

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

AND

ONTARIO POWER GENERATION INC.

CHANGE OF LAW PROCESS AGREEMENT

Dated as of [■], 2017

This **CHANGE OF LAW PROCESS AGREEMENT**, between Her Majesty the Queen in Right of Ontario, as represented by the Minister of Energy and the Minister of Finance (the “**Province**”), and Ontario Power Generation Inc. (“**OPG**”) is made and entered into as of [■], 2017.

RECITALS

OPG is appointed as the Financial Services Manager under Section 18 of the *Ontario Fair Hydro Plan Act, 2017* (the “**Act**”).

Pursuant to Section 22(2) of the Act, OPG, in its capacity as the Financial Services Manager (the “**FSM**”), may establish or cause to be established one or more financing entities (as defined in the Act), which may incur Funding Obligations in accordance with the Act.

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

Concurrent with this Agreement, the Province, the FSM, the Financing Entity and the Indenture Trustee will enter into the Change of Law Protection Agreement under which the Province will agree 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 applicable Adherence Conditions.

Prior to entering into this Agreement, OPG provided the Province with the final forms of certain of the Transaction Documents, as described on Exhibit “A”, and the Province has not objected to such forms and hereby confirms to OPG that such Transaction Documents will constitute “Reference Documentation” for purposes of this Agreement.

Prior to entering into this Agreement, OPG, as the FSM, provided the Minister of Energy, in compliance with the Act, with the initial Financing Plan, which includes the initial forecast (the “**Initial Forecast**”) setting out OPG’s expectations regarding the aggregate maximum amount of Repayments that would arise in the future under Obligations Secured to be incurred during the 24 month period from December 1, 2017 to November 30, 2019 (the “**Initial Forecast Period**”). Prior to entering into this Agreement, OPG provided the Province with the initial Protection Agreement Maximum (the “**Initial Protection Agreement Maximum**”). The Province has received the initial Financing Plan and has not disagreed with the Initial Forecast or the Initial Protection Agreement Maximum on the basis of an apparent inaccuracy in the Initial Forecast, an inconsistency between the Initial Forecast and the initial Financing Plan, or as a result of the Initial Protection Agreement Maximum being more than the Initial Forecast.

This Agreement sets out the obligations OPG has agreed to perform and assurances OPG has agreed to provide and on which the Province will rely in entering into and implementing the Change of Law Protection Agreement, including for the purposes of determining whether the

applicable Adherence Conditions have been satisfied and maintaining information related to the Program Agreements and the Approved Obligations.

All things necessary to make this Agreement a valid and legally binding agreement of OPG and the Province, 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) the terms used in this Agreement that are not defined in this Agreement shall have the meanings assigned to them in the Change of Law Protection Agreement;
- (c) 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;
- (d) 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;
- (e) 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;
- (f) the word "will" shall be construed to have the same meaning and effect as the word "shall"; the word "or" is not exclusive;
- (g) 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;

- (h) 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;
- (i) “including” and words of similar import will be deemed to be followed by “without limitation”; and
- (j) 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 References to the Financing Entity

For greater certainty, each reference to the Financing Entity shall be construed as a reference to the Financing Entity Trustee, as trustee of the Financing Entity.

1.03 Effect of Headings

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

1.04 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.

1.05 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.

1.06 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.

1.07 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 (ONTARIO).

1.08 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.

1.09 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.

1.10 Non-Business Days

Whenever any period of time would begin or end 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 period of time shall begin or end, and such other action shall be taken on the next succeeding Business Day.

1.11 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.

ARTICLE II COVENANTS OF OPG

2.01 Deliveries to the Province

- (a) OPG shall promptly deliver to the Province a copy of any proposed change to or replacement of the Financing Plan.
- (b) Not less than 10 Business Days, or such lesser period as the Province may agree to in writing, prior to:
 - (i) any proposed material change in the terms or conditions applicable to a Primary Obligation in a previously provided Transaction Document becoming effective or otherwise being used ~~that could reasonably be expected to have a Material Effect¹~~; provided, ~~however~~for greater certainty, that a proposed change in particular financial terms, rates ~~and~~or levels ~~would~~shall not ~~be such a material change other than a proposed change to any specific requirements, limitations or parameters with respect to such financial terms, rates and levels that were set forth in the previously provided Transaction Document and that would have a Material Effect~~constitute a material change, and
 - (ii) any additional, supplemental² or replacement Transaction Document becoming effective or otherwise being used,

OPG shall deliver to the Province a copy of such proposed change to the Transaction Document and any such additional, supplemental or replacement Transaction Document.

