall be payable and recoverable as Rent in the manner herein provided, and Landlord shall have all rights against Tenant for default in any such payment as in the case of arrears of Rent.

4.05 Utilities

The cost of all utilities servicing the Lands are payable by the Tenant.

ARTICLE 5 - USE AND ACCESS

5.01 Use

Tenant will use the Lands solely for the purpose of the use of the existing transformer and ancillary equipment located on the Lands as of the date hereof. Notwithstanding anything to the contrary contained herein, or at law, the transformer and ancillary equipment located on the Lands as of the date hereof, shall not form part of the Lands, irrespective of the degree of affixation of same to the Lands.

5.02 Compliance with Laws

Tenant shall use and occupy and shall cause the Lands to be used and occupied in a safe, careful and proper manner so as not to contravene any present or future governmental or quasi-governmental laws in force or regulations or orders, including without limitation all applicable environmental laws, regulations or orders.

5.03 Access by Landlord

Tenant shall permit Landlord, its agents and consultants to enter upon the Lands provided that in so doing, Landlord does not interfere with the business or operations of Tenant, Landlord gives 48 hours written notice of such entry and the Landlord, its agents and consultants are accompanied by the Tenant or a representative of the Tenant. Such entry shall not constitute a re-entry by Landlord or an eviction or entitle Tenant to any abatement of Rent.

ARTICLE 6 - CONDITION, MAINTENANCE, AND CONTAMINATION

6.01 Condition of Lands

Tenant will maintain and repair, or will cause to be maintained and repaired, the Lands and all improvements thereon in good order and condition, including keeping the Lands in such condition as to comply with the requirements of any Governmental Authority having jurisdiction, subject to reasonable wear and tear, and damage by fire, lightning, tempest or other casualty for which the Landlord is indemnified under any policy of insurance (unless the damage was caused by the negligence or other fault of the Tenant or those for whom the Tenant is in law responsible).

6.02 Failure to Maintain Lands

If Tenant fails to perform any obligation under Section 6.01, then, without limiting any other remedy available to Landlord, on not less than ninety (90) days' notice, Landlord may enter the Lands and perform such obligation without liability to Tenant for any loss or damage to Tenant thereby incurred, and Tenant shall pay Landlord the cost thereof within ten (10) days of its receipt of Landlord's invoice therefor. Tenant may, within fifteen (15) days of receiving any such notice, dispute the alleged failure to perform by issuing a Dispute Notice. Pending the determination of the dispute, Landlord's right to enter the Lands is suspended. In the event the dispute is resolved against Tenant, then Tenant shall have a reasonable period of time to affect any necessary repairs.

6.03 Alterations by Tenant

Tenant may from time to time at its own expense make changes, additions and improvements to transformer and ancillary equipment located on the Lands (the "**Work**"), provided that Tenant shall perform the Work or cause the Work to be performed in compliance with all applicable laws (including occupational health and safety, and workplace hazardous materials information system requirements and legislation), and in a good, workmanlike and expeditious manner.

6.04 Liens

Tenant shall keep the title to the Lands free and clear of any lien or encumbrance and shall indemnify and hold harmless Landlord from and against any claim, loss, cost, demand and legal or other expense, whether in respect of any lien or otherwise, arising from the supply of material, services or labour for such work or otherwise. Tenant shall immediately notify Landlord of any such lien or encumbrance of which it has or reasonably should have knowledge, and shall cause the same to be removed or vacated within ninety (90) days, failing which Landlord may take such action as Landlord deems necessary to remove or vacate the same, and Tenant shall pay to Landlord on demand the entire cost thereof.

6.05 Contamination

- (a) Notwithstanding anything in this Lease to the contrary, Landlord shall be responsible for Contamination on, in or under, or migrating to or from, the Lands, except for any Contamination that is caused by Tenant or any of its agents, servants, employees, contractors and persons for whom Tenant is, in law, responsible.
- (b) Landlord covenants with Tenant that Landlord will indemnify and save Tenant and CNDHI (in respect of which the Tenant is trustee and agent for purposes of this Lease) and all of their agents, servants, employees, contractors and persons for whom Tenant is, in law, responsible against any and all loss whatsoever, including costs of professional advisors and consultants and experts in respect of investigation, evaluation, remedial action and clean-up costs and expenses (including, without limitation, legal fees) arising in any manner whatsoever out of Contamination for which the Landlord is liable under Section 6.05(a). Notwithstanding anything contained herein, the aforesaid indemnity will not apply to any wilful misconduct or negligent acts or omissions of Tenant, its servants, employees, agents, contractors or persons for whom Tenant is, in law, responsible. The aforesaid indemnity will survive the expiration or early termination of this Lease.
- (c) If at any time Landlord or Tenant is required by any Governmental Authority pursuant to any Environmental Laws to take remedial actions as a result of Contamination for which the Landlord is liable under Section 6.05(a) then Landlord will, at its cost, take all required remedial action in respect of such Contamination including any repairs or replacements to the Lands and the Energy Storage Facility and the removal, treatment, disposal, restoration and replacement of the soil or any other part of the Lands. This obligation will survive the expiration or earlier termination of this Lease. In the event this remedial action is required by the Landlord, it will be the obligation of the Tenant to remove or otherwise deal with any of its assets located on the Lands.

