OSLER COMMENTS ON TORYS' DRAFT: May 29, 2017
IESO COMMENTS: June 21, 2017

MASTER ~~SALE~~TRANSFER AND SERVICING AGREEMENT

between

[FINANCING ENTITY]
as Issuer

- and -

INDEPENDENT ELECTRICITY SYSTEM OPERATOR
as ~~Seller~~Transferor and Servicer

- and -

■
as Indenture Trustee

Dated as of ■, 2017

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EXHIBIT

MASTER ~~SALE~~TRANSFER AND SERVICING AGREEMENT

THIS AGREEMENT made as of ■, 2017.

BETWEEN:

[FINANCING ENTITY], a **[trust/corporation] [formed/incorporated]** under the laws of the Province of Ontario

(the "**Issuer**")

\- and -

INDEPENDENT ELECTRICITY SYSTEM OPERATOR, a statutory corporation without share capital amalgamated under the laws of the Province of Ontario

(the "~~**Seller**~~**Transferor**" in its capacity as ~~seller~~transferor, the "**Servicer**", in its capacity as servicer, and the "**IESO**" in its capacity as both ~~Seller~~Transferor and Servicer)

\- and -

[INDENTURE TRUSTEE], a trust company existing under the laws of Canada and duly authorized to carry on the business of a trust company in all of the provinces and territories of Canada, as indenture trustee

(the "**Indenture Trustee**")

WHEREAS the Government of Ontario has enacted the *Ontario Fair Hydro Act, 2017* (the "**Act**") for the purpose of, among other things, ensuring that clean energy costs and clean energy benefits (each as defined in the Act) are fairly allocated among present and future Specified Consumers;

AND WHEREAS, under the Act, the IESO is required to establish and maintain the Fair Hydro Variance Account, and has ~~a statutory~~the right under the Act and the Regulations to record certain amounts in the Fair Hydro Variance Account and recover the balance from time to time of the Fair Hydro Variance Account from Specified Consumers (such ~~rights comprising a~~right, the "**Regulatory Asset**");

AND WHEREAS the IESO may from time to time, in accordance with the Act, Transfer a specified portion of the Regulatory Asset to the Issuer on a fully-serviced basis and such Transfer shall result in (i) a reduction in the balance in the Fair Hydro Variance Account, (ii) the corresponding adjustment of the Regulatory Asset, and (iii) the acquisition by the Issuer of an Investment Interest corresponding to the specified portion of the Regulatory Asset;

AND WHEREAS the Issuer may finance the acquisition from the IESO, from time to time, of an Investment Interest through the incurrence of Funding Obligations under the Indenture;

AND WHEREAS the Issuer will grant a security interest over all of the Issuer Investment Interest to and in favour of the Indenture Trustee on behalf of all Specified Creditors;

AND WHEREAS in connection with its ownership of the Issuer Investment Interest and in order to collect the associated Clean Energy Adjustments in accordance with the Act, the Issuer desires to engage the Servicer to carry out the services described herein and the Servicer desires to be so engaged;

NOW THEREFORE in consideration of the foregoing and the mutual covenants and agreements contained herein (the receipt and adequacy of which are hereby acknowledged), the parties hereto agree as follows:

ARTICLE 1 INTERPRETATION

1.1 Definitions

In this Agreement, the following terms have the following meanings:

"**Act**" has the meaning ascribed thereto in the recitals;

"**Administrative Services Agreement**" means the administrative services agreement dated ■, 2017 between the Administrative Agent and the Issuer concerning the administration of the Issuer;

"**Administrative Agent**" means OPG, in its capacity as administrative agent of the Issuer;

"**Affiliate**" means, with respect to any specified Person, any other Person controlling or controlled by or under common control with such specified Person. For the purposes of this definition, "**control**" when used with respect to any specified Person means the power to direct the management and policies of such specified Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise, and the terms "**controlling**" and "**controlled**" have meanings correlative to the foregoing;

"**Agreement**" means this master ~~sale~~transfer and servicing agreement, as amended, supplemented, modified, restated or replaced from time to time, and the expressions "herein", "hereof", "hereto", "hereunder" and similar expressions refer to this Agreement and not to any Article, Section, paragraph, subparagraph or clause hereof;

"**Billing Period**" means a calendar month;

"**Board**" means the Ontario Energy Board, a statutory corporation without share capital continued under the *Ontario Energy Board Act, 1998*, S.O., 1998;

"**Business Day**" means any day other than a Saturday, a Sunday or ~~a~~other day on which banking institutions in Toronto, Ontario are~~, or the office of the Indenture Trustee is,~~ authorized or obligated by law, regulation or executive order to be closed;

"**CEA Consumer Invoice Amounts**" means amounts invoiced by an Electricity Vendor to Specified Consumers in respect of the Clean Energy Adjustment based on the rates established by the Board;

"**Clean Energy Adjustment**" means the amount that is payable by Specified Consumers in respect of each month in a Reference Period as determined by the Financial Services Manager in accordance with the Act and the Regulations;

"**Closing Date**" means the date on which a Transfer is completed as specified in the applicable Transfer Notice;

"**Collection Account**" has the meaning ascribed thereto in Section **[8.02(a)]**[1] of the Indenture;

"**Co-Owner Agreement**" means any agreement between the Issuer and any other owner or owners of an Investment Interest as contemplated by subsection **[29(5)]** of the Act;

"**Co-Owner Implementation Date**" means the date, if any, upon which the Issuer Investment Interest ceases to be the only Investment Interest outstanding representing the full Investment Asset.

"**Corporate Trust Office**" means the office of the Indenture Trustee at which, at any particular time, its corporate trust business shall be administered, which office as of the date hereof is located at ■; Telephone: ■; email: ■, or at such other address as the Indenture Trustee may designate from time to time by notice to the Specified Creditors and the Issuer, or the principal corporate trust office of any successor trustee designated by like notice;

"**Daily Remittance Event**" means ■ **[NTD: Definition to be tied to the loss of investment grade ratings of the IESO]**;

["Declaration of Trust" means the declaration of trust made as of ■, 2017 under which the Issuer was established, as may be supplemented, amended, replaced or amended and restated from time to time;][2]

"**Electricity Act**" means the *Electricity Act, 1998*, SO, 1998;

"**Electricity Vendor**" has the meaning ascribed to it in the Act;

"**Electricity Vendor CEA Collections**" means payments actually received by Electricity Vendors from Specified Consumers in respect of Clean Energy Adjustments;

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1 All cross-references to the Indenture to be conformed to the final version of the Indenture.

2 To be included if financing entity is a trust.

"**Fair Hydro Variance Account**" means the variance account established by the IESO pursuant to subsection **[24(1)]**[3] of the Act;

"**Financial Services Management Agreement**" means the financial services management agreement dated ■, 2017 between the Financial Services Manager, the Issuer and, pursuant to joinder agreements as contemplated by the Co-Owner Agreement, any other Financing Entities that may be established and acquire Investment Interests;

"**Financial Services Manager**" means OPG, in its capacity as financial services manager appointed under the Act to administer the Investment Interests of the Issuer and any other Financing Entities and perform such other duties assigned to it thereunder;

"**Financing Entity**" has the meaning ascribed to it in the Act;

"**Funding Obligations**" has the meaning ascribed to it in 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**" or "**Independent Electricity System Operator**" means the Independent Electricity System Operator, a statutory corporation without share capital established by the Electricity Act;

"**IESO Deferral**", at any time, means the amount for each calendar month determined by the IESO under subsection **[23(1)]** of the Act and recorded by the IESO under subsection **[24(1)]** of the Act in the Fair Hydro Variance Account at such time;

"**IESO Disclosure**" has the meaning ascribed thereto in Section 5.8;

"**IESO Segregated Account**" means the account established under Section 3.3(a)

"**Eligible Deposit Account**" means an account in Canada with an Eligible Institution. [NTD: this defn and Eligible Institution are out of order.]

"**Eligible Institution**" means:

(a) At any time before the Co-Owner Implementation Date, an "Eligible Institution" as defined in the Indenture; and

(b) At any on or after the Co-Owner Implementation Date, an "Eligible Institution" as defined in the Co-Owner Agreement.

~~"**Indemnified Losses**" has the meaning ascribed thereto in Section 6.1(a);~~

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[3] All cross-references to the Act to be conformed to the final version of the legislation.

~~"**Indemnified Party**" means any Person who may be indemnified pursuant to Section 6.1 of this Agreement;~~

"**Indenture**" means the master trust indenture dated ■, 2017 between the Indenture Trustee and the Issuer;

"**Indenture Trustee**" means ■, a trust company existing under the laws of Canada and duly authorized to carry on the business of a trust company in all of the provinces and territories of Canada, as indenture trustee for the benefit of Specified Creditors, or any successor thereto, under the Indenture;

"**Insolvency Event**" means, with respect to a specified Person, the specified Person admits the inability of such specified Person to pay its liabilities generally as they become due or makes a general assignment for the benefit of the creditors of such specified Person or otherwise acknowledges the insolvency of such specified Person or any proceeding shall be instituted by or against such specified Person seeking to adjudicate it a bankrupt or insolvent or seeking liquidation, winding up, dissolution, reorganization, arrangement, adjustment, protection, relief or composition of its debts under any law relating to bankruptcy, insolvency, reorganization, moratorium or relief of debtors or seeking the entry of an order for relief by the appointment of a receiver, trustee or other similar official for such specified Person or for any substantial part of its property and if such proceeding has been instituted against such specified Person either such proceeding has not been stayed or dismissed within **[45]** days or any of the actions sought in such proceeding (including the entry of an order for relief or the appointment of a receiver) are granted in whole or in part, or if a receiver is privately appointed in respect of such specified Person or of the property of such specified Person or any substantial part thereof;

"**Investment Asset**" has the meaning ascribed to it in the Act;

"**Investment Interest**" has the meaning ascribed to it in the Act;

"**Issuer**" means ■, a **[trust/corporation] [formed/incorporated]** under the laws of the Province of Ontario;

"**Issuer Funding Obligations**" means the Funding Obligations of the Issuer;

"**Issuer Investment Interest**" means initially, the Investment Interest acquired by the Issuer pursuant to the first Transfer completed under this Agreement and, upon the completion of each Transfer thereafter, the cumulative Investment Interests acquired by the Issuer which shall be combined and be one Investment Interest for the purposes of this Agreement and the Act from and after their acquisition by the Issuer.

["Issuer Trustee" means, at any time, the Person who is, in accordance with the Declaration of Trust, the trustee of the Issuer at such time;][4]

"**Issuer Share**" means:

[4] Include if financing entity is a trust.

(a) At any time before the Co-Owner Implementation Date, 100%; and

(b) At any on or after the Co-Owner Implementation Date, the percentage determined in accordance with the Co-Owner Agreement.