- (c) Without limiting Subsection 2.01(b), and except as has previously been provided to the Province under Subsection 2.01(b), promptly following (i) 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 being made, (ii) any new, additional, supplemental or replacement instruments, documents, agreements or security being used or granted in connection with all or any part of the Approved Obligations, or (iii) any waiver, release, reconveyance, termination, abandonment, subordination, exchange, substitution, transfer, compound, compromise, liquidation or enforcement of all or any part of the Approved

¹ ~~Explanatory Note: New term to encapsulate and consistently use the materiality language previously incorporated in the "Substantially in the Form" provision.~~

² ~~Explanatory Note: Supplement (e.g., indenture supplement) needs to be captured. Supplement concept has been reinserted.~~

Obligations or any security or guarantee therefor being effected, OPG shall deliver to the Province a detailed description of such event and the reasons for it together with any related documents, agreements and instruments. *[Note to Province/Blakes: We assume that if the change is provided pursuant to Subsection 2.01(b) that it may not be redelivered under this section.]*

- (d) Promptly following any incurrence of a Funding Obligation or any amendment of a Funding Obligation, OPG shall provide the Province with electronic copies of all related Governing Documents and all other closing documents executed by or on behalf of the Financing Entity in connection with such incurrence or amendment that would affect the Financing Entity's assets or obligations (including, for greater certainty, any related Disclosure Document) and which have not been previously provided to the Province.
- (e) Promptly upon request, OPG shall provide the Province with such additional information and documentation as the Province reasonably requests in order to enable the Province to assess the nature and extent of its obligations under the Change of Law Protection Agreement.

2.02 **Covenants**

- (a) OPG shall use commercially reasonable efforts to cause the Financing Entity to:
 - (i) punctually perform and observe all of the Financing Entity's obligations and agreements contained in the Program Agreements;
 - (ii) ensure that all Obligations Secured are incurred pursuant to and in accordance with the terms and conditions of the Trust Indenture;
 - (iii) ensure that no obligations other than the Obligations Secured are incurred by or on behalf of the Financing Entity;
 - (iv) not engage in any business other than as permitted under the Declaration of Trust or the other Program Agreements and activities ancillary thereto; and
 - (v) not (unless waived in writing by the Province):
 - (A) amend, supplement, modify, restate or replace or waive or consent to a postponement of compliance with the terms and conditions on the part of any other party to any of the Program Agreements, if any such supplementation, amendment, modification, restatement, replacement, waiver or consent could reasonably be considered to have a Material Effect; provided, however, that the foregoing does not apply to any ~~supplementation~~supplement, amendment, modification, restatement, replacement, waiver or consent ~~of, to or in respect of particular financial terms, rates and levels other than a~~

~~supplementation, amendment, modification, restatement, replacement, waiver or consent to or in respect of any specific requirements, limitations or parameters with respect to such financial terms, rates and levels that were set forth in the applicable Program Agreement and that would have a Material Effect~~or levels;

- (B) extend, renew, compromise, novate, replace, suspend, reconvey, terminate, abandon, subordinate, exchange, substitute, transfer, compound, liquidate or enforce the terms of all or any part of the Approved Obligations or any Collateral, if any such action could reasonably be considered to have a Material Effect; provided, however, that the foregoing does not apply to any such action taken in respect of particular financial terms, rates ~~and levels other than such an action taken in respect of any specific requirements, limitations or parameters with respect to such financial terms, rates and levels that were set forth in the applicable Program Agreement and that would have a Material Effect~~or levels; or
- (C) permit the validity or effectiveness of the Change of Law Protection Agreement to be impaired.

(b) If any action restricted pursuant to Section 2.02(a)(v) is reflected in a delivery required to be made by OPG to the Province pursuant to Section 2.01(b) and is not objected to by the Province under Section 3.04(b), the Province shall be deemed to have waived its rights under Section 2.02(a)(v).