6.06 Maintenance of Lands

Tenant will, at its sole cost and expense, maintain and repair, or will cause to be maintained and repaired, in good order and condition the Lands in compliance with applicable municipal bylaws, which, for clarity, shall include the obligation to keep the Lands free and clean of debris and snow.

ARTICLE 7 - INSURANCE AND INJURY

7.01 Insurance

Tenant shall maintain, at its sole cost and expense, with respect to the Lands, insurance coverage insuring against liability for bodily injury or death or property damage sustained by third parties. Such insurance to be maintained by the Tenant shall be in such reasonable amounts and with such reasonable deductibles as would be carried by a prudent owner.

7.02 Mutual Release

- (a) Subject to Sections 7.02(b) and 7.02(c), each of Landlord and Tenant hereby releases the other and waives all claims against the other and those for whom the

other is in law responsible with respect to loss or damage to the property of the other insured against or required to be insured against by the releasing party, including, without limitation, indirect and consequential losses, whether any such claims arise as a result of the negligence or otherwise of the other or those for whom such other is in law responsible.

- (b) Such release and waiver shall be effective only to the extent of proceeds of insurance received by the releasing party or proceeds which would have been received if the releasing party obtained all insurance required to be obtained by it under this Lease and diligently pursued a claim thereunder and for this purpose deductible amounts shall be deemed to be proceeds of insurance received.
- (c) The provisions of this Section 7.02 are not intended to alter the liability of either Landlord or Tenant to third parties who might have a claim against either of them for injury or damage.

7.03 Mutual Indemnity

- (a) To the extent not released under Section 7.02, Landlord shall indemnify and save harmless Tenant from all liabilities, damages, losses or expenses growing out of:
 - (i) any breach by Landlord of any covenant or condition in this Lease;
 - (ii) any contract, lien or mortgage on the Lands caused by any act or omission of Landlord; and
 - (iii) any obligation of Landlord arising or outstanding upon the expiration or earlier termination of this Lease.
- (b) To the extent not released under Section 7.02, Tenant shall indemnify and save harmless Landlord from all liabilities, damages, losses or expenses growing out of:
 - (i) any breach by Tenant of any covenant or condition in this Lease;
 - (ii) any contract, lien or mortgage on the Lands caused by any act or omission of Tenant; and
 - (iii) any obligation of Tenant arising or outstanding upon the expiration or earlier termination of this Lease.

Such indemnity shall survive the termination of this Lease, anything in this Lease to the contrary notwithstanding.

7.04 Extended Meaning

Any and all release and indemnity clauses which are included in the Lease for the benefit of Landlord or Tenant are intended also to benefit the mortgagees of Landlord or Tenant and the officers, directors, shareholders, employees, and agents of each one of them, and, for the purposes of such clauses, Landlord and Tenant is hereby acting as agent or trustee on behalf of and for the benefit of the persons or entities mentioned above.

ARTICLE 8 - ASSIGNMENT, SURRENDER AND DAMAGE

8.01 Tenant Transfer

- (a) Tenant will not effect or attempt to affect a Transfer without the prior written consent of the Landlord, which consent may be unreasonably withheld.
- (b) Any consent to a Transfer will be subject to the following conditions:
 - (i) the Transferee shall execute an agreement directly with the consenting party agreeing to be bound by this Lease, whereupon the Transferor shall be released of its obligations under this Lease; and

- (ii) no consent to a Transfer will be considered as a waiver of the requirement for consent in respect of a subsequent Transfer.
- (c) Any Transfer purported to be made which is contrary to any of the requirements of this Article 8.01 shall be void and of no force or effect.