"**Lien**" means a security interest, lien, mortgage, charge, pledge, claim or encumbrance of any kind;

"**Minister**" means the Minister of Energy or such other member of the Executive Council as may be assigned the administration of the Act under the *Executive Council Act*;

"**Monthly Report**" has the meaning ascribed thereto in Section 3.3(e);

~~"**Nonrecoverable Servicer Advance**" means any Servicer Advance previously made or proposed to be made that, as determined by the Servicer in good faith and in its reasonable judgment, will not be ultimately recoverable from future Servicer CEA Collections; [**NTD: if the Servicer Advances are to be added to the Funding Obligations, how can they ever be considered non-recoverable?**]~~

"**Officer's Certificate**" means a certificate signed by a Responsible Officer of the Issuer under the circumstances described in, and otherwise complying with, the applicable requirements of Section **[10.01]** of the Indenture, and delivered to the Indenture Trustee;

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

"**Opinion of Counsel**" means one or more written opinions of counsel, who may, except as otherwise expressly provided in the Program Agreements, be employees of or counsel to the party providing such opinion of counsel, which counsel shall be reasonably acceptable to the party receiving such opinion of counsel, and shall be in form and substance reasonably acceptable to such party;

"**Outstanding Amount**" means the aggregate principal amount of all Funding Obligations outstanding at the date of determination;

"**Permitted Successor**" means any successor to the IESO under the Act, whether pursuant to any bankruptcy, reorganization or other insolvency proceeding or pursuant to any merger, conversion, acquisition, sale or transfer, by operation of law, as a result of any restructuring, or otherwise, but only to the extent such successor is approved by the Minister;

"**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;

"**Proceeding**" means any suit in equity, action at law or other judicial or administrative proceeding;

"**Program Agreements**" means the Indenture, each Supplemental Indenture, **[the Declaration of Trust]**, the Financial Services Management Agreement, the Administrative Services Agreement, this Agreement, each Transfer Notice, any Co-Owner Agreements, the Provincial Support Agreement and any hedging agreements, credit enhancement agreements, loan agreements, subordinated loan agreements, security agreements and underwriting or agency agreements in effect at such time and all other documents and certificates delivered in connection therewith;

"**Provincial Support Agreement**" means the Provincial Support Agreement dated as of ■, 2017 between Her Majesty the Queen in Right of Ontario, as represented by the Minister, the Indenture Trustee and the Issuer;

"**Purchase Price**" has the meaning ascribed thereto in Section 2.1(a);

"**Rating Agency**" has the meaning ascribed thereto in the Indenture;

"**Rating Agency Condition**" has the meaning ascribed thereto in the Indenture;

"**Records**" has the meaning ascribed thereto in Section 7.1;

"**Reference Period**" has the meaning ascribed to it in the Act;

"**Regulations**" means the regulations promulgated under the Act;

"**Regulatory Asset**" has the meaning ascribed thereto in the recitals;

"**Released Parties**" has the meaning ascribed thereto in Section 6.1(e);

"**Remittance Date**" means, in respect of each Billing Period, the **[3rd]**[5] Servicer Business Day following the last day of each Billing Period;

"**Requirement of Law**" means any foreign, Canadian federal, provincial or local laws, statutes, regulations, rules, codes or ordinances enacted, adopted, issued or promulgated by any Governmental Authority or common law;

"**Responsible Officer**" means, with respect to: (a) the Issuer, any authorized director or officer of the Administrative Agent; (b) the Servicer, any authorized director or officer of the IESO; and (c) the Indenture Trustee, any officer within the Corporate Trust Office of such trustee (including the President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Treasurer or any other officer of the Indenture Trustee customarily performing functions similar to those performed by persons who at the time shall be such officers, respectively, and that has direct responsibility for the administration of the Indenture and also, with respect to a particular matter, any other officer to whom such matter is referred to because of such officer's knowledge and familiarity with the particular subject);

"**~~Seller~~Transferor**" means the Independent Electricity System Operator, as ~~Seller~~transferor under this Agreement;

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5 Based on the monthly payment cycle charts prepared by OPG.

"**Servicer**" means, initially, the Independent Electricity System Operator, as Servicer under this Agreement and, following the appointment of a Successor Servicer, means such Successor Servicer;

~~"**Servicer Advance**" means all advances made by the Servicer to the Issuer on account of deficiencies between the Clean Energy Adjustment set for any Billing Period and the Servicer CEA Collections for such Billing Period;~~

"**Servicer 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 law, regulation or executive order to be closed, on which the Servicer maintains normal office hours and conducts business;

"**Servicer CEA Collections**" has the meaning ascribed thereto in Section 3.2(a)(ii).

"**Servicer Default**" has the meaning ascribed thereto in Section 7.1;

"**Specified Consumer**" has the meaning ascribed to it in the Act.

"**Specified Creditors**" has the meaning ascribed thereto in the Indenture;

"**Successor Servicer**" has the meaning ascribed thereto in Section **[3.07(e)]** of the Indenture;

"**Supplemental Indenture**" means an indenture supplemental to the Indenture that authorizes the incurrence of Funding Obligations;

"**Termination Event**" has the meaning ascribed there in Section 3.11;

"**Termination Notice**" has the meaning ascribed thereto in Section 7.1;

"**Transfer**" ~~means, in reference to a specified portion of the Regulatory Asset, a reduction in the balance of the Fair Hydro Variance Account, the corresponding adjustment of the Regulatory Asset and the acquisition by the Issuer of the Investment Interest corresponding to the specified portion of the Regulatory Asset;~~has the meaning ascribed to it in the Act, and "**Transferred**" has a corresponding meaning;

"**Transfer Notice**" means a Transfer Notice in respect of a Transfer substantially in the form of Exhibit A to this Agreement and delivered pursuant to Section 2.1(a) of this Agreement; and

1.2 Sections and Headings[6]

The table of contents does not form part of this Agreement. The division of this Agreement into Articles and Sections and the insertion of headings are for convenience of reference only and will not affect the construction or interpretation of this Agreement. Unless something in the subject matter or context is inconsistent therewith, references herein to Articles and Sections are to Articles and Sections of this Agreement.

[6] Torys to conform boilerplate provisions, as applicable, across all transaction documents.

1.3 Extended Meanings

(a) Words importing the singular number only will include the plural and vice versa and words importing the masculine gender will include the feminine and neuter genders and vice versa. A reference to any agreement, instrument or declaration means such agreement, instrument or declaration as the same may be amended, supplemented, modified, restated or replaced from time to time.

(b) The term "**including**" means "including without limitation", and other forms of the verb "**include**" have correlative meanings.

(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) Unless otherwise stated, in the computation of a period of time from a specified date to a later specified date, the word "**from**" means "**from and including**" and each of the words "**to**" and "**until**" means "**to but excluding**".

(e) The words "**hereof**", "**herein**" and "**hereunder**" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement, unless otherwise specified. References to Articles, Sections, Appendices and Exhibits in this Agreement are references to Articles, Sections, Appendices and Exhibits in or to this Agreement unless otherwise specified.

(f) References to any law, rule, regulation or order of a Governmental Authority 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.

(g) The word "**will**" shall be construed to have the same meaning and effect as the word "**shall**". The word "**or**" is not exclusive.

ARTICLE 2
~~PURCHASE AND SALE OF INVESTMENT INTEREST~~
TRANSFER OF SPECIFIED PORTIONS OF THE REGULATORY ASSET

2.1 Transfer Notices and Agreement to Transfer a Specified Portion of the Regulatory Asset

(a) The ~~Seller~~Transferor may, no more frequently than monthly and no later than the 10th Business Day of each calendar month, provide to the Issuer a Transfer Notice executed by the ~~Seller~~Transferor and setting out (i) the specified portion of the Regulatory Asset that the ~~Seller~~Transferor desires to Transfer to the Issuer, (ii) the consideration to be paid to the ~~Seller~~Transferor by the Issuer for the Transfer (the

"**Purchase Price**") which shall be equal to the amount of the specified portion of the Regulatory Asset that the ~~Seller~~Transferor proposes to Transfer to the Issuer, (iii) the Closing Date to effect such transfer which shall be the 10th Business Day ~~of the month~~ following delivery of the Transfer Notice, or such other date as may be agreed upon by the ~~Seller~~Transferor and the Issuer, and (iv) such other information as required in the form of Transfer Notice attached as Exhibit A hereto.

(b) The Issuer shall use commercially reasonable efforts to provide reasonable notice to the Transferor if the Issuer has reasonable cause to believe that it will not accept a Transfer Notice sent by the Transferor or that the condition precedent in Section 2.2(b) (i), (v), (vi) and (viii) will not be satisfied on the relevant closing date..

(c) ~~(b)~~ On or before the ~~first~~fifth Business Day ~~of the month~~ following receipt of a Transfer Notice, the Issuer shall have the right, but not the obligation, to accept the ~~Seller~~Transferor's offer to ~~acquire~~Transfer the ~~specified~~ portion of the Regulatory Asset subject to the Transfer Notice by executing and returning such Transfer Notice to the ~~Seller.~~ ~~**[NTD: The OPG/IESO monthly flow charts contemplated that IESO would sign back the transfer notice on the 3rd Business Day of this month but we don't think this additional step is required to create a binding obligation**~~Transferor. Upon acceptance by the Issuer of the Transfer Notice, there shall be a binding agreement to Transfer the specified portion of the Regulatory Asset and pay the related Purchase Price.~~]~~

(d) ~~(c)~~ Provided that all conditions precedent set out in Section 2.2 have been satisfied on or prior to the applicable Closing Date, on the applicable Closing Date, the Issuer shall deliver or cause to be delivered to the ~~Seller~~Transferor, by wire transfer in immediately available funds, an amount in Canadian dollars equal to the Purchase Price set forth in the applicable Transfer Notice.

(e) ~~(d)~~ Upon receipt by the ~~Seller~~Transferor of the payment referred to in Section 2.1(c):

(i) the ~~Seller~~Transferor shall reduce the balance of the Fair Hydro Variance Account by an amount equal to the Purchase Price and, as a consequence, the Regulatory Asset shall be adjusted accordingly; and

(ii) the corresponding Investment Interest shall immediately vest in the Issuer, free and clear of any adverse claim~~, and shall constitute a valid and enforceable absolute assignment, conveyance and sale of the corresponding Investment Interest~~.

(f) ~~(e)~~ Any Transfer of a specified portion of the Regulatory Asset by the ~~Seller~~Transferor pursuant to this Agreement shall constitute a valid and enforceable absolute assignment, conveyance and sale of the corresponding Investment Interest to the Issuer, shall be treated as a true sale and not as a pledge of or secured transaction relating to the ~~Seller~~Transferor's right, title, and interest in, to, and under the specified portion of the Regulatory Asset ~~(or, for greater certainty, the~~

~~IESO's right to recover the corresponding IESO Deferral). The Seller and the Issuer agree that, after~~. After giving effect to a Transfer contemplated hereby, the ~~Seller~~Transferor shall have no right, title or interest in, to or under the corresponding Investment Interest ~~to which a security interest could attach~~ because (i) it has Transferred all of its right, title and interest in and to the ~~corresponding Investment Interest to the Issuer~~specified portion of the Regulatory Asset, (ii) as provided in the Act, all right, title and interest to the corresponding Investment Interest shall ~~have passed to~~be vested in the Issuer, ~~and~~ (iii) as provided in the Act, such Transfer is perfected, vested, valid and binding as against the ~~Seller~~Transferor and all other persons who may have claims of any kind against the ~~Seller~~Transferor, regardless of whether the persons who have claims have received notice of the Transfer, and (iv) the property rights and interests acquired by the Issuer shall be free and clear of any Liens arising through the IESO ~~in favour of such Persons~~.

2.2 Conditions Precedent to each Transfer of ~~an Investment Interest~~a Specified Portion of the Regulatory Asset

(a) The obligation of the Issuer to ~~purchase, from time~~pay the Purchase Price related to ~~time,~~ the initial ~~Investment Interest in the amount set forth in the applicable Transfer Notice executed by the Issuer and returned in accordance with Section 2.1(b), on the initial Closing Date,~~Transfer of a specified portion of the Regulatory Asset shall be subject to the satisfaction or waiver by the Issuer ~~and the Indenture Trustee~~ of each of the following conditions:

(i) the Indenture (including any required Supplemental Indenture), **[the Declaration of Trust]**, the Financial Services Management Agreement, the Administrative Services Agreement~~, any Co-Owner Agreement~~ and the Provincial Support Agreement shall have been entered into on terms and conditions satisfactory to the Issuer ~~and the Indenture Trustee~~;

(ii) the Issuer ~~and the Indenture Trustee~~ shall have received from the ~~Seller~~Transferor the following documents, in form and substance satisfactory to ~~each of~~ the Issuer ~~and the Indenture Trustee~~:

(A) a certificate of an officer of the IESO, dated the Closing Date certifying (1) that attached thereto is a true and complete copy of the ~~Certificate and Articles of Incorporation and any amendments thereto, and the by-laws of the IESO, each as in effect on the date of such certificate,~~bylaws of the IESO (2) that attached thereto is a true and complete copy of a resolution adopted by the IESO's board of directors authorizing the execution, delivery and performance of this Agreement and the Program Agreements to which the IESO is party, and that such resolution has not been modified, rescinded or amended and is in full force and effect, and (3) as to the incumbency and true specimen signature of each of the IESO officers executing this Agreement or any of the Program Agreements to which the IESO is party; and

~~(B) [the equivalent of a certificate of status/compliance with respect to the existence of IESO];~~

(B) ~~(C)~~ reports showing the results of searches conducted against the IESO under applicable personal ~~or movable~~ property security registers in the Province of Ontario together with executed copies of all discharges or releases of prior security interests relating to the ~~Investment Interest~~specified portion of the Regulatory Asset subject to the Transfer; provided that the IESO may establish that any particular registration does not affect the ~~Investment Interest~~specified portion of the Regulatory Asset by delivering a letter or acknowledgment signed by the applicable secured party~~;~~

~~(D) evidence of such registrations as may be required under the *Personal Property Security Act* (Ontario) and other applicable laws as may be required to protect and perfect the interest of the Issuer in the Issuer Investment Interest as against creditors or creditor representatives of the Seller.~~ .