(c) ~~(b)~~ OPG shall:

- (i) comply, and shall use commercially reasonable efforts to cause compliance by the Financing Entity, with the Act, the General Regulation and any other enactment related thereto;
- (ii) punctually perform and observe all of its (including as the FSM and as Manager) obligations and agreements contained in the Program Agreements;
- (iii) promptly notify the Province of the creation of any Funding Obligation that is not or would not be an Approved Obligation; and
- (iv) notify the Province of (1) the occurrence of any Breach Event and any Program Breach, in each case within 2 Business Days of any such occurrence, and (2) any event or circumstance known to OPG that with the passage of time or the giving of notice would be a Breach Event or a

Program Breach, in each case within 1 Business Day of OPG first becoming aware of such event or circumstance; and³

- (v) after the occurrence of any Protection Event (or any event or circumstance known to OPG that with the passage of time or the giving of notice would be a Protection Event), not, without the Province's prior written consent, permit the Financing Entity to exercise any redemption, pre-payment, early termination or extension right in respect of any Approved Obligation or exercise any other election or privilege in respect of any Approved Obligation, in each case if as a result the obligations applicable to the Approved Obligation under the Change of Law Protection Agreement would be accelerated, delayed or otherwise affected.

(d) ~~(e)~~ The Province and OPG acknowledge that their obligations to each other under the Indemnity Agreement between the Province and OPG dated June 1, 2017 (as amended, the "**Indemnity Agreement**") are not amended by this Agreement and continue in full force and effect, notwithstanding that this Agreement is entered into subsequent to the Indemnity Agreement.

(e) ~~(d)~~ The Province and OPG acknowledge that their obligations to each other under the Indemnity Agreement are not amended by the Change of Law Protection Agreement and continue in full force and effect, notwithstanding that the Change of Law Protection Agreement was entered into subsequent to the Indemnity Agreement.

ARTICLE III PROCESS CERTIFICATE

3.01 Process Certificate

OPG shall deliver a certificate (the "**Process Certificate**"), signed by the Chief Financial Officer and the Treasurer of OPG or any two Executive Officers of OPG (for clarity, such certificate is to be provided by such officers in their capacity as officers of OPG acting in its capacity as FSM) and addressed to the Province, on or before the incurrence or any amendment of a Funding Obligation, other than any Funding Obligation under which not more than \$5,000,000 in the aggregate may become payable by the Financing Entity (provided that delivery may not be more than 5 Business Days before the incurrence or amendment of the Funding Obligation), setting out the following with respect to such Funding Obligation:

- (a) the material terms of the Funding Obligation pertaining to (i) in the case of notes, bonds or other securities, the principal amount, interest or discount rate, third party fees, term to maturity, amortization, redemption or extension features, structure and coupon frequency, as applicable, and (ii) in the case of a Derivative Agreement, OPG's best estimate of the expected notional amount, financial terms and pricing, benchmarks, payment structures and early termination rights;

³ ~~Explanatory Note: This is especially needed in light of Province's passive role and reliance on OPG.~~

- (b) if an existing Funding Obligation is proposed to be amended, material details respecting such amendment, including regarding the applicable details set forth in Subsection 3.01(a), as the context requires;
- (c) a statement to the effect that: (i) the Funding Obligation to be incurred or amended (1) will arise under terms and conditions that are Substantially in the Form of the Reference Documentation applicable thereto; (2) in the opinion of the signatories to the Process Certificate, are reasonably incurred or effected in compliance with the Act, the General Regulation, any other enactments related thereto and the applicable Financing Plan; (3) are of a type and are on terms that a reasonably prudent financial services manager would incur in similar circumstances; and (4) reflect, in all material respects, arm's length terms and conditions; and (ii) any Disclosure Document used in connection with the offering and sale of notes, bonds or other securities is Substantially in the Form of the Reference Documentation;
- (d) a statement confirming that any disclosure made in respect of the Funding Obligation (including any Disclosure Document, press release or other written communication prepared for dissemination to third parties in relation to the Funding Obligation) that refers to or describes the terms, effect or adherence of or to this Agreement or the Change of Law Protection Agreement has been made available to the Province prior to use or dissemination, other than where such disclosure was substantially the same as a disclosure previously made;
- (e) a statement that no Breach Event has occurred on or prior to the date of the Process Certificate, unless such Breach Event has been waived by the Province in writing; and
- (f) confirmation that, at the time the Funding Obligation is incurred or amended, the maximum aggregate payment amounts due or becoming due in the future in respect of Repayments under the Funding Obligation, together with all other outstanding amounts due or becoming due in the future in respect of Repayments under all Approved Obligations, do not and will not exceed the Protection Agreement Maximum applicable on the date that the Process Certificate is delivered; for clarity, Repayments under Obligations Secured owing in currencies other than Canadian dollars will be determined on the date the Process Certificate is delivered hereunder in accordance with the following:
 - (i) where a Derivative Agreement has been entered into to hedge related currency exposures, Repayments under such obligations shall be valued on the basis of the hedged value expressed in Canadian dollars; and
 - (ii) where a Derivative Agreement has not been entered into to hedge related currency exposures, Repayments under such obligations shall be valued on the basis of the noon spot rate for conversions of any currencies into Canadian dollars.