8.02 Effect of Sale, Conveyance or Assignment

If Landlord has provided to Tenant an assumption agreement whereby Landlord's successor-in-interest assumes Landlord's obligations under this Lease, a sale, transfer or assignment of the Lands or the title thereto or any interest therein shall operate to release Landlord from liability under this Lease (save and except for the indemnity provision contained in Section 6.05(b) herein) from and after the effective date of such assumption agreement, and Tenant shall thereafter look solely to Landlord's successor in interest. The obligations of Tenant under this Lease shall not be affected by any such sale, transfer or assignment, and Tenant shall attorn to Landlord's successor in interest provided such Landlord's successor in interest executes the aforementioned assumption agreement.

8.03 Possession

Upon the expiration or other termination of the Term, Tenant shall immediately quit and surrender vacant possession of the Lands, including without limitation, the Tenant shall be responsible for the removal from the Lands of the existing transformer and all ancillary equipment located on the Lands, and otherwise, the Lands shall be in substantially the condition in which the Lands were when Tenant took possession thereof excepting only reasonable wear and tear.

8.04 Payments After Termination

No payments of money by Tenant to Landlord after the expiration or other termination of the Term or after the giving of any notice (other than payment in full of arrears of Rent and any accelerated Rent before termination of the Term, when a notice of default has been given) by Landlord to Tenant, shall reinstate, continue or extend the Term or make ineffective any notice given to Tenant prior to the payment of such money.

8.05 Survival of Obligations

If Tenant has failed to perform any of its obligations under this Lease, such obligations and the rights of Landlord in respect thereto shall survive the expiration or other termination of the Term.

8.06 Limitation on Landlord's Liability

Landlord shall have no liability to Tenant by reason of any injury to or interference with Tenant's business or property arising from fire or other casualty in or to any portion of the Lands, unless same is caused as a result of the negligence of the Landlord, or any Person whom the Landlord is responsible at law.

ARTICLE 9 - NOTICES, ACKNOWLEDGEMENTS, AUTHORITIES FOR ACTION

9.01 Notices

Any notice from one party to the other hereunder shall be in writing and shall be deemed duly given if delivered, if mailed by registered or certified mail or if sent by facsimile to the following addresses:

- (a) to Tenant:

c/o Cambridge and North Dumfries Hydro Inc.
1500 Bishop Street
Cambridge, Ontario N1R 5X6

Attention: Ian Miles, President and Chief Executive Officer
Facsimile: (519) 621-0383

(b) to Landlord:

26 Park Avenue
P. O. Box 160 Burford
Ontario N0E 1A0

Attention: Real Estate Clerk
Facsimile: [519] 449-2454

Any notice shall be deemed to have been given at the time of delivery or, if mailed, three (3) days after the date of mailing thereof or if made or given by facsimile, on the next business day following the transmittal thereof, as evidenced by confirmation of receipt. Either party shall have the right to designate by notice, in the manner above set forth, a different address to which notices are to be mailed. No notice given by email or by other similar electronic means will be considered to have been given in writing.

9.02 Acknowledgements

Tenant and Landlord shall at any time and from time to time upon not less than ten (10) days' prior notice from the other and execute, acknowledge and deliver a written statement certifying:

- (a) that this Lease is in full force and effect, subject only to such modifications (if any) as may be set out therein;
- (b) that Tenant is in possession of the Lands and paying Rent as provided in this Lease;
- (c) the dates (if any) to which Rent is paid in advance;
- (d) that there are not, to its knowledge, any uncured defaults on the part of Landlord or Tenant hereunder, or specifying such defaults if any are claimed; and
- (e) as to such other matters relating to Tenant, Landlord, this Lease or the Lands, as any purchaser or mortgage lender, actual or prospective, may reasonably request.

Any such statement shall be addressed in the manner required by the requesting party and may be relied upon by any such addressee.

ARTICLE 10 - DEFAULT

10.01 Interest and Costs

Any amounts owing hereunder shall bear interest at a rate equal to the lesser of Prime plus three percent per annum and the maximum rate permitted by applicable law, from the due date for payment thereof until the same is fully paid and satisfied. Tenant shall indemnify Landlord against all costs and charges (including legal fees and disbursements on a solicitor and client basis) incurred in enforcing payment of amounts owing by Tenant under this Lease, and in obtaining possession of the Lands after default of Tenant or upon expiration or other termination of the Term of this Lease, or in enforcing any covenant, proviso or agreement of Tenant herein contained.

