

SECTION #6 - REFERENCE #2

Standard Toronto Hydro Connection Agreements Terms of Conditions

- Schedule A:
 - Toronto Hydro-Electric System Limited Connection Agreement

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Standard THESL Connection Agreements - Terms of Conditions Schedule A

TORONTO HYDRO-ELECTRIC SYSTEM LIMITED CONNECTION AGREEMENT

Date:

Customer Name ("Customer"):

Type of Business:

Customer Account Number:

Service Address:

Postal Code:

Billing Address:

Postal Code:

Business Phone Number:

Home Phone Number:

Toronto Hydro-Electric System Limited ("THESL") is engaged in the business of distributing electricity in the City of Toronto, in the Province of Ontario;

The Customer owns the facilities ("Facilities") located at the Service Address set forth above ("Site"); and

The Customer wishes to have the Facilities connected to the THESL Distribution System.

NOW THEREFORE the Customer and THESL agree as follows:

- 1.0 **Connection:** The Facilities shall be connected to the THESL Distribution System and remain Energized at the Point of Connection from the Connection Date for the duration of the Term on the terms and subject to the conditions set out in this Agreement.
- 2.0 **Payment:** The Customer shall (i) pay THESL for all electricity distribution services provided by THESL to the Site during the Term in accordance with such rates as may be approved by the Ontario Energy Board ("OEB") from time to time for the appropriate class rating to which the services apply; (ii) make such payments in accordance with THESL's billing cycle as notified to the Customer from time to time; and (iii) pay late payment and other charges and pay such deposits as may be required by THESL as part of the OEB-approved rate structure. The Customer shall also pay to THESL such other charges as THESL may be required by applicable law to bill and/or collect for third parties including electricity retailers, the Independent Market Operator, Ontario Energy Board and any transmission company.
- 3.0 **Conditions of Service:** In addition to the obligations set forth in this Agreement, the Customer shall be bound by, and shall comply with, all provisions of THESL's Conditions of Service.
- 4.0 **General Conditions of Connection:** THESL and the Customer agree that the terms and conditions attached hereto as Schedule A, General Conditions of Connection, shall apply and be binding on the Parties.

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5.0 **Notices:** Any notices required or permitted to be made under this Agreement shall be given by prepaid registered mail or delivered by hand or courier to the person executing this Agreement at the address set forth below. If such notice is given by mail, such notice shall be deemed received on the fifth Business Day after the date of mailing. If such notice is delivered by hand or by courier, such notice shall be deemed to have been received on the actual date of delivery.

The designation of the person to be notified or the address of such person may be changed at any time by either party hereto by notice in writing given pursuant to this Section 5.0 and such change shall take effect from the deemed date of receipt as specified in this Section 5.0.

IN WITNESS WHEREOF, THESL and the Customer, through their authorized representatives, have executed this Agreement as of the day and year first written above.

TORONTO HYDRO-ELECTRIC SYSTEM LIMITED

By: _____
Name:
Title:

Toronto Hydro-Electric System Limited
14 Carlton Street
Toronto, Ontario
M5B 1K5
Telephone: (416) ●
Fax: (416) ●

[Registered Property Owner]

By: _____
Name:
Title:

Name:
[Address]
Telephone No.: ●
Fax No: ●
Email: ●

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SCHEDULE "A" GENERAL CONDITIONS OF CONNECTION

1.0 **Completion Of Testing:**

Notwithstanding anything else in this Agreement to the contrary, without limiting any other obligations of the Customer, the Customer shall not have the right for the Facilities to be connected or remain Energized until the Facilities have successfully completed Testing.

2.0 **Approval of Structures, Equipment and Apparatus:**

All electrical structure, equipment and apparatus used by the Customer at the Facilities shall be subject to the prior approval of THESL, acting reasonably. A failure by the Customer to install, or where installed, replace or remove any structures, equipment or apparatus in accordance with a direction from THESL, acting reasonably, shall be considered an Event of Default pursuant to Condition 12.0 and THESL shall be entitled to terminate this Agreement pursuant to Condition 13.0 and the provisions of Condition 14.0 shall apply.

3.0 **Testing:** THESL shall provide prior written notice ("Notice of Testing") to the Customer of the Tests which must be performed. The Customer shall obtain prior written approval from THESL for the contractor who will perform the Tests; provided that if a contractor is on the most recent list of approved contractors published by THESL from time to time no written approval shall be required. After completion of Testing, the Customer shall deliver the results of the Tests to THESL.