3.02 Acknowledgement regarding delivery of certificate under Change of Law Protection Agreement

The Province acknowledges and agrees that, concurrent with the delivery of the Process Certificate pursuant to Section 3.01 of this Agreement, the Chief Financial Officer and the Treasurer of OPG or any two Executive Officers of OPG (for clarity, such certificate is to be provided by such officers in their capacity as officers of OPG acting in its capacity as FSM) are authorized to deliver the certificate referred to in Subsection 4.02(a)(ii) of the Change of Law Protection Agreement to the Indenture Trustee confirming that OPG has complied with all of its obligations to the Province and internal requirements and processes in connection with adherence of the Limited Guarantee to the incurrence of the Certified Primary Obligations in respect of which the certificate in Subsection 4.02(a)(ii) of the Change of Law Protection Agreement is being delivered; provided that, upon receipt of a Suspension Notice under the Change of Law Protection Agreement, OPG covenants not to deliver any further certificates to the Indenture Trustee under Subsection 4.02(a)(ii) of the Change of Law Protection Agreement ~~but, for greater certainty, OPG, as FSM, may deliver a certificate referred to in Subsection 4.02(b)(ii) of the Change of Law Protection Agreement to the Indenture Trustee and the Province in connection with an Approved Refinancing.~~

3.03 Acknowledgement regarding delivery of Suspension Notice

The parties acknowledge and agree that the Province is entitled to deliver a Suspension Notice under Section 7.01 of the Change of Law Protection Agreement if a Program Breach or Breach Event has occurred. The Province agrees not to deliver a Suspension Notice pursuant to Section 7.01 of the Change of Law Protection Agreement unless a Program Breach or a Breach Event has occurred.

3.04 Meaning of “Reference Documentation”

For the purposes of Subsection 3.01(c), the term “Reference Documentation” shall mean each Transaction Document that, at the relevant time:

- (a) is a Transaction Document listed on Exhibit “A”; or
- (b) is a Transaction Document (including any amended or amended and restated Transaction Document) provided to the Province in accordance with Subsection 2.01(b) that has not been objected to by the Province, by delivery of an objection notice in writing delivered to OPG, within 10 Business Days after it is provided to the Province; provided that the Province (i) shall only be entitled to deliver an objection notice if the Transaction Document (including any amended or amended and restated Transaction Document) has a Material Effect and (ii) shall not be entitled to deliver an objection notice in respect of a Post-Suspension Refinancing.

3.05 Meaning of “Substantially in the Form”

For the purposes of Subsection 3.01(c), the term “Substantially in the Form” shall mean:

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- (a) with respect to the Reference Documentation referred to in clauses (i) to (xi) of the definition of “Transaction Documents”, that there are no differences between the proposed documents and such Reference Documentation that could result in a change in the material terms or conditions applicable to the applicable Primary Obligation that could have a Material Effect; provided, however, that the foregoing does not apply to any particular financial terms, rates ~~and levels set forth in the proposed documents other than to the extent that the forms of Reference Documentation themselves specify specific requirements, limitations or parameters with respect to such financial terms, rates, levels and parameters~~or levels; and
- (b) with respect to the Reference Documentation referred to in clause (xii) of the definition of “Transaction Documents”, that there are no material differences between the form and substance of the proposed Disclosure Document and such form of Disclosure Document and that the proposed Disclosure Document complies in all material respects with all applicable securities disclosure requirements relating to the Primary Obligation subject to distribution thereunder.

ARTICLE IV PROTECTION AGREEMENT MAXIMUM

4.01 Protection Agreement Maximum

- (a) Between nine (9) and twelve (12) months prior to the end of the Initial Forecast Period, OPG shall, as the FSM, deliver to the Province an updated forecast setting out the sum of (1) the aggregate amount of Repayments that will arise in the future under ~~Approved~~ Obligations Secured that are then outstanding and (2) OPG’s expectations regarding the aggregate maximum amount of Repayments that would arise in the future under ~~Approved~~ Obligations Secured to be incurred during the period ending 24 months following the Initial Forecast Period, which expectation shall be consistent with the then applicable Financing Plan. Such updated forecast shall be further updated on a similar basis with respect to each successive 24 month period or more frequently if at any time OPG has knowledge that the most recent forecast is materially inaccurate (the Initial Forecast and each such updated forecast, each a “Forecast”). Together with each Forecast, OPG shall also provide a revised Protection Agreement Maximum, which may not exceed such Forecast. [Note to Province/Blakes: Change made to be consistent with changes in recitals and to reflect what is provided in the Financing Plan.]
- (b) Not more than 10 Business Days, or such lesser period as the Province may agree to in writing, following receipt of any further Forecast and notice of the revised Protection Agreement Maximum from OPG pursuant to Section 4.01(a), the Province may disagree with such further Forecast or revised Protection Agreement Maximum on the basis that (i) there appears to be inaccuracies in such further Forecast, (ii) the further Forecast is inconsistent with the Financing Plan, or (iii) the revised Protection Agreement Maximum is more than the further Forecast. If