(b) The obligation of the Issuer to ~~purchase, from time~~pay the Purchase Price related to ~~time, each Investment Interest in the amount set forth in the applicable Transfer Notice executed by the Issuer and returned in accordance with Section 2.1(b), on each Closing Date (including the initial Closing Date),~~each subsequent Transfer of a specified portion of the Regulatory Asset shall be subject to the satisfaction or waiver by the Issuer ~~and the Indenture Trustee~~ of each of the following conditions:

(i) as of the applicable Closing Date, all Program Agreements shall have been entered into on terms and conditions satisfactory to the Issuer ~~and the Indenture Trustee~~;

(ii) as of the applicable Closing Date, no Insolvency Event in respect of the ~~Seller~~Transferor shall have occurred and the ~~Seller~~Transferor is not insolvent and will not have been made insolvent by such Transfer and the ~~Seller~~Transferor is not aware of any pending insolvency with respect to itself;

(iii) as of the applicable Closing Date, (A) the representations and warranties of the IESO in this Agreement must be true and correct with the same force and effect as if made on that date (except to the extent they relate to an earlier date), (B) no breach of any covenant or agreement of the IESO contained in this Agreement has occurred and not been waived, and (C) no Servicer Default shall have occurred and not been waived;

(iv) on or prior to the applicable Closing Date, the ~~Seller~~Transferor shall have taken all action required to ~~Transfer to the Issuer ownership of the Investment Interest as~~provide for the Transfer, upon payment of the Purchase Price, of the specified portion of the Regulatory Asset set forth in the applicable Transfer Notice ~~on the Closing Date, free and clear of all Liens other than Liens created by the Issuer pursuant to the Program Agreements~~;

(v) the ~~Seller~~Transferor shall have delivered to ~~the Indenture Trustee and~~ the Issuer an Officer's Certificate confirming the satisfaction of each condition precedent specified in Sections 2.2(b)(ii), (iii) and (iv);

~~(vi) the Seller shall have delivered to the Indenture Trustee and the Issuer any Opinions of Counsel reasonably required by them **[NTD: Scope of opinions required to be confirmed by the Dealers and their counsel]**;~~

(vi) ~~(vii)~~ as of the as of the applicable Closing Date, (A) the Issuer shall have sufficient funds available to pay the Purchase Price as set forth in the applicable Transfer Notice, and (B) all conditions to any incurrence of Funding Obligations intended to provide such funds set forth in the Indenture (and any applicable Supplemental Indenture) or other instrument shall have been satisfied or waived;

(vii) ~~(viii)~~ after giving effect to the Transfer, ~~each of~~ the Fair Hydro Variance Account and the Regulatory Asset will have a balance or amount, as applicable, of equal to or greater than zero; and

(viii) ~~(ix)~~ the Rating Agency Condition in respect of the issuance of the Funding Obligations funding the payment of the Purchase Price shall have been satisfied.

ARTICLE 3
ROLE OF THE SERVICER

3.1 Designation of Servicer

~~The Transfer of Investment Interests, from time to time, in such amounts as set forth in the applicable Transfer Notice,~~Each Transfer of a specified portion of the Regulatory Asset shall be made on the basis that the related Issuer Investment Interest shall be fully serviced by the Servicer, and the IESO or any Permitted Successor of the IESO that is the Servicer shall not be entitled to receive any further compensation from the Issuer or the Indenture Trustee for its services in connection therewith. The Servicer acknowledges the responsibility of the ~~Seller~~Servicer for servicing the related Issuer Investment Interest corresponding to the specified portion of the Regulatory Asset Transferred by the ~~Seller to the Issuer~~Transferor under this Agreement and hereby agrees to perform the duties and obligations of the Servicer pursuant to the terms hereof at no additional cost to the Issuer.

3.2 Duties of Servicer Generally

(a) The Servicer shall:

~~(i) [issuing settlement statements to Electricity Vendors that include amounts in respect of the Clean Energy Adjustment]~~**~~[NTD: the Clean Energy Adjustment payable in a month by all specified consumers is determined by the Financial Services Manager (Act, s. 15(1)). The Financial Services Manager advises the Board (Act, s. 15(3)) and the Board determines a rate to be paid by specified consumers (Act, s 15(4). Does the Servicer advise the Electricity Vendors of that rate? With respect to a "settlement statement" we note that s. 16(1) of the Act refers to Electricity Vendors paying the IESO in accordance with the market rules or the regulations. We would like the regulations to provide that settlement between the IESO and the Electricity Vendors is separate from the market rules settlements to avoid set-off issues.]~~**~~;~~

(i) ~~(ii)~~ receive from Electricity Vendors amounts paid by the Electricity Vendors in respect of Electricity Vendor CEA Collections, including payments made directly to the IESO as an Electricity Vendor (such amounts received being "**Servicer CEA Collections**");

(ii) ~~(iii)~~ holding and remitting Servicer CEA Collections in accordance with Section 3.3;

(iii) ~~(iv)~~ receiving information from Electricity Vendors in respect of CEA Consumer Invoice Amounts and Electricity Vendor CEA Collections ~~and such other information as the IESO may reasonably request for the purposes of determining the IESO Deferral or such further information as may be required~~;

~~(v) determining and recording the IESO Deferral for each month and making any necessary corrections thereto in accordance with the Act; forecasting electricity demand by Specified Consumers for Reference Periods;~~

~~(vi) providing information to the Board in respect of forecast electricity demand or any other information the Board may require from the Servicer to facilitate the Board's determination of the rates at which Specified Consumers are to be invoiced so as to enable full recovery of the Clean Energy Adjustment in any Reference Period; responding to inquiries by Electricity Vendors, the Board or any other Governmental Authority with respect to the Clean Energy Adjustment;~~

(iv)

(v) ~~(vii) investigating and handling~~reporting to the Issuer on delinquencies regarding Servicer CEA Collections ~~(and furnishing reports with respect to such delinquencies to the Issuer),~~;

(vi) ~~(viii)~~ processing and depositing ~~collections~~Servicer CEA Collections and making periodic remittances; and

(vii) ~~(ix)~~ furnishing periodic and current reports to the Issuer~~,~~ and the Board, ~~the Indenture Trustee and the Rating Agencies,~~ as may reasonably be required by the Issuer~~;~~.

~~(x) taking all necessary action in connection with Servicer Advances as set forth herein; and performing such other duties as may be required from time to time to be performed by it.~~

(b) ~~Without limiting the generality of this Section 3.2(a), in furtherance of the foregoing, the Servicer hereby agrees that it shall also have, and shall comply with, the~~The Servicer shall perform its duties and responsibilities ~~relating to~~ ~~**[data acquisition, consumption and settlement statement calculation, settlement, collections, posting, payment processing and remittance]**~~ ~~with reasonable care~~by exercising reasonable care and diligence and in material compliance with ~~each~~the applicable ~~Requirement~~Requirements of Law, including the Act ~~and the market rules made under Section 32 of the Electricity Act, using the same degree of care and diligence that the Servicer exercises with respect to similar assets for its own account and, if applicable, for others.~~ ~~**[NTD: IESO to confirm that the market rules under the Electricity Act address each of the square bracketed matters listed above.]**~~.

[NTD: Consider whether any services or information will be required from the IESO in order for OPG to set the Clean Energy Adjustment and calculate the true-up amount (beyond providing information regarding Clean Energy Adjustment collections and providing the annual forecast of energy consumption to the OEB when the Clean Energy Adjustment rate is being set).] [NTD: IESO agrees that provision of forecast info to Board and info re CEA collections should be sufficient]

(c) Notwithstanding anything to the contrary in this Agreement, the duties of the Servicer set forth in this Agreement shall be qualified and limited in their entirety by the Act, the Regulations, all applicable laws and the rules and regulations promulgated thereunder as in effect at the time such duties are to be performed.

3.3 Remittances

(a) The Servicer shall establish ~~or cause to be established~~ and ~~shall~~ maintain~~,~~ an Eligible Deposit Account ~~to be referred to as~~ (the "IESO **Segregated Account**") bearing a designation clearly indicating that the funds deposited therein are held in trust for the benefit of the Investment Interest owners. If, at any time the IESO Segregated Account ceases to be an Eligible Deposit Account, the Servicer shall, within thirty (30) days, establish a new IESO Segregated Account as an Eligible Deposit Account and shall transfer any cash and/or any investments to such new account and make all future deposits to such new account.

(b) ~~All~~The Servicer shall deposit all Servicer CEA Collections ~~shall be deposited~~ to the IESO Segregated Account promptly following receipt by the Servicer and, in any event, ~~with~~within two Servicer Business Days of receipt by the Servicer and such Servicer CEA Collections shall remain in ~~such~~the IESO Segregated Account until remitted in accordance with Section 3.3(d),

(c) The IESO agrees and acknowledges that it holds all Servicer CEA Collections and any other proceeds in respect of the Clean Energy Adjustment received by it in trust for the benefit of the Issuer and any other Investment Interest owners and that all such amounts will be remitted by the Servicer in accordance with this Section 3.3 without any surcharge, fee, offset, charge or other deduction. The IESO further agrees not to make any claim to reduce its obligation to remit all Servicer CEA Collections ~~collected~~received by it in accordance with this Agreement.

(d) Absent the occurrence of a Daily Remittance Event, the Issuer Share of Servicer CEA Collections received by the Servicer during a Billing Period and any interest earned on amounts on deposit in the IESO Segregated Account shall be remitted by the Servicer to the Collection Account no later than the Remittance Date immediately following such Billing Period. Following the occurrence of a Daily Remittance Event, the Issuer Share of all Servicer CEA Collections on deposit in the IESO Segregated Account and any interest earned on amounts on deposit in the IESO Segregated Account shall be remitted by the Servicer to the Collection Account on each Servicer Business Day. [**NTD: s. 16(4) of the Act requires that Servicer CEA Collections be remitted in accordance with the regulations. The final remittance provisions will need to match the regulations.**]

(e) On or before the **[2nd]** Servicer Business Day following the end of each Billing Period, the Servicer shall prepare and deliver to the Issuer **[and the Indenture Trustee]** a written report substantially in the form of Exhibit B (a "**Monthly Report**") setting out ■ **[NTD: Goldman will be sending across additional information about what they expect to see in the monthly report. We expect IESO will only be able to provide reporting on the Servicer CEA Collections and all other required reporting would be done by OPG as Financial Services Manager]**.