4.0 **No Damages:** The Facilities, when inter-connected to the THESL Distribution System, shall not adversely affect or damage, (a) the health and safety of THESL personnel, its contractors or the general public; (b) the structures, equipment or apparatus owned or operated by THESL; (c) the THESL Distribution System; (d) the security, safety, efficiency and reliability of THESL Distribution System; or (e) the quality of the electrical power supply or services provided by THESL to the Customer or other THESL customers.

5.0 **No Violation:** The Customer shall not, in installing, operating or maintaining the Facilities, (a) violate, or cause THESL to violate, any provision of its Distribution License; (b) contravene any laws of the Province of Ontario or any laws of Canada having force and effect in the Province of Ontario; or (c) violate any provision contained in the Conditions of Service.

6.0 **Covenants:** The Customer shall comply as soon as possible with any reasonable directive received from THESL that THESL makes for the purpose of meeting any of its obligations under its Distribution License. The Customer shall have no rights of access to THESL structures, equipment, apparatus or lands or property owned by THESL.

In the event that, as a consequence of the construction, maintenance, connection, or operation of the Facilities, damage occurs to any structure, equipment or to other apparatus owned or operated by THESL, or to the THESL Distribution System, the Customer shall, within 10 days of receipt of an invoice therefore, pay the amount of any such damage to THESL.

THESL shall be entitled to access to the property of the Customer at all reasonable times, to inspect, maintain, repair, alter, remove, replace or disconnect wires or other facilities, or to install, inspect, read, calibrate, maintain, repair, alter, remove or replace a meter, which are located on the property and to take any actions necessary to maintain the safe and reliable operation of the THESL Distribution System. The Customer shall also provide THESL with such other access as may be specified in a Conditions of Service or by law. In accessing the property of the Customer, THESL shall comply with the Customer's reasonable security practices and procedures to the extent that it is made aware of such practices and procedures.

The Customer agrees to provide suitable space for THESL's existing meters, wires, poles, cables, transformers and other equipment (collectively "Metering Equipment") at the Site

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and for any Metering Equipment which THESL may be required by law to install as any time after the date of this Agreement and further agrees that no one who is not an agent of THESL shall be permitted to remove, inspect or tamper with same, including moving, inspecting or tampering with the seals. The Customer agrees that Representatives of THESL shall have reasonable access to the Site and Facilities for the purposes of reading, examining, preparing or removing their meters, wires, poles, cables, transformers and other appliances, materials and equipment and for the purpose of inspecting the Customer's appliances, equipment and wiring.

7.0 Maintenance: The Customer will maintain the Facilities in good and workmanlike condition in a manner consistent with the Conditions of Service and all standards specified by law. The Customer shall immediately repair or replace, as required, any equipment, apparatus or structure owned by the Customer that may affect the security, safety, efficiency or reliability of the THESL Distribution System.

8.0 Interest: Any amount required to be paid under this Agreement, whether for the cost of interconnection or otherwise, which is not paid on the due date therefore, shall bear interest at the rate of 1.5% calculated and compounded monthly (19.56% per annum) at and from the due date up to and including the date of payment in full of such amount, together with all interest accrued to the date of payment.

9.0 ESA Inspection: The Customer shall, at its expense, have the Facilities inspected and approved by the ESA and obtain a written certificate from the ESA certifying that the ESA has inspected the electrical installations of the Facilities to allow for the performance of the Tests, Testing, and in-service operation of the Facilities and deliver, or have delivered, to THESL such written certificate from the ESA. THESL will not allow the Facilities to be connected to the THESL Distribution System for the purpose of performing the Commissioning Tests hereunder until THESL receives a written connection authorization from the ESA for the Facilities and all other requirements of THESL for the connection of the Facilities to the THESL Distribution System are met.

10.0 Reliability: THESL shall operate in a manner consistent with its Conditions of Service in order to provide a regular and uninterrupted service to the Customer but does not guarantee a constant service of the maintenance of unvaried frequency of voltage and THESL shall not be liable for any damages whatsoever to the Customer by reason of any failure in respect thereof. The Customer shall provide for the protection of its structures, equipment and apparatus from voltage variations, operations, single line phasing and all other causes.

11.0 Term: Unless terminated earlier in accordance with the terms of the Agreement, this Agreement shall be effective as of the date first written above and shall continue in full force and effect until either party gives no less than 30 days written notice to the other party of its intention to terminate this Agreement (“Term”). Any such notice of termination shall specify the effective date of termination; provided that notwithstanding the delivery of a notice of termination under this Condition 11.0, THESL shall have the right to terminate this Agreement prior to the specified effective date of termination pursuant to Condition 13.0.