the Province disagrees, OPG shall discuss any discrepancies with the Province, address any inaccuracies and inconsistencies to the reasonable satisfaction of the Province and OPG, and the revised Protection Agreement Maximum will be further revised accordingly and confirmed by an amended notice to the Province.

- (c) For clarity, Repayments under Obligations Secured owing in currencies other than Canadian dollars will be valued at the time to be determined for the purposes of this Section 4.01 in accordance with the following:
 - (i) where a Derivative Agreement has been entered into to hedge related currency exposures, Repayments under such obligations shall be valued on the basis of the hedged value expressed in Canadian dollars; and
 - (ii) where a Derivative Agreement has not been entered into to hedge related currency exposures, Repayments under such obligations shall be valued on the basis of the noon spot rate for conversions of any currencies into Canadian dollars.

ARTICLE V REPRESENTATIONS AND WARRANTIES

5.01 **Representations and Warranties of OPG**

OPG represents and warrants that on the date hereof and on each day that a Primary Obligation is incurred or amended:

- (a) The Financing Entity is a trust duly constituted and validly existing under the laws of the Province of Ontario, is duly qualified to carry on its business in each jurisdiction in which it carries on business, and has the power and authority to perform the acts that OPG, as the FSM, may cause it to perform pursuant to this Agreement and to own its property and carry on its business in accordance with the Program Agreements.
- (b) OPG is a corporation duly constituted and validly existing under the laws of the Province of Ontario and has the power and authority to enter into and perform its obligations under this Agreement and all instruments and agreements delivered pursuant hereto.
- (c) OPG has the power and authority to enter into and perform its obligations as the FSM under the Program Agreements and all instruments and agreements delivered pursuant thereto.
- (d) The execution, delivery and performance of this Agreement and every instrument or agreement delivered pursuant hereto or in its capacity as the FSM has been or will be duly authorized by all requisite action by OPG and constitute a valid and binding obligation in accordance with its terms subject to (i) applicable bankruptcy, insolvency, moratorium and similar laws at the time in effect

affecting the rights of creditors generally, and (ii) equitable principles which may limit the availability of certain remedies, including the remedy of specific performance.

- (e) There are no actions, suits or proceedings pending or, to the knowledge of OPG, threatened against or affecting the Financing Entity at law or in equity or before or by any Governmental Authority, or before any arbitrator of any kind, which would result in any material adverse change in the business, operations, prospects, properties, assets or condition, financial or otherwise, of the Financing Entity or in the ability of the Financing Entity to perform its obligations under the Program Agreements.
- (f) There are no actions, suits or proceedings pending or, to the knowledge of OPG, threatened against or affecting OPG at law or in equity or before or by any Governmental Authority, or before any arbitrator of any kind, which would result in any material adverse change in the business, operations, prospects, properties, assets or condition, financial or otherwise, of OPG or in the ability of the OPG to perform its obligations under this Agreement or any Program Agreements.
- (g) The performance by the Financing Entity of the Program Agreements does not conflict with, will not conflict with, does not result in, and will not result in, any breach of, and does not constitute, a default under, the Declaration of Trust or any agreements or instruments to which the Financing Entity is a party or by which it or any of its property and assets are bound.
- (h) Neither the execution nor delivery of this Agreement, the Program Agreements nor any agreements or instruments delivered pursuant hereto or thereto, the consummation of the transactions herein or therein, nor compliance with the terms, conditions and provisions hereof or thereof conflicts with or will conflict with, or results or will result in any breach of, or constitutes a default under, any of the provisions of the constating documents of OPG or any agreements or instruments to which OPG is a party or by which it or any of its property and assets are bound.
- (i) No consent, approval or authorization of, or declaration, registration, filing or qualification with, or giving of notice to, or taking of any other action in respect of, any Governmental Authority on the part of OPG is required in connection with the execution and delivery of this Agreement, the Program Agreements or any agreements or instruments delivered pursuant hereto or thereto or the consummation of any of the transactions contemplated hereby or thereby or in connection with the enforcement of this Agreement, the Program Agreements or any agreements or instruments delivered pursuant hereto or thereto, except those which have been obtained.