~~**3.4 Servicer Advances**~~[7]

~~(a) If the Servicer CEA Collections in respect of any Billing Period are or will be less than the Clean Energy Adjustment set in respect of such Billing Period, the Servicer will make a Servicer Advance on the Remittance Date in an amount equal to the Issuer Share of the difference, provided that the particular Servicer Advance would not constitute a Nonrecoverable Servicer Advance.~~

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7 ~~We have proposed that the IESO Servicer Advances be made if there is any monthly shortfall between the projected Clean Energy Adjustment amounts to be collected from Specified Consumers (which will be based on the Clean Energy Adjustment charge set for the applicable Reference Period) and the actual Clean Energy Adjustment amounts collected from Specified Consumers.~~

~~(b) Repayment of any and all Servicer Advances provided to the Issuer by the Servicer, from time to time in accordance with this Section 3.4, shall be made in accordance with Section ■ or Section ■ of the Indenture, as applicable.~~[8]

3.4 ~~3.5~~ Reporting Functions

(a) Notification of Laws and Regulations. The Servicer shall ~~immediately~~promptly notify the Issuer in writing of any Requirement of Law hereafter adopted or the occurrence of any other event or circumstance that has a material adverse effect on the Servicer's ability to perform its duties and obligations under this Agreement.

(b) Other Information. Upon the reasonable request of the Issuer, ~~the Indenture Trustee or any Rating Agency,~~ the Servicer shall provide to the Issuer, ~~the Indenture Trustee or such Rating Agency, as the case may be,~~ any public financial information in respect of the Servicer, or any material information regarding ~~the Investment Interest or~~ the Regulatory Asset to the extent it is reasonably available to the Servicer, as may be reasonably necessary and permitted by law to enable the Issuer~~, the Indenture Trustee or the Rating Agencies~~ to monitor the performance by the Servicer of its duties and obligations hereunder. In addition, the Servicer shall provide the Financial Services Manager, within a reasonable time after written request therefor, any information available to the Servicer or reasonably obtainable by it that is necessary to calculate the Clean Energy Adjustment.

~~3.6 Servicing and Maintenance Standards~~

~~(a) The Servicer shall monitor payments and impose collection policies on Electricity Vendors with respect to Electricity Vendor CEA Collections. On behalf of the Issuer, the Servicer shall: (a) manage, service, administer, collect and receive Servicer CEA Collections with reasonable care and in material compliance with each applicable Requirement of Law, including the Act [**and the market rules made under Section 32 of the Electricity Act**] [**See NTD under section 3.2(a)(i) above**], using the same degree of care and diligence that the Servicer exercises with respect to the collection of other amounts from Electricity Vendors for its own account and, if applicable, for others; (b) follow standards, policies and procedures in performing its duties as Servicer that are customary for an electricity market operator and administrator that regularly performs settlement functions; (c) use all reasonable efforts, consistent with its customary servicing procedures, to receive Servicer CEA Collections; (d) comply with each Requirement of Law, including all regulations and guidelines, applicable to and binding on it relating to its duties hereunder; and (g) provide all information to the Board as required by the Act and the Regulations. The Servicer shall follow such customary and usual practices and procedures as it shall deem necessary or advisable in its servicing of all or any portion of the Investment Asset and the Issuer Investment Interest, which may include, at the direction of the Issuer, the taking of legal action, at the Issuer's~~

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8 ~~It will be important that the IESO not deduct amounts owed to it for prior Servicer Advances when it remits future Servicer CEA Collections to the Issuer. Rather, amounts owed by the Issuer to the Servicer for Servicer Advances should form part of the Funding Obligation incurred in the subsequent period and any repayment of Servicer Advances will be subject to the priority of payments in the Indenture.~~

~~expense but subject to the priority of payments set forth in **[Section 8.02(e)]** of the Indenture. In no event shall the Issuer Investment Interest be set off at any time by the IESO or any Permitted Successor thereof in connection with any default by such Person or otherwise. **[NTD: Servicing and maintenance standards to be confirmed by IESO.]**~~

3.5 ~~3.7~~ Binding Effect of Servicing Obligations

The obligations to continue to provide services and to ~~collect~~receive and account for Servicer CEA Collections and related amounts will be binding upon the Servicer and any Permitted Successor so long as the Servicer CEA Collections have not been fully ~~collected~~received and posted. Any Person (a) into which the Servicer may be merged, converted or amalgamated and that is a Permitted Successor, (b) that may result from any merger, conversion or amalgamation to which the Servicer shall be a party and that is a Permitted Successor, (c) that may succeed to the properties and assets of the Servicer substantially as a whole and that is a Permitted Successor, or (d) that otherwise is a Permitted Successor, which Person in any of the foregoing cases executes an agreement of assumption to perform all of the obligations of the Servicer hereunder, shall be the successor to the Servicer under this Agreement without further act on the part of any of the parties to this Agreement; provided, however, that (i) immediately after giving effect to such transaction, no representation or warranty made pursuant to Section 4.1(a) shall have been breached and no Servicer Default and no event that, after notice or lapse of time, or both, would become a Servicer Default shall have occurred and be continuing, (ii) the Servicer shall have delivered to the Issuer and the Indenture Trustee an Officer's Certificate and an Opinion of Counsel from external counsel stating that such consolidation, conversion, merger or succession and such agreement of assumption complies with this Section 3.7 and that all conditions precedent, if any, provided for in this Agreement relating to such transaction have been complied with, and (iii) the Servicer shall have ~~delivered to the Issuer, the Indenture Trustee and the Rating Agencies an Opinion of Counsel from external counsel of the Servicer either (A) stating that, in the opinion of such counsel, all filings to be made by the Servicer, have been executed and filed and are in full force and effect that are necessary to fully preserve, perfect and maintain the priority of the interests of the Issuer and the Liens of the Indenture Trustee in the Investment Interest and reciting the details of such filings, or (B) stating that, in the opinion of such counsel, no such action shall be necessary to preserve and protect such interests, and (iv) the Servicer shall have given the Issuer, the Indenture Trustee and the Rating Agencies~~given the Issuer prior written notice of such transaction. When any Person (or more than one Person) acquires the properties and assets of the Servicer substantially as a whole or otherwise becomes the successor, by merger, conversion, consolidation, sale, transfer, lease or otherwise, to all or substantially all the assets of the Servicer in accordance with the terms of this Section ~~3.7,~~3.5, then, upon satisfaction of all of the other conditions of this Section ~~3.7,~~3.5, the preceding Servicer shall automatically and without further notice be released from all of its obligations hereunder (except for responsibilities for its actions prior to such release).

3.6 ~~3.8~~ Limitation on Liability of Servicer and Others

(a) ~~Except as otherwise provided under this Agreement, including Section 6.1, neither~~Neither the Servicer nor any of the directors, officers, employees or agents of the Servicer shall be liable to the Issuer or any other Person for any ~~action taken~~

~~or for refraining from the taking of any action pursuant to this Agreement~~forecast or estimate provided in good faith or for good faith errors in judgment~~; provided, however, that this provision shall not protect the Servicer or any such Person against any liability that would otherwise be imposed by reason of negligence, recklessness or willful misconduct in the performance of duties or by reason of reckless disregard of obligations and duties under~~ in relation to any action taken or not taken pursuant to this Agreement. The Servicer and any director, officer, employee or agent of the Servicer may rely in good faith on the advice of counsel or on any document of any kind, *prima facie* properly executed and submitted by any Person, respecting any matters arising under this Agreement.

(b) ~~Except as provided in this Agreement, the~~The Servicer shall not be under any obligation to appear in, prosecute or defend any legal action relating to the Investment Interest~~ that is not directly related to one of the Servicer's enumerated duties in this Agreement or related to its obligation to pay indemnification, and that in its reasonable opinion may cause it to incur any expense or liability; provided, however, that the Servicer will, at the direction of the Issuer, in respect of any Proceeding, undertake any action that is not specifically identified in this Agreement as a duty of the Servicer but that the Issuer reasonably determines is necessary or desirable in order to protect the rights and duties of the Issuer or the Indenture Trustee under this Agreement and the interests of Specified Creditors under the Indenture~~.

3.7 ~~3.9~~ The IESO Not to Resign as Servicer

Subject to the provisions of Section 3.7, the IESO shall not resign from the obligations and duties imposed on it as Servicer under this Agreement except upon a determination that the performance of its duties under this Agreement shall no longer be permissible under applicable Requirements of Law. Notice of any such determination permitting the resignation of the IESO as Servicer shall be communicated to the Issuer~~, the Indenture Trustee and each Rating Agency~~ at the earliest practicable time (and, if such communication is not in writing, shall be confirmed in writing at the earliest practicable time), and any such determination shall be evidenced by an Opinion of Counsel to such effect delivered to the Issuer~~, the Indenture Trustee and each Rating Agency~~ concurrently with or promptly after such notice. No such resignation shall become effective until a Successor Servicer that is a Permitted Successor has assumed the servicing obligations and duties hereunder of the Servicer in accordance with Section 7.2.

3.8 ~~3.10~~ Appointments

(a) Subject to Section 3.10(b), the Servicer may at any time appoint any Person to perform all or any portion of its obligations as Servicer hereunder; provided, however, that the Rating Agency Condition shall have been satisfied in connection therewith; and provided, further, that the Servicer shall remain obligated and be liable under this Agreement for the servicing and administering of the Investment Interest in accordance with the provisions hereof without diminution of such obligation and liability by virtue of the appointment of such Person and to the same extent and under the same terms and conditions as if the Servicer alone were servicing and administering the Investment Interest. The fees and expenses of any such Person shall be as agreed between the Servicer and such Person from time to time, and none of the Issuer, the Indenture Trustee, Specified Creditors or any other Person shall have any responsibility therefor or right or claim thereto. Any such appointment shall not constitute a resignation of the Servicer under Section 3.9.

(b) The following matters shall be performed by the Electricity Vendors on behalf of the Investment Assets Owners in accordance with the Act and shall not be considered an "appointment" for purposes of Section 3.10(a): (i) invoicing Specified Consumers in respect of the Clean Energy Adjustment and ancillary matters related thereto; (ii) collection from Specified Consumers of payments in respect of such invoices and remittance of such payments to the Servicer; and (iii) reporting to the Servicer the total CEA Consumer Invoice Amounts invoiced by such Electricity Vendor to its Specified Consumers in respect of the Clean Energy Adjustment, the total Electricity Vendor CEA Collections received by such Electricity Vendor and such other information the IESO may reasonably request for the purposes of determining the IESO Deferral or such further information as may be required. The Servicer shall not be ~~obligated and~~responsible or liable~~ under this Agreement~~ for the performance by Electricity Vendors of ~~the duties~~their duties and responsibilities under the Act or in respect of the matters set out in this Section ~~3.10~~3.8(b).

3.9 ~~3.11~~ Effective Period and Termination

The Servicer's appointment as Servicer under this Agreement shall become effective as of the execution hereof and shall continue in full force and effect until the earlier of (a) the effective date of resignation of the Servicer in accordance with the provisions of this Agreement; (b) termination of all of the rights and obligations of the Servicer under Article 7; and (c) the date on which all Issuer Funding Obligations have been paid in full and all CEA Consumer Invoice Amounts have been ~~collected~~received or written off (in each case, a "**Termination Event**"). The appointment of a Servicer as servicer under this Agreement shall be terminated effective as of the date of the Termination Event.

3.10 ~~3.12~~ Rebate Amounts

[NTD: provisions related to the funding of Rebate Amounts (amount by which actual non-principal Finance Amount for a period exceed the Clean Energy Adjustment for the period).]

ARTICLE 4
REPRESENTATIONS AND WARRANTIES OF THE IESO

4.1 Representations and Warranties

Subject to Section 4.3, the IESO makes the following representations and warranties as of the date hereof and as of each applicable Closing Date, and the IESO acknowledges that the Issuer will rely thereon in ~~acquiring Investment Interests from time to time~~paying the Purchase Price related to Transfers of specified portions of the Regulatory Asset, and the Issuer ~~and the Indenture Trustee have~~has relied thereon in entering into this Agreement relating to the servicing of the corresponding Investment Interests.