12.0 Events of Default: The occurrence of any of the following shall constitute an event of default (“Event of Default”) on the part of the Customer: (a) failure to pay any sum, including interest pursuant to Condition 8.0, due and owing hereunder; (b) failure to comply with any other covenant or obligation set forth in this Agreement; or (c) the occurrence of a breach or default under any agreement which the Customer has with THESL to supply electricity to the Customer.

13.0 Notice of Termination: Upon the occurrence of an Event of Default, THESL shall have the right to: (a) give notice of termination to the Customer whereupon the Agreement shall terminate as at the effective date of termination specified in the notice; and/or (b) disconnect the Facilities from the THESL Distribution System in accordance with Condition 15.0 (a) below;

14.0 Consequences of Termination: Upon termination of the Agreement in accordance with any of its provisions, without prejudice to any other rights THESL may have: (a) all charges

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outstanding pursuant to this Agreement shall immediately become due and payable to THESL by the Customer; (b) THESL shall be entitled to enter onto the Customer's property to remove, at the Customer's expense, any THESL structure, equipment or apparatus as soon as reasonably practicable; (c) the relevant provisions of this Agreement shall continue in effect after expiry or termination to the extent necessary to provide for any billings, adjustments and payments related to the period prior to the termination and for the payment of any monies due and owing pursuant to this Agreement; (d) the termination of this Agreement shall not affect any rights or obligations which may have accrued prior to such termination or any other rights which the terminating party may have arising out of either the termination or the event giving rise to the termination and shall not affect any continuing obligations of either of the parties under this Agreement, which are expressed to continue after termination of this Agreement; (e) THESL shall have no liability whatsoever to the Customer arising from such termination; and (f) THESL may, if it has not already done so pursuant to Condition 15.0, disconnect the Facilities from the THESL Distribution System.

15.0 Right to Disconnect: Notwithstanding anything else contained in this Agreement, THESL may disconnect the Facilities from the THESL Distribution System and, where it deems it appropriate, remove any structure, equipment or apparatus:

- (a) if an Event of Default occurs, upon reasonable prior notice to the Customer; provided that: (i) THESL may, if it, in its sole discretion, deems it necessary for any reason whatsoever, disconnect the Facilities from the THESL Distribution System immediately without any notice to the Customer; and (ii) if the disconnection is as a result of non-payment of monies due and owing hereunder, THESL shall provide no less than 7 days notice of such disconnection;
- (b) immediately without notice, if THESL, in its sole discretion, determines it is necessary:
 - (i) to protect the health or safety of THESL personnel, its contractors or any third parties; (ii) to prevent damage to the THESL

Distribution System or any other property; (iii) preserve the security, safety, to efficiency and reliability of the THESL Distribution System or services delivered thereunder; (iv) as a result of any other circumstances which THESL in its sole discretion, determines to be an Emergency; or (v) the Customer has failed to comply with the Ontario Electrical Safety Code.

- (c) upon reasonable prior notice to the Customer to perform any unplanned inspection or maintenance;
- (d) immediately without notice, upon issuance of an order or directive requiring disconnection by any court or regulatory authority having jurisdiction; or
- (e) for any other reason specified in this Agreement or the Conditions of Service.

16.0 Reconnection: In the event THESL shall exercise any rights to disconnect the Facilities pursuant to this Agreement for an Event of Default relating to the Customer or any other reason attributable to the action or inaction of the Customer, or for any cause relating to or connected with the Customer, or the Customer requests THESL to disconnect the Facility, and the Customer shall request that the Facilities be reconnected for any reason, the Customer shall pay the costs of such reconnection as set out of the Conditions of Service or where not specified in the Conditions of Service as determined by THESL in its sole discretion, acting reasonably and in either case, such costs shall include any monies which may be due and owing to THESL under this Agreement including Section 2.0. Such costs shall be paid in full prior to the reconnection of the Facilities. Upon the request of THESL, the Customer shall comply with the provisions of Conditions 1.0, 3.0 and 9.0 prior to reconnection.

17.0 Disconnection Request: Upon receipt of a disconnection request by the Customer, THESL will disconnect and/or remove Toronto Hydro's structure, equipment or apparatus at the Customer's cost.

