

**HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE
MINISTER OF ENERGY AND THE MINISTER OF FINANCE**

AND

**[FINANCING ENTITY TRUSTEE] IN ITS CAPACITY AS TRUSTEE OF THE
[FINANCING ENTITY]**

AND

ONTARIO POWER GENERATION INC., AS FINANCIAL SERVICES MANAGER

AND

[NAME OF INDENTURE TRUSTEE], AS INDENTURE TRUSTEE

CHANGE OF LAW PROTECTION AGREEMENT

Dated as of [■], 2017

This **AGREEMENT**, among Her Majesty the Queen in Right of Ontario as represented by the Minister of Energy and the Minister of Finance (the “**Province**”), **[FINANCING ENTITY TRUSTEE]**, as the Financing Entity Trustee and in its capacity as trustee of the **[FINANCING ENTITY]**, a trust settled by the FSM under the laws of the Province of Ontario (the “**Financing Entity**”), Ontario Power Generation Inc. in its capacity as the Financial Services Manager in accordance with the Act (the “**FSM**”) and **[INDENTURE TRUSTEE]**, a trust company existing under the laws of Canada, as Indenture Trustee and in its capacity as trustee for the in accordance with the Trust Indenture, is made and entered into as of [■], 2017.

RECITALS

Pursuant to Subsection 5(3) of the *Ontario Fair Hydro Plan Act, 2017* (the “**Act**”), the Lieutenant Governor in Council may by order, authorize the Minister of Energy and the Minister of Finance, acting together on behalf of the Province of Ontario, to agree to guarantee or indemnify certain debts, obligations, securities or undertakings associated with an Investment Interest.

Pursuant to an Order in Council dated as of ■ (the “**OIC**”), the Lieutenant Governor in Council has, among other things, authorized the Minister of Energy and the Minister of Finance, acting together on behalf of the Province of Ontario, to enter into one or more agreements to guarantee or indemnify the debts, obligations, securities or undertakings of one or more financing entities established or caused to be established pursuant to Subsection 22(2) of the Act by the FSM and that may incur Funding Obligations in connection with one or more Investment Interests.

Pursuant to a Declaration of Trust dated as of ■, 2017, the FSM established the Financing Entity as a “financing entity” (as defined in the Act) for the purposes contemplated in the Act.

The trustee of the Financing Entity in its capacity as Financing Entity Trustee and the Indenture Trustee are parties to the Trust Indenture and propose to create and issue series of notes, bonds and other securities as contemplated therein, and to provide security over the assets and undertaking of the Financing Entity in respect of such notes, bonds and securities, as well as other Obligations Secured.

The Minister of Energy and the Minister of Finance, acting together on behalf of the Province of Ontario, have determined to provide protections and assurances to the Indenture Trustee, for the benefit of the Beneficiaries, in respect of Obligations Secured that constitute Approved Obligations, in order to address concerns that would arise from a change or adverse determination of law, subject in each case to the satisfaction of the Adherence Conditions at the time the Approved Obligation is incurred or amended. This Agreement sets out the terms and conditions of such protections and assurances.

OPG and the Province will concurrently enter into the Process Agreement, under which OPG will agree to perform certain related activities and to provide certain assurances on which the Province will rely, including for the purposes of determining whether the Adherence Conditions have been satisfied in connection with the incurrence or amendment of an Approved

Obligation and ensuring that the Province's assumption right may be exercised without impediment on the terms and conditions contemplated in this Agreement.

All things necessary to make this Agreement a valid and legally binding agreement of the Province, the Financing Entity Trustee, the FSM and the Indenture Trustee, in accordance with the Act, the OIC and the Trust Indenture, have been done.

AGREEMENT OF THE PARTIES

In consideration of the respective agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

1.01 Interpretation

For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

- (a) the terms used in this Agreement that are defined in Schedule A have the meanings assigned to them in Schedule A;
- (b) words importing the singular shall include the plural and vice versa, words importing general shall include all genders or the neuter, and words importing the neuter shall include all genders;
- (c) all references to any Person shall include such Person's permitted successors and assigns, and any reference to a Person in a particular capacity excludes such Person in other capacities;
- (d) references to any law, rule, regulation or order of a Governmental Authority (including, for greater certainty, references to the Act and the General Regulation) shall include such law, rule, regulation or order as from time to time in effect, including any amendment, modification, codification, replacement or reenactment thereof or any substitution therefor;
- (e) the word "will" shall be construed to have the same meaning and effect as the word "shall". The word "or" is not exclusive;
- (f) any reference to this Agreement or any other agreement, document or instrument shall be construed as a reference to this Agreement or, as the case may be, such other agreement, document or instrument as the same may have been, or may from time to time be, amended, varied, replaced, amended and restated, supplemented or otherwise modified;
- (g) all references in this Agreement to designated "Articles", "Sections", "Subsections", "Schedules", "Exhibits" and other subdivisions are to the designated

Articles, Sections, Subsections, Schedules, Exhibits and other subdivisions of this Agreement as originally executed. The words “herein”, “hereof” and “hereunder” and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section, Subsection, Schedule, Exhibit or other subdivision;

- (h) “including” and words of similar import will be deemed to be followed by “without limitation”; and
- (i) with respect to the computation of periods of time from a specified date to a later specified date, unless otherwise expressly stated, the word “from” means “from and including” and the words “to” and “until” each mean “to but excluding”.

1.02 Trustee to act in accordance with the Trust Indenture

Any action taken, required to be taken or permitted to be taken by the Indenture Trustee under this Agreement shall only be taken in the manner, at the times, for the purposes, subject to the prerequisites, conditions, requirements and limitations, and with the benefits, exculpations, indemnities and protections that are provided to the Indenture Trustee, in each case in respect of such action taken, required to be taken or permitted to be taken by it under the Trust Indenture.

1.03 Proof of Approved Obligations

The efficacy of any agreement, instrument or writing evidencing a Primary Obligation may, in the absence of manifest error, be conclusively proved in any manner that the Indenture Trustee deems to be sufficient.

Any statement of account prepared by the Indenture Trustee as regards the Primary Obligations shall constitute *prima facie* evidence of the amount which, as at the date of the statement so prepared, is due and payable by the Financing Entity to the Beneficiaries and/or the Indenture Trustee and the Province hereby acknowledges and agrees that, absent manifest error, it shall be bound by each such statement. The Indenture Trustee agrees to provide the Province with the computations and calculations used by the Indenture Trustee to prepare each such statement of account promptly following a request therefor.

1.04 Limitation on Rights of and Actions by Specified Creditors

Specified Creditors, as Beneficiaries, shall not have or be permitted to exercise any rights, interests, or elections under this Agreement, other than in the manner and to the extent effected and exercised through the Indenture Trustee under, in accordance with and subject to the limitations set forth in the Trust Indenture. No Specified Creditor will have any right to institute any proceeding, judicial or otherwise, with respect to this Agreement.

1.05 Province Retains Rights of Beneficiaries

Without limiting any rights of subrogation or succession that arise pursuant to applicable law or pursuant to the Province’s rights as an assignee, subrogee or pursuant to Section 5.01, all of the rights, interests, elections and privileges that would arise in favour of a Beneficiary under

the Trust Indenture or other agreement under which a related Primary Obligation arises shall automatically arise, vest in and be available to the Province upon performance by the Province of the Primary Obligation.

1.06 Effect of Headings

The Article and Section headings herein are for convenience only and will not affect the construction hereof.

1.07 Successors and Assigns

All covenants and agreements in this Agreement by the parties will bind their respective successors and permitted assigns, whether so expressed or not. All covenants and agreements of the Indenture Trustee or the FSM in this Agreement shall bind their respective successors, co-trustees and agents.

1.08 Severability

Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction will not affect the validity or enforceability of any other provision hereof. To the extent permitted by applicable law, the parties waive any provision of law which renders any provision of this Agreement invalid or unenforceable in any respect. The parties will engage in good faith negotiations to replace any provision which is declared invalid or unenforceable with a valid and enforceable provision, the economic effect of which comes as close as possible to that of the invalid or unenforceable provision which it replaces.

1.09 Governing Law

THIS AGREEMENT WILL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE PROVINCE OF ONTARIO AND THE FEDERAL LAWS OF CANADA APPLICABLE THEREIN, AND THE OBLIGATIONS, RIGHTS AND REMEDIES OF THE PARTIES HEREUNDER SHALL BE DETERMINED IN ACCORDANCE WITH SUCH LAWS.

1.10 Proceedings Against the Crown Act

NOTHING IN THIS AGREEMENT OR THE PROGRAM AGREEMENTS AFFECTS THE RIGHTS, PROTECTIONS AND IMMUNITIES OF THE CROWN UNDER THE PROCEEDINGS AGAINST THE CROWN ACT.

1.11 Attornment

EACH PARTY SUBMITS TO THE EXCLUSIVE JURISDICTION OF ANY ONTARIO COURTS SITTING IN TORONTO IN ANY ACTION, APPLICATION, REFERENCE OR OTHER PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT. THE PARTIES HERETO HEREBY WAIVE ANY RIGHT THEY MAY

HAVE TO REQUIRE A TRIAL BY JURY OF ANY PROCEEDING COMMENCED IN CONNECTION WITH THIS AGREEMENT.

1.12 Counterparts; Electronic Delivery

This Agreement may be executed in any number of counterparts, each of which so executed will be deemed to be an original, but all such counterparts will together constitute one and the same instrument. Delivery of an executed signature page to this Agreement by a party by electronic transmission will be as effective as delivery of a manually executed copy of the Agreement by such party.

1.13 Change of Law Protection Agreement Referred to in the Trust Indenture

This Agreement is the “Change of Law Protection Agreement” referred to in the Trust Indenture.

1.14 Non-Business Days

Whenever any payment to be made hereunder shall be stated to be due, any period of time would begin or end, any calculation is to be made or any other action to be taken hereunder shall be stated to be required to be taken, on a day other than a Business Day, then (notwithstanding any other provision of this Agreement) such payment shall be made, such period of time shall begin or end, such calculations shall be made and such other action shall be taken on the next succeeding Business Day.

1.15 Waiver, Amendment

Except as expressly provided in this Agreement, no amendment or waiver of this Agreement will be binding unless executed in writing by the party to be bound thereby. No waiver of any provision of this Agreement will constitute a waiver of any other provision nor will any waiver of any provision of this Agreement constitute a continuing waiver unless otherwise expressly provided. A party's failure or delay in exercising any right under this Agreement will not operate as a waiver of that right. A single or partial exercise of any right will not preclude a party from any other or further exercise of that right or the exercise of any other right.

1.16 Interest Act

For the purpose of disclosure pursuant to the *Interest Act* (Canada), the yearly rate of interest to which any rate of interest payable under this Agreement that is calculated on any basis other than a full calendar year is equivalent may be determined by multiplying such rate by a fraction, the numerator of which is the actual number of days in the calendar year in which such yearly rate of interest is to be ascertained and the denominator of which is the number of days comprising such other basis. The parties further agree that for the purposes of the *Interest Act* (Canada), (i) the principle of deemed reinvestment of interest shall not apply to any interest calculation under this Agreement, and (ii) the rates of interest stipulated in this Agreement are intended to be nominal rates and not effective rates or yields.

1.17 Currency

Unless stated otherwise, all amounts herein are stated in Canadian Dollars.

1.18 References to Acts of the Financing Entity Trustee

For greater certainty, where any reference is made in this Agreement, or in any other instrument executed pursuant hereto or contemplated hereby to which the Financing Entity or the Financing Entity Trustee, as trustee of the Financing Entity, is party, to an act to be performed by, an appointment to be made by, an obligation or liability of, an asset or right of, a discharge or release to be provided by, a suit or proceeding to be taken by or against, or a covenant, representation or warranty (other than relating to the constitution or existence of the Financing Entity) by or with respect to (i) the Financing Entity or (ii) the Financing Entity Trustee, such reference shall be construed and applied for all purposes as if it referred to an act to be performed by, an appointment to be made by, an obligation or liability of, an asset or right of, a discharge or release to be provided by, a suit or proceeding to be taken by or against or a covenant, representation or warranty (other than relating to the constitution or existence of the Financing Entity) by or with respect to, the Financing Entity Trustee as trustee of the Financing Entity.

1.19 Judgment Currency

- (a) If for the purpose of obtaining judgment in any court or for any other purposes (other than conversions specifically provided for in the agreement under which an Approved Obligation arises), it is necessary to convert any amount due under this Agreement from the currency in which it is due (the “**Original Currency**”) into another currency (the “**Second Currency**”), the rate of exchange applied shall be that at which, in accordance with normal banking procedures, the purchaser could purchase, in the New York foreign exchange market, the Original Currency with the Second Currency on the date on which judgment is given. The obligation of the Province in respect of any Original Currency due from it to the Indenture Trustee under this Agreement shall, notwithstanding any judgment or payment in such other currency, be discharged only to the extent that, on the Business Day following receipt of any sum so paid or adjudged to be due under this Agreement in the Second Currency, the Indenture Trustee may, in accordance with normal banking procedures, purchase in the New York foreign exchange market the Original Currency with the amount of the Second Currency so paid or so adjudged to be due; and if the amount of the Original Currency so purchased is less than the amount originally due in the Original Currency, the Financing Entity shall indemnify the Indenture Trustee against such loss.
- (b) The term “rate of exchange” in this Section 1.19 means the spot rate at which the Indenture Trustee, in accordance with normal practice, is able on the relevant date to purchase the Original Currency with the Second Currency and includes any premium and costs of exchange payable in connection with such purchase.

ARTICLE II AGREEMENT TO PERFORM APPROVED OBLIGATIONS

2.01 Limited Guarantee

- (a) Upon the occurrence of a Protection Event, the Indenture Trustee may provide a written demand, in the form attached as Exhibit A (a “**Payment Demand**”), to the Province requiring the Province to pay the Approved Obligations owing from time to time by the Financing Entity to the Indenture Trustee as and when they become due and payable, without Acceleration¹. A Payment Demand will not be valid with respect to an Approved Obligation until the amount claimed becomes due and payable in respect of the Approved Obligation (without Acceleration) in accordance with the Trust Indenture and has not otherwise been paid by the Financing Entity.
- (b) Following receipt of a valid Payment Demand under Subsection 2.01(a), the Province shall pay the amounts owing by the Financing Entity to the Indenture Trustee, on behalf of the applicable Beneficiaries, in respect of each Approved Obligation², in each case as and when the Approved Obligation becomes due and payable in accordance with its terms and on its scheduled, specified or determined payment date, as determined without regard to any Acceleration or rights of Acceleration arising under the Approved Obligation, in each case by the Province depositing or causing the deposit of the applicable payment amount into the Collection Account (the “**Limited Guarantee**”). For greater certainty, the Limited Guarantee will not apply to any amount or obligation of the Financing Entity that is not or does not arise under an Approved Obligation, including (i) any amounts that are or become payable as a result of the exercise of an option of the Financing Entity following a Protection Event, and (ii) amounts required to be deposited by or on behalf of the Financing Entity into any Capital Account, Finance Reserve Account or a Supplemental Reserve Account.
- (c) Except as expressly provided in this Agreement, the Province’s obligation to provide and perform the Limited Guarantee shall be irrevocable, absolute and unconditional.
- (d) Any amount payable by the Province under the Limited Guarantee in respect of an Approved Obligation that is not paid when required herein shall bear interest from the applicable due date until paid in full at the rate or rates expressed to be payable on the Approved Obligation.

¹ Consider mechanics for notifying the Province regarding the specific amounts payable and their due dates. Consider attaching a detailed schedule of payments under the Payment Demand and the respective due date of each payment.

² Under Subsection 5(3) of the Act, the Province can guarantee only obligations “associated with an investment interest”. The guarantee in Section 2.01 of the draft agreement guarantees “Approved Obligations”, which in turn relies on the definition of Primary Obligations. The connection between a Primary Obligations and an “investment interest” is therefore crucial. Blakes is considering how to more precisely connect these concepts.

- (e) The right to deliver a Payment Demand and thereupon enforce the Limited Guarantee shall constitute the only remedy available to the Indenture Trustee under this Agreement. Under no circumstances shall the Province be obligated to pay or indemnify the Indenture Trustee or any Beneficiary for consequential, special or punitive damages, or for economic loss or loss of profits.

2.02 Gross-up

[All amounts payable by the Province under this Agreement shall be made free and clear of and without deduction for or on account of any present or future taxes, charges, fees, levies, duties or withholdings of any kind. If the Province is obliged to deduct or withhold an amount in respect of any such taxes, charges, fees, levies, duties or withholdings, then in such event the Province shall deposit into the Collection Account such additional amount as is necessary to ensure that the Indenture Trustee receives (on an after-tax basis, after payment of any and all income taxes on such additional amounts) an amount equal to the full amount otherwise due and payable in respect of the related Approved Obligation, net of any such taxes, charges, fees, levies, duties or withholdings.]³

2.03 Absence of Set-off

The Province acknowledges and agrees that each payment to be made by the Province hereunder in respect of an Approved Obligation shall be made as required in whole, without application of any right of set-off and without regard to any equities as between or among any of the Province, the Beneficiaries and/or the Indenture Trustee.

2.04 Payment into Collection Account in Satisfaction

Notwithstanding the priority of payment requirements set forth in the Trust Indenture and any legal rule concerning the imputation of payments, the Indenture Trustee shall apply the full amount paid by the Province into the Collection Account in respect of an Approved Obligation to pay the corresponding amount due and payable to the applicable Beneficiaries under the Approved Obligation.⁴ Upon a payment having been made by or on behalf of the Province into the Collection Account in respect of an Approved Obligation, the amount so paid shall for all purposes be considered to have been applied to pay the applicable Beneficiaries and thereby reduce the amount due and payable under the Approved Obligation, whereupon an affected Beneficiary shall have no continuing rights, interests or entitlements (including rights as a secured party) in respect of the Approved Obligation to the extent so paid⁵.

³ Under consideration.

⁴ This will need to operate in tandem with the Trust Indenture waterfall. The idea is that the Approved Obligations may not necessarily follow the sequence of the “payment waterfall” included in the Trust Indenture, and so amounts from the Province would need to operate independently.

⁵ Consider how Beneficiary rights under Obligations Secured will be amended under an agreement to which a Beneficiary is not directly a party. To achieve a binding relationship, a corresponding provision should appear in the Trust Indenture and each other contract under which the Obligation Secured arises, to the effect that the Beneficiaries will be deemed to be bound by the agreement of the Indenture Trustee under this Agreement.

2.05 Certain Waivers

The Province hereby waives:

- (a) any requirement, and any right to require, that any power be exercised or any action be taken against the Financing Entity or any Collateral for any of the Approved Obligations;
- (b) all notices which may be required by applicable law to preserve any rights against the Province hereunder, including any notice of default, demand, dishonour, presentment and protest;
- (c) diligence; and
- (d) any defence based upon, arising out of or in any way related to any claim that any election of remedies by the Beneficiaries impaired, reduced, released or extinguished any rights that the Province might otherwise have had against the Financing Entity or any other surety.

The Province agrees that each such waiver is made with full knowledge of its significance and consequences and if any such waiver is determined to be contrary to any applicable law or public policy, such waiver shall be effective only to the maximum extent permitted by applicable law.

2.06 Additional Security

This Agreement shall be in addition to and without prejudice to any other security by whomsoever given, held at any time by the Indenture Trustee or for the benefit of any of the Beneficiaries.

2.07 Continuing Liability of the Province

The Approved Obligations shall be deemed not to have been paid, observed or performed, and the liability of the Province hereunder in respect thereof shall continue and not be discharged, to the extent that any payment, observance or performance thereof by the Financing Entity, or out of the proceeds of any Collateral, is recovered from or reimbursed by or for the account of any of the Beneficiaries for any reason, including a preference or fraudulent transfer or by virtue of any subordination (whether present or future or contractual or otherwise) of the Approved Obligations, whether such recovery or payment over is effected by any judgment, decree or order of any court or Governmental Authority, by any plan of reorganization or by settlement or compromise by any of the Beneficiaries (whether or not consented to by the Financing Entity or the Province) of any claim for any such recovery or payment over.

2.08 Continuance of the Limited Guarantee

Subject to Section 2.07, the Limited Guarantee shall continue in full force and effect until the indefeasible payment, observance and performance in full of the Approved Obligations, or until the Province is no longer required to provide and perform the Limited Guarantee in accordance with Section 6.03].

2.09 Modifications of Approved Obligations

The Province expressly authorizes the Indenture Trustee, at any time and from time to time, without notice and without affecting the liability of the Province hereunder, but subject to compliance with the requirements of the Program Agreements and this Agreement, to:

- (a) accept new, additional or replacement instruments, documents, agreements or security in connection with all or any part of the Approved Obligations;
- (b) accept partial payments on the Approved Obligations; and
- (c) waive, release, reconvey, terminate, abandon, subordinate, exchange, substitute, transfer, compound, compromise, liquidate and enforce all or any part of the Approved Obligations and any security or guarantee therefor, and apply any such security and direct the order or manner of sale thereof as the Indenture Trustee (for the benefit of the Beneficiaries) in its discretion may determine,

provided, however, that the Indenture Trustee shall not permit any change, modification, alteration, amendment, supplement, extension, renewal, compromise, novation, replacement, suspension or waiver of the terms of all or any part of the Approved Obligations or any Collateral therefor except with the prior written consent of the Province having first been obtained.

ARTICLE III THE INDENTURE TRUSTEE

3.01 The Indenture Trustee

This Agreement is made in favour of the Indenture Trustee in its capacity as trustee under the Trust Indenture. Accordingly, in the event of a new trustee being appointed under the Trust Indenture, such new trustee shall thereupon become and be the Indenture Trustee hereunder, but nevertheless, the Indenture Trustee shall forthwith assign, transfer and make over to the new trustee hereunder this Agreement. All provisions of the Trust Indenture for the protection of the Indenture Trustee or for facilitating the administration of the trusts or otherwise relating to the Indenture Trustee solely as to its holding of the rights thereunder shall apply *mutatis mutandis* to this Agreement and the Indenture Trustee's duties hereunder.

3.02 Acceptance of Trusts

The Indenture Trustee hereby accepts the trusts hereof and agrees to carry out and discharge the same unless and until a new trustee shall be appointed as contemplated in Section 3.01.

ARTICLE IV APPROVED OBLIGATIONS

4.01 Approval Process

A Primary Obligation shall constitute an Approved Obligation if (a) the Adherence Conditions applicable thereto have been satisfied; or (b) the Province has specifically approved in writing the particular terms, conditions and documentation for the Primary Obligation.

4.02 Adherence Conditions

The following shall be the Adherence Conditions applicable in relation to a Primary Obligation:

- (a) the Primary Obligation is contemplated under the Trust Indenture as an Obligation Secured;
- (b) at the time the Primary Obligation is incurred or amended, the maximum aggregate payment amounts due or becoming due in the future in respect of Repayments⁶ under the Primary Obligation, together with all other outstanding amounts due or becoming due in the future in respect of Repayments under Approved Obligations, do not exceed the Protection Agreement Maximum;
- (c) the FSM delivers a notice to the Indenture Trustee, with a copy to the Province, one Business Day prior to the incurrence or any amendment of the Primary Obligation, setting out the Protection Agreement Maximum;
- (d) the FSM delivers a certificate signed by the Chief Financial Officer and the Treasurer of OPG (or their respective designees, provided that such designees are executive officers of OPG) and addressed to the Province and the Indenture Trustee, one Business Day prior to the earlier of (i) one Business Day prior to the incurrence or any amendment of the Primary Obligation, and (ii) on the Business Day on which the financial terms of the Primary Obligation are definitively determined (including the interest or discount rate applicable to any notes, bonds or other securities), setting out the following with respect to the Primary Obligation:
 - i. confirmation that, at the time the Primary Obligation is incurred or amended, the maximum aggregate payment amounts due or becoming due in the future in respect of Repayments under the Primary Obligation (if any), together with all other outstanding amounts due or becoming due in the future in respect of Repayments under Approved Obligations, do not and will not exceed the Protection Agreement Maximum; and
 - ii. confirmation that the FSM has delivered to the Province a certificate in accordance with the Process Agreement confirming, among other things,

⁶ Use of the concept of “repayments” under the OFHPA for this purpose is under consideration.

that the transaction documents in respect of the Primary Obligation are in substantially the form of the documentation reviewed by the Province; and

- (e) the Province has not provided a Suspension Notice to the Indenture Trustee, the FSM and the Financing Entity in accordance with the terms of this Agreement.

4.03 Evidence of Satisfaction

A closing certificate signed by at least two executive officers of OPG in connection with an incurrence or amendment of a Primary Obligation shall be determinative as to whether the applicable Adherence Conditions with respect thereto have been satisfied, notwithstanding that such certificate may include inaccuracies, be incomplete or otherwise be defect or deficient, and such closing certificate may be relied upon by any addressee as conclusive evidence of same.

ARTICLE V RIGHTS OF THE PROVINCE

5.01 Assignment and Subrogation

Upon paying an amount in respect of an Approved Obligation:

- (a) to or at the direction of the Indenture Trustee in satisfaction of the Limited Guarantee; or
- (b) as a result of assuming the Financing Entity's obligations in respect of all Obligations Secured under Article VI,

the Province (in addition to and without prejudice to any rights it otherwise has in law or equity) shall be subrogated and entitled to all of the applicable Beneficiary's rights and interests under and in respect of the Approved Obligation to the extent of such payment, including (i) the right and entitlement to be paid and receive distributions of such amount by the Financing Entity in accordance with and in the priority applicable to the Approved Obligation applicable in respect of the payment under the Trust Indenture, (ii) the benefits of the related Collateral and (iii) all proceeds therefrom. The Province shall have and be entitled to enforce all rights and interests (including as a secured party under the Trust Indenture) under such Approved Obligation as an absolute assignee of the applicable Beneficiary, with effect from and after the time of such payment, without any further requirement for notice to or acceptance by the Financing Entity of such absolute assignment and without any reduction, set-off or counterclaim on account of any amounts that may, at or after the time of payment, be or become owing by the Beneficiary to the Financing Entity and unaffected by any other rights or equities that arise thereafter as between the Beneficiary and the Financing Entity. The Indenture Trustee shall recognize the Province as being entitled to all of the rights, interests and entitlements of the Beneficiary (including, if applicable, as a Noteholder) in respect and to the extent of the Approved Obligation so paid, determined as of the time of payment, for all purposes under the Trust Indenture, and the Province shall be treated as a Specified Creditor in respect thereof for all purposes under the Trust Indenture and any other agreement under which the Approved Obligation arises.

5.02 Priorities

For greater certainty, the rights, interests and entitlements of the Province as an assignee and subrogee of and with respect to an Approved Obligation shall rank equally with the rights, interests and entitlements of a Beneficiary for whom a Limited Guarantee payment is made in respect of, and to the extent of the payment made to satisfy, the Approved Obligation and the Province shall not be subject to postponement or subordination with respect thereto except to the extent of the priorities established in relation to the Approved Obligation under the Trust Indenture.

5.03 Voting Rights under “Outstanding Notes”

Notwithstanding the last three sentences of the definition of “Outstanding” in the Trust Indenture⁷:

- (a) Notes in connection with Approved Obligations in respect of which the Province has rights and interest pursuant to Section 5.01 shall be regarded as “Outstanding” within the meaning of the Trust Indenture; and
- (b) in determining whether Noteholders of the requisite principal amount of Notes that are Outstanding (as defined in the Trust Indenture) have taken any Action under the Trust Indenture, and for the purposes of Article X of the Trust Indenture, the Province shall be deemed to have the amount of Outstanding (as defined in the Trust Indenture) Notes in proportion to its interest in such Notes based on the amounts that the Province has paid in respect of Approved Obligations under this Agreement.

5.04 Province May Perform Other Program Agreement Covenants.

If the Financing Entity fails to perform any covenant under any Program Agreement, the Province may (but, except as expressly provided for under this Agreement, shall not be obligated to) perform such covenant on behalf of the Financing Entity. If the Province performs such a covenant on behalf of the Financing Entity, all sums expended or advanced by the Province in so performing the covenant will bear interest at the rate of interest determined by the Province to reflect market terms and conditions for a borrowing made by the Province at the relevant time from the date of expenditure until repayment by the Financing Entity and will (together with such interest) be paid by the Financing Entity upon demand and will until paid form part of the Obligations Secured and constitute a Finance Amount.⁸

⁷ This concept needs to be reflected in the Trust Indenture.

⁸ General Regulation to be revised such that “Finance Amount” picks up guarantor amounts. Under consideration by MOE.

ARTICLE VI NOTICE OF ASSUMPTION OF OBLIGATIONS SECURED

6.01 Delivery of Assumption Notice

Following the occurrence of a Protection Event, the Province may provide notice (in the form of Exhibit B) to the Indenture Trustee, in accordance with the terms of the Process Agreement, that the Province has elected to assume the Financing Entity's obligations in respect of all Obligations Secured, as obligor and debtor (the "**Assumption Notice**"). The Assumption Notice shall specify the date on which the assignment and assumption of the Obligations Secured will be effective (the "**Assumption Closing Date**").

6.02 Cooperation to Implement the Assignment and Assumption

The Indenture Trustee, the FSM, the Financing Entity and the Province will cooperate and use best efforts to complete the assignment and assumption of the Obligations Secured by and from the Financing Entity to and by the Province, by the Assumption Closing Date.⁹

6.03 Effect of Assumption

On the date that the assignment and assumption of the Obligations Secured by and from the Financing Entity to and by the Province becomes effective (the "**Assumption Effective Date**"), the Province shall no longer be required to provide and perform the Limited Guarantee.

6.04 Interim Period

Until the effective time of the assignment and assumption of the Obligations Secured by and from the Financing Entity to and by the Province on the Assumption Effective Date, the Province shall continue to perform and be obligated under the Limited Guarantee.

ARTICLE VII INDENTURE TRUSTEE MATTERS

7.01 Limited Recourse

No recourse may be taken, directly or indirectly, with respect to the obligations of the Financing Entity under this Agreement, or any certificate or other writing delivered in connection herewith or therewith, against (a) the Financing Entity Trustee in its individual capacity, (b) any owner of a beneficial interest in the Financing Entity or (c) any partner, owner, beneficiary, agent, officer, director, employee or agent of the Financing Entity Trustee in its individual capacity, any holder of a beneficial interest in the Financing Entity or the Financing Entity Trustee or of any successor or assign of the Financing Entity Trustee in its individual capacity, except as any such Person may have expressly agreed (it being understood that the Financing Entity Trustee has no such obligations in its individual capacity).

⁹ Further details regarding obtaining of third party consents and rating agency approvals to be considered.

7.02 Not Responsible for Recitals or Issuance of Notes

The recitals contained herein will be taken as the statements of the Province and the FSM, and the Indenture Trustee assumes no responsibility for their correctness. The Indenture Trustee makes no representations as to the validity or sufficiency of this Agreement.

7.03 Representations and Covenants of the Indenture Trustee

The Indenture Trustee represents, warrants and covenants that:

- (a) the Indenture Trustee is a trust company organized, existing and in good standing under the laws of Canada;
- (b) the Indenture Trustee has full power and authority to execute, deliver and perform this Agreement and has taken all necessary action to authorize the execution, delivery and performance by it of this Agreement and other documents to which it is a party;
- (c) each of this Agreement and the other documents to which it is a party has been duly executed and delivered by the Indenture Trustee and constitutes its legal, valid and binding obligation in accordance with its terms; and
- (d) the Indenture Trustee is authorized to carry on the business of a trust company in each of the provinces and territories of Canada.

7.04 Release of all Collateral

- (a) The Indenture Trustee shall not execute instruments to release Collateral from the Security Interest of the Trust Indenture, or convey the Indenture Trustee's interest (which is held by the Indenture Trustee for the benefit of the Specified Creditors) in the same, unless and until the rights and interests of the Province under Section 5.01 or otherwise as an assignee of any of the Obligations Secured or as a subrogee have been satisfied in full and the Province has no continuing obligations under this Agreement.
- (b) The Province shall be entitled to receive at least 10 Business Days' written notice when the Indenture Trustee proposes to take any action pursuant to Subsection 7.04(a), accompanied by copies of any instruments involved.

7.05 Right to Notice and Attend Meetings

The Financing Entity shall ensure that the Province receives advance notice of any meeting or proposed written resolution of Specified Creditors (or any of them) and the Province and its legal advisers shall be permitted to attend and be represented at any meeting of such Specified Creditors.

**ARTICLE VIII
SUSPENSION OF ADHERENCE FOR NEW PRIMARY OBLIGATIONS**

8.01 Suspension Notice

A written notice in the form of Exhibit C (a “**Suspension Notice**”):

- (a) shall be provided by the FSM or the Province to the Indenture Trustee promptly following the occurrence of a Program Breach; and
- (b) may be provided by the Province to the Indenture Trustee, the FSM and the Financing Entity following the occurrence of a Breach Event that has not been waived in writing by the Province.

8.02 Suspension

If a Suspension Notice has been provided under Section 8.01 (the provision of such notice being a “**Suspension Event**”), the Financing Entity shall not incur any new or additional Obligation Secured and shall not amend or terminate any existing Obligation Secured except with the prior written consent of the Province.

8.03 Termination Notice

On the occurrence of a Suspension Event, the Province may provide to the Indenture Trustee, the FSM and the Financing Entity a notice in the form of Exhibit D (a “**Termination Notice**”).

8.04 No Impact on Adherence

For greater certainty, the occurrence of Suspension Event or a failure by the FSM or the Financing Entity to perform its covenants under this Agreement will not invalidate or extinguish the obligations of the Province under the Limited Guarantee in respect of Approved Obligations in existence prior to the occurrence of the Suspension Event.

**ARTICLE IX
MISCELLANEOUS**

9.01 Term of Agreement

This Agreement will continue until the later of:

- (a) the date that no amount is or may become due and payable by the Province under the Limited Guarantee; and
- (b) the date that a Termination Notice is received by the Indenture Trustee, the FSM and the Financing Entity.

9.02 Notices

Any notice or other communication required or permitted to be given hereunder will be in writing and will be given by prepaid first-class mail, by facsimile or other means of electronic communication or by hand-delivery as hereinafter provided. Any such notice or other communication, if mailed by prepaid first-class mail at any time other than during a general discontinuance of postal service due to strike, lockout or otherwise, will be deemed to have been received on the fourth Business Day after the post-marked date thereof, or if sent by facsimile or other means of electronic communication, will be deemed to have been received on the Business Day following the sending, or if delivered by hand will be deemed to have been received at the time it is delivered to the applicable address noted below either to the individual designated below or to an individual at such address having apparent authority to accept deliveries on behalf of the addressee. Notice of change of address will also be governed by this Section. In the event of a general discontinuance of postal service due to strike, lock-out or otherwise, notices or other communications will be delivered by hand or sent by facsimile or other means of electronic communication and will be deemed to have been received in accordance with this Section. Notices and other communications will be addressed as follows:

- (a) if to the Financing Entity:

[Financing Entity]
c/o Ontario Power Generation Inc.
700 University Avenue
Toronto, Ontario M5G 1X6
Attention: [■]
Fax: (416) [■]
Email: [■]

with copies to:

[Financing Entity Trustee], in its capacity as Financing Entity Trustee for
[Financing Entity]
[Address]
Attention: [■]
Fax: (416) [■]
Email: [■]

[■]

- (b) if to the FSM:

Ontario Power Generation Inc.
700 University Avenue
Toronto, Ontario M5G 1X6
Attention: [■]
Fax: (416) [■]
Email: [■]

- (c) if to the Province:

Ministry of Finance
[Address]
Attention: [■]
Fax: (416) [■]
Email: [■]

and

Ministry of Energy
[Address]
Attention: [■]
Fax: (416) [■]
Email: [■]

- (d) if to the Indenture Trustee:

[Address]
Attention: [■]
Fax: (416) [■]
Email: [■]

or to such other addresses as a party may from time to time notify the other parties in accordance with this Section 9.02.

9.03 Assignment

- (a) None of the rights or obligations hereunder shall be assignable or transferable by any party without the prior written consent of the other parties.
- (b) Any purported assignment of this Agreement in violation of this Section 9.03 shall be null and void.

9.04 Enurement

This Agreement will enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

9.05 FIPPA

The parties acknowledge that the Province will be bound by the *Freedom of Information and Protection of Privacy Act* (Ontario) and that any information provided to the Province, or any agent or representative of the Province in connection with this Agreement may be subject to disclosure in accordance with the act or as otherwise required by law.

9.06 No Petition

The Province agrees, to the fullest extent permitted by applicable law, that at no time until one year and one day following repayment in full of all Primary Obligations shall it commence, or join in commencing, a bankruptcy case or other insolvency or similar proceeding under the laws of any jurisdiction against the Financing Entity.

9.07 Force Majeure

In no event shall the Indenture Trustee or the Financing Entity Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Indenture Trustee and the Financing Entity Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

9.08 Delivery of Executed Copies

Each party acknowledges delivery of a fully executed copy of this Agreement.

[Signature page to follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

**HER MAJESTY THE QUEEN IN RIGHT OF
ONTARIO, AS REPRESENTED BY THE
MINISTER OF FINANCE**

By: _____
Name: _____
Title: _____

**HER MAJESTY THE QUEEN IN RIGHT OF
ONTARIO, AS REPRESENTED BY THE
MINISTER OF ENERGY**

By: _____
Name: _____
Title: _____

**ONTARIO POWER GENERATION INC., AS
FSM**

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

**[FINANCING ENTITY TRUSTEE], IN ITS
CAPACITY AS FINANCING ENTITY
TRUSTEE FOR [FINANCING ENTITY]**

By: _____
Name: _____
Title: _____

**[INDENTURE TRUSTEE], AS INDENTURE
TRUSTEE AND NOT IN ITS INDIVIDUAL
CAPACITY**

By: _____
Name: _____
Title: _____

SCHEDULE A

DEFINED TERMS

“**Acceleration**” has the meaning ascribed to the term “acceleration”¹⁰ in the General Regulation.

“**Act**” has the meaning ascribed thereto in the first paragraph of the recitals in this Agreement.

“**Action**” has the meaning ascribed thereto under the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

“**Adherence Conditions**”, in respect of a Primary Obligation, means the conditions set out in Section 4.02.

[“**Administrative Agent**” means OPG, in its capacity as administrative agent of the Financing Entity under the Administrative Services Agreement.]

[“**Administrative Services Agreement**” means the administrative services agreement dated [■], 2017 between the Financing Entity and the Administrative Agent concerning the reimbursement of certain costs incurred by the Administrative Agent in connection with the administration of the Financing Entity.]¹¹

“**Approved Obligation**” means a Primary Obligation that constitutes an Approved Obligation pursuant to Section 4.01.

“**Assumption Closing Date**” has the meaning ascribed thereto in Section 6.01.

“**Assumption Effective Date**” has the meaning ascribed thereto in Section 6.03.

“**Assumption Notice**” has the meaning ascribed thereto in Section 6.01.

“**Beneficiaries**” means the Specified Creditors to whom the Financing Entity owes a payment obligation pursuant to one or more Approved Obligations from time to time.

“**Breach Event**” means the occurrence or existence of any one or more of the following: (a) a default in the performance, or breach, of any covenants of OPG under the Process Agreement; or (b) any representation or warranty made by OPG, any certification made by OPG under the Process Agreement, or any certification made by OPG in a certificate contemplated by Section 4.03 of this Agreement, proves to be incorrect in any material respect on the date made; or (c) OPG is no longer the FSM, the Administrative Agent or the Manager or actions have been taken by or on behalf of the Indenture Trustee to remove OPG as the FSM, the Administrative Agent or the Manager.

¹⁰ Note: A proposal to add this concept into the Regulation is under consideration by MOE. Further modifications to follow, depending on that process.

¹¹ Note: To be confirmed if required.

“Business Day” means any day other than a Saturday, a Sunday or a day on which banking institutions in Toronto, Ontario are authorized or obligated by applicable law, regulation or executive order to be closed.

“Capital Account” has the meaning ascribed to the term “capital account” in the General Regulation.

“Change of Law Protection Agreement” means this Agreement.

“Collateral” has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

“Collection Account” has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

“Declaration of Trust” means the declaration of trust made as of [■], 2017 under which the Financing Entity was established.

“Derivative Agreement” means any rate swap transaction, basis swap, forward rate transaction, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, currency option, total return swap transaction, credit default swap transaction or any other similar transaction (including any option with respect to any of those transactions) or any combination of these transactions entered into from time to time by the Financing Entity in connection with or related to Funding Obligations.

“Finance Amount” has the meaning ascribed to the term “finance amount” in the Act as of the date of this Agreement.

“Finance Reserve Account” has the meaning ascribed to the term “finance reserve account” in the General Regulation.

“Financing Entity” has the meaning ascribed thereto in the first paragraph of this Agreement.

“Financing Entity Trustee” means, at any time, the Person who is, in accordance with the Declaration of Trust, the trustee of the Financing Entity at such time.

“FSM” has the meaning ascribed thereto in the first paragraph of this Agreement.

“Funding Obligation” has the meaning ascribed to the term “funding obligation” in the Act.

“General Regulation” means O. Reg. 206/17 made under the Act.

“Governmental Authority” means any nation or government, any federal, state, provincial, local or other political subdivision thereof and any court, administrative agency or other

instrumentality or entity exercising executive, legislative, judicial, regulatory or administrative functions of government.

“**IESO**” has the meaning ascribed thereto in the Act.

“**Indenture Trustee**” means the Person named as the Indenture Trustee in the first paragraph of this Agreement until a successor Indenture Trustee shall have become such pursuant to the applicable provisions of the Trust Indenture and this Agreement, and thereafter “Indenture Trustee” means and includes such Person.

“**Investment Interest**” has the meaning ascribed to the term “Investment Interest” in the Act.

“**Legislature**” means the Legislature of the Province of Ontario.

“**Limited Guarantee**” has the meaning ascribed thereto in Section 2.01(b).

[“**Management Agreement**” means the management agreement dated [■], 2017 between the Manager and the Financing Entity.]

[“**Manager**” means OPG, in its capacity as manager of the Financing Entity under the Management Agreement.]¹²

“**Master Transfer and Servicing Agreement**” means the master transfer and servicing agreement dated [■], 2017 between the Financing Entity and IESO, and acknowledged and accepted by the Indenture Trustee.

“**Note**” or “**Notes**” has the meaning ascribed thereto under the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

“**Noteholder**” has the meaning ascribed thereto under the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

“**Obligations Secured**” has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

“**OIC**” has the meaning ascribed thereto in the second paragraph of the recitals in this Agreement.

“**OPG**” means Ontario Power Generation Inc., a corporation established under the laws of the Province of Ontario.

“**Original Currency**” has the meaning ascribed thereto in Section 1.19(a).

¹²Note: To be confirmed if required. Also note that the draft Trust Indenture refers to OPG as the “manager” (rather than “Financial Services Manager” as under the Act). To be reconciled.

“Payment Demand” has the meaning ascribed thereto in Section 2.01(a).

“Person” means any individual, corporation, limited liability company, estate, partnership, joint venture, association, joint stock company, trust (including any beneficiary thereof), unincorporated organization or Governmental Authority.

“Primary Obligations” means any Obligation Secured that is a Funding Obligation, other than (a) any amounts that are or become payable as a result of the exercise of an option of the Financing Entity following a Protection Event; and (b) any amounts required to be deposited by or on behalf of the Financing Entity into any Capital Account, Finance Reserve Account, or Supplemental Reserve Account.

“Process Agreement” means the Change of Law Process Agreement dated [■], 2017 between the Province and OPG.

“Program Agreements” has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

“Program Breach” means an event of default, early amortization event, termination event or similar event or circumstance (including any event that with the passage of time or the giving of notice would become such an event) of or in respect of the obligations of any party under any Program Agreement, including under this Agreement, the Trust Indenture, the Master Transfer and Servicing Agreement or any Derivative Agreement.

“Protection Agreement Maximum” means the dollar amount determined by the Province and of which OPG is provided notice in accordance with the Process Agreement.

“Protection Event” means the occurrence of any of the following events:

- (a) (i) the Legislature repeals (and does not replace on an equivalent basis) or amends the Act or any portion thereof as in effect on the date hereof;
- (ii) the Legislature enacts or amends any other statute;
- (iii) the Lieutenant Governor in Council repeals (and does not replace on an equivalent basis) the regulations made under the Act or any portion thereof as in effect on the date hereof; or
- (iv) the Lieutenant Governor in Council, a minister of the Crown, an official of the government or a board or commission all the members of which are appointed by the Lieutenant Governor in Council makes or amends any “regulation” (as defined in Part III of the *Legislation Act, 2006*) as in effect on the date hereof;
- (v) the implementation of a change in the organization or structure of the IESO or Ontario’s electricity market undertaken at the initiative of the Province or an entity controlled by the Province,

in each case, that materially and adversely affects (a) the ability of the Financing Entity to receive amounts on its Investment Interest so that it can pay Obligations Secured, or (b) this Agreement or any of the agreements under which Obligations Secured arise, other than if the Indenture Trustee has confirmed in writing that the effect under such agreements is otherwise acceptable; or

- (b) a court of competent jurisdiction (i) determines that all or a portion of the Act or the regulations made under the Act, as in effect on the date hereof, is *ultra vires* or invalid in a way that materially and adversely affects the Financing Entity's receipt of amounts in respect of its Investment Interest and (ii) issues a decision or an order preventing the Financing Entity from receiving amounts on its Investment Interest, in each case that results in the Financing Entity not having sufficient funds to pay Obligations Secured that have become due and payable.

“Province” has the meaning ascribed thereto in the first paragraph of this Agreement.

“Repayment” has the meaning ascribed thereto in the General Regulation.

“Second Currency” has the meaning ascribed thereto in Section 1.19(b).

“Security Interest” has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

“Specified Creditors” has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

“Supplemental Reserve Account” has the meaning ascribed in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

“Suspension Event” has the meaning ascribed thereto in Section 8.02.

“Suspension Notice” has the meaning ascribed thereto in Section 8.01.

“Termination Notice” has the meaning ascribed thereto in Section 8.03.

“this Agreement” means this agreement, as amended, supplemented, restated or otherwise modified from time to time.

“Trust Indenture” means the trust indenture between the Financing Entity and the Indenture Trustee dated as of [■], 2017, as amended, supplemented, restated or otherwise modified from time to time.

EXHIBIT A
FORM OF PAYMENT DEMAND

EXHIBIT B
ASSUMPTION NOTICE

EXHIBIT C
SUSPENSION NOTICE

EXHIBIT D
TERMINATION NOTICE