(a) Organization and Good Standing. The IESO is a statutory corporation amalgamated under the laws of the Province of Ontario, with requisite power and authority to own its properties, to conduct its business as such properties are currently owned and such business is presently conducted by it, and to execute, deliver and carry out the terms of this Agreement, including, for greater certainty, acting as Servicer in accordance with this Agreement.

(b) Due Qualification. The IESO has obtained all necessary licences and approvals, in all jurisdictions in which the ownership or lease of property or the conduct of its business (including acting as Servicer under this Agreement)~~ shall require such qualifications, licences or approvals (~~, except where the failure to so qualify or obtain such licences and approvals would not be reasonably likely to have a material adverse effect on the IESO's business, operations, assets, revenues or properties, the ~~Investment Interest (or to~~Regulatory Asset, the servicing ~~thereof)~~of related Investment Interests, the Issuer or the repayment when due of the Funding Obligations~~)~~.

(c) Power and Authority. The IESO has the requisite power and authority to execute and deliver this Agreement and to carry out its terms. The IESO has full corporate power and authority to ~~own~~hold the Regulatory Asset and to Transfer ~~such~~specified portions of the Regulatory Asset to the Issuer and the IESO has duly authorized such Transfer to the Issuer by all necessary action. The execution, delivery and performance of all obligations under this Agreement have been duly authorized by all necessary action on the part of the IESO under all applicable laws.

(d) Binding Obligation. This Agreement constitutes a legal, valid and binding obligation of the IESO, enforceable against the IESO in accordance with its terms, subject to bankruptcy, receivership, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally from time to time in effect and to general principles of equity (including concepts of materiality, reasonableness, good faith and fair dealing).

(e) No Violation. The consummation of the transactions contemplated by this Agreement and the fulfillment of the terms hereof by the IESO do not conflict with, result in any breach of any of the terms and provisions of, or constitute (with or without notice or lapse of time, or both) a default under, the IESO's by-laws, or any indenture, or other material agreement or instrument to which the IESO is a party or by which it is bound, result in the creation or imposition of any Lien upon any of the IESO's properties pursuant to the terms of any such indenture, agreement or other instrument or violate any existing law or any order, rule or regulation applicable to the IESO issued by any Governmental Authority having jurisdiction over the IESO or its properties.

(f) No Proceedings. There are no Proceedings or, to the IESO's knowledge, investigations pending or Proceedings threatened, before any Governmental Authority having jurisdiction over the IESO or its properties: (a) asserting the invalidity of this Agreement or the Act, (b) seeking to prevent the consummation of any of the transactions contemplated by this Agreement or the Act, or (c) seeking a determination or ruling that could reasonably be expected to materially and adversely affect the performance by the IESO of its obligations under, or the validity or enforceability of, this Agreement or the Act.

(g) Approvals. No approvals, authorizations, consents, orders or other actions or filings with any Governmental Authority are required for the IESO to execute, deliver and perform its obligations under this Agreement except those which have previously been obtained or made.

(h) Information.

(i) At the date hereof and as of each applicable Closing Date, all written information, as amended or supplemented from time to time, provided by the ~~IESO~~Transferor to the Issuer with respect to the ~~IESO Deferral and the~~ Regulatory Asset is true and correct in all material respects and does not omit any material facts.

(ii) Each report and certificate delivered in connection with any filing made or information provided to the Board by the IESO in connection with the Act, including on behalf of the Issuer with respect to Clean Energy Adjustments, will constitute a representation and warranty by the IESO that each such report or certificate, as the case may be, is true and correct in all material respects; provided, however, that, to the extent any such report or certificate is based in part upon or contains assumptions, forecasts or other predictions of future events, the representation and warranty of the IESO with respect thereto will be limited to the representation and warranty that such assumptions, forecasts or other predictions of future events are reasonable based upon historical performance (and facts known to the IESO on the date such report or certificate is delivered).

(i) ~~True Sale and Absolute Transfer. The transfer, sale, assignment and conveyance, from time to time, by the IESO to the Issuer of any specified portion of the Regulatory Asset constitutes a valid and enforceable absolute assignment, conveyance and sale of the corresponding Investment Interest to the Issuer~~The Transfer. On the applicable Closing Date, the specified portion of the Regulatory Asset ~~in the amount~~as set forth in the applicable Transfer Notice shall be validly Transferred to the Issuer and the IESO ~~will retain~~have no ~~further~~ right, title or interest in the ~~corresponding~~related Investment Interest and the related Investment Interest ~~would~~shall not form part of the estate of the IESO ~~as debtor~~ in the event of an Insolvency Event in respect of the IESO.

(j) ~~Issuer Sole Investment Interest Owner~~No Transfer. Unless a Co-Owner Agreement has been entered into, no portion of the Regulatory Asset ~~(or the corresponding Investment Interest upon the Transfer thereof)~~ has been sold, transferred, assigned, pledged or otherwise conveyed by the IESO to any person other than the Issuer or the Indenture Trustee, and, to the IESO's knowledge (after due inquiry), no security agreement, financing statement or equivalent security or lien instrument listing the IESO as debtor covering all or a portion of the Regulatory Asset (or the corresponding Investment Interest upon the Transfer thereof) is on file or of record in any jurisdiction, except such as may have been filed or recorded in favour of the Issuer or the Indenture Trustee in connection with the Program Agreements.

(k) Title. The IESO is the sole owner of ~~that~~the specified portion of the Regulatory Asset that is ~~being~~to be Transferred to the Issuer on the applicable Closing Date, free and ~~such Transfer is made free and~~ clear of all Liens ~~other than Liens created by the Issuer pursuant to the Indenture. All actions or filings necessary to give the Issuer a valid, perfected ownership interest in the Investment Interest free and clear of all Liens of the IESO or any other Person have been taken or made.~~.

(l) Tax Liens. After due inquiry, the IESO is not aware of any judgment or tax lien filing against the IESO.

(m) Solvency. On the date hereof and after giving effect to each Transfer, the IESO:

(i) is solvent and expects to remain solvent;

~~(ii) is adequately capitalized to conduct its business and affairs considering its size and the nature of its business and intended purpose;~~

(ii) ~~(iii)~~ reasonably believes that it will be able to pay its debts as they come due; and

(iii) ~~(iv)~~ is able to pay its debts as they mature and does not intend to incur, or believes that it will not incur, indebtedness that it will not be able to repay at its maturity.

(n) No Court Order. There is no order by any court that seeks to enjoin the performance of any obligations of the IESO under the Act or this Agreement.

4.2 Survival

The representations and warranties set forth in Section 4.1 shall survive the execution and delivery of this Agreement, each Transfer of an Investment Interest to the Issuer and the pledge thereof to the Indenture Trustee pursuant to the Indenture and may not be waived by any party hereto except pursuant to a written agreement executed in accordance with Section 8.1 and as to which the Rating Agency Condition has been satisfied.

4.3 Limitations on Representations and Warranties

Notwithstanding anything in this Agreement to the contrary, the IESO makes no representation or warranty that the Issuer's Share of Servicer CEA Collections will be sufficient to satisfy in full the Issuer's Funding Obligations.

ARTICLE 5
COVENANTS OF THE IESO

5.1 Existence

Subject to Section 6.2, so long as any Funding Obligations are outstanding, the IESO (a) will keep in full force and effect its existence and remain validly existing under the laws of the Province of Ontario, and (b) will obtain and preserve its qualifications to do business in each jurisdiction in which such qualification is or will be necessary to protect the validity and enforceability of this Agreement and each other instrument or agreement to which the IESO is a party necessary for the proper administration of this Agreement and the transactions contemplated hereby.

5.2 No Liens

Except for (a) the Transfers under this Agreement to the Issuer or any Lien for the benefit of the Specified Creditors or the Indenture Trustee, and (b) after the Co-Owner Implementation Date, Transfers to other Investment Interest owners and Liens granted in connection therewith to Persons advancing Funding Obligations to such other Investment Interest owners, the IESO will not sell, pledge, assign or transfer to any other person, or grant, create, incur, assume or suffer to exist any Lien on, any portion of a Regulatory Asset, whether existing as of the applicable Closing Date or thereafter created, or any interest therein. The IESO will not at any time assert any Lien against or with respect to the Issuer Investment Interest, and will defend the right, title and interest of the Issuer and of the Indenture Trustee, on behalf of the Specified Creditors, in, to and under the Issuer Investment Interest against all claims of third parties claiming through or under the ~~Seller~~Transferor.

5.3 Notice of Liens

The IESO shall notify the Issuer ~~and the Indenture Trustee~~ promptly after becoming aware of any Lien on any portion of the Regulatory Asset, other than the Transfers hereunder and any Lien pursuant to the Program Agreements.

5.4 Compliance with Law

The IESO will comply with ~~all laws, treaties, rules, regulations and determinations of any Governmental Authority~~any Requirement of Law applicable to ~~it~~, and binding upon, the IESO or relating to the Regulatory Asset, the Investment Asset or Investment Interests, except to the extent that failure to so comply would not materially adversely affect the Issuer's, the Indenture Trustee's or the Specified Creditors' interests in the Issuer Investment Interest under any of the Program Agreements, the value of the Issuer Investment Interest, the timing or amount of

Clean Energy Adjustments payable by Specified Consumers or the IESO's performance of its obligations under this Agreement; provided, however, that the foregoing is not intended to, and shall not, impose any liability on the IESO for non-compliance with any Requirement of Law that the IESO is contesting in good faith in accordance with its customary standards and procedures.

~~**5.5 Market Rules**~~

~~The IESO shall not amend the market rules, made under Section 32 of the Electricity Act, in any manner that could reasonably be expected to adversely affect any of (a) the duties or obligations of the IESO or of Electricity Vendors set forth in the Act or the Regulations, (b) the IESO's duties or obligations as the Servicer under this Agreement, or (c) the ability of the IESO and Electricity Vendors to collect Clean Energy Adjustments.~~[~~**NTD: see comment to Section 3.2(a)(i)**~~]

5.5 ~~5.6~~ Covenants Related to the Investment Interest

(a) ~~So long as any Issuer Funding Obligations are outstanding, the IESO shall treat the Issuer Investment Interest as the Issuer's property for all purposes.~~ The IESO [NTD except for externally managed investments] shall not at any time become a holder of Issuer Funding Obligations. **[NTD: confirm that this will not prohibit IESO pension plan, including SERP, investments]**

~~(b) The IESO shall not at any time become a holder of Issuer Funding Obligations other than Servicer Advances.~~

(b) ~~(c)~~ The IESO shall disclose the effects of all transactions between the IESO and the Issuer in accordance with generally accepted accounting principles (for government entities).

(c) ~~(d)~~ The IESO agrees that~~, upon the Transfer by the Seller of any portion of the Regulatory Asset to the Issuer pursuant to this Agreement, (i) to the fullest extent permitted by any Requirements of Law, including the Act, the Issuer shall have all of the rights with respect to the Issuer Investment Interest, including the right (subject to the terms of this Agreement) to exercise any and all rights and remedies to collect the Issuer Share of Clean Energy Adjustments through CEA Consumer Invoice Amounts in respect of the Issuer Investment Interest, notwithstanding any objection or direction to the contrary by the IESO (and the IESO agrees not to make any such objection or to take any such contrary action), and (ii) upon completion of such~~ upon completion of a Transfer, the IESO shall reduce the balance in the Fair Hydro Variance Account by the Purchase Price and will adjust the Regulatory Asset accordingly.

(d) ~~(e)~~ (i) in all Proceedings relating directly or indirectly to the Issuer Investment Interest, the IESO shall affirmatively certify and confirm that it has Transferred all of its rights and interests in and to the specified portion of the Regulatory Asset giving rise to the Issuer Investment Interest, (ii) the IESO shall not make any statement or reference in respect of the Issuer Investment Interest that is inconsistent with the ownership interest of the Issuer, (iii) the IESO shall not take any action in respect of the Issuer Investment Interest except solely in its capacity as the Servicer thereof pursuant to this Agreement, and (iv) the IESO shall not sell any portion of ~~its~~ the Regulatory Asset pursuant to the Act to any other Person unless a Co-Owner Agreement has been entered into and the Rating Agency Condition has been satisfied with respect thereto.