18.0 Risk Assumed: The Customer shall have the risk and all liability in respect of:

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- (a) all loss damage or injury to property owned by THESL, or to property for which THESL has jurisdiction under this Agreement, or is at law responsible for, located on the lands and premises owned by the Customer, unless due to a negligent act or omission or wilful misconduct of THESL or any of Representatives; and
- (b) all loss, damage or injury to: (i) property of the Customer, or property of a third person, on the lands and premises owned by the Customer; and (ii) any person or persons (including loss of life), whether on the lands or premises owned by the Customer, or owned or used by THESL, or otherwise, resulting from the operation of the Facilities, whether in accordance with this Agreement or otherwise, except to the extent that such loss, damage or injury is the result of the negligent action or omission or wilful misconduct of THESL or any of its Representatives.

19.0 **Indemnification:** The Customer shall indemnify and save harmless THESL and all of its Representatives against all claims, losses, expenses, damages, costs, actions or proceedings incurred by, or instituted against, them which relate to, arise out of, or are attributable in any way to the testing, connecting, or operating of the Facilities and occur or arise or result from (i) a breach of, or default under, this Agreement, or (ii) the negligence or willful misconduct of the Customer or any of its Representatives .

20.0 **Limitation of Liability:** Notwithstanding any other provision in this Agreement, or any applicable statutory provision: (a) neither THESL nor any of its Representatives shall be liable to the Customer for any losses, damages, claims, liabilities, costs or expenses arising from any breach of this Agreement or any tortuous act, other than for losses, damages, claims, liabilities, costs or expenses directly resulting from the negligence or willful misconduct of THESL; and (b) neither THESL nor any of its Representatives shall be liable to the Customer under any circumstances for any indirect, incidental, special or consequential damages, whether punitive or exemplary, including damages for loss of use or profits or revenues, business interruption losses,

loss of contract or loss of goodwill or other economic benefits, howsoever caused whether arising directly or indirectly from any breach of this Agreement, fundamental or otherwise, or from any tortious acts, including negligence or gross negligence or willful misconduct of THESL or any of its Representatives.

21.0 **Force Majeure:** “Force Majeure” means, any event or circumstance which is (i) beyond the reasonable control of THESL, (ii) does not result from the negligence or fault of THESL or any of its Representatives and (iii) results in, or causes, the inability of THESL to perform any of its obligations under the Agreement or results in electricity not flowing from the THESL Distribution System to the Facilities or causes the THESL Distribution System to be incapable of being operated lawfully, safely or at all; provided however that lack of funds shall not be interpreted as a cause beyond the reasonable control of THESL. If THESL is unable to carry out any of its obligations under this Agreement because of the occurrence of an event of Force Majeure, the obligations of THESL and the corresponding obligations of the Customer shall be suspended to the extent necessary by and during the continuance of such Force Majeure

22.0 **Relationship:** Nothing in this Agreement shall be deemed to constitute either party hereto as partner, agent or representative of the other party or to create any fiduciary relationship between the parties.

23.0 **Notice of Load Increase:** The Customer may not materially increase the load at the point of connection without the prior written approval of THESL, which approval may not be unreasonably withheld. The Customer shall provide THESL with all information requested by it to reasonably consider the application for approval. If any increase in load is made in contravention of this Condition 23.0, it shall be an Event of Default, THESL shall have the right to terminate this Agreement pursuant to Condition 13.0 and the provisions of Condition 14.0 shall apply to such termination. In addition to any other indemnity contained herein, the Customer shall be liable to THESL for, and shall indemnify THESL against, any damages to the

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THESL Distribution System resulting from any unapproved increase in the load.

24.0 Modifications: From time to time certain improvements, additions or other changes (“Modifications”) to Customer assets relating to, or affecting, the connection assets may be required for their economical, reliable and safe operation. The Customer may not make any material Modifications without prior written approval of THESL, which approval may not be unreasonably withheld. The Customer shall provide THESL with all information requested by it to reasonably consider the application for approval. Any approval given by THESL shall be deemed to contain the conditions that the Modifications shall be made (i) in accordance with the standards and procedures of THESL in effect at the time the Modification is made and (ii) at the Customer's expense. If any Modification is made in contravention of this Condition 24.0, it shall be an Event of Default, THESL shall have the right to terminate this Agreement pursuant to Condition 13.0 and the provisions of Condition 14.0 shall apply to such termination. In addition to any other indemnity contained herein the Customer shall be liable to THESL for, and shall indemnify THESL against, any damages to the THESL Distribution System resulting from of any unapproved Modifications.

25.0 Waiver: Any waiver of any right under this Agreement shall be in writing and any failure by either party to exercise any right or to enforce any remedy under this Agreement shall not be deemed to be a waiver of any other right or remedy or affect the validity of this Agreement.

26.0 Dispute: In the event of any dispute arising out of this Agreement, THESL and the Customer agree as follows: (a) to attempt, in good faith, to negotiate a settlement of the dispute between themselves within twenty (20) days from the date the dispute arose; and (b) in the event that the parties cannot settle the dispute between themselves, either party may, following the passage of at least twenty (20) days from the date the dispute arose (as evidenced by writing between the parties), submit the dispute for resolution in accordance with the process established under the provisions of THESL’ Distribution License and Conditions of Service.

Any decision under that process will be final and binding with no right of appeal.

27.0 Global Provision: The Customer agrees that THESL shall have the right to revise any provision in this Agreement, that it determines, in its sole discretion, is required, for any reason, (a) to protect the security, efficiency, reliability and safety of the THESL Distribution System or safety of THESL personnel or any other property or persons; or (b) to make the provisions of this Agreement consistent with a change in applicable laws or in the Conditions of Service; provided that, THESL shall provide no less than 30 days prior notice of such change to the Customer and the Customer shall have the right to terminate the Agreement within 10 days of receipt of such notice. The provisions of Condition 14.0 shall apply to any such termination.

28.0 Miscellaneous: The Schedules attached to this Agreement form a part of this Agreement and the Customer acknowledges that it has read the provisions contained in the attached Schedules and agrees that they form a part of this Agreement as if they were set forth in the main body of the Agreement. This Agreement constitutes the entire agreement between the Customer and THESL and supercedes all proposals, oral or written, and all other communications between the parties, relating to the subject matter of this Agreement. The invalidity, unenforceability or illegality of any provision of this Agreement shall not affect the validity, enforceability or legality of any other provision of this Agreement, which shall remain in full force and effect. This Agreement and the attached Schedules may only be modified by a written amendment signed by authorized representatives of both parties. The interpretation and performance of this Agreement shall be in accordance with and controlled by the laws in effect in the Province of Ontario and the laws of Canada applicable therein. This Agreement shall be binding upon and ensure to the benefit of THESL and the Customer, and their respective successors and permitted assigns. The Customer may not assign its rights and/or obligations under this Agreement or any portion thereof without the prior written consent of THESL, which will not be unreasonably withheld or delayed. THESL may assign its rights and obligations

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under this Agreement without the consent of the Customer. The Customer represents and warrants to THESL that it has full power and authority to enter into and perform this Agreement and the execution and performance of this Agreement will not conflict with, or constitute a breach or default under, any contract or agreement of any kind to which it is a party or any judgment, order, statute or regulation which is applicable to the Customer. THESL represents and warrants to the Customer that it has full power and authority to enter into and perform this Agreement and the execution and performance of this Agreement will not conflict with, or constitute a breach or default under, any contract or agreement of any kind to which it is a party or any judgment, order, statute or regulation which is applicable to THESL. In this Agreement, the following terms shall have the meanings set forth below:

- (a) “Agreement” means this agreement, including the General Conditions of Connection and all other Schedules and all attachments, as amended from time to time.
- (b) “Business Day” means any day on which The Royal Bank of Canada is open for business in Toronto, Ontario.
- (c) “Conditions of Service” means the document developed by THESL in accordance with subsection 2.4 of the Distribution System Code that describes the operating practices and connection rules for THESL and is filed with the OEB as amended from time to time.
- (d) “Connection Date” means the date on which the Facilities are Energized.
- (e) “Distribution License” means any license to distribute electricity issued to THESL by the Ontario Energy Board.
- (f) “Distribution System Code” means the code, approved by the Ontario Energy Board, and in effect at the relevant time, which, among other things, establishes the obligations of THESL and other distribution systems with respect to the services and terms of service to be offered to customers and retailers and provides minimum technical operating

standards for THESL and other distribution systems.

- (g) “Energized” means the joining of the Facilities to the THESL Distribution System by means of approved work practices either initially or following a disconnection for whatever reason so that Customer may make or receive a supply of electricity to or from THESL Distribution System at the point of connection.
- (h) “ESA” means the person or body designated under the *Electricity Act*, 1998, S.O. 1998, c.15, Schedule A as the Electrical Safety Authority.
- (i) “Representatives” means the respective directors, officers, employers, contractors or agents of either party hereto, as applicable:
- (j) “Tests” means the tests performed on the Facilities to ensure that the Facilities are designed and fit to be connected to the THESL Distribution System, and “Testing” means the performing of the Tests.
- (k) “THESL Distribution System” means the system used by THESL for distributing electricity and includes any structures, equipment or other things used for that purpose.