5.02 Representations and Warranties of the Province

The Province hereby represents and warrants that:

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- (a) the execution and delivery of, and the performance of its obligations under, this Agreement by the Province have been authorized by all necessary action on the part of the Province;
- (b) the execution and delivery of, and the performance of its obligations under, this Agreement by the Province do not result in the violation of any applicable law; and
- (c) this Agreement has been duly executed and delivered by the Province.

ARTICLE VI BREACH EVENTS

6.01 Breach Events

“**Breach Event**” shall mean the occurrence or existence of any one or more of the following:

- (a) a default in the performance, or breach, by OPG of Section 2.01(b)(i), Section 2.02(b)(iv)⁴ or Section 3.01⁵;
- (b) a default in the performance, or breach, of any other covenants of OPG under this Agreement (excluding Section 2.01(b)(i), Section 2.02(b)(iv) and Section 3.01), which, if curable in a way such that the default or breach would not have or have had a Material Effect⁶, is not so cured within thirty (30) days;
- (c) any representation or warranty made by OPG in this Agreement, any certification made in a Process Certificate, or any certification made in a certificate contemplated by Subsection 4.02 of the Change of Law Protection Agreement, proves to be incorrect in a material respect on the date made and which, if curable in a way such that the incorrect representation or warranty may be remedied without any Material Effect⁷ having occurred as a result of the Province’s reliance thereon, is not so cured within thirty (30) days; or [Note to Province/Blakes: Change made to be consistent with description of Breach Event in the Change of Law Protection Agreement.]
- (d) OPG is no longer the Manager or actions have been taken by or on behalf of the Indenture Trustee to remove OPG as the Manager.

⁴ ~~Explanatory Note: This recognizes that a failure to notify the Province of an event that would allow it to deliver a Suspension Notice cannot itself be cured since that would create a self-defeating loop from the Province’s standpoint.~~

⁵ ~~Explanatory Note: This recognizes that a failure to deliver a Process Certificate when required cannot be cured, as this goes to the workability of the corresponding provisions in the Protection Agreement. It would defeat the structure to allow a Protection Agreement certificate to be delivered to satisfy the adherence conditions based on the idea that a default cure period had not yet lapsed in connection with a failure to deliver a Process Certificate.~~

⁶ ~~Explanatory Note: This recognizes that a cure period will only be reasonable if the consequence of a possible cure would be that no Material Effect would be/have been created.~~

⁷ ~~Explanatory Note: Same.~~

ARTICLE VII MISCELLANEOUS

7.01 Term of Agreement

This Agreement will continue for the term of the Change of Law Protection Agreement.

7.02 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 OPG:

Ontario Power Generation Inc.
700 University Avenue
Toronto, Ontario M5G 1X6
Attention: General Counsel
Fax: (416) 592-4189

- (b) if to the Province:

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

and

Deputy Ministry of Energy
[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 7.02.

7.03 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 7.03 shall be null and void.

7.04 Enurement

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

7.05 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.

7.06 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.**

By: _____
Name:
Title:

By: _____
Name:
Title:

Each of the undersigned hereby acknowledge the foregoing as of the day and year first above written.

**COMPUTERSHARE TRUST COMPANY
OF CANADA**, in its capacity as trustee of **FAIR
HYDRO TRUST**, as Issuer, by **ONTARIO
POWER GENERATION INC.**, not in its
individual capacity but solely as Manager

By: _____

Name:

Title:

By: _____

Name:

Title:

Signature Page – Process Agreement

23239361.24

~~24622622.1~~24622622.2

SCHEDULE A

DEFINED TERMS

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

~~“**Adherence Conditions**” has the meaning ascribed thereto in the Change of Law Protection Agreement.~~

~~“**Approved Obligation**” has the meaning ascribed thereto in the Change of Law Protection Agreement, and, for greater certainty, will include any Approved Refinancing.~~

~~“**Approved Refinancing**” means a Certified Primary Obligation proposed to be incurred on or after the occurrence of a Suspension Event, as a Refinancing of an existing Certified Primary Obligation in respect of which the Adherence Conditions had been satisfied on the date such existing Certified Primary Obligation was incurred, that, at the time of incurrence, satisfies each of each of the Adherence Conditions except that the certificate contemplated to be delivered under Section 4.02(b) shall instead confirm that OPG has delivered to the Province a certificate by its applicable officers confirming that OPG would be in compliance with all obligations to the Province and internal requirements and processes in connection with the adherence of the Limited Guarantee to the proposed Certified Primary Obligation that applied as between the Province and OPG on the date of issuance of such existing Certified Primary Obligation.~~

~~“**Beneficiaries**” has the meaning ascribed thereto in the Change of Law Protection Agreement.~~

“**Breach Event**” has the meaning ascribed thereto in Section 6.01.

“**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.

~~“**Certified Primary Obligations**” has the meaning ascribed thereto in the Change of Law Protection Agreement.~~

“**Change of Law Protection Agreement**” means the Change of Law Protection Agreement dated [■], 2017 among the Province, the Financing Entity, OPG (as the FSM and the Manager) and the Indenture Trustee.

“**Collateral**” has the meaning ascribed thereto in the Trust Indenture.

“**Co-Owner Agreement**” means any agreement between, *inter alia*, the Financing Entity and any other owner or owners of an Investment Interest as contemplated by Subsection 29(5) of the Act.

“**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.

“Disclosure Document” means a disclosure document (including any offering circular, prospectus or other investor disclosure statement) describing the material terms of the notes, bonds or securities to be issued pursuant to a supplemental indenture under the Trust Indenture, together with any related material information;

~~**“Executive Officer”** has the meaning ascribed thereto in the Change of Law Protection Agreement.~~

“Financing Entity” means Fair Hydro Trust, a trust settled by the FSM under the laws of the Province of Ontario and under which the Financing Entity Trustee is the trustee.

~~**“Financing Entity Trustee”** has the meaning ascribed thereto in the Change of Law Protection Agreement.~~

“Financing Plan” has the meaning ascribed thereto in the Act as of the date of this Agreement.

“Forecast” has the meaning ascribed thereto in Section 4.01(a).

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

“Funding Obligation” has the meaning ascribed to the term “funding obligation” in the Act as of the date of this Agreement.

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

“Governing Document” has the meaning ascribed to the term “governing document” in the General Regulation.

“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 as of the date of this Agreement.

“IESO Security Agreement” has the meaning ascribed thereto in the Trust Indenture.

~~“Indenture Trustee” has the meaning ascribed thereto in the Change of Law Protection Agreement.~~

“Initial Forecast” has the meaning ascribed thereto in the recitals of this Agreement.

“Initial Forecast Period” has the meaning ascribed thereto in the recitals of this Agreement.

“Initial Protection Agreement Maximum” has the meaning ascribed thereto in the recitals of this Agreement.

“Investment Interest” has the meaning ascribed to the term “investment interest” in the Act as of the date of this Agreement.

~~“Limited Guarantee” has the meaning ascribed thereto in the Change of Law Protection Agreement.~~

~~“Management Agreement” has the meaning ascribed thereto in the Change of Law Protection Agreement.~~

~~“Manager” has the meaning ascribed thereto in the Change of Law Protection Agreement.~~

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

“Material Effect” means ~~a material effect on the obligations (including as a result of a change in the nature, scope or extent of the Primary Obligation and the effect on the Province’s obligations therefor under the Limited Guarantee) or rights of the Province under the Limited Guarantee, the Change of Law Protection Agreement or this Agreement, including any proposed~~ (i) with respect to a previously provided Transaction Document, any change or action, as applicable, that could affect the timing of or circumstances under which related payments would or may become due or accrue (including as a result of any default, acceleration, termination, wind-up, liquidation or realization), or that could adversely affect the Province’s rights of subrogation or assignment (including pursuant to Sections 1.05, 2.01 or 5.01 of the Change of Law Protection Agreement) or its interests as a subrogee or an assignee, that would arise as a result of performing the Limited Guarantee in respect of the applicable Primary Obligation or (ii) with respect to any additional, supplemental or replacement Transaction Document, such Transaction Document contains a term that (X) could adversely affect the Province’s rights of subrogation or assignment (including pursuant to Sections 1.05, 2.01 or 5.01 of the Change of Law Protection Agreement) or its interests as a subrogee or an assignee, that would arise as a result of performing the Limited Guarantee in respect of the applicable Primary Obligation or (Y) relates to the timing of or circumstances under which Primary Obligations would or may become due or accrue (including as a result of any default, acceleration, termination, wind-up, liquidation or realization) that is different in any material respect than the equivalent terms contained in any previously provided Reference Documentation.

“Obligations Secured” has the meaning ascribed thereto in the Trust Indenture.

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

“**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**” has the meaning ascribed thereto in the Change of Law Protection Agreement.~~

“**Process Certificate**” has the meaning ascribed thereto in Section 3.01.

“**Program Agreements**” has the meaning ascribed thereto in the Trust Indenture.

~~“**Program Breach**” has the meaning ascribed thereto in the Change of Law Protection Agreement.~~

“**Protection Agreement Maximum**” means the dollar amount referenced as the Program Agreement Maximum and determined in accordance with Section 4.01.

~~“**Protection Event**” has the meaning ascribed thereto in the Change of Law Protection Agreement.~~

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

“**Rating Agency**” has the meaning ascribed thereto in the Trust Indenture.

“**Reference Documentation**” has the meaning ascribed thereto in Section 3.04.

“**Repayment**” has the meaning ascribed to the term “repayment” in the General Regulation as of the date of this Agreement.

~~“**Specified Creditors**” has the meaning ascribed thereto in the Trust Indenture.~~

“**Substantially in the Form**” has the meaning ascribed thereto in Section 3.05.

~~“**Suspension Notice**” has the meaning ascribed thereto in the Change of Law Protection Agreement.~~

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

“**Transaction Document**” means (i) all constating and organizational documents of the Financing Entity, including the Declaration of Trust; (ii) any management, administration or servicing agreement to which the Financing Entity is a party, including any replacement or standby services agreement and the Management Agreement; (iii) the Master Transfer and Servicing Agreement; (iv) Trust Indenture; (v) the form of supplemental indenture (supplemental to the Trust Indenture) governing the terms and conditions of a sample series of notes, bonds or

other securities to be issued by the Financing Entity, including the particular allocations, security and priority of the Obligations Secured being serviced by the related Investment Interest and any other related series property; (vi) the form of any note, bond or securities purchase agreement; (vii) the form of underwriting agreement, agency agreement, selling agreement and/or subscription agreement that may be used with respect to a sale of a related series of notes, bonds or securities to be issued under the supplemental indenture referred to in (v), above; (viii) the form of any loan or credit agreement governing the issuance of short term loan obligations by the Financing Entity; (ix) the form of schedule to an ISDA Master Agreement governing derivative transactions that may be entered into the Financing Entity from time to time; (x) the form of any other agreement or instrument under which a Funding Obligation may arise or be effected, including any other agreement under which the Financing Entity incurs a material financial obligation or that could affect the Province's rights of subrogation or assignment (including pursuant to Sections 1.05, 2.01 or 5.01 of the Change of Law Protection Agreement) or its interests as a subrogee or an assignee, including any standby liquidity arrangements or credit enhancement agreements; (xi) if applicable, a Co-Owner Agreement or any other agreement governing the respective interests of persons having rights or interests in the investment asset or other assets of the Financing Entity, including any other agreement of the sort contemplated in Subsection 29(5) of the Act; and (xii) the form of Disclosure Document.

“Trust Indenture” means the trust indenture between the Financing Entity and the Indenture Trustee dated as of [■], 2017.

EXHIBIT “A”
INITIAL REFERENCE DOCUMENTATION⁸

- ☐ Declaration of Trust;
- ☐ Management Agreement;
- ☐ Master Transfer and Servicing Agreement;
- ☐ Acknowledgement and indemnity agreement dated as of [■], 2017 made by IESO in favour of the Indenture Trustee;
- ☐ IESO Security Agreement;
- ☐ Trust Indenture;
- ☐ Warehouse Senior Series 2017-1 Supplemental Indenture between the Financing Entity and the Indenture Trustee dated as of [■], 2017;
- ☐ Warehouse Subordinated Series 2017-1 Supplemental Indenture between the Financing Entity and the Indenture Trustee dated as of [■], 2017; and
- ☐ ~~{~~ Warehouse Junior Subordinated Series 2017-1 Supplemental Indenture between the Financing Entity and the Indenture Trustee dated as of [■], 2017.~~}~~⁹

⁸ ~~Explanatory Note: The Province is limiting this to the documents required to complete the warehouse financing. Term issuance related documents will be considered by the Province once received under 2.01(b)(ii) and become part of the Reviewed Documentation in accordance with 3.04(b).~~

⁹ ~~Explanatory Note: This should be deleted unless it will be used in the initial transaction.~~

Document comparison by Workshare Compare on December-12-17 1:16:49 AM

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