5.6 ~~5.7 Nonpetition~~Non-petition Covenants

Notwithstanding any prior termination of this Agreement or the Indenture, the IESO shall not, prior to the date that is one year after the payment in full of all Issuer Funding Obligations and any other amounts owed under the Indenture, petition or otherwise invoke the process of any Governmental Authority for the purpose of commencing or sustaining a Proceeding against the Issuer under any Canadian bankruptcy, insolvency or similar law, appointing a receiver, liquidator, assignee, trustee, custodian, sequestrator or other similar official or any substantial part of the property of the Issuer.

5.7 ~~5.8~~ Disclosure

The IESO shall provide all information regarding the IESO, ~~the IESO Deferral,~~ the Regulatory ~~Assets~~Asset or the services provided by the Servicer hereunder (collectively, the "**IESO Disclosure**") as may be reasonably requested by the Issuer for inclusion in any offering document of the Issuer from time to time, including but not limited to offering memoranda, prospectuses, registration statements and continuous disclosure documents and represents that all such information is, at the respective dates of delivery to the Issuer, true and correct, contains no misrepresentation and constitutes full, true and plain disclosure of all material facts relating to the IESO Disclosure.

5.8 ~~5.9~~ Further Assurances

Upon the request of the Issuer, the IESO shall execute and deliver such further instruments and do such further acts as may be reasonably necessary to carry out the provisions and purposes of this Agreement.

5.9 ~~5.10~~ Co-Owner Agreement

The IESO shall not continue as or become a party to any (i) purchase and sale agreement or similar arrangement (other than this Agreement) under which it sells all or any portion of ~~its~~the Regulatory Asset unless the Indenture Trustee, the ~~Seller~~Transferor and the other parties to such additional arrangement shall have entered into the Co-Owner Agreement in connection therewith ~~and the terms of the documentation evidencing such purchase and sale arrangement or similar arrangement shall expressly exclude the Issuer Investment Interest (including the Issuer Share of any Clean Energy Adjustment) from any receivables, rights or other assets pledged or sold under such arrangement~~ and unless the purchaser under such arrangement is a "financing entity" as defined in the Act. No Co-Owner Agreement shall be entered into without satisfaction of the Rating Agency Condition.

5.10 ~~5.11~~ Access to Certain Records and Information Regarding Investment Interest

The IESO shall, on reasonable terms, provide to the Issuer, the Indenture Trustee and Specified Creditors access to all records relating to ~~Investment Asset including, without limitation,~~ the IESO Deferral, the Fair Hydro Variance Account, the IESO Segregated Account and Servicer CEA Collections, as is reasonably required for the Issuer and the Indenture Trustee to ~~perform their obligations under the Indenture and the other Program Agreements and to~~ confirm compliance by the IESO with its obligation under this Agreement and any other Program Agreements to which the IESO is party. Access shall be afforded without charge, but only upon reasonable request and during normal business hours at the offices of the IESO. Nothing in this Section 5.11 shall affect the obligation of the IESO to ~~observe any applicable law~~comply with any Requirement of Law prohibiting disclosure of information ~~regarding Specified Consumers~~, and the failure of the IESO to provide access to such information as a result of such obligation shall not constitute a breach of this Section 5.11. **[NTD: reference to s 5.11 is wrong]**

~~5.12 Maintenance of Operations~~

~~Subject to Section 3.7, the IESO agrees to continue, unless prevented by circumstances beyond its control, to operate as the electricity system operator in the Province of Ontario in order to provide service so long as it is acting as the Servicer under this Agreement.~~

~~ARTICLE~~
~~IESO INDEMNITIES~~

~~6.1 Liability of the IESO; Indemnities~~

~~(a) The IESO shall indemnify the Issuer, the Indenture Trustee (for itself and for the benefit of the Specified Creditors), the Financial Services Manager and the Administrative Agent and each of their respective trustees, officers, directors, employees and agents, for, and defend and hold harmless each such Person from and against, any and all liabilities, obligations, losses, damages, payments and claims, and reasonable costs or expenses, of any kind whatsoever (collectively, "**Indemnified Losses**") imposed on, incurred by or asserted against any such Person as a result of (i) the failure of the IESO to perform it covenants and other obligations under this Agreement, any Co-Owner Agreement and any other Program Agreement to which the IESO is a party, (ii) the IESO's breach of any of its representations or warranties; and (iii) litigation and related expenses relating to the IESO's status and obligations as Servicer (other than any Proceeding the IESO is required to institute under this Agreement), except to the extent of Indemnified Losses resulting from the willful misconduct, bad faith or gross negligence of such Person seeking indemnification hereunder; provided that, in each case, the IESO shall not be required to indemnify an Indemnified Party for any amount paid or payable by such Indemnified Party in the settlement of any Proceeding or investigation without the written consent of the IESO, which consent shall not be unreasonably withheld. Promptly after receipt by an Indemnified Party of notice~~

~~(or, in the case of the Indenture Trustee, receipt of notice by a Responsible Officer only) of the commencement of any Proceeding or investigation, such Indemnified Party shall, if a claim in respect thereof is to be made against the IESO under this Section 6.1(a), notify the IESO in writing of the commencement thereof. Failure by an Indemnified Party to so notify the IESO shall relieve the IESO from the obligation to indemnify and hold harmless such Indemnified Party under this Section 6.1(a) only to the extent that the IESO suffers actual prejudice as a result of such failure. With respect to any Proceeding or investigation brought by a third party for which indemnification may be sought under this Section 6.1(a), the IESO shall be entitled to conduct and control, at its expense and with counsel of its choosing that is reasonably satisfactory to such Indemnified Party, the defense of any such Proceeding or investigation (in which case the IESO shall not thereafter be responsible for the fees and expenses of any separate counsel retained by the Indemnified Party except as set forth below); provided, that the Indemnified Party shall have the right to participate in such Proceeding or investigation through counsel chosen by it and at its own expense. Notwithstanding the IESO's election to assume the defense of any Proceeding or investigation, the Indemnified Party shall have the right to employ separate counsel, and the IESO shall bear the reasonable fees, costs and expenses of such separate counsel, if (i) the defendants in any such action include both the Indemnified Party and the IESO and the Indemnified Party shall have reasonably concluded that there may be legal defenses available to it that are different from or additional to those available to the IESO, (ii) the IESO shall not have employed counsel reasonably satisfactory to the Indemnified Party to represent the Indemnified Party within a reasonable time after notice of the institution of such action, (iii) the IESO shall authorize the Indemnified Party to employ separate counsel at the expense of the IESO, or (iv) in the case of the Indenture Trustee, such action exposes the Indenture Trustee to a material risk of criminal liability or forfeiture or a Servicer Default has occurred and is continuing. Notwithstanding the foregoing, the IESO shall not be obligated to pay for the fees, costs and expenses of more than one separate counsel for the Indemnified Parties other than one local counsel, if appropriate. The IESO will not, without the prior written consent of the Indemnified Party, settle or compromise or consent to the entry of any judgment with respect to any pending or threatened claim or Proceeding in respect of which indemnification may be sought under this Section 6.1(a) (whether or not the Indemnified Party is an actual or potential party to such claim or action) unless such settlement, compromise or consent includes an unconditional release of the Indemnified Party from all liability arising out of such claim or Proceeding.~~

~~(b) For purposes of Section 6.1(a), in the event of the termination of the rights and obligations of the IESO (or any successor thereto pursuant to Section 3.7) as Servicer pursuant to Section 7.1, or a resignation by such Servicer pursuant to this Agreement, the IESO shall be deemed to be the Servicer pending appointment of a Successor Servicer pursuant to Section 7.2.~~

~~(c) Indemnification under Section 6.1(a) shall include reasonable out-of-pocket fees and expenses of investigation and litigation (including reasonable legal fees and expenses), except as otherwise expressly provided in this Agreement.~~

~~(d) Indemnification under this Section 6.1 shall survive any repeal of, modification of, or supplement to, or judicial invalidation of, the Act and shall survive the resignation or removal of the Indenture Trustee or the termination of this Agreement and will rank *pari passu* with other general, unsecured obligations of the IESO. Other than provided in the preceding sentence, the IESO shall not indemnify any party under this Section 6.1 for any changes in law after the date hereof, whether such changes in law are effected by means of any legislative enactment or any final and non-appealable judicial decision.~~

~~(e) Except to the extent expressly provided in this Agreement (including the payment of the Purchase Price), the IESO hereby releases and discharges the Issuer and the Indenture Trustee, and each of their respective trustees, officers, directors and agents (collectively, the "**Released Parties**"), from any and all actions, claims and demands whatsoever, whenever arising, which the IESO, in its capacity as Servicer or otherwise, shall or may have against any such Person relating to the Investment Interest or the IESO's activities with respect thereto, other than any actions, claims and demands arising out of the willful misconduct, bad faith or gross negligence of the Released Parties.~~

~~**6.2 Merger, Conversion or Consolidation of, or Assumption of the Obligations of, the Seller**~~

~~(a) Any Person (a) into which the IESO may be merged or amalgamated, (b) which may result from any merger or amalgamation to which the IESO shall be a party, or (c) which may succeed to the properties and assets of the IESO substantially as a whole and which succeeds to all or substantially all of the duties of the IESO as electricity system operator in the Province of Ontario, or (d) which may otherwise succeed to all or substantially all of the duties of the IESO as electricity system operator, which Person in any of the foregoing cases executes an agreement of assumption to perform every obligation of the IESO under this Agreement, shall be the successor to the IESO hereunder without the execution or filing of any document or any further act by any of the parties to this Agreement; provided, however, that: (i) immediately after giving effect to such transaction, no representation or warranty made pursuant to Article 4 shall have been breached and no Servicer Default, and no event that, after notice or lapse of time, or both, would become a Servicer Default, shall have occurred and be continuing, (ii) the IESO shall have delivered to the Issuer and the Indenture Trustee an Officer's Certificate and an Opinion of Counsel each stating that such amalgamation, reorganization, merger or succession and such agreement of assumption comply with this Section 6.2 and that all conditions precedent, if any, provided for in this Agreement relating to such transaction have been complied with, (iii) the IESO shall have delivered to the Issuer and the Indenture Trustee an Opinion of Counsel stating that, in the~~

~~opinion of such counsel, either (A) all filings to be made by the IESO or the IESO, in its capacity as Seller or as Servicer, that are necessary or advisable to fully preserve and protect the respective interests of the Issuer and the Indenture Trustee in the Investment Interest have been executed and filed, and reciting the details of such filings, or (B) no such action is necessary to preserve and protect such interests, and (iv) the IESO shall have given the Issuer, the Indenture Trustee and the Rating Agencies prior written notice of such transaction. When any Person (or more than one Person) acquires the properties and assets of the IESO substantially as a whole or otherwise becomes the successor, whether by merger, conversion, amalgamation, sale, transfer, lease, management contract or otherwise, to all or substantially all of the assets of the IESO in accordance with the terms of this Section 6.2, then, upon satisfaction of all of the other conditions of this Section 6.2, the IESO shall automatically and without further notice be released from all of its obligations hereunder.~~

~~(b) The provisions of Section 6.2(a) shall only be applicable if the IESO is not the Servicer and Section 3.7 is not applicable.~~

ARTICLE 6

SERVICER DEFAULT

6.1 ~~7.1~~ Servicer Default

If any one or more of the following events (a "**Servicer Default**") shall occur and be continuing:

(a) any failure by the Servicer to remit to the Collection Account on behalf of the Issuer any required remittance that shall continue unremedied for a period of **[two]** Business Days after written notice of such failure is received by the Servicer from the Issuer (with a copy to the Indenture Trustee) or the Indenture Trustee ~~or after discovery of such failure by a Responsible Officer of the Servicer~~;

(b) any failure on the part of the Servicer ~~or, so long as the Servicer is the IESO, any failure on the part of the IESO, as the case may be,~~ to duly to observe or to perform in any material respect any covenants or agreements of the Servicer ~~or the IESO, as the case may be,~~ set forth in this Agreement (other than as provided in Section 7.1(a)) or any other Program Agreement to which it is a party, which failure shall (i) materially and adversely affect the rights of the Specified Creditors, and (ii) continue unremedied for a period of 30 days after the date on which (A) written notice of such failure, requiring the same to be remedied, shall have been given to the Servicer or the IESO, as the case may be, by the Issuer (with a copy to the Indenture Trustee) or to the Servicer or the IESO, as the case may be, by the Indenture Trustee, or (B) such failure is discovered by a Responsible Officer of the Servicer;

(c) any representation or warranty made by the Servicer in this Agreement or any other Program Agreement or any certificate, report or other document delivered hereunder or thereunder shall prove to have been incorrect when made, which has a material adverse effect on the Issuer, the Indenture Trustee or any other Specified Creditor and which material adverse effect continues unremedied for a period of 30 days after the date on which (i) written notice thereof, requiring the same to be remedied, shall have been delivered to the Servicer (with a copy to the Indenture Trustee) by the Issuer or the Indenture Trustee or (ii) such failure is discovered by a Responsible Officer of the Servicer;

(d) an Insolvency Event occurs with respect to the Servicer~~ or the IESO~~; or

(e) any additional "Servicer Default" as specified in any Co-Owner Agreement occurs. **[NTD: If there are Investment Interest owners in addition to the Issuer, the Servicer will effectively be acting as Servicer under two different sale agreements that both relate to the same asset, the Investment Asset. There can only be one Servicer. In circumstances where there are multiple Investment Interest owners, the Co-Owner Agreement will have to co-ordinate the replacement of the Servicer across all Investment Interest owners.]**

then, and in each and every case, the Indenture Trustee shall, upon the instruction of the Specified Creditors evidencing a majority of the Outstanding Amount of the Issuer's Funding Obligations, subject to the terms of any Co-Owner Agreement, by notice then given in writing to the Servicer (and to the Indenture Trustee if given by the Specified Creditors) (a "**Termination Notice**"), terminate all the rights and obligations (other than the obligations set forth in Section 6.1 and the obligation under Section 7.2 to continue performing its functions as Servicer until a Successor Servicer is appointed) of the Servicer under this Agreement and under the Co-Owner Agreement. In addition, upon a Servicer Default described in Section 7.1(a), the Specified Creditors and the Indenture Trustee (or any of their representatives) shall be entitled to apply to a court of appropriate jurisdiction for an order for sequestration and payment of revenues arising with respect to the Investment Interest. On or after the receipt by the Servicer of a Termination Notice, all authority and power of the Servicer under this Agreement, whether with respect to the Investment Interest, the Clean Energy Adjustments or otherwise, shall, without further action, pass to and be vested in such Successor Servicer as may be appointed under Section 7.2; and, without limitation, the Indenture Trustee is hereby authorized and empowered to execute and deliver, on behalf of the predecessor Servicer, as attorney-in-fact or otherwise, any and all documents and other instruments, and to do or accomplish all other acts or things necessary or appropriate to effect the purposes of such Termination Notice, whether to complete the transfer of all documents and records related to the Regulatory Asset, ~~the IESO Deferral, ~~the Fair Hydro Variance Account and related documents or records, or otherwise (the "**Records**"). The predecessor Servicer shall cooperate with the Successor Servicer, the Issuer and the Indenture Trustee in effecting the termination of the responsibilities and rights of the predecessor Servicer under this Agreement, including the transfer to the Successor Servicer for administration by it of all Records and all cash amounts that shall at the time be held by the predecessor Servicer for remittance, or shall thereafter be received by it with respect to the Investment Interest or the Clean Energy Adjustment. As soon as practicable after receipt by the Servicer of such Termination Notice, the Servicer shall deliver the Records to the Successor Servicer. If a Successor Servicer has been appointed as a result of a Servicer Default, all reasonable costs and expenses (including reasonable legal fees and expenses) incurred in connection with transferring the Records to the Successor Servicer and amending this Agreement and the Co-Owner Agreement to reflect such succession as Servicer pursuant to this Section 7.1 shall be paid by the predecessor Servicer upon presentation of reasonable documentation of such costs and expenses. Termination of the IESO as Servicer shall not terminate the IESO's rights or obligations under this Agreement (except rights thereunder deriving from its rights as the Servicer hereunder).

6.2 ~~7.2~~ Appointment of Successor Servicer

(a) Upon the Servicer's receipt of a Termination Notice pursuant to Section 7.1 or the Servicer's resignation or removal in accordance with the terms of this Agreement, the predecessor Servicer shall continue to perform its functions as Servicer under this Agreement, until a Successor Servicer shall have assumed in writing the obligations of the Servicer hereunder as described below. In the event of the Servicer's removal or resignation hereunder, the Indenture Trustee may, and at the written direction and with the consent of the Specified Creditors evidencing a majority of the Outstanding Amount of the Issuer's Funding Obligations shall, but subject to the provisions of the Co-Owner Agreement, appoint a Successor Servicer with the Issuer's prior written consent thereto (which consent shall not be unreasonably withheld), and the Successor Servicer shall accept its appointment by a written assumption in form reasonably acceptable to the Issuer~~ and the Indenture Trustee and provide prompt written notice of such assumption to the Issuer and the Rating Agencies~~. If, within 30 days after the delivery of the Termination Notice, a Successor Servicer shall not have been appointed, the Indenture Trustee may, at the direction of Specified Creditors evidencing a majority of the Outstanding Amount of the Issuer's Funding Obligations, petition a court of competent jurisdiction to appoint a Successor Servicer under this Agreement. A Person shall qualify as a Successor Servicer only if (i) such Person is permitted under the Act to perform the duties of the Servicer, (ii) the Rating Agency Condition shall have been satisfied with respect to such appointment, (iii) such Person enters into a master ~~sale~~transfer and servicing agreement with the Issuer having substantially the same provisions as this Agreement and (iv) such Person agrees to perform the obligations of the Servicer under any Co-Owner Agreement. In no event shall the Indenture Trustee be liable for its appointment of a Successor Servicer. The Indenture Trustee's expenses incurred under this Section 7.2(a) shall be at the sole expense of the Issuer and payable from the Collection Account as provided in **[Section 8.02]** of the Indenture.

(b) Upon appointment, the Successor Servicer shall be the successor in all respects to the predecessor Servicer and shall be subject to all the responsibilities, duties and liabilities arising thereafter placed on the predecessor Servicer and shall be entitled to all the rights granted to the predecessor Servicer by the terms and provisions of this Agreement.

(c) Any Successor Servicer that is not a Permitted Successor of the IESO shall be entitled to such compensation for its services as may be agreed to between the Issuer and such Successor Servicer, with such fees to be payable from the Collection Account as provided in **[Section 8.02]** of the Indenture.

6.3 ~~7.3~~ Waiver of Past Defaults

The Indenture Trustee, with the written consent of Specified Creditors evidencing a majority of the Outstanding Amount of the Issuer's Funding Obligations, may waive in writing any default by the Servicer in the performance of its obligations hereunder and its consequences, except a default in making any required deposits to the Collection Account in accordance with this Agreement. Upon any such waiver of a past default, such default shall cease to exist, and any Servicer Default arising therefrom shall be deemed to have been remedied for every purpose of this Agreement. No such waiver shall extend to any subsequent or other default or impair any right consequent thereto. ~~Promptly after the execution of any such waiver, the Servicer shall furnish copies of such waiver to each of the Rating Agencies.~~

6.4 ~~7.4~~ Notice of Servicer Default

The Servicer shall deliver to the Issuer, ~~the Indenture Trustee and the Rating Agencies,~~ promptly after having obtained knowledge thereof, but in no event later than five Business Days thereafter, written notice of any event that, with the giving of notice or lapse of time, or both, would become a Servicer Default under Section 7.1.

6.5 ~~7.5~~ Cooperation with Successor Servicer

The Servicer covenants and agrees with the Issuer that it will, on an ongoing basis, cooperate with the Successor Servicer and provide whatever information is, and take whatever actions are, reasonably necessary to assist the Successor Servicer in performing its obligations hereunder.

ARTICLE 7
MISCELLANEOUS

7.1 ~~8.1~~ Amendment

~~(a)~~ This Agreement may only be amended by instrument in writing signed by the IESO and the Issuer ~~with (i) the prior written consent of the Indenture Trustee, and (ii) the satisfaction of the Rating Agency Condition. Promptly after the execution of any such amendment or consent, the Issuer shall furnish copies of such amendment or consent to each of the Rating Agencies.~~.

~~(b) Prior to the execution of any amendment to this Agreement, the Issuer and the Indenture Trustee shall be entitled to receive and rely upon an Opinion of Counsel, which counsel may be an employee of or counsel to the Issuer or the IESO and which shall be reasonably satisfactory to the Indenture Trustee, or, in the Indenture Trustee's sole judgment, external counsel of the IESO stating that the execution of such amendment is authorized and permitted by this Agreement and that all~~

~~conditions precedent provided for in this Agreement relating to such amendment have been complied with. The Issuer and the Indenture Trustee may, but shall not be obligated to, enter into any such amendment that affects their own rights, duties, indemnities or immunities under this Agreement or otherwise.~~

7.2 ~~8.2~~ Notices

Any notice, report or other communication given hereunder shall be in writing and shall be effective (a) upon receipt when sent through the mails, registered or certified mail, return receipt requested, postage prepaid, with such receipt to be effective the date of delivery indicated on the return receipt, (b) upon receipt when sent by an overnight courier, (c) on the date personally delivered to an authorized officer of the party to which sent, or (d) on the date transmitted by electronic transmission with a confirmation of receipt in all cases, addressed as follows:

(a) in the case of the IESO, in its capacity as ~~Seller~~Transferor or Servicer:

Independent Electricity System Operator
[Address]

Attention: ■
Email: ■

(b) in the case of the Issuer:

[Financing Entity]
c/o Ontario Power Generation Inc.
as Administrative Agent
700 University Avenue
Toronto, Ontario
M5G 1X6

Attention: ■
Email: ■

(c) in the case of the Indenture Trustee:

■
[Address]

Attention: ■
Email: ■

~~(d) in the case of **[Rating Agency]**:~~

~~■~~
~~**[Address]**~~

~~Attention: ■~~
~~Email: ■~~

Each party hereto may, by notice given in accordance herewith to the other party or parties hereto, designate any further or different address to which subsequent notices, reports and other communications shall be sent.

7.3 ~~8.3~~ Assignment

Notwithstanding anything to the contrary contained herein, except as provided in the provisions of this Agreement concerning the resignation of the Servicer, this Agreement may not be assigned by the IESO.

7.4 ~~8.4~~ Limitations on Rights of Third Parties

The provisions of this Agreement are solely for the benefit of the IESO, the Issuer and, to the extent provided herein or in the other Program Agreements, the Indenture Trustee (for its own benefit and for the benefit of the Specified Creditors) and the other Persons expressly referred to herein, and such Persons shall have the right to enforce the relevant provisions of this Agreement. Nothing in this Agreement, whether express or implied, shall be construed to give to any other Person any legal or equitable right, remedy or claim in the Issuer Investment Interest or under or in respect of this Agreement or any covenants, conditions or provisions contained herein.

7.5 ~~8.5~~ Severability

Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remainder of such provision (if any) or the remaining provisions hereof (unless such construction shall be unreasonable), and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

7.6 ~~8.6~~ Separate Counterparts; Electronic Delivery

This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but 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 this Agreement by such party.

7.7 ~~8.7~~ Governing Law

This Agreement shall be construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein, and each party to this Agreement attorns to the non-exclusive jurisdiction of the courts of the Province of Ontario.

7.8 ~~8.8~~ Assignment to Indenture Trustee

The IESO hereby acknowledges and consents to any mortgage, pledge, assignment and grant of a security interest by the Issuer to the Indenture Trustee pursuant to the Indenture for the benefit of the Specified Creditors of all right, title and interest of the Issuer in, to and under this Agreement, the Investment Interest and the proceeds thereof and the assignment of any or all of the Issuer's rights hereunder to the Indenture Trustee for the benefit of the Specified Creditors. In no event shall the Indenture Trustee have any liability for the representations, warranties, covenants, agreements or other obligations of the Issuer hereunder or in any of the certificates delivered pursuant hereto, as to all of which any recourse shall be had solely to the assets of the Issuer subject to the availability of funds therefor under Section **[8.02]** of the Indenture.

7.9 ~~8.9~~ Limitation of Liability of Indenture Trustee

It is expressly understood and agreed by the parties hereto that this Agreement is executed and delivered by the Indenture Trustee, not individually or personally but solely as Indenture Trustee on behalf of the Specified Creditors, in the exercise of the powers and authority conferred and vested in it. The Indenture Trustee in acting hereunder is entitled to all rights, benefits, protections, immunities and indemnities accorded to it under the Indenture.

7.10 ~~8.10~~ [Limitation of Liability of the Issuer Trustee][97]

(a) **[It is expressly understood and agreed by the parties hereto that the Issuer Trustee is acting solely in its capacity as trustee of the Issuer, and not in any other capacity. The Issuer solely shall be responsible for the performance of the Issuer's obligations hereunder and the assets of the Issuer solely shall be subject to levy or execution in satisfaction of such obligations.**

(b) **The Issuer Trustee will not be subject to any liability whatsoever, in tort, in contract or otherwise, in connection with the Issuer's property or the Issuer's activities, to the Issuer's beneficiaries or to any other Person, for any action taken or permitted by the Issuer Trustee to be taken, or the Issuer Trustee's failure to compel in any way any former or acting Issuer Trustee to redress any breach of trust with respect to the execution of the duties of its office or in respect of the, Issuer's property or the Issuer's activities, provided that the foregoing limitation will not apply in respect of action or failure to act arising from or in connection with dishonesty, bad faith, willful misconduct, gross negligence or reckless disregard of a duty by the Issuer Trustee. The Issuer Trustee, in doing anything or permitting anything to be done in respect of the execution of the duties of its office or in respect of the Issuer's property or the Issuer's activities, is, and will be conclusively deemed to be, acting as trustee of the Issuer and not in any other capacity. Except as to the extent provided in this Section 8.11, the Issuer Trustee will not be subject to any liability for any debts, liabilities, obligations, claims, demands, judgments, costs, charges or expenses against or with respect to the Issuer, arising out of anything done or**

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[97] Include only if Financing Entity is a trust.

permitted by it to be done or its failure to take any action in respect of the execution of the duties of its office or for or in respect of the Issuer's property or the Issuer's activities and resort will be had solely to the Issuer's property for the payment or performance thereof. No property or assets of the Issuer Trustee owned in its personal capacity will be subject to levy, execution or other enforcement procedure with regard to any obligation under this Agreement.

(c) **The holders of the units of the Issuer will not be subject to any liability whatsoever, in tort, in contract or otherwise, in connection with the Issuer's property or the Issuer's activities, to the Issuer's beneficiaries or to any other Person, for any action taken or permitted by it to be taken. The holders of the units of the Issuer will not be subject to any liability for any debts, liabilities, obligations, claims, demands, judgments, costs, charges or expenses against or with respect to the Issuer, arising out of anything done or permitted by it to be done or its failure to take any action in respect of the execution of the duties of its office or for or in respect of the Issuer's property or the Issuer's activities and resort will be had solely to the Issuer's property for the payment or performance thereof. No property or assets of the holders of the units of the Issuer owned in their personal capacity will be subject to levy, execution or other enforcement procedure with regard to any obligation under this Agreement.]**

7.11 ~~8.11~~ Waivers

Any term or provision of this Agreement may be waived, or the time for its performance may be extended, by the party or parties entitled to the benefit thereof; provided, however, that no such waiver delivered by the Issuer shall be effective unless the Indenture Trustee has given its prior written consent thereto. Any such waiver shall be validly and sufficiently authorized for the purposes of this Agreement if, as to any party, it is authorized in writing by an authorized representative of such party~~, with prompt written notice of any such waiver to be provided to the Rating Agencies~~. The failure of any party hereto to enforce at any time any provision of this Agreement shall not be construed to be a waiver of such provision, nor in any way to affect the validity of this Agreement or any part hereof or the right of any party thereafter to enforce each and every such provision. No waiver of any breach of this Agreement shall be held to constitute a waiver of any other or subsequent breach.

7.12 ~~8.12~~ Indenture Trustee Actions

In acting hereunder, the Indenture Trustee shall have the rights, protections and immunities granted to it under the Indenture.

7.13 ~~8.13~~ [Issuer Trustee][~~10~~8]

[In acting hereunder, the Issuer Trustee shall have the rights, protections and immunities granted to it under the Declaration of Trust.]

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

[~~10~~8] Include only if Financing Entity is a trust.

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

[FINANCING ENTITY], by its Administrative Agent, **ONTARIO POWER GENERATION INC.**

By: ______________________________
Name:
Title:

By: ______________________________
Name:
Title:

INDEPENDENT ELECTRICITY SYSTEM OPERATOR
as ~~Seller~~Transferor and Servicer

By: ______________________________
Name:
Title:

By: ______________________________
Name:
Title:

■,
as Indenture Trustee

By: ______________________________
Name:
Title:

By: ______________________________
Name:
Title:

EXHIBIT A

FORM OF TRANSFER NOTICE

See attached

TRANSFER NOTICE

TO: **[FINANCING ENTITY]**
c/o Ontario Power Generation Inc.,
as Administrative Agent
700 University Avenue
Toronto, Ontario
M5G 1X6

Attention: ■
Email: ■

This Transfer Notice is delivered to you pursuant to Section 2.1 of a master ~~sale~~transfer and servicing agreement made as of ■, 2017 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "**Master ~~Sale~~Transfer and Servicing Agreement**") between **[FINANCING ENTITY]**, a **[trust/corporation] [formed/incorporated]** under the laws of the Province of Ontario (the "**Issuer**"), and the **INDEPENDENT ELECTRICITY SYSTEM OPERATOR** ("**~~Seller~~Transferor**" in its capacity as ~~seller~~Transferor, "**Servicer**", in its capacity as servicer, and "**IESO**" in its capacity as both ~~Seller~~Transferor and Servicer), a statutory corporation without share capital amalgamated under the laws of the Province of Ontario, and **[INDENTURE TRUSTEE]**, a trust company existing under the laws of Canada and duly authorized to carry on the business of a trust company in all of the provinces and territories of Canada, as indenture trustee (the "**Indenture Trustee**"). All capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Master ~~Sale~~Transfer and Servicing Agreement.

The ~~Seller~~Transferor hereby gives notice to the Issuer of its desire to transfer to the Issuer on the Closing Date set out below, on a fully serviced basis, the specified portion of the Regulatory Asset set out below, all in accordance with the terms and conditions of the Master ~~Sale~~Transfer and Servicing Agreement. In consideration for the ~~Seller~~Transferor's Transfer to the Issuer of the specified portion of the Regulatory Asset set out below, on a fully serviced basis, the Issuer shall deliver or cause to be delivered to the ~~Seller~~Transferor on the Closing Date set out below, by wire transfer in immediately available funds, an amount in Canadian dollars equal to the Purchase Price set out below.

~~Upon receipt by the Seller of the Purchase Price on the Closing Date, (i) the Seller shall reduce the balance of the Fair Hydro Variance Account by an amount equal to the Purchase Price and the Regulatory Asset shall be adjusted accordingly; and (ii) the corresponding Investment Interest shall immediately vest in the Issuer, free and clear of any adverse claim, and shall constitute a valid and enforceable absolute assignment, conveyance and sale of the corresponding Investment Interest.~~

Specified portion of Regulatory Asset: $■

Purchase Price: $■

Closing Date: ■

The ~~Seller~~Transferor hereby represents, warrants and confirms that:

(i) each of the representations and warranties on the part of the ~~Seller~~Transferor contained in the Master Sale and Servicing Agreement are true and correct in all respects on the date hereof as if made on the date hereof;

(ii) the ~~Seller~~Transferor is not in breach of any of its covenants in the Master ~~Sale~~Transfer and Servicing Agreement; and

(iii) as of the date hereof, each condition precedent that must be satisfied by the ~~Seller~~Transferor under Section 2.2 of the Master ~~Sale~~Transfer and Servicing Agreement is capable of being satisfied prior to Closing Date.

The closing shall take place at ■ (Toronto time) on the Closing Date referred to above at the offices of ■, except as may be otherwise mutually agreed.

DATED this ■ day of ■, 20■.

[FINANCING ENTITY], by its Administrative Agent, **ONTARIO POWER GENERATION INC.**

By: ______________________________
Name:
Title:

By: ______________________________
Name:
Title:

The undersigned hereby accepts the foregoing offer.

DATED this ■ day of ■, 20■.

INDEPENDENT ELECTRICITY SYSTEM OPERATOR
as ~~Seller~~Transferor

By: ______________________________
Name:
Title:

By: ______________________________
Name:
Title:

EXHIBIT B

FORM OF MONTHLY REPORT

See Attached

MONTHLY REPORT

[NTD: Form of Certificate and placeholder only. To be confirmed once Goldman provides information.]

Reference is made to the master ~~sale~~transfer and servicing agreement made as of ■, 2017 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "**Master ~~Sale~~Transfer and Servicing Agreement**") between **[FINANCING ENTITY]**, a **[trust/corporation] [formed/incorporated]** under the laws of the Province of Ontario (the "**Issuer**"), and the **INDEPENDENT ELECTRICITY SYSTEM OPERATOR** ("**~~Seller~~Transferor**" in its capacity as ~~seller~~Transferor, "**Servicer**", in its capacity as servicer, and "**IESO**" in its capacity as both ~~Seller~~Transferor and Servicer), a statutory corporation without share capital amalgamated under the laws of the Province of Ontario, and **[INDENTURE TRUSTEE]**, a trust company existing under the laws of Canada and duly authorized to carry on the business of a trust company in all of the provinces and territories of Canada, as indenture trustee (the "**Indenture Trustee**"). Capitalized terms used but not defined in this Monthly Report have their respective meanings as set forth in the Master ~~Sale~~Transfer and Servicing Agreement.

Pursuant to Section 3.3 of the Master ~~Sale~~Transfer and Servicing Agreement the Servicer hereby certifies in respect of the Billing Period corresponding to the calendar month of ●, ●. as follows:

	Item	Amount
(A)	Servicer CEA Collections:	$■
(B)	Balance of Collection Account:	$■

[NTD: Any additional information considered necessary for OPG/IESO to be included.]

DATED this ■ day of ■, 20■.

INDEPENDENT ELECTRICITY SYSTEM OPERATOR
as Servicer

By: ______________________________
Name:
Title:

By: ______________________________
Name:
Title:

Document comparison by Workshare Professional on Wednesday, June 21, 2017 10:56:16 AM

Input:	
Document 1 ID	PowerDocs://SETOR1/6735315/1
Description	SETOR1-#6735315-v1-Master_Sale_and_Servicing_Agreement__-_Fair_Hydro_Plan
Document 2 ID	PowerDocs://SETOR1/6735315/6
Description	SETOR1-#6735315-v6-Master_Sale_and_Servicing_Agreement__-_Fair_Hydro_Plan
Rendering set	standard

Legend:	
Insertion	
~~Deletion~~	
~~Moved from~~	
Moved to	
Style change	
Format change	
~~Moved deletion~~	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	209
Deletions	350
Moved from	2
Moved to	2
Style change	0
Format changed	0
Total changes	563