10.02 Right to Perform Covenants

- (a) If Tenant fails to perform any act on its part to be performed hereunder, and such failure continues for thirty days (or such longer period as is reasonably required to cure such failure, provided Tenant commences to cure within such thirty day period and proceeds diligently thereafter) after written notice thereof from Landlord (or, in the case of an emergency, with such shorter period of notice or without notice as is reasonable in the circumstances), Landlord may (but shall not be obligated so to do) perform such act without releasing Tenant from any of its obligations relative thereto. All sums paid or costs incurred by Landlord in so

performing such acts under this Section 10.02, together with interest thereon at the rate set out in Section 10.01 from the date such payment was made or each such cost was incurred by Landlord shall be payable by Tenant to Landlord on demand.

- (b) If Landlord fails to perform any act on its part to be performed hereunder, and such failure continues for thirty days (or such longer period as is reasonably required to cure such failure, provided Landlord commences to cure within such thirty day period and proceeds diligently thereafter) after written notice thereof from Tenant (or, in the case of an emergency, with such shorter period of notice or without notice as is reasonable in the circumstances), Tenant may (but shall not be obligated so to do) perform such act without releasing Landlord from any of its obligations relative thereto. All sums paid or costs incurred by Tenant in so performing such acts under this Section 10.02, together with interest thereon at the rate set out in Section 10.01 from the date such payment was made or each such cost was incurred by Tenant shall be payable by Landlord to Tenant on demand.
- (c) The right of Landlord or Tenant to perform a failure of performance by the other under Sections 10.02(a) and (b) respectively, is subject to the right of Tenant under Section 10.02(a) or Landlord under Section 10.02(b), to dispute the existence of the alleged failure to perform or maintain that the failure of performance has been satisfactorily remedied by issuing a Dispute Notice within thirty days of the giving of any notice by the other.

10.03 Events of Default

If and whenever:

- (a) the Rent hereby reserved is not paid in full when due and such failure continues for thirty days after notice from Landlord to Tenant;
- (b) Tenant fails to observe, perform and keep each of the covenants, agreements, provisions, stipulations and conditions herein contained to be observed, performed and kept by Tenant (other than its covenant to pay Rent) and persists in such failure after thirty days' notice by Landlord requiring that Tenant remedy, correct, desist or comply (or if any such breach would reasonably require more than thirty days to rectify, unless Tenant commences rectification within the thirty day notice period and thereafter promptly, effectively and continuously proceeds with the rectification of the breach); or
- (c) Tenant purports to have effected a Transfer other than in compliance with the provisions of this Lease;

then and in any such event of Tenant default (a "**Tenant Default**"), in accordance with legal process only and not through the exercise of any self-help otherwise available to a landlord, and subject to Article 12.0 in respect to matters to be resolved solely by arbitration, upon thirty days prior written notice, Landlord shall, subject to the following sentence, have all rights and remedies available at law or in equity, including the right of specific performance, and excluding the right to distrain, in respect of any Tenant Default under this Lease. Notwithstanding anything to the contrary contained in this Lease or any provision of applicable law, Landlord and Tenant hereby agree that, from and after the Commencement Date, Landlord shall be permitted to terminate this Lease or Tenant's right of possession hereunder only for Tenant's failure to pay Rent and only after Landlord has received a final, non-appealable monetary judgment obtained following notice to Tenant, against Tenant for the failure to pay Rent which remains unsatisfied for a period of thirty days.

10.04 Payments

Notwithstanding any termination of this Lease, Landlord shall be entitled to receive Rent up to the time of termination.

ARTICLE 11 - MISCELLANEOUS

11.01 Relationship of Parties

Nothing contained in this Lease shall create any relationship between the parties hereto other than that of landlord and tenant, and it is acknowledged and agreed that Landlord does not in any way or for any purpose become a partner of Tenant in any business, or a joint venturer or a member of a joint or common enterprise with Tenant.

11.02 Consent Not Unreasonably Withheld

Except as otherwise specifically herein provided, whenever the consent or approval of Landlord or Tenant is required under the terms of this Lease, or any action is to be taken, such consent or approval shall not be unreasonably withheld or delayed and such action shall be reasonable in the circumstances.

11.03 Applicable Law and Construction

This Lease shall be governed by and construed under the laws of Ontario and the laws of Canada applicable therein, and its provisions shall be construed as a whole according to their common meaning and not strictly for or against Landlord or Tenant. The words Landlord and Tenant shall include the plural as well as the singular. The captions of the Articles are included for convenience only and shall have no effect upon the construction or interpretation of this Lease. When used in this Lease in the context of specific examples of a general term, the word "including" shall mean "including without limiting the generality of the foregoing".

11.04 Registration

Tenant may register this Lease or a notice or caveat of this Lease provided that Tenant pays for the costs of registration including Land Transfer Tax, if any. Upon the expiration or other termination of the Term, Tenant shall discharge or otherwise vacate any such registration, notice or caveat.

11.05 Amendment or Modification

No amendment, modification, or supplement to this Lease shall be valid or binding unless set out in writing and executed by the parties hereto in the same manner as the execution of this Lease.

11.06 Construed Covenants and Severability

All of the provisions of this Lease are to be construed as covenants and agreements as though the words importing such covenants and agreements were used in each separate Article hereof. Should any provision of this Lease be or become invalid, void, illegal or not enforceable, it shall be considered separate and severable from this Lease and the remaining provisions shall remain in force and be binding upon the parties hereto as though such provision had not been included.

11.07 Planning Act

It is an express condition of this Lease that the provisions of the *Planning Act* (Ontario) and amendments thereto be complied with, if necessary or any successor replacement legislation.

11.08 No Implied Surrender or Waiver

No provision of this Lease shall be deemed to have been waived unless such waiver is in writing. Waiver of a breach shall not prevent a subsequent act, which would have originally constituted a breach, from having all the force and effect of any original breach. Landlord's receipt of Rent with knowledge of a breach shall not be deemed a waiver of any breach. Nothing done by Landlord shall be deemed to be an acceptance of a surrender of the Lands, and no agreement to accept a surrender of the Lands shall be valid, unless in writing signed by Landlord.

11.09 Successors Bound

Except as otherwise specifically provided herein, the covenants, terms, and conditions contained in this Lease shall apply to and bind the heirs, successors, executors, administrators and assigns of the parties hereto as limited by this Lease.

ARTICLE 12 - ARBITRATION

12.01 Applicability

Any dispute, controversy or claim arising out of this Lease shall be settled by arbitration as set forth in this Article 12.0. The arbitration shall be governed by the *Arbitrations Act* (Ontario) except as may otherwise be agreed.

12.02 Notice of Demand

Either party may demand arbitration by issuing a Dispute Notice in writing to the other party in accordance with the notice provisions of Article 9.0. The Dispute Notice shall describe the issues in dispute, the amount involved, if any, and the particular remedy sought.

12.03 Response

The party receiving the Dispute Notice shall respond to the Dispute Notice within thirty business days of receipt of such Dispute Notice by delivering a written response in accordance with the Notice provisions of Article 9.0. The response shall also describe counterclaims, if any, the amount involved, if any, and the particular remedy sought.

12.04 Selection of Arbitration Panel

The panel shall consist of a single arbitrator, upon whom the parties shall attempt to agree. If the parties are unable to agree upon a single arbitrator within ten business days of receipt of the response to the Dispute Notice under Section 12.03, then both parties shall each appoint one arbitrator within the following period of ten business days, whereupon each of the arbitrators so appointed shall appoint a third arbitrator within the next period of ten business days and the arbitration shall proceed before a panel of the three arbitrators selected in accordance with the foregoing.

12.05 Arbitration hearing: Discovery; Venue

The arbitration hearing shall commence within thirty days after selection of the panel. The hearing shall in no event last longer than two days. There shall be no discovery or dispositive motion practice (such as motions for summary judgment or to dismiss or the like) except as may be permitted by the panel, and any such discovery or dispositive motion practice permitted by the panel shall not in any way conflict with the time limits contained herein. The panel shall not be bound by any rules of civil procedure or evidence, but rather shall consider submissions made by Landlord or Tenant (or their respective counsel) as to writings and oral presentations and whether the parties should submit some or all of their case by written declaration or such other manner of presentation as the panel may determine to be appropriate. It is the intention of the parties to limit live testimony and cross examination to the extent necessary to ensure a fair hearing to the parties on significant and material issues. Venue of any arbitration hearing pursuant to this Article 12.0 shall be in Toronto, Ontario.

12.06 Decision

The panel's decision shall be made no later than thirty business days after the conclusion of the arbitration hearing. Absent fraud, collusion or willful misconduct by the panel, the award shall be final and judgment may be entered in any court having jurisdiction thereof. The panel may award specific performance of this Lease. The panel may also require remedial measures as part of any award but shall not have the authority to award and shall not award punitive damages to any party. The panel in its discretion may award lawyer's fees and costs to the more prevailing party.

IN WITNESS OF THIS LEASE Landlord and Tenant have properly executed it as of the date first written above.

LANDLORD:

**THE CORPORATION OF THE COUNTY
OF BRANT**

Per: _____
Name:
Title:

Per: _____
Name:
Title:

I/We have the authority to bind the Corporation

TENANT:

BRANT COUNTY POWER INC.

Per: _____
Name:
Title:

Per: _____
Name:
Title: