

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

B E T W E E N:

MACQUARIE EQUIPMENT FINANCE LIMITED

Applicant

- and -

**VALIDUS POWER CORP., IROQUOIS FALLS POWER CORP., BAY
POWER CORP., KAP POWER CORP., VALIDUS HOSTING INC.,
KINGSTON COGEN LIMITED PARTNERSHIP AND KINGSTON COGEN
GP INC.**

Respondents

IN THE MATTER OF AN APPLICATION UNDER SECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED;
AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43,
AS AMENDED

**APPLICATION RECORD
(Appointment of Receiver, returnable August 2, 2023)**

July 31, 2023

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Lawyers for Macquarie Equipment Finance
Limited, the Applicant

TO: **SERVICE LIST**

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TAB1



Court File No.:

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

B E T W E E N:

MACQUARIE EQUIPMENT FINANCE LIMITED

Applicant

- and -

**VALIDUS POWER CORP., IROQUOIS FALLS POWER CORP., BAY
POWER CORP., KAP POWER CORP., VALIDUS HOSTING INC.,
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BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, C. B-3, AS AMENDED;
AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, C. C.43,
AS AMENDED

NOTICE OF APPLICATION

TO THE RESPONDENTS:

A LEGAL PROCEEDING HAS BEEN COMMENCED by the applicant. The claim made by the applicant appears on the following page.

THIS APPLICATION will come on for a hearing (*choose one of the following*)

- In person
- By telephone conference
- By video conference

at the following location:

- Video conference details to be provided by the Court

on Wednesday, August 2, 2023 at 10:00 a.m. (EST) for one hour or as soon as after that time the application can be heard.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the *Rules of Civil Procedure*, serve it on the applicant's lawyers or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the applicant's lawyers or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but at least four days before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date: _____

Issued by _____

Local registrar

Address of court office 330 University Avenue, 7th Floor
Toronto, Ontario M5G 1R7

TO: **Attached Service List**

APPLICATION

1. The Applicant makes this application for:
 - (a) an order abridging, if necessary, the time for service of this Application and deeming service good and sufficient;
 - (b) an order appointing KSV Restructuring Inc. (“**KSV**”) as receiver and manager over all of the undertaking, properties and assets of Validus Power Corp. (“**Validus Parent**”), Iroquois Falls Power Corp. (“**IFPC**”), Bay Power Corp. (“**Bay Power**”), Kap Power Corp. (“**Kap Power**”), Validus Hosting Inc. (“**Validus Hosting**”), Kingston Cogen Limited Partnership (“**Kingston LP**”) and Kingston Cogen GP Inc. (“**Kingston LP**”, and collectively with each of the foregoing debtors, the “**Debtors**”), by way of an order in substantially the form as the Receivership Order attached as Tab 3 to the Application Record; and
 - (c) such further and other relief, advice and directions as counsel may advise and this Honourable Court may deem just and appropriate.
2. The grounds for the application are:

The Applicant

- (a) the Applicant is a member of the Macquarie Group of companies—a global group of asset management and financial services companies with expertise in, among other things, the infrastructure, energy, technology and commodities sectors. The Macquarie Group’s parent, Macquarie Group Limited, is a company incorporated in Australia and publicly listed as MGQ:ASX on the Australian Stock Exchange, among others;

The Debtors

- (b) the Debtors are a group of privately-held power generation companies that generate and sell capacity and power to the Independent Energy System Operator (IESO) as a participant in its “capacity auction” market;

- (c) the Debtors' operations consist primarily of maintaining and operating electricity generation facilities in Ontario, located in the regions of North Bay, Kapuskasing, Iroquois Falls and Kingston. One of the Debtors also owns a non-operational data centre in North Bay, Ontario;
- (d) Validus Parent is the ultimate parent company of each of the other Debtors, which in turn hold the legal and beneficial ownership, as applicable, in the Debtors' operating assets, including the real and personal property associated with the power plant facilities (except, as described below, materially all of the turbines, plant and equipment in respect of the Iroquois Falls plant, which are all owned by the Applicant);

Indebtedness owing to the Applicant and related security

- (e) in April 2022, the Applicant entered into a sale and leaseback transaction with the Debtors in respect of the Iroquois Falls power plant (the "**Lease Transaction**", and all agreements, documents and instruments in connection therewith, the "**Lease Transaction Documents**");
- (f) the Lease Transaction Documents include the following:
 - (i) Participation Agreement: pursuant to a participation agreement dated April 7, 2022, as amended and restated on February 24, 2023 (the "**Participation Agreement**"), between the Applicant, as purchaser and lessor, IFPC, as vendor and lessee, and each of the other Debtors, as guarantors, the Applicant purchased, among other things, certain plant, property and equipment located on and related to the Iroquois Falls power plant (the "**Leased Property**") from IFPC for an aggregate purchase price of \$45,000,000 plus HST;
 - (ii) Lease Agreement: pursuant to a lease agreement dated April 7, 2022, as amended and restated on February 24, 2023 (the "**Lease Agreement**"), between the Applicant, as lessor, and IFPC, as lessee, IFPC leased the Leased Property from the Applicant for a base term of 36 months, followed

by month-to-month renewal terms. IFPC agreed under the Lease Agreement (and the Participation Agreement) to, among other things: (i) make regular monthly rent payments to the Applicant (“**Base Rent**”) plus associated HST; (ii) to pay all other amounts, liabilities and obligations that IFPC is from time to time obligated to pay under the Lease Transaction Documents; and/or (iii) in the event that the Applicant exercises certain enforcement rights, to pay liquidated damages in an amount set out in the Lease Agreement (collectively, the “**Secured Obligations**”);

- (iii) Guarantees: each of the other Debtors provided guarantees to the Applicant of all of the Secured Obligations; and
- (iv) Security: all of the Debtors provided the Applicant with security in substantially all of their real and personal property, assets and undertaking (except for Validus Parent and Validus Hosting, which provided security over specific property and, in the case of Validus Hosting, recourse is limited to such property);

Mismanagement, financial problems and defaults

- (g) since the Applicant first entered into the Lease Transaction Documents in April 2022, numerous critical problems with the Debtors (and decisions made by their management) have emerged that have undermined the Applicant’s trust in the Debtors’ management and caused them to lose faith in their ability to operate the business going forward;
- (h) later in 2022, Validus Parent and Bay Power and Hut 8 Mining Corp. (“**Hut 8**”), a customer of Bay Power, entered into a dispute in respect of a power purchase agreement and lease agreement, wherein, among other things, payments had ceased to be made under such agreements, and Hut 8 alleged that Validus Parent and Bay Power breached the power purchase agreement. The Applicant expected the agreement to be an important source of revenue for the Debtors. Legal proceedings were commenced between the parties in January 2023;

- (i) in February 2023, to accommodate the Debtors and assist them in finding a workable solution to their issues:
 - (i) the Applicant provided the Debtors with breathing room through arrangements for further accommodation, whereby the Applicant gave the Debtors a four-month “rent holiday” in exchange for further collateral; and
 - (ii) the Applicant agreed to assist with facilitating, and funding, an out-of-court sale process in respect of IFPC that predominantly ran between March and May 2023, which ultimately did not result in a successful sale of IFPC;
- (j) since February 2023, a number of critical problems and defaults under the Lease Transaction Documents became evident to the Applicant or arose, including:
 - (i) the Debtors failed to properly maintain their books and records;
 - (ii) IFPC had not remitted the \$5,850,000 of HST paid to it by the Applicant as part of the April 2022 sale and leaseback transaction as required at the time, and had not been making HST filings and remittances thereafter as and when it was required to do so;
 - (iii) as a result of IFPC’s failure to remit HST, Canada Revenue Agency registered a lien against certain of the real property associated with the Iroquois Falls power plant on or around March 8, 2023 in an amount of \$6,002,211;
 - (iv) Kingston GP and Kingston LP had also not been making HST filings and remittances since April 2022, as and when they were required to do so;
 - (v) the Debtors have failed to pay approximately \$109,727 of municipal taxes when due to the municipalities for the regions in which they operate their power plants;
 - (vi) the Debtors failed to pay insurance premiums that were required to maintain their property and general commercial liability insurance. As a result, in

June and July, 2023, the Applicant paid sums on behalf of the Debtors in an aggregate amount of \$675,379.60 on account of those insurance premiums to prevent the Debtors' insurance coverage from lapsing;

- (vii) the Debtors' payroll records for June 29 and July 7, 2023 do not list any disbursements corresponding to the remittance of source deductions to CRA, despite those same records showing that those amounts were deducted from the employees' payroll;
- (viii) Canadian Imperial Bank of Commerce (CIBC) alleged in a letter dated May 12, 2023 that Kingston GP "erroneously wired \$550,000 from an internal CIBC account" that the Debtors "had no right to access" to Validus Parent on October 19 and November 4, 2022, and the Debtors did not return those amounts; and
- (ix) a union representing most of IFPC's employees allege in a grievance letter dated May 25, 2023 that IFPC and Validus Parent failed to provide group benefit coverage and to match and/or remit RRSP contributions for those unionized employees, contrary to the Union's collective agreement with IFPC;
- (k) the Debtors have failed to make three payments of Base Rent (and associated HST) under the Lease Agreement between the months of May and July, 2023. As at July 24, 2023 the Debtors owe the Applicant \$9,605,000 on account of those amounts;
- (l) on June 9, 2023, the Applicant delivered to the Debtors: (i) letters demanding payment of the Base Rent and HST payable on May 31, 2023; and (ii) notices of intention to enforce security under section 244 of the *Bankruptcy and Insolvency Act* (the "**BIA**");
- (m) on July 24, 2023, the Applicant delivered fresh letters to the Debtors: (i) demanding payment of all Base Rent and HST in arrears as at that date; and (ii) accelerating, and demanding immediate payment of, the remainder of the Secured Obligations in accordance with the Lease Transaction Documents;

- (n) the aggregate amount of the Secured Obligations as of July 31, 2023 was \$55,598,575 and remains outstanding as of the date hereof;

Sale Process and Stalking Horse Bid

- (o) one of the Applicant's key objectives is to implement a sale and investment solicitation process (a "SISP") in respect of the Debtors' business and assets as soon as practicable;
- (p) the Applicant intends to submit a stalking horse bid for substantially all of the Debtors' assets in connection with that SISP, which bid will require the proposed transaction to be consummated in the context of a *Companies' Creditors Arrangement Act* (Canada) ("CCAA") proceeding;
- (q) the Applicant anticipates that, if appointed, the Receiver will file an application for an initial order in respect of the Debtors under the CCAA and an order approving a SISP under that statute;
- (r) for clarity, the Applicant is not seeking this Court's approval of a SISP or a stalking horse bid, nor any relief under the CCAA, at this time;

The appointment of KSV as Receiver

- (s) as a result of the Debtors' numerous ongoing defaults, the Applicant has the contractual rights to appoint a receiver in respect of the Debtors and their property (except in respect of Validus Hosting), and to enforce the Applicant's remedies as against the Debtors, to the full extent permitted by applicable law;
- (t) in respect of Validus Hosting, the Applicant is not aware of any material assets held by that entity, and the appointment of the Receiver over that entity alongside the other Debtors is just and convenient in the circumstances;
- (u) from KSV's recent correspondence with the Applicant concerning this situation, the proposed receivership and the within application, KSV has familiarized itself with the situation since it was first retained to prepare for these proceedings;

- (v) KSV is a licensed insolvency trustee, as defined in the BIA, and the senior professionals involved are all registered members of the Canadian Association of Insolvency and Restructuring Professionals with extensive experience in Canadian insolvency proceedings, including receiverships;
 - (w) KSV has provided a written consent to act as Receiver in these proceedings;
 - (x) given the knowledge of the within matters that KSV has acquired through its discussions with the Applicant, KSV is the appropriate firm to be appointed as Receiver;
 - (y) sections 243 and 244 of the BIA;
 - (z) section 101 of the *Courts of Justice Act*; and
 - (aa) such further and other grounds as counsel may advise and this Honourable Court may deem just.
3. The following documentary evidence will be used at the hearing of the application:
- (a) the affidavit of Joshua Hamilton Stevens, to be filed;
 - (b) the factum of the Applicant, to be filed;

- (c) the consent of KSV to act as Receiver, to be filed; and
- (d) such further and other evidence as counsel may advise and this Honourable Court may deem just.

Date: July 31, 2023

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Lawyers for Macquarie Equipment Finance
Limited, the Applicant

SERVICE LIST
(as of July 31, 2023)

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MACQUARIE EQUIPMENT FINANCE LIMITED v VALIDUS POWER CORP. et. al. Court File No.

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Proceeding commenced at TORONTO

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TAB2

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

B E T W E E N:

MACQUARIE EQUIPMENT FINANCE LIMITED

Applicant

- and -

**VALIDUS POWER CORP., IROQUOIS FALLS POWER CORP., BAY
POWER CORP., KAP POWER CORP., VALIDUS HOSTING INC.,
KINGSTON COGEN LIMITED PARTNERSHIP AND KINGSTON COGEN
GP INC.**

Respondents

**IN THE MATTER OF AN APPLICATION UNDER SECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, C. B-3, AS AMENDED;
AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, C. C.43,
AS AMENDED**

**AFFIDAVIT OF JOSHUA HAMILTON STEVENS
(SWORN JULY 31, 2023)**

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I, Joshua Hamilton Stevens, of the City of Sydney, in the State of New South Wales, in the Country of Australia, MAKE OATH AND SAY:

I. OVERVIEW

1. I swear this affidavit in support of an application by Macquarie Equipment Finance Ltd. (“**Macquarie**”, or the “**Applicant**”), to appoint KSV Restructuring Inc. (“**KSV**”) as receiver and manager (in such capacity, the “**Receiver**”), without security, to take steps to preserve the value of the Debtors’ (defined below) business and assets (collectively, the “**Property**”) pursuant to section 243(1) of the *Bankruptcy and Insolvency Act* (the “**BIA**”) and section 101 of the *Courts of Justice Act* (Ontario).

2. I am an Associate Director of the Commodities and Global Markets division of Macquarie’s ultimate parent company, Macquarie Group Limited. I have held this role for the past three years and have over twelve years of experience in the finance sector working for the Macquarie group.

3. Macquarie is a member of the Macquarie Group of companies—a group of asset management and financial services companies with expertise in, among other things, the infrastructure, energy, technology and commodities sectors. The Macquarie Group’s parent, Macquarie Group Limited, is a company incorporated in Australia and publicly listed as ASX: MQG.

4. As described below, KSV has consented to act as receiver.

5. I either have direct knowledge of the facts set out herein or, where indicated, I have been advised by the Debtors’ management and/or representatives and believe such information to be true. Unless otherwise stated, all dollar amounts specified herein are in Canadian currency.

6. The respondents to this application are Validus Power Corp. (“**Validus Parent**”), Iroquois Falls Power Corp. (“**IFPC**”), Bay Power Corp. (“**Bay Power**”), Kap Power Corp. (“**Kap Power**”), Validus Hosting Inc. (“**Validus Hosting**”), Kingston Cogen Limited Partnership (“**Kingston LP**”) and Kingston Cogen GP Inc. (“**Kingston LP**”), and collectively with each of the foregoing debtors, the “**Validus Group**” or the “**Debtors**” and each a

“Debtor”). Validus Parent is the ultimate parent company of each of the other Debtors, each of which are wholly-owned subsidiaries, directly or indirectly, of Validus Parent.

7. The Validus Group, through its operating entities, owns and operates electricity generation facilities that provide electricity generation capacity to Ontario’s electricity grid, controlled by Ontario’s Independent Energy System Operator (IESO). The Validus Group is a capacity market participant with obligations to provide generation capacity during specific periods from each of its generation facilities in return for availability payments, as determined through capacity auctions held by the IESO from time to time. The IESO is currently the only person to whom the Validus Group sells power or generation capacity. The Validus Group’s operations consist primarily of maintaining and operating four electricity generation facilities in Ontario, located in the regions of North Bay, Kapuskasing, Iroquois Falls and Kingston. The Validus Group also owns a non-operational data centre on the same premises as its generation facilities in North Bay, Ontario.

8. In April 2022, Macquarie entered into a sale and leaseback transaction, whereby IFPC sold to Macquarie materially all of the turbines, plant and equipment in respect of the power plant located near the town of Iroquois Falls, Ontario, and Macquarie leased those assets back to IFPC under the terms of the Lease Transaction Documents (defined below). IFPC is the lessee under the Lease Transaction Documents, and its obligations include obligations for the payment of rent, interest, fees and other amounts, and each of the other Debtors guaranteed those obligations. As security for those obligations: (i) the Debtors, other than Validus Parent and Validus Hosting, granted the Applicant a first-ranking security interest over their assets; and (ii) Validus Parent and Validus Hosting granted the Applicant a first-ranking security interest in specific assets (collectively, the “**Secured Assets**”). These arrangements are further described in Section III.

9. As of July 31, 2023, the total amount of the indebtedness owing by the Debtors to the Applicant under the Lease Transaction Documents (defined below) was \$55,598,575 (\$49,228,575 excluding HST), which amount consists of: (i) the Accelerated Payment (defined below)—*i.e.*, an accelerated payment under the Lease Transaction Documents in the amount of \$55,370,000 (\$9,605,000 of which represents outstanding Base Rent plus HST in arrears); plus

(ii) overdue interest in the aggregate amount of \$228,575 (which amounts the Debtors are required to repay under the Lease Transaction Documents). The Debtors' obligations in respect of the payment of rent was first in default in February 2023 and continues to the date hereof.

10. Since the parties entered into the sale and leaseback and related documentation, numerous problems have arisen with the Debtors that have caused the Applicant to completely lose faith in the Debtors' management and force it to take necessary steps to preserve the value of its collateral. In addition to the monetary defaults noted above, the Debtors have also committed a number of serious defaults under the Lease Transaction Documents, including, without limitation: (i) incurring a lien in respect of GST/HST amounts owing to Canada Revenue Agency as a result of their failure to remit HST amounts and to file taxes; (ii) failing to pay municipal taxes; (iii) failing to pay insurance premiums required to maintain insurance coverage over the Property (which amounts were ultimately paid by the Applicant to avoid the potentially destabilizing consequences that would have resulted from the loss of said coverage); (iv) breaching the Hut 8 PPA (defined below); (v) breaching their covenants, including by failing to maintain proper books, accounts and records and failing to provide the Applicant with regular financial and operational reports. As described in paragraphs 60 and 61, the Applicant provided notice to the Debtors of these defaults, many of which the Debtors have admitted to.

11. In addition, the Applicant has become aware of concerning developments with the Debtors, including: (i) allegations that Kingston GP swept, and subsequently did not return, monies from an internal Canadian Imperial Bank of Commerce bank account that Kingston GP was erroneously granted access to; (ii) allegations that certain Debtors failed to provide group benefit coverage and to match and/or remit RRSP contributions for their unionized employees, as is required under a collective bargaining agreement with those employees; and (iii) that the Debtors failed to satisfy tax claims on multiple fronts (including a potential failure to remit employee source deductions, which the Applicant is unable to definitively verify).

12. Despite the Applicant's significant efforts to accommodate the Debtors—including the implementation of an ultimately unsuccessful out-of-court marketing and sale process for IFPC that was undertaken for several months—the parties have been unable to work out a viable

solution to these issues. As a result, the Applicant is seeking to appoint a receiver over the Property.

13. For ease of reference, a chronological summary of the key events that led to the Applicant's decision to seek the appointment of a receiver in respect of the Debtors is attached as **Appendix "A"** to this affidavit.

14. One of the Applicant's key objectives in these receivership proceedings is the implementation of a sale and investment solicitation process (a "**SISP**") in respect of the Secured Assets and assets as soon as reasonably practicable. As discussed in Section VI, the Applicant is in the process of finalizing a stalking horse bid for substantially all of the Secured Assets in connection with that SISP. It is a condition of the anticipated bid that the proposed transaction be completed in the context of a *Companies' Creditors Arrangement Act* (Canada) ("**CCAA**") proceeding. As such, the Applicant understands that the Receiver, if appointed, would shortly file an application for an initial order in respect of the Debtors pursuant to the CCAA. In such event, the motion to seek approval of the SISP and stalking horse bid would occur in the context of that CCAA proceeding. For clarity, the Applicant is not seeking this Court's approval of a SISP or a stalking horse bid at this time, nor does it seek any relief under the CCAA.

II. BACKGROUND AND BUSINESS OVERVIEW

15. The Validus Group is a power plant operator that bills itself as a global leader in advanced power solutions and lifecycle management. While its recent focus has been on establishing generation capacity for the bitcoin and cryptocurrency mining industry, it currently only provides electricity generation capacity and energy to the IESO pursuant to the IESO's "capacity auction" process. Through that capacity auction process, the IESO competitively procures the electricity generation capacity it needs to ensure a consistent and reliable balance on a short-term basis between the load of electricity drawn by consumers and storage facilities on Ontario's power grid (*i.e.*, demand) and the supply of electricity from generators, imports and storage facilities (*i.e.*, supply). That is, if demand for electricity exceeds supply, capacity market participants with obligations to provide capacity at the relevant times may be dispatched by the IESO to supply the additional energy needed to match that excess demand on the IESO-controlled grid.

16. According to the IESO's website, the Iroquois Falls and Kingston power plants are together expected to contribute approximately 14.3% of the total electricity generation capacity in that capacity auction market for all of Ontario for this summer period and approximately 19.5% for the upcoming winter period.

17. I understand from my discussions with the Validus Group's management and the materials they have shared with the Applicant that most or all of the Validus Group's employees are employees of Validus Parent, which then contracts those employees out to the other Debtors on a site-by-site basis. Including corporate management, the Debtors employ approximately 41 individuals, most of whom perform operational and technical services at the four power plants—engineers, technicians, plant managers and similar roles.

18. I further understand from discussions with management that, pursuant to a collective agreement with IFPC (the "**Collective Agreement**"), eight out of the twelve Validus Group employees who work at the Iroquois Falls power plant are unionized under the International Union of Operating Engineers Local 865.

Corporate Structure

19. I understand from my discussions with management that Todd Short, the Validus Group's CEO, owns a controlling majority stake in the shares of Validus Parent. Validus Parent, in turn, is the ultimate parent company of each of the other Debtors. More particularly, based on information I have been provided by management, I understand that Validus Parent owns all of the issued and outstanding shares of IFPC, Bay Power, Kap Power, Validus Hosting, and Kingston GP, along with 9,999 of the limited partnership units in Kingston LP. Kingston GP owns 1 general partnership unit in Kingston LP. Attached as **Exhibit "A"** is an organization chart of the Validus Group that the company provided to my team.

20. Based on my discussions with management, I understand that Validus Parent is primarily a holding company whose assets consist mostly or entirely of the shares or units it owns in the other members of the Validus Group, and that it is the operating subsidiaries of Validus Parent that own the assets associated with, and operate, the Validus Group's power plants (except, as noted, materially all of the turbines, plant and equipment in respect of the Iroquois Falls plant, which are owned by the Applicant). Those operating subsidiaries, and their respective assets and

operations, are described in the remainder of this section, which information is based on discussions I have had with, or materials I have received from, the Validus Group's management.

(i) Iroquois Falls Power Corp.

21. IFPC operates the Iroquois Falls plant, which consists of two natural gas fired turbine generators, one steam turbine generator and one heat recovery steam generator. The plant has a "nameplate" capacity of approximately 120 megawatts. According to the IESO's website, the Iroquois Falls plant is expected to contribute approximately 10% of the total electricity generation capacity in the capacity auction market for all of Ontario for the upcoming winter period and approximately 7.2% for this summer period. Pursuant to the Lease Agreement (as defined and described below), IFPC leases from the Applicant the turbines, plant and equipment associated with the Iroquois Falls plant.

22. Twelve of the Validus Group's employees work at the Iroquois Falls plant site as engineers, mechanics, operations coordinators, and similar technical roles. As noted, most of the employees who work at the Iroquois Falls plant are subject to the Collective Agreement with IFPC.

(ii) Kingston Cogen Limited Partnership and Kingston Cogen GP Inc.

23. Kingston GP is the general partner of Kingston LP. These entities together own and operate the power plant located in Kingston, Ontario—Kingston GP is the legal owner of that real property and holds it as bare trustee for the benefit of Kingston LP.

24. The Kingston plant consists of a gas turbine, steam turbine and two "once-through" steam generators, which produce a total generation capacity of 110 megawatts. According to the IESO's website, the Kingston plant is expected to contribute approximately 9.5% of the total electricity generation capacity in the capacity auction market for all of Ontario for the upcoming winter period and approximately 7.1% for this summer period.

25. Approximately twelve of the Validus Group's employees work at the Kingston plant in technical and operational roles—engineers, operators, plant managers, millwrights, etc. I am not

aware of any collective agreements that are currently in place in respect of any employees employed in connection with the Kingston plant.

(iii) Bay Power Corp.

26. Bay Power owns the North Bay plant, along with a data centre at the North Bay facilities that is not currently operational (although I understand that it could be rendered operational with sufficient capital investment after the Debtors' insolvency proceedings have concluded). The Bay Power plant consists of a gas turbine, steam turbine, generator and a "once-through" steam generator. According to materials provided by the Debtors' management, the plant has a nameplate capacity of approximately 40 megawatts; however, as noted, the plant is not currently operational.

27. Approximately nine of the Validus Group's employees work at the North Bay plant site in technical operations roles. I understand that there used to be a collective agreement in place in respect of these employees, but that such agreement has expired.

(iv) Kap Power Corp.

28. Kap Power owns and operates the power plant located in Kapuskasing, Ontario. That plant consists of a gas turbine, steam turbine, generator and two "once-through" steam generators. According to materials provided by the Debtors' management, the plant has a nameplate capacity of approximately 40 megawatts; however, Kap Power was unable to satisfy the IESO's requirements to participate in the capacity auction market for the 2023 summer period and does not currently provide power in that market.

29. Approximately four of the Validus Group's employees work at the Kapuskasing plant as technicians, engineers and plant managers. I understand that there used to be a collective agreement in place in respect of these employees, but that such agreement has also expired.

(v) Validus Hosting Inc.

30. Validus Hosting is the newest member of the Validus Group. It was incorporated in or around April 2022 for the purpose of negotiating and executing agreements with cryptocurrency miners, which agreements would, in turn, be subcontracted or assigned by Validus Hosting to the

Validus Group's operating entities discussed above. However, I am not aware of any material agreements having been executed since Validus Hosting was incorporated.

III. INDEBTEDNESS OWING TO THE APPLICANTS AND RELATED SECURITY

A. Overview – Lease Transaction

31. As mentioned, in April 2022, the Applicant entered into a sale and leaseback transaction in respect of the Iroquois Falls power plant. The key terms of the sale and leaseback transaction are the following:

- (a) Purchase and Sale: Pursuant to a participation agreement dated April 7, 2022, as amended and restated on February 24, 2023 (the "**Participation Agreement**"), between the Applicant, as purchaser and lessor, IFPC, as vendor and lessee, and each of the other Debtors, as guarantors, the Applicant purchased, among other things, turbines, plant and equipment located on and related to the Iroquois Falls power plant as described in the Lease Supplement No. 1 (defined below) (collectively, the "**Leased Property**") from IFPC for an aggregate purchase price of \$45,000,000 plus HST. The Applicant satisfied that purchase price by:
 - (i) a cash payment of \$36,000,000;
 - (ii) the payment of an amount of \$9,000,000, which payment was to be either: (A) paid to IFPC upon the delivery of a deposit from a third-party cryptocurrency mining company in respect of an agreement between Validus Hosting and that company; or, failing the occurrence of condition (A), (B) applied as a prepayment of Base Rent (defined below)—the amount was ultimately applied as a prepayment of Base Rent in accordance with (B); and
 - (iii) a payment of \$5,850,000 on account of HST for the sale, which IFPC was required to remit to CRA.
- (b) Leaseback: Pursuant to a lease agreement dated April 7, 2022, as amended and restated on February 24, 2023 (the "**Lease Agreement**"), between the Applicant, as lessor, and IFPC, as lessee, IFPC leased the Leased Property from the

Applicant for an initial base term of 36 months, renewable on a month-to-month renewal term. IFPC agreed under the Lease Agreement (and the Participation Agreement) to, among other things: (i) make regular monthly rent payments to the Applicant (such payments, the “**Base Rent**”), subject to the rent holiday described in paragraph 33; (ii) to pay all other amounts, liabilities and obligations that IFPC is from time to time obligated to pay under the Lease Transaction Documents (defined below) (the “**Supplemental Rent**”); and/or (iii) in the event that the Applicant exercises its right to accelerate payments, to pay liquidated damages in an amount set out in the Lease Agreement (the “**Accelerated Payments**”). As discussed below, the Applicant exercised its right to accelerate the Accelerated Payments on July 24, 2023.

- (c) Guarantees: As described in further detail below, each of the other Debtors (collectively, the “**Guarantors**”) provided guarantees to the Applicant of all of the obligations of each of the Debtors under the Lease Transaction Documents, including in respect of IFPC’s payment of all Base Rent, Supplemental Rent and Accelerated Payments.
- (d) Security: Also as described in further detail below, IFPC and each of the Guarantors provided the Applicant with security in substantially all of their real and personal property, assets and undertaking (except for Validus Parent and Validus Hosting, which provided security over specific property).

32. The Participation Agreement and the Lease Agreement, collectively with each of the Security Documents (as defined and described in paragraph 39 below) and all other agreements, documents and instruments relating to the foregoing, are referred to herein as the “**Lease Transaction Documents**”.

33. In February 2023, following the Debtors’ defaults under the Lease Transaction Documents (as described in further detail in Section IV), the Applicant agreed, among other things, to give the Debtors an accommodation by agreeing to an approximately four-month “rent holiday” under the Lease Agreement (the “**Forbearance Arrangements**”). As part, and in consideration, of the Forbearance Arrangements, the Debtors agreed to provide the Applicant with new security over Validus Parent’s limited partnership units and shares in Kingston LP and

Kingston GP, respectively, along with substantially all of the assets of those two entities. The Applicant and the Debtors also affirmed, amended or amended and restated, as applicable, the original Lease Transaction Documents, and entered into the following two new agreements:

- (a) an acknowledgement and reservation of rights agreement dated February 24, 2023 (the “**Reservation of Rights Agreement**”), whereby the Debtors admitted to many of their defaults (as described in paragraph 61) and the Applicant reserved its rights in respect of same, and the parties agreed to take steps to market and sell IFPC on or by May 31, 2023 (as described in Section V); and
- (b) an acknowledgement, confirmation and amendment agreement dated February 24, 2023 (the “**Acknowledgement Agreement**”) made by each Guarantor, whereby certain of the original Lease Transaction Documents were amended.

34. Copies of the Participation Agreement, the Lease Agreement, the Reservation of Rights Agreement and the Acknowledgement Agreement are attached as **Exhibits “B” to “E”**, respectively. Also attached as **Exhibit “F”** is the lease supplement no. 1 entered into between IFPC and the Applicant in connection with the Lease Agreement on February 24, 2023 (which replaced a previous lease supplement dated April 7, 2022) (the “**Lease Supplement No. 1**”).

35. As of July 31, 2023, the Debtors are indebted to the Applicant under the Lease Transaction Documents for a total amount of \$55,598,575, which amount consists of: (i) the Accelerated Payment of \$55,370,000 (\$9,605,000 of which represents outstanding Base Rent plus HST in arrears); plus (ii) overdue interest in the aggregate amount of \$228,575.

36. The remainder of this section details the guarantees provided by the Guarantors, the Applicant’s security in the Debtors’ property and the Applicant’s registration of that security.

B. Guarantees

37. As noted, all obligations of IFPC under the Lease Transaction Documents are guaranteed by the Guarantors (*i.e.*, each of the other Debtors). Those guarantees provide for, among other things:

- (a) pursuant to an amended and restated guarantee dated February 24, 2023 (the “**Unlimited Guarantee**”), made by Validus Parent, Bay Power, Kap Power, Kingston LP and Kingston GP (the “**Unlimited Guarantors**”) in favour of the Applicant, each of the Unlimited Guarantors absolutely, unconditionally and irrevocably guaranteed to the Applicant the full and punctual payment and/or performance when due of all amounts due from, and liabilities and obligations owed by, IFPC and each other Guarantor under the Lease Transaction Documents (including, without limitation, all Base Rent, Supplemental Rent and Accelerated Payments) (all such amounts, liabilities and obligations, collectively, the “**Obligations**”); and
- (b) pursuant to an amended and restated limited recourse guarantee dated February 24, 2023 (the “**Limited Recourse Guarantee**”, and together with the Unlimited Guarantee, the “**Guarantees**”), made by Validus Hosting (the “**Limited Guarantor**”) in favour of the Applicant, the Limited Guarantor absolutely, unconditionally and irrevocably guaranteed to the Applicant the full and punctual payment and/or performance when due of all Obligations; however, the Limited Recourse Guarantee limited the Applicant’s recourse against the Limited Guarantor to only the realization upon certain material contracts and documents held, and assigned by way of security, by the Limited Guarantor in respect of the Debtors’ business and operations (the “**Assigned Documents**”).

38. Copies of the Unlimited Guarantee and the Limited Recourse Guarantee are attached to this affidavit as **Exhibits “G” and “H”**.

C. Security Granted to the Applicant

39. As general and continuing security for the Obligations, the Debtors granted various first-priority security to the Applicant. The security granted to the Applicant includes, among other things:

- (a) a demand debenture dated April 7, 2022 (the “**IFPC Debenture**”), made by IFPC in favour of the Applicant, granting the Applicant a security interest in all of the

real property held by IFPC relating to the Iroquois Falls power plant and legally described by the following property identification numbers (PINs):

- (i) PIN 65337-0369 (LT);
 - (ii) PIN 65337-0456 (LT);
 - (iii) PIN 65337-0458 (LT);
 - (iv) PIN 65337-0372 (LT); and
 - (v) PIN 65337-0373 (LT);
- (b) a demand debenture dated April 7, 2022 (the “**Bay Power Debenture**”), made by Bay Power in favour of the Applicant, granting the Applicant a security interest in all of the real property held by Bay Power relating to the North Bay power plant and data centre and legally described by the following PIN:
- (i) PIN 49127-0021 (LT);
- (c) a demand debenture dated April 7, 2022 (the “**Kap Power Debenture**”), made by Kap Power in favour of the Applicant, granting the Applicant a security interest in all of the real property held by Kap Power relating to the Kapuskasing power plant and legally described by the following PINs:
- (i) PIN 65095-0051 (LT); and
 - (ii) PIN 65095-0052 (LT);
- (d) a demand debenture dated February 24, 2023 (the “**Kingston GP Debenture**”), made by Kingston GP in favour of the Applicant, granting the Applicant a security interest in all of the real property held by Kingston GP relating to the Kingston power plant and legally described by the following PINs:
- (i) PIN 45132-0375 (LT);
 - (ii) PIN 45132-0377 (LT) (leasehold lands);
 - (iii) PIN 45132-0362 (LT) (sublease interest);
 - (iv) Part of PIN 45132-0379 (easement interest); and
 - (v) Part of PIN 45132-0373 (easement interest);

- (e) a demand debenture dated February 24, 2023 (the “**Kingston LP Debenture**”), made by Kingston LP, by its general partner, Kingston GP, in favour of the Applicant, granting the Applicant a security interest in all of Kingston LP’s beneficial interest in and to the real property held by Kingston GP relating to the Kingston power plant and legally described by the following PINs:
 - (i) PIN 45132-0375 (LT);
 - (ii) PIN 45132-0377 (LT) (leasehold lands);
 - (iii) PIN 45132-0362 (LT) (sublease interest);
 - (iv) Part of PIN 45132-0379 (easement interest); and
 - (v) Part of PIN 45132-0373 (easement interest);
- (f) a general security agreement dated April 7, 2022 (the “**IFPC GSA**”), made by IFPC in favour of the Applicant, granting the Applicant a security interest in substantially all of the property, assets and undertaking of IFPC;
- (g) a general security agreement dated April 7, 2022 (the “**Bay Power GSA**”), made by Bay Power in favour of the Applicant, granting the Applicant a security interest in substantially all of the property, assets and undertaking of Bay Power;
- (h) a general security agreement dated April 7, 2022 (the “**Kap Power GSA**”), made by Kap Power in favour of the Applicant, granting the Applicant a security interest in substantially all of the property, assets and undertaking of Kap Power;
- (i) a general security agreement dated February 24, 2023 (the “**Kingston GSA**”), made by Kingston GP, on its own behalf and on behalf of Kingston LP, as its general partner, in favour of the Applicant, granting the Applicant a security interest in substantially all of the property, assets and undertaking of Kingston GP and Kingston LP;
- (j) a securities pledge agreement dated April 7, 2022, as amended by the Acknowledgement Agreement (the “**Securities Pledge Agreement**”), made by Validus Parent in favour of the Applicant, granting the Applicant a security interest in all of the issued and outstanding shares and limited partner units, as

applicable, held by Validus Parent in IFPC, Bay Power, Kap Power, Validus Hosting, Kingston LP and Kingston GP; and

- (k) an assignment of material project documents dated April 7, 2022, as amended by the Acknowledgement Agreement (the “**Assignment Agreement**”), made by Validus Hosting in favour of the Applicant, assigning the Assigned Documents to the Applicant by way of a specific assignment,

((a) through (k), collectively, and together with the Acknowledgement Agreement, the “**Security Documents**”).

40. Copies of the IFPC Debenture, Bay Power Debenture, Kap Power Debenture, Kingston GP Debenture, Kingston LP Debenture, IFPC GSA, Bay Power GSA, Kap Power GSA, Kingston GSA, Securities Pledge Agreement and Assignment Agreement are attached as **Exhibits “I” to “S”**, respectively, to this affidavit. Additionally, scans of the share and unit certificates that are the subject of the Securities Pledge Agreement are attached as **Exhibit “T”**. I am advised by Scott Bomhof of Torys LLP, counsel to the Applicant, that Torys has possession of the originals of each of those certificates at its Toronto office on behalf of the Applicant.

41. The Security Documents provide the Applicant with numerous remedies upon default by the Debtors under the Lease Transaction Documents. Among other remedies, the Security Documents provide the Applicant with the explicit contractual right to appoint a receiver in respect of each of the Debtors, other than in respect of Validus Hosting.

D. Registration of Applicant’s Security Interests

42. The Applicant made two sets of registrations against the Debtors’ assets under the Ontario *Personal Property Security Act* (the “**Ontario PPSA**”). First, on or about April 7, 2022, the Applicant registered its security interests in respect of IFPC, Validus Parent, Bay Power, Kap Power and Validus Hosting. Second, on or about February 24, 2023, in connection with the Forbearance Arrangements (more particularly, the Acknowledgement Agreement, the Kingston GSA, the Kingston GP Debenture and the Kingston LP Debenture), the Applicant registered its security interests in respect of Kingston LP and Kingston GP and amended its registration against Validus Parent to encompass the new collateral in the shares of those two entities. Copies of searches ran in the Ontario PPSA registry against each of the Debtors, together with corporate

profile reports for each of the Debtors—all of which are current as at July 24, 2023—are attached as **Exhibit “U”** to this affidavit (and which are bookmarked for each entity by search type).

43. The Applicant also registered the IFPC Debenture, the Bay Power Debenture and the Kap Power Debenture on or around April 7, 2022, and the Kingston GP Debenture on or around February 24, 2023, under the Ontario Land Registry against the real property encumbered thereby (collectively, the **“Real Property”**). Copies of the property registers in respect of the Real Property showing the registration of those debentures on title are attached as **Exhibit “V”** to this affidavit (and are bookmarked by PIN). The Applicant has first-in-time charges over all of the Real Property.

E. Other Secured Creditors

44. In addition to the Applicant, there are other known secured creditors that have security interests in respect of certain of the Debtors’ property. These known secured creditors are: (i) Canada Revenue Agency (**“CRA”**); (ii) the Toronto-Dominion Bank (**“TD”**); and (iii) Mercedes-Benz Financial and Mercedes-Benz Financial Services Canada Corporation (together, **“Mercedes”**, and collectively with CRA and TD, the **“Third Party Secured Creditors”**).

45. On or around March 8, 2023, CRA registered a lien under the Ontario Land Registry against two PINs (PIN 65337-0369(LT) and PIN 65337-0458(LT)) that correspond to the real property held by IFPC in respect of the Iroquois Falls power plant. Those registrations indicate a secured amount of \$6,002,211 representing outstanding GST/HST arrears. A copy of the Ontario Registry searches for both of those PINs prepared on July 24, 2023, are attached as **Exhibit “W”**. The Ontario Registry searches for the remainder of the Real Property are attached as Exhibit “V”, as noted.

46. The remaining two Third Party Secured Creditors registered security interests against Validus Parent under the Ontario PPSA, in both cases subsequently in time to the Applicant’s original registration against Validus Parent, but prior in time to the Applicant’s amended registration against Validus Parent in connection with the Forbearance Arrangements. These registrations are:

- (a) a registration in favour of TD made on or around May 10, 2022, under Registration Number: 20220510 1448 1530 9888; and
- (b) a registration in favour of Mercedes made on or around September 1, 2022, under Registration Number: 20220901 1309 1532 0195.

47. As noted, copies of the PPSA searches against each of the Debtors, including Validus Parent, are attached as Exhibit “U” to this affidavit.

IV. MISMANAGEMENT, FINANCIAL PROBLEMS AND DEFAULTS OF THE VALIDUS GROUP

48. For ease of reference, a chronological summary of the key events described in this section that led to the Applicant’s decision to seek the appointment of a receiver in respect of the Debtors is attached as **Appendix “A”** to this affidavit.

A. Serious Problems and Mismanagement

49. Numerous critical problems with the Debtors have emerged that have undermined the Applicant’s trust in the Debtors’ management. As a result of mismanagement, the condition of the Debtors’ business and Property is rapidly deteriorating, and the value of the Applicant’s security is degrading materially. Further delay risks significant irreparable degradation and operational collapse.

50. The Applicant learned in late 2022 that Validus Parent may have breached a power purchase agreement with Hut 8 Mining Corp. (“**Hut 8**”, and such agreement, the “**Hut 8 PPA**”). Under the Hut 8 PPA, Validus Parent had agreed to supply power from its North Bay power plant operations to Hut 8 for Hut 8’s cryptocurrency mining operations. The Applicant viewed the Hut 8 PPA as an important source of future revenue for the Debtors. Therefore, under the applicable Lease Transaction Documents it was an event of default for the Debtors to breach that agreement. As discussed below, Hut 8 later filed a statement of claim against Validus Parent and Bay Power on January 25, 2023 for allegedly breaching that agreement.

51. Following the Applicant’s discovery of Validus Parent’s alleged breach of the Hut 8 PPA, the Applicant and the Debtors entered into an arrangement to potentially resolve the default under the Lease Transaction Documents that was caused by such alleged breach (the

“**Prepayment Arrangement**”). Under the Prepayment Arrangement, if IFPC made a prepayment of Base Rent plus HST to the Applicant on or by January 16, 2023, the Applicant would: (i) agree that the specific defaults that were caused by Validus Parent’s breach of the Hut 8 PPA would be cured under the Lease Transaction Documents; and (ii) release the Debtors from further obligations to comply with the Hut 8 PPA under the Lease Transaction Documents.

52. On January 16, 2023, IFPC failed to make that prepayment of Base Rent plus HST. This failure prompted discussions between the Applicant and the Debtors, which eventually led to the parties entering into the Forbearance Arrangements in February 2023.

53. As is discussed further below, those Forbearance Arrangements provided for the commencement of a sale process in respect of IFPC. In early March 2023, as part of that sale process, the M&A Advisor (as defined below) was engaged to run the sale process, and certain books and records of the Debtors were collected.

54. The Applicant was given the opportunity to review those books and records, which led to it discovering the following troubling deficiencies (among others):

- (a) Inadequate Recordkeeping. As a general matter, the Debtors’ recordkeeping is severely deficient. In connection with the Debtors’ reporting obligations, the records relating to the Debtors’ finances, operations, contracts and other key items were often incomplete or simply did not exist. The M&A Advisor provided a bookkeeper to attempt to organize the Debtors’ records, but this process yielded only limited, unsatisfactory results.
- (b) Unremitted HST. Those books and records revealed that IFPC never remitted to CRA any of the \$5,850,000 of HST that the Applicant paid to IFPC as part of the Lease Transaction Documents in April 2022. In addition, the books and records did not contain any evidence that either IFPC, Kingston GP or Kingston LP had made HST filings or otherwise remitted HST amounts since March or April 2022. Indeed, the M&A Advisor’s bookkeeper attempted, but was unable, to find any books and records indicating that HST filings were ever completed for those entities or remittances to CRA made with respect to HST for those entities since that time; with the bookkeeper’s support, HST filings for IFPC were only

partially, but not fully, completed on or by June 19, 2023. While the Applicant lacks full visibility into the books and records for the other Debtors, I am deeply concerned that those entities have also failed to remit HST payments to CRA.

- (c) Unremitted Source Deductions. The Debtors' payroll records for June 29 and July 7, 2023 do not list any disbursements corresponding to the remittance of source deductions to CRA, despite those same records showing that those amounts were deducted from the employees' payroll. I would have expected to see those source deductions in those payroll records. Given the Debtors' unremitted HST, I am concerned that the Debtors have also failed to remit employee source deductions to CRA.
- (d) Unpaid Municipal Taxes. The Debtors' books and records also show that, as at July 4, 2023, the applicable Debtors have failed to pay an aggregate of approximately \$109,727 of municipal taxes to the Town of Iroquois Falls, the City of Kapuskasing and the Loyalist Township (Kingston) (collectively, the "**Municipalities**").

55. Allegations of Misappropriated Funds. On May 18, 2023 the Applicant learned of serious allegations related to Canadian Imperial Bank of Commerce ("**CIBC**"). In a letter dated May 12, 2023 to the Debtors, CIBC alleges that Kingston GP "erroneously wired \$550,000 from an internal CIBC account" that the Debtors "had no right to access" to Validus Parent on October 19 and November 4, 2022. The letter further states that the Debtors' Chief Financial Officer attended a meeting with CIBC to discuss the issue and agreed at that time to return the funds pending CIBC's delivery of wire instructions. CIBC subsequently delivered those wire instructions to the Debtors and sent numerous follow-up requests, but, as of the date of the letter, the funds had not been returned. According to the letter, the misappropriated funds were instead being improperly held by Validus Parent. A copy of that letter is attached as **Exhibit "X"**.

56. Union Grievance. In early April, 2023, the Applicant became aware of allegations made by the International Union of Operating Engineers Local 865, the union that represents most of IFPC's employees at the Iroquois Falls plant (the "**Union**"), that IFPC and/or Validus Parent had failed to provide group benefit coverage and to match and/or remit RRSP contributions for those unionized employees, contrary to the Union's collective agreement with IFPC. On May 25,

2023, the Union delivered a grievance notice to IFPC and Validus Parent in which it provided notice of those claims and demanded, among other things, remittance and/or reinstatement of those amounts. While the Applicant has no further information on this dispute, based on this letter, I am concerned that IFPC and/or Validus Parent (and possibly other Debtors) have not properly paid their employees all amounts that they are entitled to. The Union's grievance notice is attached as **Exhibit "Y"**.

57. Failure to Pay Insurance Amounts. In May 2023, the Applicant was notified that the Debtors had failed to pay all insurance premiums that came due: (i) on October 12, 2022 in an aggregate amount of \$1,455,218.46 in respect of their property insurance policy (the "**Property Insurance Policy**"); and (ii) on March 8, 2023 in an aggregate amount of \$63,369.60 in respect of their commercial general liability and commercial umbrella insurance policy (the "**CGL Insurance Policy**"). Those insurance policies together covered, among other things, losses or damage relating to the Debtors' real and personal property, interruptions to their business and general commercial liability. The lead insurer of the Property Insurance Policy had provided the Debtors with notices that the policies would be canceled effective June 18, 2023, unless those premiums were paid.

58. In respect of the Property Insurance Policy, the Applicant, the lead insurer on the Property Insurance Policy and the Debtors' insurance broker, Arthur J. Gallagher Canada Limited ("**AJ Gallagher**"), reached a settlement to have 60% of the premium for the Property Insurance Policy amount paid by the Debtors in three installments of \$306,005. Accordingly, on each of June 15 and July 14, 2023, the Applicant paid both of those \$306,005 payments on behalf of the Debtors to AJ Gallagher (*i.e.*, a total of \$612,010). In respect of the CGL Insurance Policy, the Applicant also paid an aggregate amount of \$63,369.60 to AJ Gallagher on the Debtors' behalf on June 2, 2023 in satisfaction of those premiums. Copies of the email correspondence with AJ Gallagher confirming its receipt of the payments regarding the Property Insurance Policy and the CGL insurance Policy are attached as **Exhibits "Z" and "AA"**, respectively. Additionally, the notice of cancellation from the lead insurer for the Property Insurance Policy together with a notice of reinstatement following receipt of the applicable payments are attached as **Exhibits "BB" to "CC"**, respectively.

59. Failure to Pay Base Rent. Finally, the Debtors have failed to make three payments of Base Rent and HST on May, June and July 2023, following the four-month rent holiday under the Forbearance Arrangements. As of July 24, 2023, the Debtors owe the Applicant a total of \$9,605,000 on account of Base Rent and HST arrears.

B. Defaults Under the Lease Transaction Documents

60. In addition to these examples of bad management, the Debtors committed defaults under the Lease Transaction Documents. My team delivered, among other things, notices of default and reservations of rights on each of May 12, 2022, July 12, 2022, November 16, 2022, April 16, 2023 and June 2, 2023 (collectively, the “**Notices of Default**”). Copies of the Notices of Default are attached as **Exhibit “DD”** to this affidavit (and are bookmarked by notice).

61. The Notices of Default set out a non-exhaustive list of the various defaults that the Applicant was aware the Debtors had committed, up to the respective dates thereof, under the Lease Transaction Documents (the “**Defaults**”). In connection with the Reservation of Rights Agreement, the Debtors admitted to the following defaults: (i) the Debtors’ monetary defaults under the Project Documents; (ii) the Debtors’ breach of the Hut 8 PPA; and (iii) the Debtors’ non-performance of certain covenants in the Participation Agreement.

62. The following is a non-exhaustive summary of the Defaults that have occurred and/or that are occurring as of the date of this affidavit:

(i) Monetary Defaults

63. IFPC, as the principal obligor, and each of the Guarantors, as guarantors, have been in arrears in respect of the Base Rent, associated HST and other amounts owing under the Lease Transaction Documents since February 2023. As of July 24, 2023, IFPC and the Guarantors owe the Applicant \$9,605,000 in respect of those amounts. Under the Lease Agreement, a “Lease Event of Default” occurs where IFPC fails to pay any amounts due under the Lease Agreement (including Base Rent) within 7 days of such amounts becoming due.

(ii) CRA Liens

64. As noted, CRA registered liens against certain of the real property associated with the Iroquois Falls power plant on or around March 8, 2023 as a result of outstanding GST/HST

arrears. Copies of the land registry searches showing those encumbrances are attached as Exhibit “W”.

65. Under the Lease Agreement, IFPC covenanted not to create, incur, assume, permit or suffer to exist any lien on or with respect to the Leased Property; IFPC further covenanted under the Lease Agreement and Participation Agreement to pay and remit to CRA all HST that becomes payable under the Lease Agreement in accordance with applicable law. It is a Lease Event of Default for IFPC or any of the other Debtors to fail to observe or perform any of their covenants or agreements in any of the Lease Transaction Documents where such failure is not remedied within 30 days that it becomes known to the Debtors’ management.

(iii) Failure to Pay Municipal Taxes

66. As noted, the Debtors’ books and records indicate that the Municipalities are owed approximately \$109,727 in unpaid municipal taxes.

67. Under the Participation Agreement, each of the Debtors covenanted to promptly pay when due all taxes imposed on them with respect to, or affecting, the power plant facilities, the Leased Property and the Applicant’s other collateral. As noted, it is a Lease Event of Default for IFPC or any of the other Debtors to fail to observe or perform any of their covenants or agreements in any of the Lease Transaction Documents where such failure is not remedied within 30 days that it becomes known to the Debtors’ management.

(iv) Failure to Maintain Insurance Coverage

68. As noted, the Debtors failed to pay insurance premiums that were required to maintain their Property Insurance Policy and their CGL Insurance Policy. As a result, in June and July, 2023, the Applicant paid on behalf of the Debtors an aggregate amount of \$675,379.60 on account of those insurance premiums to prevent the Debtors’ insurance coverage from lapsing.

69. Under the Lease Agreement and the Participation Agreement, the Debtors are required to, among other things, keep their property, assets and operations adequately insured in sufficient amounts, and with sufficient coverage, as is customary for similar companies in the power generation industry. As noted, it is a Lease Event of Default for IFPC or any of the other Debtors to fail to observe or perform any of their covenants or agreements in any of the Lease

Transaction Documents where such failure is not rectified within 30 days that it becomes known to the Debtors' management.

(v) *Hut 8 Litigation*

70. According to the terms of the Participation Agreement and the Lease Agreement, the Debtors agreed to comply with all material obligations, covenants and undertakings binding on them in respect of, among other things, the Hut 8 PPA. Any breach by a Debtor, or the termination, of the Hut 8 PPA is an event of default under the Lease Transaction Documents.

71. I understand from my discussions with the Debtors' management that, under the Hut 8 PPA, Validus Parent agreed to supply power from its North Bay power plant operations to Hut 8 for Hut 8's cryptocurrency mining operations, in accordance with a prescribed delivery schedule. I further understand from those discussions that, as part of that transaction, Hut 8 advanced \$20,000,000 to Validus Parent for, among other things, capital expenditures required to power up the North Bay plant.

72. On January 25, 2023, Hut 8 issued a statement of claim against Validus Parent and Bay Power (together, the "**Validus Defendants**") before the Ontario Superior Court of Justice in Toronto, Ontario (the "**Hut 8 Litigation**").¹ A copy of that issued statement of claim is attached as **Exhibit "EE"**.

73. In the Hut 8 Litigation, Hut 8 alleges that the Validus Defendants breached the Hut 8 PPA by failing to meet all of the critical contractual milestones for the delivery of power and has since completely shut off the flow of power to Hut 8. Hut 8 further alleges that these breaches are the result of the Validus Defendants' bad faith attempts to leverage Hut 8's reliance on the supply of power from the North Bay plant in order to obtain a higher price for power than the parties agreed to in the Hut 8 PPA.

74. On April 11, 2023, the Validus Defendants filed an amended statement of defence and counterclaim in the Hut 8 Litigation. A copy of that filing is attached as **Exhibit "FF"**. Among other things, the Validus Defendants allege in their counterclaim that it was Hut 8 that failed to

¹ The Hut 8 Litigation was brought under Court File No.: CV-23-00693515-0000.

meet the applicable milestones for the construction of its cryptocurrency mining facilities, and that it was that failure that prevented the Validus Defendants from delivering power under the Hut 8 PPA. The Validus Defendants also contest Hut 8's description of the milestones and pricing mechanics under the Hut 8 PPA, and allege that Hut 8 was indebted to the Validus Defendants for outstanding energy payments. As a result, the Validus Defendants seek damages against Hut 8 for breach of contract and payment of arrears (among other things).

75. As noted, any breach by a Debtor, or the termination, of the Hut 8 PPA is an event of default under the Lease Transaction Documents. Accordingly, the events alleged by Hut 8 in the Hut 8 Litigation, if true, constitute events of default under the applicable Lease Transaction Documents. These developments and allegations also raise serious concerns about the viability of the Debtors' operations.

(vi) Breach of Covenants

76. As discussed above, the Applicant was given the opportunity to review certain books and records of the Debtors as part of the IFPC Marketing Process (defined and described below), and discovered that the recordkeeping appears to be severely deficient. Pursuant to the Participation Agreement, Validus Parent is required to maintain proper books, records and accounts adequate to reflect truly and fairly the financial conditions of the Debtors and the results of their operations.

77. The Debtors have also failed to comply with numerous reporting covenants under the Lease Transaction Documents. Among other things, the Debtors have never provided the Applicant with inspection reports regarding the Debtors' operations or other similar reports.

78. As noted, it is a Lease Event of Default for IFPC or any of the other Debtors to fail to observe or perform any of their covenants or agreements in any of the Lease Transaction Documents where such failure is not rectified within 30 days that it becomes known to the Debtors' management.

V. MACQUARIE’S SIGNIFICANT EFFORTS TO ACCOMMODATE THE DEBTORS

79. In response to the numerous and significant issues and defaults noted above, the Applicant has made considerable efforts to both accommodate the Debtors and to find a workable solution to resolve their issues and their indebtedness to the Applicant.

80. As noted, in February 2023, the Applicant provided the Debtors with breathing room and accommodation through the Forbearance Arrangements. Among other things, the Applicant gave the Debtors a “rent holiday” (providing for \$6,000,000 in deferred Base Rent, which amounts came due on May 31, 2023 and have never been paid) and agreed to forbear from exercising its enforcement remedies under the Lease Transaction Documents for an approximately four-month period during which period a sales process would be carried out.

A. Unsuccessful Sale Process

81. The Forbearance Arrangements also provided for a marketing and sale process for the business, assets and/or shares of IFPC (the “**IFPC Marketing Process**”). On March 9, 2023, with the consent of the Applicant, the Debtors retained an M&A advisor (the “**M&A Advisor**”)² to conduct the IFPC Marketing Process. The Applicant agreed to pay, and did pay, all costs, fees and expenses incurred by the Debtors in respect of the IFPC Marketing Process (which amounts the Debtors are required to repay the Applicant pursuant to the Lease Transaction Documents).

82. The M&A Advisor commenced the IFPC Marketing Process and issued a confidential information memorandum to potential bidders on or around April 5, 2023. By April 24, 2023, four parties had submitted non-binding expressions of interest in IFPC’s shares. However, one of those parties withdrew its offer, citing, among other things, various issues relating to the revenue and cash flow opportunities at the Iroquois Falls power plant.

83. On or around May 3, 2023, the M&A Advisor provided the three remaining interested parties with a form of draft share purchase agreement. Only one of those parties delivered a binding offer, but that offer was conditional on the bidder raising the equity and debt capital it required for the acquisition. The bidder later defaulted on its offer and ceased communication

² The M&A Advisor is unrelated to, and at arm’s length with, KSV.

with the M&A Advisor. Attached as **Exhibit “GG”** is a note from the M&A Advisor dated July 17, 2023, where it describes that the offeror ultimately failed to move forward with the offer.

84. Despite the parties’ best efforts, the IFPC Marketing Process ultimately did not result in the sale of IFPC’s business, assets or shares.

B. Funding of Certain Amounts Required for the Debtors’ Operations

85. As a result of the deteriorating condition of the Debtors’ business, the Applicant paid the following amounts on behalf of the Debtors between June and July 2023, in order to protect its collateral and minimize the risk of potential destabilization of the Debtors and their operations:

- (a) Insurance Amounts. As discussed above, in June and July, 2023, the Applicant paid various amounts on account of insurance premiums in the aggregate amount of \$675,379.60 that were required to prevent the cancelation of the Debtors’ Property Insurance Policy and CGL Insurance Policy. Those payments were necessary to avoid the potentially destabilizing consequences of the resulting loss of insurance coverage.
- (b) Accounts Payable. The Applicant has made payments on behalf of certain Debtors to their vendors on account of such Debtors’ accounts payable, including in respect of amounts for gas transportation services, gas procurement services, legal fees and information technology services. As at July 7, 2023, the Applicant has paid in excess of \$745,990.78 on account of those amounts.

The amounts described in this paragraph were fully repaid to the Applicant on July 21, 2023, pursuant to the set-off described in paragraph 98.

86. In addition to the amounts contemplated in the previous paragraph, the Applicant has incurred expenses in respect of which it is entitled to be indemnified under the Lease Transaction Documents. Some of those expenses were also repaid to the Applicant on July 21, 2023, pursuant to the set-off described in paragraph 98.

87. Under the terms of the Lease Transaction Documents, the Debtors are required to indemnify and repay the Applicant for amounts that the Applicant funds or pays in order to

prevent any loss or damage in respect of the Applicant's collateral (which amounts the Debtors ratified and reaffirmed are subject to the existing security and the new security granted to the Applicant in February 2023 under the Forbearance Arrangements).

88. Absent a receiver being appointed in respect of the Debtors, the Applicant has no intention (and no obligation) to continue paying for or funding the Debtors' obligations going forward.

C. Demand Letters and Section 244 Notices

89. As a result of the unsuccessful IFPC Marketing Process, the compounding problems with the Debtors' business and management, and the ongoing defaults under the applicable Lease Transaction Documents—including the Debtors' failure to make payments on account of Base Rent plus HST that came due at the end of May, June and July of this year—the Applicant concluded that it had no option but to issue demand letters and notices under section 244 of the BIA. Since June 2023, the Applicant has issued two sets of demand letters to the Debtors.

(i) June 9, 2023: First Set of Demand Letters and Section 244 Notices

90. On June 9, 2023, the Applicant sent out demand letters to IFPC (as the primary obligor) and each of the other Debtors (as guarantors) (collectively, the "**June Demand Letters**"). The June Demand Letters provided further notice of the various defaults under the Lease Transaction Documents to their recipients and demanded immediate repayment of all arrears then outstanding, including Base Rent, under the Lease Transaction Documents. The Applicant did not accelerate the amounts owing under the Lease Agreement at such time, but reserved its right to do so.

91. On the same day, June 9, 2023, the Applicant sent out corresponding notices under section 244 of the BIA giving notice to the Debtors of the Applicant's intention to enforce against its security. Copies of the June Demand Letters sent to the Debtors and the section 244 notices enclosed therein are attached as **Exhibits "HH" to "NN"** to this affidavit.

92. My team delivered (and, as discussed below, attempted to deliver) the June Demand Letters and section 244 notices using three delivery methods. First, Ronnie Alam, Division Director – Legal Counsel, delivered, on behalf of Macquarie, electronic copies of the June

Demand Letters and section 244 notices to the Debtors' management via email. A copy of that email, together with an email from the Debtors' general counsel acknowledging receipt of same, is attached as **Exhibit "OO"** to this affidavit. That email was sent in accordance with the conventional lines of communication that had been established during the IFPC Marketing Process.

93. Second, I am advised by Scott Bomhof of Torys LLP, counsel to the Applicant, that Torys caused the June Demand Letters and section 244 notices to be sent for delivery via registered mail through Canada Post to the addresses specified in the notice provisions of the applicable Lease Transaction Documents. A copy of the affidavit sworn by the member of Torys' staff describing that delivery process is attached as **Exhibit "PP"**.

94. Finally, I am advised by Mr. Bomhof that Torys caused the June Demand Letters and section 244 notices to be sent for delivery via courier to the addresses specified in the notice provisions of the applicable Lease Transaction Documents. A copy of the affidavit sworn by a member of the courier's staff describing that delivery is attached as **Exhibit "QQ"**.

95. I am advised by Mr. Bomhof that the second and third delivery methods did not ultimately successfully reach the Debtors, because the Debtors had previously vacated the premises located at the addresses specified in the notice sections of the Lease Transaction Documents. A copy of an affidavit sworn by a member of Torys' staff describing this unsuccessful delivery is attached as **Exhibit "RR"**. The Debtors did not provide a new address for delivery of notices under the Participation Finance Documents, despite certain Lease Transaction Documents (including the Participation Agreement and Lease Agreement) explicitly requiring them to do so.

(ii) July 24, 2023: Second Set of Demand Letters

96. On July 24, 2023, the Applicant sent out two further sets of demand letters to IFPC (as the primary obligor) and each of the other Debtors (as guarantors). One set of demand letters demanded immediate repayment of all arrears outstanding as of that date, including Base Rent and HST, and the other set of demand letters, in accordance with the Lease Agreement, accelerated the Accelerated Payments (*i.e.*, liquidated damages in an amount specified in the Lease Agreement) and demanded immediate repayment thereof in accordance with the Lease

Transaction Documents (collectively, the “**July Demand Letters**”). Copies of the July Demand Letters that demanded repayment of the arrears are attached as **Exhibits “SS” to “YY”**, and copies of the July Demand Letters that accelerated and demanded payment of the Accelerated Payments are attached as **Exhibits “ZZ” to “FFF”**.

97. My team delivered the July Demand Letters by email to the Debtors’ management, including their principal, in accordance with the conventional lines of communication that had been established during the IFPC Marketing Process. A copy of that email is attached as **Exhibit “GGG”**.

D. Cash Set-Off

98. On July 21, 2023, IFPC and Kingston LP each received a cash payment from the IESO in an amount of \$1,983,523.93 and \$829,370.65, respectively, in respect of power that certain Debtors provided under the IESO’s capacity auction process. The IESO made that payment directly to bank accounts held by the Debtors; any disbursements from those bank accounts have required the Applicant’s approval since May 26, 2023. On July 21, 2023, that same day, the Applicant caused IFPC and Kingston LP to transfer a total of \$2,012,950 from those accounts to an account controlled by the Applicant and applied those amounts to the Debtors’ outstanding indebtedness by way of a set-off in accordance with the Lease Transaction Documents. The Debtors’ Chief Financial Officer approved those transfers to the Applicant’s account. The Applicant also delivered a notice of set-off to the Debtors on July 24, 2023, a copy of which is attached as **Exhibit “HHH”**. After the transfer, there remained approximately \$800,000 in the relevant accounts to provide for immediate operational needs.

VI. REQUEST FOR APPOINTMENT OF KSV AS RECEIVER

A. Need for the Proposed Receivership

99. The Debtors are in default of their obligations to the Applicant under the Lease Transaction Documents and are unable to satisfy their obligations as they become due, including their indebtedness owing to the Applicant. As noted above, pursuant to the Security Documents, the Applicant has the contractual right to appoint a receiver in respect of the Debtors and their respective property, including the Real Property, except in respect of Validus Hosting.

100. In addition to the indebtedness being due and owing to the Applicant, the urgent need to appoint a receiver is highlighted by the concerning number of problems that have arisen in respect of the Debtors' business and operations in recent months, all pointing towards deep dysfunction in the Debtors' management, a lack of oversight of the Debtors' business and a potential erosion in the value of the Applicant's collateral. As discussed above, many of those problems constitute events of default under the Lease Transaction Documents. Additional funds are also required to finance the Debtors' ongoing operations, including insurance payments (which includes payment of a final insurance premium of \$306,005 that comes due on August 15, 2023 in respect of the Property Insurance Policy), failing which the Debtors' insurance coverage from their Property Insurance Policy is likely to lapse; the Applicant is not willing to continue to provide any further funding with the current management and ownership in control. Only the appointment of a receiver will allow the Applicant (and the Debtors' other stakeholders) to have confidence in the Debtors' business.

101. If the Debtors' operations were to suffer a severe disruption, the consequences for Ontario's power generation market could be significant. As noted, the IESO expects the Iroquois Falls and Kingston power plants to together contribute approximately 14.3% of the total electricity generation capacity in that capacity auction market for all of Ontario for this summer period and approximately 19.5% for the upcoming winter period. The loss of this source of capacity may increase the price of power in Ontario.

102. Despite my team's numerous attempts over the previous six months to work out a path forward with the Debtors—including an unsuccessful sale process for the shares in IFPC—none of those efforts have resulted in a tenable go-forward solution. Accordingly, the immediate appointment of a receiver is required in order to mitigate these risks to the extent possible and to preserve the value of the Debtors' Property for the benefit of the Applicant and the Debtors' other stakeholders.

B. Purpose of Proposed Receivership

103. I am advised by Mr. Bomhof of Torys that the terms of the appointment order sought by the Applicant are substantially consistent with the model order of the Ontario Superior Court of Justice (Commercial List), or otherwise typical in receiverships involving similar companies as

the Debtors. To that end, a blackline of the proposed appointment order to the Commercial List's model order is included as Tab 4 to the Applicant's application record.

104. The Applicant brings this application with two primary objectives: (i) providing stability and supervision of the Debtors' business; and (ii) implementing a SISP, pursuant to which the Applicant intends to submit a stalking horse bid with the Receiver acting as the vendor on behalf of the Debtors (the "**Stalking Horse Bid**"). As noted, the Applicant anticipates that the Receiver will file an application for an initial order in respect of the Debtors under the CCAA and will seek approval of the SISP and stalking horse bid under the provisions of that statute. I am advised by Mr. Bomhof that the reason neither the Applicant nor the Receiver are seeking relief under the CCAA at this time is because, among other reasons, time will be required for the Receiver to obtain access to the Debtors' books and records and control over their business before any party will be in a position to seek such relief.

105. The Applicant anticipates that if the Receiver is appointed on the terms sought, the receivership proceedings will provide the Debtors' property and business with urgently-needed stability and supervision. If appointed by this Court, the Receiver will take steps to preserve the value of the power plants, attempt to resolve the numerous issues with the Debtors' other stakeholders described above and will be authorized to fund further maintenance at the Debtors' power plants and administer the estate, all with a view to maximizing recoveries for the Debtors' stakeholders. From its recent activities, KSV has familiarized itself with the Debtors' property and business.

106. If this Court grants the proposed Appointment Order, the Applicant anticipates that the next step in these receivership proceedings will be for the Receiver to seek an initial order in respect of the Debtors under the CCAA, along with this Court's approval of a SISP under the provisions of that statute, pursuant to which KSV, in its capacity as either Receiver or Monitor, would canvass the market and solicit bids superior to the Stalking Horse Bid for some or all of the Debtors' business and assets. As part of that SISP, the Applicant anticipates that the Stalking Horse Bid would be put forward as the stalking horse in that process, serving as a minimum bid for the Secured Assets. My team has been working diligently to advance the Stalking Horse Bid so it can be provided to the Receiver as soon as practicable with a view to being presented to this

Court expeditiously thereafter for its consideration. For clarity, the Applicant is not seeking this Court's approval of a SISP or a stalking horse bid at this time, nor does it seek any relief under the CCAA.

C. Appointment of KSV as Receiver

107. Pursuant to an engagement letter dated July 7, 2023, the Applicant engaged KSV concerning the Debtors' situation, the proposed receivership and the within application. Accordingly, KSV has acquired knowledge of the matters discussed herein since first being contacted. I am advised by Bobby Kofman, the President of KSV, that KSV is a licensed insolvency trustee, as defined in the BIA, and the senior professionals involved are all registered members of the Canadian Association of Insolvency and Restructuring Professionals with significant experience in Canadian insolvency proceedings, including receiverships. KSV has provided a written consent to act as Receiver in these proceedings. Given KSV's understanding of the current situation and its ability to hit the ground running to mitigate the risks described above, I believe that KSV is the appropriate firm to be appointed as Receiver.

108. A copy of KSV's consent to act as Receiver is attached as Tab 5 to the Applicant's application record.

VII. CONCLUSION

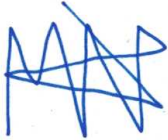
109. The Debtors are seriously mismanaged, and the problems outlined in this affidavit suggest that they are in immediate risk of financial and operational collapse. The Debtors' management has failed to, and is unable to, repay the substantial indebtedness owing by the Debtors to the Applicant, and the related Lease Transaction Documents have been in default for months. The Debtors have also failed to satisfy tax claims on multiple fronts (including a potential failure to remit source deductions), maintain adequate recordkeeping, pay amounts required for continued insurance coverage and, allegedly, provide their unionized employees with benefits and match and/or remit RRSP contributions. There are also serious allegations that the Debtors have misappropriated funds belonging to CIBC.

110. In order to protect the Applicant's collateral, provide much-needed stability to the Debtors' business and operations for the benefit of numerous stakeholders and prevent the

further impairment of the value of the Applicant's collateral, the Applicants require the immediate appointment of the Receiver.

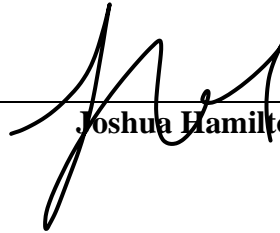
SWORN REMOTELY by Joshua Hamilton Stevens at the City of Sydney, in the State of New South Wales, in the Country of Australia, before me on July 31, 2023 in accordance with O.Reg. 431/20, Administering Oath or Declaration Remotely.

}



Commissioner for Taking Affidavits
(or as may be)

MICHAEL NOEL
(LSO#: 80130F)



Joshua Hamilton Stevens

APPENDIX “A”

Chronological Summary of Key Events

The following table provides a chronological summary of the key events that led to the Applicant’s decision to seek the appointment of a receiver in respect of the Debtors by commencing the within receivership proceedings. Events described in rows highlighted orange constitute events of default (or allegations that would constitute event of defaults if proven true) under the applicable Lending Transaction Documents. Capitalized terms used in this summary have the meanings given to them in the body of this affidavit.

Date	Event
April 2022	The Applicant enters into the original sale and leaseback transaction with the Debtors. Security is given by each of the Debtors, except for Kingston LP and Kingston GP and Validus Parent’s shares and units in those entities (which was given as security in February 2023).
January 2023	Hut 8 files a statement of claim against the Validus Defendants in the Hut 8 Litigation. The Applicant discovers that the Validus Defendants allegedly breached the Hut 8 PPA.
January 16, 2023	IFPC fails to make a prepayment of Base Rent and HST under the Prepayment Arrangement.
February 2023	The Applicant and the Debtors enter into the Forbearance Arrangements which provide for, among other things: <ul style="list-style-type: none">• a four-month rent holiday;• as further security, substantially all of Kingston GP’s and Kingston LP’s real and personal property and Validus Parent’s shares and units in those entities; and• the commencement of the IFPC Marketing Process.

Date	Event
March 8, 2023	CRA registers liens for unpaid taxes against certain of the real property associated with the Iroquois Falls power plant.
April 5, 2023	The M&A Advisor commences the IFPC Marketing Process.
April – May, 2023	Upon review of the Debtors’ books and records in the IFPC Marketing Process, the Applicant discovers that the Debtors failed to adequately maintain their books and records.
March – May, 2023	<p>Upon review of the Debtors’ books and records in the IFPC Marketing Process, the Applicant discovers that certain Debtors, among other things:</p> <ul style="list-style-type: none"> • failed to remit HST to CRA (including \$5,850,000 of HST the Applicant paid to the Debtors as part of the sale and leaseback transaction); • failed to pay municipal taxes; and • possibly failed to remit source deductions to CRA.
April 11, 2023	The Validus Defendants file an amended statement of defence and counterclaim against Hut 8.
April 16, 2023	The Applicant delivers a further notice of default to the Debtors.
May 12, 2023	CIBC delivers a letter to certain Debtors alleging that Kingston GP misappropriated, and failed to return, funds that they were not entitled to access.
May 25, 2023	The Union representing IFPC’s employees delivers a grievance to IFPC and Validus Parent alleging that those Debtors failed to provide group benefit coverage and to match and/or remit RRSP contributions for those employees.

Date	Event
May – July, 2023	The Debtors fail to make three payments of Base Rent and HST to the Applicant that came due after the four-month rent holiday expired.
June 9, 2023	The Applicant delivers letters demanding payment of the Base Rent and HST in arrears and section 244 notices to each of the Debtors.
June – July 2023	The Debtors fail to pay insurance premiums that are required to maintain their property and commercial general liability insurance policies. The Applicant pays, on the Debtors’ behalf, an aggregate amount of \$675,379.60 on account of those premiums to prevent the Debtors’ insurance from lapsing.
July 2023	The IFPC Marketing Process unsuccessfully concludes without any viable bids in respect of IFPC.
July 21, 2023	The Applicant causes IFPC to transfer a total of \$2,012,950 of cash received from the IESO from IFPC’s and Kingston LP’s bank accounts and applies those amounts to the Debtors’ outstanding indebtedness by way of a set-off in accordance with the Lease Transaction Documents.
July 24, 2023	The Applicant delivers further letters demanding payment of: <ul style="list-style-type: none">• the Base Rent and HST in arrears; and• the Accelerated Payments.
July 31, 2023	The Applicant commences the within receivership proceedings.

THIS IS **EXHIBIT “A”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,

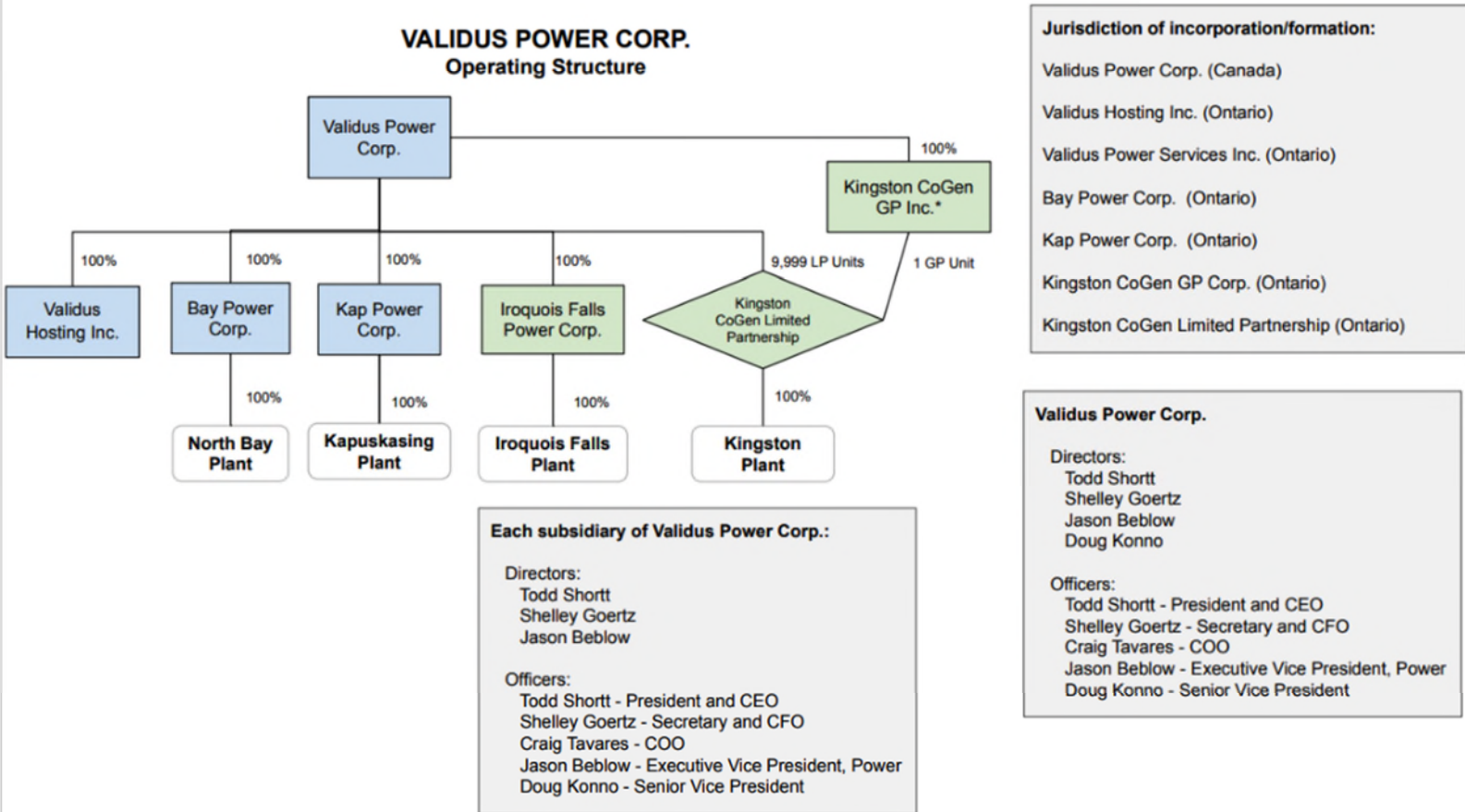
THIS 31st DAY OF JULY, 2023.



Michael Noel

Commissioner for Taking Affidavits

OWNERSHIP STRUCTURE



THIS IS **EXHIBIT “B”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,

THIS 31st DAY OF JULY, 2023.



Michael Noel

Commissioner for Taking Affidavits

AMENDED AND RESTATED PARTICIPATION AGREEMENT

dated as of February 24, 2023

between

IROQUOIS FALLS POWER CORP.,
as Lessee

MACQUARIE EQUIPMENT FINANCE LTD.,
as Lessor

Lease of Combined Cycle Turbines and related Equipment - Iroquois Falls Cogeneration Station
Located in
Iroquois Falls,
Ontario, Canada

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Attachments:

Exhibit A	Bill of Sale Form
Schedule 1	Lessor's Cost
Schedule 2	Addresses for Notice and Payment
Schedule 3	Land and Site Descriptions
Schedule 4	Pension Plans
Schedule 5	Instruments for Registration
Schedule 6	Authorizations and Government Actions
Schedule 7	Ownership Structure
Schedule 8	Environmental Matters
Schedule 9	<i>Intentionally Deleted</i>
Schedule 10	<i>Intentionally Deleted</i>
Schedule 11	<i>Intentionally Deleted</i>
Schedule 12	<i>Intentionally Deleted</i>
Appendix A	Definitions

AMENDED AND RESTATED PARTICIPATION AGREEMENT dated as of February 24, 2023 (this “**Agreement**” or this “**Participation Agreement**”; capitalized terms herein being used as defined in Article 1) among, Iroquois Falls Power Corp., a corporation organized under the laws of Ontario (“**Lessee**”), the guarantors party hereto from time to time, as Guarantors, and Macquarie Equipment Finance Ltd., a corporation incorporated under the laws of Canada (“**Lessor**”).

RECITALS

- A. On the Original Closing Date, the parties hereto executed and delivered a participation agreement (the “**Existing Participation Agreement**”), pursuant to which, among other things, (1) Lessor agreed to purchase the Leased Property from Lessee for a purchase price equal to Lessor’s Cost, and (2) Lessee agreed to lease the Leased Property from Lessor.
- B. The Lessor and the Lessee have agreed to amend and restated the Existing Participation Agreement in its entirety as set out herein.

NOW, THEREFORE, in consideration of the mutual agreements herein contained and other good and valuable consideration, receipt of which is acknowledged, the parties hereto agree as follows:

ARTICLE 1 DEFINITIONS

1.1 Definitions.

Capitalized terms used herein have the meanings assigned to them in Appendix A.

1.2 Rules of Interpretation

Except as otherwise expressly provided herein or any other Transaction Document, in this Agreement and each other Transaction Document:

(1) each reference to, and the definition of, any agreement, instrument or other document (including any Transaction Document) herein or in any other Transaction Document shall be deemed to refer to such agreement, instrument or other document as it may be amended, amended and restated, supplemented, revised or otherwise modified from time to time in accordance with its terms and, to the extent applicable, the terms of this Agreement and the other Transaction Documents, and shall be deemed to incorporate any appendices, annexes, schedules or exhibits to such agreement, instrument or other document;

(2) each reference to an Applicable Law or Authorization shall be deemed to refer to such Applicable Law or Authorization as the same may be amended, supplemented or otherwise modified from time to time;

(3) any reference to a Person in any capacity includes a reference to its successors and assigns in such capacity to the extent permitted under the terms of this Agreement and the other Transaction Documents and, in the case of any Government Body, any Person succeeding to any of its functions and capacities;

(4) references to days shall refer to calendar days unless Business Days are specified; references to weeks, months or years shall be to calendar weeks, months or years, respectively;

(5) all references in a Transaction Document to a “Section”, “clause”, “paragraph”, “sub paragraph”, “Appendix”, “Annex”, “Schedule” or “Exhibit” are to a Section, clause, paragraph or sub paragraph of such Transaction Document or to an Appendix, Annex, Schedule or Exhibit attached thereto;

(6) the table of contents and Section headings and other captions in a Transaction Document are for the purpose of reference only and do not affect the interpretation of such Transaction Document;

(7) defined terms in the singular shall include the plural and vice versa, and the masculine, feminine or neuter gender shall include all genders;

(8) the words “hereof”, “herein” and “hereunder”, and words of similar import, when used in any Transaction Document, shall refer to such Transaction Document as a whole and not to any particular provision of such Transaction Document;

(9) the words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”;

(10) where the terms of any Transaction Document require that the approval, opinion, consent or other input of any party be obtained, such requirement shall be deemed satisfied only where the requisite approval, opinion, consent or other input is given by or on behalf of the relevant party in writing;

(11) the word “will” shall be construed to have the same meaning and effect as the word “shall”;

(12) the word “notice” means written notice;

(13) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights;

(14) references to a time of day means such time in Toronto, Ontario, Canada, unless otherwise specified herein; and

(15) all amounts payable under a Transaction Document shall be amounts in Dollars.

ARTICLE 2 CLOSING DATE; CLOSING

2.1 Lessor’s Cost.

Subject to the terms and conditions of the Original Participation Agreement and on the basis of the representations and warranties set forth therein, Lessor paid on the Original Closing Date, the Lessor’s Cost.

2.2 Sale and Purchase

Subject to the terms and conditions of the Original Participation Agreement and on the basis of the representations and warranties set forth therein, on the Original Closing Date, Lessor purchased from Lessee the Leased Property.

2.3 HST and Other Sales Taxes.

Lessee shall pay on behalf of Lessor when due (unless otherwise paid by Lessee) all applicable sales, use, or transfer taxes other than HST imposed by any Canadian taxing authority with respect to the transactions consummated on the Original Closing Date (including the purchase and sale of the Leased Property) and shall provide appropriate evidence to Lessor of such payment.

With respect to HST levied upon Lessor with respect to the transactions consummated on the Original Closing Date, Lessee shall credit Lessor for such HST and shall consider Lessor to have paid such HST on the Original Closing Date and Lessee shall be considered to have made an advance to Lessor in an equal amount. Lessee will provide Lessor with written notice five (5) Business Days prior to the date on which Lessee is required to remit HST in respect of the transactions consummated on the Original Closing Date and Lessor shall promptly pay the advance in immediately available funds, two (2) Business Days prior to such date, and Lessee shall remit such amount (plus any additional HST collected by the Lessee for the period that includes the Original Closing Date but net of any applicable input tax credits for the period that includes the Original Closing Date) and shall promptly thereafter provide a copy of its HST return for the period that includes the Original Closing Date and confirmation of remittance of the full amount shown payable in its HST return for the period that includes the Original Closing Date.

All amounts specified in this Agreement or in any other Basic Document are expressed exclusive of applicable sales, use, goods and services or transfer taxes including HST imposed by any Canadian taxing authority, and all such applicable sales, use, goods and services or transfer taxes including HST shall be added to each amount required to be paid by the Person making the payment.

2.4 Closing Date Procedures

(1) Original Closing Date. Consummation of the Transaction (the “**Original Closing**”) took place on the Original Closing Date.

(2) Funding. On the Original Closing Date, Lessor paid Lessee the Lessor’s Cost as follows:

- (a) \$36,000,000, by wire transfer to the account(s) and in the manner described in the Funds Flow Memorandum; and
- (b) the balance of the Lessor’s Cost, was paid to (or retained in) an account of Lessor and retained by Lessor as security for the prepayment obligation set out in the last sentence of 4.48(3).

2.5 Transaction Costs and Other Expenses

(1) Transaction Costs. Lessee (i) shall bear its own fees, costs and expenses and (ii) shall pay, on demand, all reasonable fees, costs, and expenses of the Lessor, in each case, incurred in connection with the in respect of the negotiation, preparation, execution and delivery of the Transaction Documents and any documents delivered in relation to or for the purposes of the Closing. (“**Transaction Costs**”).

(2) Other Expenses. Lessee shall pay when due or, if no due date is specified, on demand: (i) the reasonable fees, out-of-pocket expenses and other customary reimbursable expenses of Lessor (including reasonable legal fees, including allocated time charges of internal counsel, out-of-pocket expenses and other customary reimbursable expenses) incurred in connection with any supplements, amendments, modifications or alterations of or to any of the Transaction Documents (whether or not such supplements, amendments, modifications or alterations are finalized) or in connection with preserving,

enforcing (through negotiations, legal proceedings or otherwise) or determining whether or how to enforce or protect its rights under or in connection with the Transaction Documents.

ARTICLE 3 REPRESENTATIONS AND WARRANTIES

3.1 Obligors

Each Obligor (except as otherwise specifically noted below) represents and warrants to the Lessor that as of the Closing Date:

- (a) Due Incorporation, etc. Each Obligor is duly incorporated, organized or formed and is validly existing and in good standing under the laws of its jurisdiction of incorporation, organization or formation and is qualified to do business and in good standing as a body corporate under the laws of the province of Ontario and in each other jurisdiction in which it carries on business or owns, leases or operates property. Each Obligor has the corporate, partnership or other constitutional power and authority to own or hold under lease its properties and to enter into and perform its obligations under this Agreement and the other Transaction Documents.
- (b) Authorization. The execution, delivery and performance by each Obligor of this Agreement and the other Transaction Documents are within the corporate powers of such Obligor, have been duly authorized by all necessary corporate action on the part of such Obligor, require no action by or in respect of or filing with any shareholders or obligees of such Obligor or any Government Body (except for actions and filings contemplated by the Basic Documents which have been duly taken or made or for which adequate provision has been made) and do not (i) contravene, or constitute a default under, its Constituent Documents, any Authorizations or Government Actions or any Applicable Law binding on such Obligor or its property or any agreement, judgment, injunction, order, decree or other instrument by which such Obligor or its property is bound, (ii) result in or require the creation of any Lien upon any of the Leased Property or other Collateral, revenues or assets of such Obligor (other than in favour of Lessor pursuant to the Security Documents and Permitted Liens) or (iii) contravene or conflict with in any material respect or result in any material breach or constitute any material default under, the Material Project Documents, any other material document which is binding upon such Obligor or any of the Leased Property or other Collateral, revenues or assets.
- (c) Government Action. On the Closing Date, except for the Material Authorizations listed in Part B of Schedule 6 which shall be obtained after the Closing Date, (a) all Material Authorizations listed in Part A of Schedule 6 required in connection with the execution, delivery and performance by each Obligor of the Transaction Documents have been obtained, given or made, and (b) all other Authorizations, and Government Actions required in connection with the execution, delivery and performance by each Obligor of the Transaction Documents, as listed in Part C of Schedule 6, have been obtained, except to the extent that the failure to obtain any such Authorization will not result in an adverse effect on the enforceability or consummation of the transactions contemplated by the Transaction Documents, or materially adversely affect the value of any of the Lands, the Project Facilities, the Project Sites, the Leased Property or any other Collateral, or the financial position or performance by an Obligor of its obligations thereunder.

- (d) Execution; Enforceability. This Agreement and each other Transaction Document to which it is a party has been duly executed and delivered by the Obligor and, assuming due authorization, execution and delivery thereof by Lessor, constitutes the legal, valid and binding obligation of each Obligor, enforceable against them in accordance with its terms, except as enforceability thereof may be affected by bankruptcy, insolvency or similar laws affecting the enforcement of creditors' or lessors' rights generally and the availability of equitable remedies may be limited by equitable principles of general applicability (regardless of whether such enforceability is considered in a proceeding in equity or at law).
- (e) Litigation. Other than as disclosed in writing to Lessor, there is no action, suit, proceeding, arbitration, administrative proceeding or governmental investigation (whether or not purportedly on behalf of Lessee) at law or in equity or before or by any Government Body, domestic or foreign, pending or, to the knowledge of a Responsible Officer of each of the Obligors, threatened, against or affecting any Obligor or any property of the Obligors (including the Collateral) that has resulted in, or is reasonably likely to result in, a Material Adverse Effect, nor is any Obligor in default with respect to any order of any Government Body that could reasonably be expected to adversely affect the enforceability or consummation of the transactions contemplated by the Transaction Documents, or materially adversely affect the value of any of the Lands, the Project Facilities, the Project Sites, the Leased Property or any other Collateral, or the financial position or performance by an Obligor of its obligations thereunder.
- (f) Absence of Events. No Lease Default or Lease Event of Default exists, and no Obligor is in default in, nor has any non-permanent waiver been granted to an Obligor with respect to the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any agreement to which it is a party which default could have a Material Adverse Effect.
- (g) Financial Advisors; Broker's Fee. The Obligors have not retained any broker, finder, agent or financial advisor in connection with the Transaction, and neither the Obligors nor any Person authorized or employed by the Obligors as agent or otherwise has taken any action the effect of which would be to cause the Obligors to be liable for any brokers', finders', agents' or advisors' fees or commissions or costs of any nature or kind claimed by or on behalf of brokers, finders, agents or advisors in respect of the Transaction.
- (h) Applicable Law. The current condition and use of the Leased Property, the Project Sites and the Project Facilities do not materially violate any Applicable Law, including laws relating to occupational safety or health or Environmental Laws, or Government Action. Lessee and each other Obligor is in compliance in all material respects with Applicable Law. None of the transactions contemplated by the Basic Documents will result in a violation of any Applicable Laws.
- (i) Loss; Expropriation. No damage, loss, condemnation, confiscation, theft or seizure has occurred with respect to any portion of the Lands, the Project Facilities, Project Sites, the Leased Property or any other Collateral that would materially and adversely affect the value, utility, residual value or economic useful life of the Lands, the Project Facilities, Project Sites, the Leased Property or any other Collateral; and there is no action pending or, to the knowledge of any Responsible Officer of any Obligor, threatened by any Government Body or other Person to initiate a taking or use of the Lands, the Project Facilities, Project Sites, the Leased Property or any other Collateral or any part or portion

of any thereof through condemnation, seizure, requisition of title, power of expropriation or otherwise. No Event of Loss has occurred; no event or condition has occurred which, with the passage of time or the giving of notice, or both, would constitute an Event of Loss.

- (j) Certificates; Permits. The Obligors have obtained and are in compliance with all Government Actions and all Authorizations then required from all Government Bodies or from private parties for the possession, occupation, construction, maintenance, normal use and operation of the Projects, the failure to obtain or comply with which would materially and adversely affect the value, utility, residual value or economic useful life of the Lands, the Project Facilities, Project Sites, the Leased Property or any other Collateral, and all such Government Actions and Authorizations will be in full force and effect on the Closing Date and are not subject to any actual, pending or, to the Obligors' knowledge, threatened appeal or review by the granting entity or any third party.
- (i) Ownership Structure. As of the Closing Date, the corporate structure is as set forth in Schedule 7 and such structure is true and correct. No Person has any agreement, option, right or privilege, whether by Applicable Law, pre-emptive or contractual for the purchase of securities in the capital of any Obligor (other than the Parent) or any of such Obligor's property or assets except pursuant to the Transaction Documents. Each Obligor's jurisdiction of formation and the location of all of the Collateral of such Obligor, the chief executive office, principal place of business and registered office of such Obligor are set forth in Schedule 7.
- (k) Taxes. Each Obligor has timely filed or caused to be filed all tax returns, declarations, reports, estimates, information returns, statements and other information related to Taxes of all jurisdictions in which such returns are required to be filed by it and has (i) paid or caused to be paid all Taxes required to have been paid by it, except Taxes being contested pursuant to a Permitted Contest and for which such Obligor has set aside on its books adequate reserves and (ii) deducted or withheld all Taxes required to be deducted or withheld from payments by such Obligor and properly paid to the appropriate Government Body, and no material controversy, audits, examinations, investigations, proceedings or claims in respect of Taxes due is pending or, to the knowledge of any Responsible Officer of any Obligor, threatened.
- (l) Disclosure. As of the date it was stated to be given or as at the date it was delivered, all written factual information supplied by or on behalf of any Obligor to Lessor and its consultants and advisors in connection with the Transaction, fairly describes and described (when taken as a whole) in all material respects the business of such Obligor and is and was, as at the date (if any) at which it was stated to be given or as at the date it was supplied, true, complete and correct in all material respects and does not and did not, as of such date, contain any untrue statement of a material fact or omit to state a material fact or any fact necessary to make the statements contained therein not misleading at such time in light of the circumstances under which such information was provided. All financial statements that have been provided to Lessor in respect of the Obligors fairly present in all material respects the assets, liabilities and financial position of each such Obligor as of the respective dates of the financial statements.
- (m) Goods and Services Tax. Each Obligor is duly registered for the purposes of the HST under the following registration numbers: North Bay Subsidiary - 77628 7062 RT0001; Kapuskasing Subsidiary - 77705 6946 RT0001; Parent - 74759 4133 RT0001; Lessee - 88667 4696 RT0001; Kingston Subsidiary - 140263690RT0001.

- (n) Description of Leased Property; Location. The description of the Leased Property set forth in Schedule 1 to the Lease Supplement executed on the Closing Date is a true and accurate description in all material respects. The Leased Property is located within the boundaries of the Iroquois Falls Project Site.
- (o) Real Property Interests. The Obligors hold all the Real Property Interests necessary to own, maintain, and operate the Projects, including, but not limited to, the Lands.
- (p) Title to Leased Property and Other Collateral. Good and valid ownership of the Leased Property will, on the Closing Date, be validly and effectively conveyed to and vested in, Lessor, free and clear of all Liens. Each Obligor holds good and legal title to all Collateral (other than the Leased Property) or assets that it owns and on which it purports to grant Liens pursuant to the Security Documents, and such Collateral is not subject to any Liens and no Person has any agreement or right to acquire an interest in the Collateral other than Lessor.
- (q) Intellectual Property. As of the Closing Date all licenses, patents, trademarks, trade names and similar rights, if any, necessary for the use and operation of the Project Facilities are in full force and effect. No Obligor has received any written or actual notice that (a) any material product, process, method, substance, part or other material presently contemplated to be employed by an Obligor in connection with its business, will infringe in any material manner any intellectual property owned by any other Person or (b) there is pending or threatened any claim or litigation against or affecting the Obligors contesting its right to sell any such product, process, method, substance, part or other material, which could reasonably be expected to have a Material Adverse Effect.
- (r) Environmental Matters. Except as set forth in Schedule 8 or in any environmental report delivered by any of the Obligors to Lessor:
 - (i) (1) the Project Facilities and the applicable Project Sites (other than in respect of the Iroquois Falls Project) have been, and continue to be, owned and operated by Lessee and (2) the Iroquois Falls Project and the Iroquois Falls Project Site have been owned and operated by Northland Power Inc. prior to the Closing Date and will be owned and operated by Lessee on and after the Closing Date, in each case, in compliance with all Environmental Laws;
 - (ii)
 - (A) In respect of the Iroquois Falls Project Site and Iroquois Falls Project, as far as the Obligors are aware, there have been no past (within the two (2) year period before the Closing Date),
 - (B) in respect of the Project Facilities and Project Sites (other than the Iroquois Falls Project Site and Iroquois Falls Project), there have been no past (within the two (2) year period before the Closing Date), and
 - (C) there are no present, pending or, to the knowledge of any Responsible Officer of an Obligor, threatened:
 - (X) Environmental Claims with respect to the Project Facilities or Project Sites, complaints, notices or requests for information received by any

Obligor with respect to any actual or alleged violation of any Environmental Law with respect to the Project Facilities or Project Sites, or

(Y) Environmental Claims with respect to the Project Facilities or Project Sites, complaints, notices or inquiries to an Obligor regarding actual or potential liability under any Environmental Law with respect to the Project Facilities or Project Sites;

- (iii) no Specified Substances have been generated, used, treated, recycled, stored on or transported to or from, or Released on, are migrating to or from, or are present at all or any portion of the Project Facilities or Project Sites, other than the safe use, transportation and handling of natural gas carried out in the ordinary course of business in accordance with Applicable Laws and Government Actions, or except where the same could not reasonably be expected to give rise to a material liability under or material breach of Environmental Laws or Government Actions;
- (iv) to the knowledge of any Responsible Officer of the Obligors, there have been no Releases of Specified Substances from a facility owned or operated by third parties, but with respect to which an Obligor has or is alleged to have liability, that, singly or in the aggregate, would give rise to, or would reasonably be expected to give rise to, a material liability under or material breach of Environmental Laws or Government Actions;
- (v) the Obligors have been issued and is in compliance with all Government Actions relating to Environmental matters with respect to, and necessary or desirable for the construction, ownership, leasing, use, operation and maintenance of, the Project Facilities and the Project Sites, and all such Government Actions (including Authorizations required under Environmental Laws) are in full force and effect;
- (vi) the Project Facilities and the Project Sites have not been identified or listed by or pursuant to any Applicable Law or Government Action as requiring or potentially requiring investigation, Cleanup or other Environmental remedial action or liability;
- (vii) there are no underground storage tanks, active or abandoned, including petroleum storage tanks, on or under the Project Facilities or Project Sites that, singly or in the aggregate, would give rise to, or would reasonably be expected to give rise to, a material liability under or material breach of Environmental Laws or Government Actions;
- (viii) the Obligors have not transported or arranged for the transportation of any Specified Substances to any location which has been identified or listed by or pursuant to any Applicable Law or Government Action as requiring investigation, Cleanup, or other Environmental remedial action or which is the subject of any enforcement action or other investigation by any Government Body, which in each case would reasonably be expected to lead to material claims against any Obligor, the Project Facilities or Project Sites for any remedial work, property damage, Cleanup costs, reclamation damages and costs, conservation, damage to natural resources or personal injury;

- (ix) there are no toxic mold, polychlorinated biphenyls or friable asbestos present at the Project Facilities or Project Sites that, singly or in the aggregate, would give rise to, or may reasonably be expected to give rise to, a material liability under or material breach of Environmental Laws or Government Actions;
 - (x) all Specified Substances used in whole or in part by the Project Facilities or Project Sites have been manufactured, processed, disposed of, transported, treated and stored in compliance with all Environmental Laws and Government Actions;
 - (xi) none of the Lessee or Obligors has contractually assumed any liability under any Environmental Law or contractually indemnified another Person for any liability under any Environmental Law in relation to the Project Facilities, Project Sites or any other Collateral; and
 - (xii) Obligors have provided to Lessor true and complete copies of all environmental site assessments, environmental sampling and other material environmental records and documents (including correspondence with Government Bodies) with respect to the Project Facilities, Project Sites and Collateral, which are in the possession or control of the Obligors.
- (s) Compliance with Applicable Law. Each Obligor and the Projects are in compliance in all material respects with Applicable Laws (other than Environmental Laws which are treated in clause (r) above, and other than Anti-Money Laundering Laws, Anti-Corruption Laws and Sanctions, which are treated in clause (w) below).
- (t) No Conflict or Breach. Neither the execution and delivery by the Obligors of the Transaction Documents nor the consummation by the Obligors of the transactions therein contemplated nor the fulfillment of, or compliance with, the terms and provisions thereof by the Obligors will contravene, violate, conflict with, or result in a breach of, any of the terms, conditions or provisions of (i) such Obligor's Constituent Documents, (ii) any material order, writ, injunction, resolution, judgment or decree of any court or other tribunal or Government Body, (iii) any Applicable Law or (iv) any material document which is binding upon such Obligor or any of the Project Facilities, Project Sites or other Collateral, which conflict or breach could have a Material Adverse Effect.
- (u) Utility Services. All Utility Services necessary for the operation of the Projects for its intended purposes are available at the Project Sites or will be so available as and when required on commercially reasonable terms.
- (v) Indebtedness. No Obligor has any outstanding Indebtedness other than Permitted Indebtedness and is not in default under any agreement providing for such Permitted Indebtedness.
- (w) Anti-Money Laundering Laws; Anti-Corruption Laws. Neither the Obligors nor any of their directors, officers or, to the Obligors' knowledge, any of their respective Affiliates, representatives or agents is a Sanctions Target. The Obligors and their officers and, to the knowledge of the Obligors, their Affiliates, representatives, directors and agents, are, and have been, (i) in compliance with applicable Sanctions and (ii) in compliance with applicable Anti-Money Laundering Laws and Anti-Corruption Laws. The Obligors have not received from any Government Body notice of any action, suit, proceeding or

investigation against it with respect to an actual or alleged violation by an Obligor of applicable Sanctions, Anti-Money Laundering Laws or Anti-Corruption Laws.

- (x) Force Majeure. No force majeure or other event that would excuse an Obligor from the duty to perform any material obligation of such party under any Transaction Document has occurred and is continuing, in each case, that has not been disclosed in writing to Lessor.
- (y) Insurance. All Insurance Policies are in full force and effect and all premiums then due and payable on all such Insurance Policies have been paid (and in the case of Lessee, in accordance with the terms of the Lease).
- (z) First Nations Matters. The Obligors have not received notice that the Project Facilities, Project Sites or any other Collateral are subject to, and, to the Obligors' knowledge, there are no current or pending First Nations Claims affecting the Project Facilities, Project Sites or any other Collateral which would reasonably be expected to have a Material Adverse Effect. Other than as disclosed in writing to Lessor, to the knowledge of the Obligors, the Obligors have not entered into any written or oral agreements with First Nations to provide benefits, pecuniary or otherwise, with respect to the Project Facilities, Project Sites or any other Collateral at any stage of development that could result in a Material Adverse Effect and the Obligors have not offered First Nations any benefits with respect to the Project Facilities, Project Sites or any other Collateral at any stage of development.

(aa) Labour Matters

The Obligors have disclosed all material labour and employment contracts or agreements, including all collective bargaining agreements. Except as in the aggregate could reasonably be expected to have a Material Adverse Effect:

- (i) there are no strikes, work stoppage, slowdowns, lockouts, unfair labour practice complaints, union certification or organizing drives or applications, successor or related employer applications, or other labour disputes pending or, to the knowledge of the Obligors, threatened, against any Obligor or their employees;
- (ii) there are no complaints, grievances, claims, applications, proceedings, judgments or orders filed, made, threatened or commenced against any of the Obligors or their employees concerning or affecting any of their employees, and to the knowledge of the Obligors, no event has occurred or circumstance exists that may give rise to or serve as a basis for any such complaints, grievances, claims, applications, proceedings, judgments or orders; and
- (iii) each of the Obligors is in compliance with all Applicable Law, contracts and agreements respecting labour and employment.

(bb) Pension and Benefit Plans.

- (i) The Obligors have disclosed all material Pension Plans and Benefit Plans in effect or to be established. Other than the Pension Plan(s) disclosed in Schedule 4 no Obligor maintains or contributes to, is not required to maintain or contribute to, is not a party to, or bound by, and has no liability or contingent liability under any Pension Plan.

- (ii) All Pension Plans and Benefit Plans are established, registered, funded, invested, administered, operated and maintained under, and in compliance in all material respects with, all requirements of Applicable Law, including Pension and Benefit Laws. No promises or commitments have been made by to amend any Pension Plans or Benefit Plans, to provide increased benefits or to establish any new plan.
 - (iii) No Pension Plan is a defined benefit pension plan.
 - (iv) All employer and employee payments, contributions, premiums and other amounts, reports, returns and filings required to be made, remitted or paid under Pension and Benefit Laws in respect of Pension Plans and Benefit Plans have been made, remitted or paid and all such plans are fully funded both on a going concern basis and on a solvency basis pursuant to their most recent actuarial valuations filed with the applicable Government Body and in accordance with applicable Pension and Benefit Laws. All post-retirement liabilities (if any) under Pension Plans and Benefit Plans have been properly identified in the Obligors' consolidated financial statements, and there are no going concern, past service or solvency deficiencies.
 - (v) In respect of Pension Plans which are registered pension plans within the meaning of the *Income Tax Act* (Canada), to the best of the knowledge of the Obligors, no steps have been taken to terminate or wind up any such plans (wholly or in part), no unauthorized merger of such plans, no unauthorized withdrawal of funds from such plans and no improper contribution holidays taken in respect of such plans.
 - (vi) There are no actions, claims or proceedings existing, pending or threatened against any Pension Plan, Benefit Plan or the assets of any such plan which could be reasonably expected to have a Material Adverse Effect.
- (cc) Security. Upon the execution of the Security Documents, the provisions of the Security Documents shall be effective to create, in favour of Lessor, a legal, valid and effective Lien on all of the Collateral purported to be covered thereby. All necessary and appropriate action will be taken so that the Security Documents create first-priority, perfected Liens on and security interests in the Collateral, prior and superior to all other Liens (subject only to Permitted Liens having priority as a matter of law). All necessary and appropriate consents to the creation, effectiveness, priority, perfection and enforcement of such Liens will be obtained from all relevant parties including, where applicable, each of the parties to, or the Government Bodies issuing, the Transaction Documents and Authorizations intended by the Security Documents to be pledged, as Collateral. No Obligor has granted "control" (within the meaning of the PPSA) over any investment property (as such term is defined in the PPSA) forming part of the Collateral to any person other than Lessor.
- (dd) Material Project Documents. The Material Project Documents constitute and include all material contracts and agreements that are necessary for (i) the operation and ownership of the Project Facilities, and (ii) the conduct of the business of Obligors as contemplated by the Transaction Documents. Each Material Project Document is as of the Closing Date, in full force and effect and, except as permitted pursuant to the Transaction Documents, has not been amended, modified, supplemented, rescinded, terminated or waived as of the Closing Date. Lessee is not a party to or is not bound by any contract other than the Transaction Documents, the Material Project Documents and any non-material Project Documents.

- (ee) Investments. Lessee has no investments except Permitted Investments.
- (ff) Liens. Except for Permitted Liens, each Obligor has no Lien (and has agreed to no Lien) upon any of its present or future revenues, properties or assets or share capital. Each Obligor has no obligation to create Liens on or with respect to any of its Collateral, revenues or assets, other than Permitted Liens, and, except for the Transaction Documents, each Obligor is not restricted by contract, Applicable Law or otherwise from creating Liens on any of its Collateral, revenues or assets.
- (gg) Priority. The Obligations are senior, unconditional, secured and unsubordinated obligations and rank and will rank at senior in priority of payment and in all other respects with all other Indebtedness of the Obligors and unsecured obligations of the Obligors outstanding at any time except for any obligations of the Obligors (including any pension, social security and employment obligations) held by those whose claims are preferred under any bankruptcy or insolvency procedures to the extent required by the terms of any Applicable Law.
- (hh) Transactions with Affiliates. Except as expressly permitted under the Transaction Documents other than pursuant to the Transaction Documents and Constituent Documents to which it is a party, as of the Closing Date (and not, for greater certainty, at any later date), no Obligor has directly or indirectly entered into any other transaction with or for the benefit of an Affiliate, other than transactions entered into in the ordinary course of business on commercially reasonable terms.
- (ii) Casualty Event. Other than as disclosed in writing to Lessor, no Casualty Event or Condemnation Event has occurred and is continuing that could reasonably be expected to have a Material Adverse Effect.
- (jj) Competition. The aggregate value of the assets in Canada that are owned by Lessee, or Persons or entities controlled by Lessee, and the gross revenues from sales in or from Canada generated from those assets, all as determined in accordance with Part IX of the *Competition Act* (Canada) and the *Notifiable Transactions Regulations* thereunder, do not exceed \$93 million. The aggregate value of the assets in Canada that are owned by each of Kingston Subsidiary and NPIF Kingston CoGen Corp., or Persons or entities controlled by either of them, and the gross revenues from sales in or from Canada generated from those assets, all as determined in accordance with Part IX of the *Competition Act* (Canada) and the *Notifiable Transactions Regulations* thereunder, do not exceed \$93 million. Notification under Part IX of the *Competition Act* (Canada) is not required in connection with the transactions contemplated by the Northland Securities Purchase Agreement.
- (kk) Resources. The Obligors and Hosting hold or have the benefit of all Authorizations, Material Project Documents, Utility Services, labour and employment contracts and such other contracts, approvals or services required in order to operate in all material respects, maintain and preserve the Project Facilities and Project Sites in accordance with Good Industry Practices, Applicable Law, the Transaction Documents, any power purchase agreements, hosting agreements or other off-take agreements and the applicable operating manuals.

3.2 Lessor

Lessor represents and warrants to the other parties hereto that, as of the Closing Date:

- (a) Due Incorporation, etc. Lessor is a corporation duly organized, validly existing and in good standing under the laws of Canada, is resident in Canada for the purposes of the *Income Tax Act* (Canada), is qualified to do business and in good standing as a body corporate under the laws of the province of Ontario, and has the corporate power and authority to execute and deliver the Transaction Documents to which it is a party, to fulfill and comply with the terms, conditions and provisions thereof and to perform its obligations thereunder.
- (b) Authorization. All Authorizations and Government Actions required in connection with the execution, delivery and performance by Lessor of the Transaction Documents to which it is a party have been or will have been obtained, given or made, but for those Authorizations and Government Actions (x) that are not required on the Closing Date or (y) for which the failure to obtain, give or make will not have a material adverse effect. Except as otherwise set out herein, Lessor makes no representation or warranty relating to the Project Facilities, the Leased Property, the Collateral, the Projects Sites or approvals relating to any of the foregoing.
- (c) Execution; Enforceability. The Transaction Documents to which it is a party have been duly authorized, executed and delivered by Lessor and, assuming due authorization, execution and delivery thereof by the other parties thereto, constitute, on the Closing Date, legal, valid and binding agreements of Lessor, enforceable against Lessor in accordance with their terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforcement of creditors' rights generally and by general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).
- (d) Execution Not a Breach. Neither the execution and delivery by Lessor of the Transaction Documents to which it is a party nor the consummation by Lessor of the transactions therein contemplated, nor the fulfillment of, or compliance with, the terms, conditions and provisions thereof by Lessor will contravene, violate conflict with, or result in a breach, of any of the terms, conditions or provisions of its Constituent Documents or of any bond, debenture, note, Mortgage, indenture, agreement or other instrument to which Lessor is now a party or by which it or its property may be bound, or constitute (with the giving of notice or the passage of time or both) a default thereunder, which breach or default would reasonably be expected to have a material adverse effect.
- (e) No Conflict or Breach. Neither the execution and delivery by Lessor of the Transaction Documents to which it is a party nor the consummation by Lessor of the transactions therein contemplated nor the fulfillment of, or compliance with, the terms, conditions and provisions thereof by Lessor will contravene, violate, conflict with, or result in a breach of, any of the terms, conditions or provisions of (i) any material order, writ, injunction, resolution, judgment or decree of any court or other tribunal or Government Body or (ii) any Applicable Law, which conflict or breach could have a material adverse effect. Except as otherwise set out herein, Lessor makes no representation or warranty relating to the Leased Property or the laws relating thereto.
- (f) Sufficient Capital. Lessor is sufficiently capitalized in light of its permitted business and to carry out its obligations incurred under the Transaction Documents.
- (g) Voluntary Petition. Lessor does not currently intend to file a voluntary petition for relief under the *Bankruptcy and Insolvency Act* (Canada) or any similar law.

ARTICLE 4 OBLIGOR COVENANTS

4.1 Financial and Other Reports

During the term of this Agreement, the Obligors, jointly and severally, on their own behalf and on behalf of each other, covenant and agree that they shall:

(1) Annual Financial Statements. As soon as available, but in any event within 90 days after the end of each fiscal year of the Parent, a copy of the unaudited consolidated balance sheet of the Parent and its Subsidiaries as at the end of such year and the related unaudited consolidated statements of income and of cash flows for such year, setting forth, in each case, in comparative form the figures for the previous year; provided that, in the event of any change in generally accepted accounting principles used in the preparation of such financial statements, the Parent shall also provide a reconciliation of such financial statements to GAAP.

(2) Semi-Annual Financial Statements. As soon as available, but in any event not later than 45 days after the end of each of the second fiscal quarter of the Parent, the unaudited consolidated balance sheet of the Parent and its Subsidiaries as at the end of such fiscal quarter and the related unaudited consolidated statements of income and of cash flows for such two quarters and the portion of the fiscal year through the end of such quarter, setting forth in each case in comparative form the figures for the preceding two fiscal quarters.

(3) Bank Statements. As soon as available, but in any event not later than five (5) Business Days after the half and end of each fiscal year of the Parent, the last monthly account statement generated by the applicable financial institution for each bank account of the Parent. As soon as available, but in any event not later than five (5) Business Days after the end of each month in a fiscal year of the Lessee, account statements generated by the applicable financial institution for each bank account of the Lessee.

(4) All financial statements delivered to Lessor shall be complete and correct and shall be prepared in reasonable detail and in accordance with GAAP applied (except as approved by accountants of the Obligors and disclosed in reasonable detail therein) consistently throughout the periods reflected therein and with prior periods.

4.2 Merger Covenant

(1) Merger. The Obligors shall not, and shall cause Hosting to not, consolidate or amalgamate with or merge into any other Person, or permit any other Person to merge, consolidate or amalgamate with or into it, or convey, transfer, assign or lease all or substantially all of its assets as an entirety to any Person without the prior written consent of Lessor.

(2) Lease, Sublease or Assignment. Nothing contained in this Section 4.2 shall permit any lease, sublease, or other arrangement for the use, operation or possession of the Project Facilities or the Project Sites (or any portion thereof) except (i) in compliance with Section 4.40 hereof or (ii) the grant of non-exclusive licenses to access Land provided that such non-exclusive license may be terminated at the discretion of an Obligor (and Lessor following a Lease Event of Default) with or without notice and is consented to in writing by Lessor.

4.3 Obligors Not to Own Leased Property

No Obligor nor any of their respective Affiliates will at any time own any of the Leased Property unless Lessor consents thereto, except as is expressly contemplated by the Basic Documents.

4.4 Broker's Fees

The Obligors shall hold Lessor harmless from and against any claim, demand or liability for any broker's, finder's or placement fees or commission alleged to have been incurred as a result of any action or inaction by any Obligor in connection with the Transaction, except for any such fee or commission included in Lessor's Cost or Transaction Costs.

4.5 Notification of Relocation or Name Change

No Obligor shall change its name or merge or amalgamate with another Person under a different name, or move its principal place of business and chief executive office to a location other than that shown in the instruments listed in Schedule 5, without giving at least ten (10) Business Days' prior notice to Lessor of the new name or location and the date upon which such change of name, amalgamation, merger or change of location is to take effect and, within five (5) Business Days of the change of name, amalgamation or change of location, the Obligors shall provide Lessor with (i) in the case of a change of name or amalgamation, a notarial or certified copy of the articles of amendment or articles of amalgamation effecting the change of name (or similar); and (ii) in any case, an opinion from legal counsel reasonably satisfactory to Lessor as to the correct name of the applicable Obligor, confirming that all appropriate registrations, filings or recordings have been made on behalf of Lessor to fully and effectively maintain the interest of Lessor in the Leased Property and all other Collateral and the perfection and priority of the Liens created by the Security Documents.

4.6 Corporate Existence

Except as otherwise provided in Section 4.2, each Obligor shall at all times maintain its corporate or partnership existence and all of its rights, privileges and franchises necessary in the normal conduct of its business, except for any corporate or partnership right, privilege or franchise that such Obligor determines, in its reasonable, good faith business judgment, is no longer necessary or desirable (A) in the conduct of its business, or (B) in connection with the Transaction.

4.7 Compliance with Laws

Each Obligor shall comply with all Applicable Laws to which it may be subject and with all Good Industry Practices, except where the failure so to comply would not (a) have a Material Adverse Effect (other than in the case of any Applicable Law that might impose criminal or quasi-criminal penalties, as to which no exception shall apply), (b) pose a material risk of sale, forfeiture or loss of any interest in the Project Facilities, the Project Sites or any other Collateral, (c) interfere in any material manner with the use or operation of the Project Facilities, the Project Sites, or any other Collateral or (d) pose any risk of interference with the payment of rent or interest or any other payments to or for the account of Lessor, including compliance with all Environmental Laws in each jurisdiction in which it is presently doing business. Notwithstanding the foregoing, the Obligors may contest any provision of Applicable Law pursuant to a Permitted Contest.

4.8 Notice of Default

If any Responsible Officer of an Obligor has actual knowledge of a Lease Default, Lease Event of Default, Event of Loss, default under any of the Transaction Documents or event that with the giving of notice or passage of time would constitute a Lease Default, Lease Event of Default, Event of Loss, default under any of the Transaction Documents, such Obligor shall promptly give notice thereof to each other party to this Agreement.

4.9 Authorizations, Intellectual Property

Each Obligor shall maintain (i) all Material Authorizations and (ii) in all material respects, all Authorizations and Intellectual Property Rights necessary for the use, operation and maintenance of the Project Facilities, the Project Sites and the other Collateral in accordance with the plans and specifications and any easements necessary for access to and operation of the Project Facilities, the Project Sites and the other Collateral.

4.10 Taxes

Each Obligor shall pay promptly when due all Taxes imposed upon it with respect to or affecting the Project Facilities, Project Sites, the Leased Property and the other Collateral; but no such Tax need be paid for so long as such Obligor is contesting the same by a Permitted Contest.

4.11 Offer for Sale

Neither any Obligor nor any Person acting on its behalf will offer the Leased Property or any part thereof or any security similar thereto for issue or sale to, or solicit any offer to acquire any of the Leased Property from anyone.

4.12 Inspection and Reports

(1) The Obligors shall cause to be prepared and filed in a timely fashion, or, if Lessor is required to file, the Obligors shall prepare and deliver to Lessor within a reasonable time before the date for filing, any material reports with respect to the condition or operation of the Projects, the Project Facilities and other Collateral required to be filed by Applicable Law (except for general filings with a Government Body required of Lessor pursuant to banking, financial institution and securities laws of general application) or by any Government Body.

(2) The Obligors will permit, upon reasonable advance notice, with respect to Lessor or officers and designated representatives of Lessor acting as a group (including its technical advisor), not more than twice per calendar year (unless any Lease Event of Default or Lease Default has occurred and is continuing in which case such reasonable notice requirement and restriction on the number of annual visits shall not apply), to visit and inspect (at the cost and expense of the Obligors) the Project Facilities and Project Sites, to examine and make copies of the books of record, accounts and documents of the Obligors and discuss the affairs and accounts of the Obligors with and be advised as to the same by, their officers, subject to reasonable security and health and safety requirements, in accordance with Applicable Law and within ordinary business hours on Business Days at the Obligors' expense; provided that, in each case no such visit shall interfere with or interrupt, the operations of the Project Facilities or the Project Sites. Notwithstanding any of the foregoing, Lessor's technical advisor may request additional inspections or testing to confirm the condition and operation of any equipment used at the Project Sites or in connection with the Project Facilities.

(3) The Obligors will permit, upon reasonable advance notice, with respect to Lessor or officers and designated representatives of Lessor acting as a group, not more than once per calendar year (unless any Lease Event of Default or Lease Default has occurred and is continuing in which case such reasonable notice requirement and restriction on the number of annual visits shall not apply), to conduct a “desktop review” of the Project Facilities and Project Sites, which such review shall include (i) inspection reports for all major equipment, combustion turbines, generators, steam turbines, heat recovery steam generators, once-through steam generators, cooling towers, generator step-up transformers and major auxiliary transformers, major pumps, relay calibration reports, high-pressure piping (incl. flow-assisted corrosion), pipe hanger inspection, jurisdictional inspection reports, and infrared inspection reports, (ii) vibration reports for the Leased Property, being turbines and any other steam and gas turbines.

(4) The Obligors shall promptly deliver to Lessor any inspection reports prepared by and/or provided by any insurance provider with respect to the Project Facilities and Project Sites.

(5) The Obligors shall promptly deliver to Lessor any borescope reports obtained by an Obligor (typically once annually) within ten (10) Business Days after the end of the fiscal year of the Parent.

(6) As soon as available, but in any event not later than ten (10) Business Days after the end of each calendar month, the Obligors shall deliver to Lessor the following reporting, in form and substance satisfactory to Lessor, acting reasonable:

- (a) a production report;
- (b) a fuel consumption report;
- (c) fired / operating hours per item of Leased Property being a turbine and any other gas or stream turbine;
- (d) start attempts, failed starts, trips from load, and reasons thereof;
- (e) types and volumes of electricity sold into the Independent Electricity System Operator market (e.g., energy, regulation service, 10-minute synchronized / spinning reserve, 10-minute non-synchronized / non-spinning reserve, 30-minute / non-synchronized reserve);
- (f) maintenance work orders opened and completed;
- (g) total work order backlog;
- (h) a memo on operation & maintenance relatively noteworthy events (e.g., calibrations, results of material inspections, loss of equipment redundancy, generally routine operation);
- (i) major original equipment manufacturers service bulletins issued;
- (j) safety incident log; and
- (k) water chemistry report.

4.13 Maintenance of Filing

The Obligors will promptly prepare, register and file all documents and take all actions necessary to preserve, protect and maintain any and all registrations, including caveat filings under the *Conveyancing*

and Law of Property Act (Ontario), made with any Government Body in respect of Lessor's interests in the Leased Property and the other Collateral (other than general filings with any Government Body required of Lessor pursuant to banking, financial institution and securities laws of general application). Each Obligor will, at its own expense, take (or will cause to be taken) all actions that are reasonably required to establish, maintain, protect and preserve (i) the Liens created by each Security Document, the required priority (to the extent available under Applicable Law) of such Liens and the effectiveness of the powers of attorney granted pursuant to such Security Documents and (ii) good and valid title to or rights in, such Obligor's Collateral (including Real Property Interests) such Obligor purports to own, lease or otherwise possess.

4.14 Cooperation

The Obligors will cooperate with Lessor in obtaining the valid and effective issuance or, as the case may be, transfer or amendment of all Authorizations and Government Actions, if any, related to the Transaction that may be necessary for the construction, ownership, leasing, use, operation and maintenance of the Project Facilities, the Project Sites and the other Collateral.

4.15 Pension and Benefit Plans

The Obligors shall comply in all material respects with all Applicable Laws, contracts and agreements respecting labour and employment. Each Obligor shall operate and administer all Pensions Plans and Benefit Plans in compliance with the terms of such plans and all applicable Pension and Benefits Laws and shall maintain all necessary governmental approvals which are material in respect of the operation of such plans and comply, in all respects, with its obligations under such plans and applicable Pension and Benefits Laws including, without limitation, making all contributions and payments required to be made under the terms of such plans, applicable Pension and Benefits Laws and any applicable valuation report.

4.16 Liens

Each Obligor will not and will not agree to, create, incur, assume, suffer to occur or permit to subsist any Lien upon or with respect to any of its property, revenues or assets (real, personal or mixed, tangible or intangible) whether now owned or hereafter acquired, except for Permitted Liens.

4.17 Operation and Maintenance of Project Facilities

The Obligors shall operate, maintain and preserve the Project Facilities and the Project Sites (or cause that they be operated, maintained and preserved) in accordance with Good Industry Practices, Applicable Law, the Transaction Documents and the applicable operating manuals. For the duration of the Lease Term, the Obligors shall ensure that the Supports are reasonably in place to enable Lessor or any designee or assignee thereof to maintain, use and operate the Projects in Commercial Operation for the Lease Term and to sell and remove the Collateral located on the Project Sites.

4.18 Restricted Payments

No Obligor shall directly or indirectly, declare or make any Restricted Payment without the prior written consent of Lessor other than Permitted Restricted Payments.

4.19 Information and Notices

Lessee shall furnish to Lessor:

- (a) Within five (5) Business Days of any Obligor becoming aware of them, written notice, including reasonable details, together with such notice, a description of the action that the applicable Obligor has taken and/or proposes to take with respect thereto (if any), of:
- (i) any event which constitutes a Lease Event of Default or Lease Default, or any material breach or event of default by any Obligor under any Material Project Document;
 - (ii) the filing of any Lien that is not a Permitted Lien;
 - (iii) any event which is reasonably likely to have a Material Adverse Effect;
 - (iv) any event of force majeure of which an Obligor is aware;
 - (v) any material notices, directives or written communication relating to the Project Facilities or the Project Sites received by an Obligor from any Government Body that could have an adverse impact on any Collateral or the value thereof, or the financial condition, business, assets or operations of the Obligors, Project Facilities or the Project Sites;
 - (vi) any challenge, revocation, material adverse modification, denial or non-renewal of any Authorization;
 - (vii) any event which is reasonably likely to result in rights for any Person to cancel or suspend a material customer contract;
 - (viii) any intentional withholding of material compensation to any Obligor under any Material Project Document;
 - (ix) any proposed issuance or transfer of any common shares, equity interests or any other security convertible into common shares or any other equity interests in any Obligor's capital (other than the Parent) to any Person;
 - (x) within five (5) Business Days thereof, any change in the Responsible Officers of an Obligor, in which case the notice shall include a certified specimen signature of any new officer so appointed and, if requested by Lessor, reasonably satisfactory evidence of the authority of such new Responsible Officer;
 - (xi) following receipt of the same, certified copies of any amendments or waivers to any Material Project Document or to the Constituent Documents of any Obligor and any additional Material Project Document or any Replacement Agreement executed after the Closing Date.
- (b) Forthwith upon becoming aware of them (but in any case unless otherwise set forth below, within five (5) Business Days), written notice, including reasonable details, together with such notice, a description of the action that Lessee or any other Obligor has taken and/or proposes to take with respect thereto (if any), of:
- (i) major equipment failures at any of the Project Facilities, together with ongoing and regular updates thereafter until such equipment failure is resolved.

- (c) Within five (5) Business Days upon becoming aware thereof, written notice of any events or occurrences that could have a material impact on the operations of the Project Facilities within the immediately following three (3) month period, including but not limited to, planned maintenance outages and discussions with counterparties to any Material Project Documents.
- (d) Within five (5) Business Days of receipt thereof, copies of all internal and external audit reports with respect to regulatory compliance.
- (e) Within five (5) Business Days upon becoming aware thereof, written notice including the details of any pending or threatened (in writing) material litigation, Environmental Claim (including written notices and requests for information forming part of a regulatory enforcement action), arbitration or administrative proceedings by or against any Obligor, Project Facilities or the Project Sites, together with a description of the action that Obligors has taken and/or proposes to take with respect thereto. For the purposes of this clause only, such claims shall be considered material only if such claim could reasonably be expected to result in a Material Adverse Effect.
- (f) Unless such disclosure would constitute a breach of any Applicable Law, each Obligor shall supply to Lessor, promptly upon becoming aware thereof, notice of the commencement by an applicable regulatory authority of any enforcement action, proceeding or investigation targeting such Obligor, or any agent, director or officer of such Obligor, in connection with the Project Facilities or the Project Sites, and relating to an actual, alleged or suspected violation of applicable Anti-Corruption Laws, Anti-Money Laundering Laws or Sanctions by such Obligor, agent, director or officer, as applicable.
- (g) Within five (5) Business Days, such other information in relation to the Project Facilities, the Project Sites and the Obligors, as may be reasonably requested from time to time by Lessor (including copies of any notices given to any Obligor as a requirement of Applicable Law).

4.20 Compliance; Enforcement of Material Project Documents

Each Obligor will (a) comply with all material obligations, covenants and undertakings binding on it under the Material Project Documents to which it is a party, (b) enforce, exercise or preserve the material rights granted to it under, pursuant to or in connection with, each such Material Project Document, and (c) take any and all reasonable and prudent action to prevent the termination of any Material Project Document for reasons attributable to it.

4.21 Ranking

Each Obligor will take all action necessary to ensure that its Obligations are senior, unconditional, secured and unsubordinated obligations and rank and will rank at senior in priority of payment and in all other respects with all unsecured Indebtedness and other obligations of the Obligors outstanding at any time except for (i) any obligations of the Obligors (including any pension, social security and employment obligations) held by those whose claims are preferred under any bankruptcy or insolvency procedures to the extent required by the terms of any Applicable Law, and (ii) any obligations of the Obligors in respect of Permitted Liens.

4.22 Insurance

(1) Specific Requirements. Without limiting Section 11 of the Lease, the Obligors will be required to keep their insurance property and assets adequately insured (the “**Insurance Policies**”) by financially sound and reputable insurers, and maintain such other insurance, to such extent and against such risks as is customary with companies in the same or similar business operating in the same or similar locations (including property damage and public liability insurance). Lessor shall be designated as loss payee or additional insured on the Obligors’ applicable insurance policies, and any insurance proceeds shall be applied in accordance with Section 4.22(2).

(2) Application of Loss Proceeds. If an Obligor receives proceeds from Insurance Policies (“**Insurance Proceeds**”) in respect of any of its property or assets in respect of which a Security Interest has been granted pursuant to the Security Documents, as a result of one or more insurable events during the term of this Agreement, the applicable Obligor, shall forthwith deposit or cause such proceeds to be applied as follows:

- (a) if the aggregate amount of Insurance Proceeds received at such time is less than the Insurance Threshold and no Lease Event of Default is then in effect (except for any Lease Default or Lease Event of Default related to the event giving rise to the Insurance Proceeds), to be used, or committed to be used, to repair or replace the applicable property or assets in respect of which the insurance proceeds were received with any balance remaining thereafter to be used at the discretion of the Obligors in accordance with the Transaction Documents;
- (b) if the aggregate amount of Insurance Proceeds received at such time is greater than the Insurance Threshold and no Lease Default or Lease Event of Default is (except for any Lease Default or Lease Event of Default related to the event giving rise to the Insurance Proceeds), the application of such proceeds shall be subject to the direction and consent of Lessor; and
- (c) (i) if a Lease Default or Lease Event of Default is then in effect (except for any Lease Default or Lease Event of Default related to the event giving rise to the Insurance Proceeds) or (ii) if the insurance proceeds arise in connection with an Event of Loss, if so required by Lessor, all such Insurance Proceeds shall be held as security for Obligors obligations and may be applied to amounts due and payable to Lessor under the Basic Documents.

4.23 Books and Records

Parent will maintain proper books, accounts and records (with respect to its financial statements, in accordance with the applicable accounting principles) adequate to reflect truly and fairly the financial condition of Parent and its Subsidiaries, and the results of its operations and which shall be kept separate from those of any other Person.

4.24 Use of Proceeds

Lessee will use the proceeds of the Transaction only to finance the acquisition to be made pursuant to the Northland Securities Purchase Agreement by way of intercompany loan to Parent and for general working capital purposes of Lessee in accordance with the terms and conditions herein.

4.25 Payment

The Obligors will pay all sums due hereunder and under the other Basic Documents according to the terms hereof and thereof.

4.26 Further Assurances

From time to time as reasonably requested by Lessor, the Obligors will execute, record, register, deliver, file (or any combination of the foregoing) all such notices, statements, instruments and other documents (including any financing statement, financing change statement, continuation statement or fixture filing), execute such acknowledgements relating to the Obligations stating the interest and charges then due and any known defaults, and take such other steps as may be necessary or advisable to render fully valid and enforceable under all Applicable Law the rights, Liens and priorities of Lessor with respect to all Collateral and other security from time to time furnished hereunder and under the other Basic Documents or intended to be so furnished, in each case in such form and at such times as shall be reasonably satisfactory to Lessor, and pay all reasonable fees and expenses (including legal counsel fees) incident to compliance herewith.

4.27 Personal Property

Each Obligor shall (i) obtain and maintain good and valid title or the right to use all its personal property, assets and revenues at the times necessary for the design, development, engineering, construction, procurement, installation, operation and maintenance of the Projects in accordance, in all material respects, with the Transaction Documents and Applicable Law and (ii) obtain and maintain good and valid title or the right to use, and protect (except for any assignments of intellectual property), its intellectual property and conduct its business and affairs without infringement of or interference with any intellectual property of any other Person and shall comply with the terms of its licenses except, in each case, where failure to do so does not have, or would not reasonably be expected to have, a Material Adverse Effect.

4.28 Real Property Interests

The Obligors will obtain and maintain all Real Property Interests required to construct, design, commission and operate the Projects and the Project Sites and it will comply with all agreements and documents relating to the Real Property Interests held by it and do all things necessary to obtain, renew and maintain in good standing, from time to time all of its Real Property Interests, except to the extent that a failure to do so could not reasonably be expected to result in a material and adverse effect on the value of any of the Lands, the Project Facilities, the Project Sites, the Leased Property or any other Collateral. The Obligors will ensure that the Real Property Interests which are capable of registration are properly registered at the Ontario Land Registry Office, and shall promptly ensure the registration of all instruments necessary or desirable from time to time to protect the priority required herein (subject to Permitted Liens) and enforceability of such registrable Real Property Interests. The Obligors will promptly defend and take all action necessary or advisable at any time and from time to time to maintain and defend the priority (subject to Permitted Liens) and enforceability of such Real Property Interests and registration in any offices of public record relating thereto.

4.29 Other Business

No Obligor (other than the Parent) will engage in any business or activity other than the development and operation of, or business or activities that are in connection with, the Project Facilities or the Project Sites as contemplated by the Transaction Documents.

4.30 Indebtedness

No Obligor will contract, create, incur, become liable for, assume or permit to subsist any Indebtedness except for Permitted Indebtedness.

4.31 Disposal of Assets

No Obligor shall directly or indirectly sell, transfer or otherwise dispose of any of its Collateral or assets except (i) as expressly permitted by any Transaction Document; (ii) any sales or dispositions of obsolete or redundant Collateral gas, vehicles, plant or equipment that are not useful or necessary for the operation of the Project Facilities or the Project Sites or are replaced with assets comparable or superior as to type, value or quality (unless otherwise approved by Lessor); (iii) any sales or dispositions where the net cash proceeds therefrom in the aggregate do not in any financial year exceed \$500,000 provided that such sale, transfer or disposal shall not materially adversely impact the operation of the Project Facilities or the Project Sites; or (iv) any sales or disposition by Parent of equity interests in its Subsidiaries that are not Obligor which is made on an arm's length basis on commercial reasonable terms.

4.32 Termination, Assignment etc. of Material Project Documents

Except as otherwise provided herein, no Obligor will:

- (a) suspend, cancel or terminate or waive compliance with any material obligation under (including any liquidated damages payable by any Obligor) or agree to any assignment, sale or transfer of rights or obligations or waive any material default under or material breach of, under, or waive, defer, release, reduce or adversely modify any guarantee or surety under any Material Project Document to which it is a party;
- (b) grant any consent or acceptance under, or agree, authorize or otherwise consent to any proposed settlement, resolution or compromise with respect to the payment or amount of any settlement or termination payments under any Material Project Document in excess of \$500,000 without the prior written consent of Lessor;
- (c) voluntarily agree to any settlement or compromise relating to any Condemnation Event or otherwise voluntarily dispose of any rights, power, interests or claims arising as a result of any Condemnation Event, in each case, without the written consent of Lessor; and
- (d) suspend, cancel or terminate, agree to or permit the cancellation, suspension or termination of any Material Project Document without the prior written approval of Lessor, unless, the applicable Obligor shall have entered into a Replacement Agreement for such Material Project Document (if such approval is required by the definition of Replacement Agreement) and such Replacement Agreement is entered into prior to or contemporaneously with the termination or cancellation of such Material Project Document.

4.33 Amendments to Constituent Documents

No Obligor will change its legal form or the nature of its business or amend or modify its Constituent Documents in a manner that could be prejudicial to the interest of Lessor under the Transaction Documents without the prior written approval of Lessor.

4.34 Amendments to or Cancellations of Material Authorizations

Except for minor ministerial or administrative amendments, supplements or modifications to any Material Authorization, no Obligor may amend, supplement or modify any Material Authorization to which it is a party, without the prior written approval of Lessor. No Obligor may suspend, cancel or terminate, agree to or permit the cancellation, suspension or termination of any Material Authorization without the prior written approval of Lessor.

4.35 Amendments to Material Project Documents

Except for minor ministerial or administrative amendments, supplements or modifications to any Material Project Document, no Obligor may amend, supplement or modify any Material Project Document to which it is a party without the prior written approval of Lessor.

4.36 Additional Material Project Documents

No Obligor shall enter into any Additional Material Project Document without the prior written consent of Lessor. Unless otherwise advised in writing by Lessor, Obligor shall obtain a consent to assignment from the counterparty of such Additional Material Project Document, in form and substance satisfactory to Lessor, acting reasonably, concurrently upon execution and delivery of such Additional Material Project Document.

4.37 Investments

No Obligor will make and will not instruct any relevant Person to make any investments except to acquire and hold Permitted Investments.

4.38 Subsidiaries

No Obligor (other than the Parent) will form, own or have any Subsidiaries or otherwise own beneficially an ownership interest in any Person, will not become a partner in any partnership or joint venture, or enter into any profit-sharing or royalty agreement or similar arrangement whereby such Person's income or profits are shared with any other Person.

4.39 Abandonment

No Obligor will permit or suffer to exist an Event of Abandonment.

4.40 Transactions with Obligors or Affiliates

(1) No Obligor will enter into any transaction or agreement with its Affiliates (other than the Transaction Documents or as expressly contemplated therein and in connection with transactions in the ordinary course of business on terms and conditions at least as favourable to such Obligor as would be obtainable by such Obligor at the time in a comparable arm's-length transaction on commercial arm's length terms) except with the written approval of Lessor.

(2) No Obligor will enter into any transaction or agreement with any of the Parent's shareholders or any of the affiliates of such shareholders except (i) Parent may issue securities to its shareholders, (ii) Obligors may enter into personnel services contracts with shareholders or any of the affiliates of such shareholders, as service provider, in the ordinary course of business on terms and conditions at least as favourable to such Obligor as would be obtainable by such Obligor at the time in a

comparable arm's-length transaction on commercial arm's length terms, or (iii) with the prior written approval of Lessor.

(3) Notwithstanding anything to the contrary herein, no Obligor shall enter into any agreement (including hosting agreements) with Hosting without the prior written consent of Lessor.

4.41 Disputes

No Obligor will agree, authorize or otherwise consent to any proposed settlement, resolution or compromise of any litigation, arbitration or other dispute with any Person with a potential liability in excess of \$1,000,000 without the prior written authorization of Lessor; provided that such consent shall be deemed to have been given if Lessor has not responded within thirty (30) days of a request for such consent.

4.42 Equity Issuance

Otherwise as permitted pursuant to the Transaction Documents, no Obligor (other than the Parent) will issue, or authorize the transfer of, any partnership units, common shares, equity interests or any other security convertible into partnership units, common shares or any other equity interests in such Obligor's capital to any Person other than to Parent.

4.43 Accounting Changes

After the Closing Date, Parent will not make any change in its accounting or reporting policies, except as required by its accounting principles, or change its financial year.

4.44 Sanctions; Anti-Corruption Laws

- (a) No Obligor shall directly or indirectly, use any of the proceeds of the Transaction or lend, contribute or otherwise make available such proceeds to any other Person (i) for the purpose of funding, financing or facilitating any activity, business or transaction of or with any Obligor, or in any country or territory that is the subject of country-wide or territory-wide Sanctions, or (ii) that would constitute or give rise to a violation of any Sanctions by any party hereto, including Lessor.
- (b) Lessee and any each Obligor and their respective directors, officers and agents shall not, directly or indirectly, use any of the proceeds of the Transaction or lend, contribute or otherwise make available such proceeds to any other Person: (i) in furtherance of an offer, payment, promise to pay, or authorization or approval of the payment or giving of money, property, gifts or anything else of value, directly or indirectly, to any "government official" (including any officer or employee of a government or government-owned or controlled entity or of a public international organization, or any person acting in an official capacity for or on behalf of any of the foregoing, or any political party or party official or candidate for political office) to influence official action or secure an improper advantage, in each case, in violation of applicable Anti-Corruption Laws; or (ii) in any manner that would constitute a violation of any applicable Anti-Corruption Laws.
- (c) The Obligors agree that no portion of the funds used to repay their obligations under the Transaction Documents will be sourced or derived, in whole or in part, from activities (A) in violation of applicable Sanctions or (B) between an Obligor and a Sanctions Target in a manner that would constitute or give rise to a violation of any Sanctions by any party hereto, including Lessor.

4.45 Discharge of Real Property Interests

The Obligors will not permit the discharge, transfer or postponement of any instrument registered in respect of the Real Property Interests applicable to the Project Facilities or the Project Sites in a manner that would be prejudicial to Lessor or that would adversely impact any Collateral or the value thereof, or the financial condition, business, assets or operations of the Obligors, Project Facilities or the Project Sites.

4.46 Hedging

No Obligor will, and will not agree to, enter into any Commodity Hedge Agreement other than Permitted Commodity Hedges, provided that in any event, each such Commodity Hedge Agreement may only be entered into by an Obligor bona fide and in good faith in the ordinary course of its business for the purpose of carrying on the same and not for speculative purposes and otherwise in accordance with the terms of this Agreement.

4.47 Specified Substances

No Obligor shall cause or permit a Release of any Specified Substance on, in, at, under, above, to, from or about the Project Sites, Project Facilities or any other property owned by such Obligor or under its control where such Release could create or form the basis for any Environmental Claim or material liability under, or constitute a material violation of any Environmental Law.

4.48 Post-Closing Covenants

The Obligors shall:

- (1) promptly (and no later than April 30, 2022 or such later date as agreed by Lessor),
 - (i) assign the Hut 8 PPA from the Parent to the North Bay Subsidiary and provide a duly executed and delivered copy of such assignment agreement to Lessor, in form and substance satisfactory to Lessor; and
 - (ii) amend the Hut 8 PPA to clarify the provisions for charges and rebates, and establish new dates for phases 1, 2 and 3 as set out therein, in form and substance satisfactory to Lessor;
- (2) promptly (and no later than July 31, 2022), provide evidence to Lessor (in a form and substance satisfactory to Lessor), that the Obligors are able to manage the dual participation of Lessee as a capacity market participant with capacity obligations in the IESO-administered markets (as those terms are defined in the IESO's Market Rules for the Ontario Electricity Market) and other offtake agreements, together with reasonable details and a description of the actions that the applicable Obligors will take to manage such dual participation (including compliance in full with all applicable rules and requirements, and responding to dispatch instructions as required), and promptly respond to reasonable inquiries from Lessor in respect of the foregoing, provided that if Lessee buys out or transfers in full its capacity obligations in the IESO-administered markets, or otherwise ceases to have any capacity obligations in the IESO-administered markets and provides evidence of the same to Lessor, in form and substance satisfactory to Lessor, Lessee shall cease to be required to provide the evidence contemplated by the first sentence of this Section 4.48(2);
- (3) within 30 days of the Original Closing Date, promptly provide evidence, in form and substance satisfactory to Lessor, that the payment by Start Mining of a deposit in the amount of \$6,387,500

in accordance with the Start Mining Agreement was made and received by Hosting or an Obligor (the “**Start Mining Covenant**”). Notwithstanding anything to the contrary herein or in any other Transaction Document, if the Start Mining Covenant is not satisfied within 30 days of the Original Closing Date, the balance of the Lessor’s Cost retained by Lessor as contemplated by Section 2.4(2)(b) hereof shall be treated (without any further action on behalf of Lessee) as a prepayment of Base Rent by Lessee to Lessor and Section 3.3(c) of the Lease shall apply thereto;

(4) obtain and deliver to Lessor, as soon as possible following the Original Closing Date (and in any event, no later than 60 days from the Original Closing Date), all of the real property items listed below and further undertake to promptly rectify any deficiencies revealed by such items, in each case, to the satisfaction of the Lessor.¹

- (a) evidence of all real property rights required for the operation and maintenance of the Iroquois Falls Project Site, including without limit, sufficient benefitting easements rights, permit rights, and all other real property agreements that may be required thereto, together with evidence that the Lessee has the following real property rights in its favour to the extent required to operate and maintain the Iroquois Falls Project Site:
 - (i) an easement along and upon the Twin Falls Road as referenced to in Instrument No. C469026 registered on February 28, 1997;
 - (ii) all necessary access agreements, laydown agreements, road crossing permits, land use permits required for the purposes of crossing the Abitibi River;
 - (iii) a land use permit for the intake pumphouse and diffuser;
 - (iv) a specific benefitting easement for gas supply; and
 - (v) an appropriate permit for the discharge pipe into the Abitibi River.

(5) On or prior to June 30, 2022, promptly provide evidence, in form and substance satisfactory to Lessor, that Lessee has been granted an electricity retailer license from the OEB on terms and conditions satisfactory to Lessor.

(6) On or prior to April 30, 2022, promptly provide evidence, in form and substance satisfactory to Lessor, of receipt by Lessee of the amended OEB Electricity Generation License on terms and conditions satisfactory to Lessor, authorizing Lessee to, among other things, own and operate the Iroquois Falls Project (including the combined cycle gas fired generating station portion thereof) of Lessee at the Iroquois Falls Project Site.

(7) Promptly (and in any event, no later than 60 days from the Original Closing Date) provide evidence, in form and substance satisfactory to Lessor, that Hosting has been granted an electricity wholesaler license from the OEB, on terms and conditions satisfactory to Lessor, prior to Hosting purchasing any electricity from any Obligor or any other Person.

(8) Provide all assistance reasonably requested by Lessor to procure, and enter into, within sixty (60) days from the Original Closing Date, a subordination and non-disturbance agreement, in a form acceptable to the Lessor, between Lessor, the Parent, the North Bay Subsidiary, and Hut 8 Mining Corp.

¹ NTD: Validus/Minden Gross to provide update. Torys acknowledges receipt of the officer certificate.

with respect to the lease dated October 27, 2021 made between the Parent, North Bay Subsidiary and Hut 8 Mining Corp.

ARTICLE 5 OTHER COVENANTS

5.1 Cooperation

Lessor shall use commercially reasonable efforts to cooperate with the Obligors, at Lessee's sole cost and expense, in obtaining the valid and effective issuance or, as the case may be, transfer or amendment of all Authorizations and Government Actions necessary or desirable for the construction, installation, ownership, leasing and operation of the Leased Property by Lessor or any transferee or assignee thereof.

5.2 Compliance with Laws While on Site

(1) Lessor shall, and shall cause each of its Related Persons, to materially comply with all Applicable Laws known to Lessor that relate to such Person's conduct or activity while physically present at the Project Sites.

(2) Without limiting the generality of Section 5.2(1), each Obligor hereby assumes liability for and agrees to indemnify, defend, protect, save and keep harmless, on an After-Tax Basis, Lessor from and against any and all Environmental Claims arising under Environmental Laws which may be imposed on, incurred by or asserted against Lessor, in any capacity, including to the extent that such Environmental Claim results from or arises out of the failure of the Leased Property or the Iroquois Falls Project Site to be in the condition required by the Lease on the date the Leased Property is surrendered to Lessor under Section 6 of the Lease, except to the extent that such Environmental Claim is the result of or arises out of any negligent act or omission or willful misconduct of Lessor or any of its Affiliates occurring after the Transition Date. For purposes of clarity, it is expressly understood that Lessor shall not be liable under the preceding sentence for any contamination identified in any environmental engineer's due diligence compliance assessment delivered to Lessor by Lessee.

ARTICLE 6 LESSEE'S INDEMNITIES

6.1 General Tax Indemnity.

All payments by the Obligors to Lessor under this Agreement and the other Transaction Documents shall be made free and clear of, and without reduction for or on account of, any present or future income, stamp or other taxes, levies, imposts, duties, charges, fees, deductions or withholdings, now or hereafter imposed, levied, collected, withheld or assessed by any country or any political subdivision thereof; provided, however, that if any Taxes are required to be withheld from any amount payable to Lessor, the amount so payable to Lessor shall be increased to the extent necessary to yield to Lessor, on a net basis after payment of all Taxes imposed by any relevant jurisdiction on any additional amounts payable under this section, interest or any such other amount payable hereunder at the rate or in the amount specified in this Agreement and the other Transaction Documents. Each Obligor shall be fully liable and responsible for and shall, promptly following receipt of a request from Lessor, pay to Lessor any and all sales, goods and services taxes payable under the laws of Canada or any political subdivision thereof with respect to any and all goods and services made available hereunder and the other Transaction Documents to the Obligors by Lessor, and such taxes shall be included in the definition of "Taxes" for all purposes hereof. Whenever any Taxes are payable by an Obligor, as promptly as possible thereafter it shall send to Lessor, a certified copy of an original official receipt showing payment thereof. If any Obligor fails to pay any Taxes when

due or fails to remit to Lessor as aforesaid the required documentary evidence thereof, such Obligor shall indemnify and save harmless Lessor from any incremental taxes, interest, penalties or other liabilities that may become payable by Lessor or to which Lessor may be subjected as a result of any such failure. A certificate of Lessor as to the amount of any such taxes, interest or penalties and containing reasonable details of the calculation thereof shall be *prima facie* evidence thereof.

6.2 General Indemnity; Waiver of Certain Claims; Limitation of Liability

(1) Claims Defined. For the purposes of this Section 6.2, “**Claims**” shall mean any and all costs, expenses, liabilities, obligations, losses, damages, penalties, proceedings, actions or suits or claims of whatsoever kind or nature (whether or not on the basis of negligence, strict or absolute liability or liability in tort or arising out of regulatory requirements of any kind) imposed on, incurred by, suffered by, or asserted against an Indemnified Person, the Project Facilities, the Project Sites, the Leased Property, the other Collateral or any portion thereof and, except as otherwise expressly provided in this Section 6.2, shall include all reasonable costs, disbursements and expenses (including reasonable attorneys fees and allocated time charges of internal counsel) paid or incurred by an Indemnified Person in connection therewith or related thereto.

(2) Indemnified Person Defined. For purposes of this Section 6.2, “**Indemnified Person**” means Lessor, each Affiliate of Lessor, and the respective directors, officers, employees, successors and permitted assigns, agents and servants of Lessor and each Affiliate of Lessor.

(3) Claims Indemnified. Whether or not any of the transactions contemplated hereby are consummated, Lessee shall indemnify, protect, defend and hold harmless each Indemnified Person on an After-Tax Basis for, from and against any and all Claims relating to, resulting from or arising out of the Project Facilities, the Collateral, the Transaction Documents or the transactions contemplated thereby (whether or not such Indemnified Person is indemnified as to such Claim by any other Person), including: (i) the Project Facilities, the Project Sites, the Leased Property, the Collateral or any portion thereof or the enforcement by any Indemnified Person of any of its rights under the Transaction Documents or any other transaction contemplated by the Transaction Documents; (ii) the regulation of the ownership, construction, installation, leasing, licensing or operation of the Project Facilities, the Project Sites, the Leased Property, the Collateral or any portion thereof; (iii) the offer, financing, refinancing, inspection, mortgaging, granting of a security interest in, design, manufacture, construction, purchase, ownership, acquisition, acceptance, rejection, delivery, non-delivery, redelivery, possession, transportation, lease, sublease, licensing, installation, condition, transfer of title, rental, use, operation, storage, maintenance, modification, alteration, repair, assembly, sale, return, abandonment or other application or disposition of all or any part of the Project Facilities, the Project Sites, the Leased Property, the Collateral or any interest therein or improvements thereto; (iv) injury, death, or property damage or strict liability in tort; (v) latent or patent defects, whether or not discoverable, and any claim for patent, trademark, copyright or other intellectual property right infringement or misappropriation; (vi) the administration of this Agreement or any of the other Transaction Documents (excluding normal, internal overhead charges); (vii) a breach by Lessee or any Guarantor of any of its covenants under the Transaction Documents or a misrepresentation by Lessee or any Guarantor in any Transaction Document or any certificate or other document delivered by Lessee or any Guarantor pursuant to any Transaction Document; (viii) Environmental Claims; (ix) the existence or imposition of any Lien (including Permitted Liens) on Lessor’s right, title and interest in the Project Facilities, the Project Sites, the Leased Property, the Collateral or any portion thereof; (x) endeavoring to enforce the Transaction Documents; and (xi) any violation of Applicable Law by Lessee or any of its Affiliates or their respective directors, officers, employees, agents or servants.

(4) Claims Excluded. The following are excluded from the agreement to indemnify under this Section 6.2 or any other section of this Agreement or any Transaction Document:

- (a) any Claim of (and only of) an Indemnified Person to the extent attributable to the willful misconduct or gross negligence of such Indemnified Person (not including any willful misconduct or gross negligence imputed to any of the foregoing as a result of any of their participation in the Transaction);
- (b) any Claim of an Indemnified Person to the extent caused by the act or process of disposing or transferring (whether voluntary or involuntary) by such Indemnified Person of all or part of the Project Facilities, the Project Sites, the Leased Property, the other Collateral or any portion thereof that is not in accordance with or contemplated by the Transaction Documents or not resulting from (A) the exercise of remedies during the period while a Lease Event of Default exists, (B) an Event of Loss, or (C) a refinancing pursuant to and in accordance with the Transaction Documents (other than the obligation of Lessee to reimburse Lessor for its costs and expenses in connection with such refinancing);
- (c) any Claim of an Indemnified Person for an expense for which such Indemnified Person is expressly liable under a Transaction Document;
- (d) any Claim of an Indemnified Person to the extent resulting from the breach by such Indemnified Person of any of its representations or warranties in any of the Transaction Documents;
- (e) any Claim of an Indemnified Person to the extent resulting from the failure by such Indemnified Person to perform or observe any agreement, covenant or condition to be performed or observed by it in any of the Transaction Documents;
- (f) any Claim by or on behalf of Lessor directly resulting from the regulation of Lessor other than solely by virtue of the transactions contemplated by the Transaction Documents;
- (g) any Claim to the extent attributable to acts or events which occur after the expiration of the Lease Term or earlier termination of the Lease and return to Lessor of the Leased Property in accordance with the Transaction Documents (including any storage period) (except (A) to the extent fairly attributable to acts or events or liabilities or damages occurring or accruing prior thereto, (B) Claims arising following the termination or expiration of the Lease Term (including, without limitation, as a result of a Material Event) and the termination of the Iroquois Falls Site Interest substantially contemporaneously therewith or (C) to the extent arising as a result of a default by Lessee of its obligations with respect to the Debentures); and
- (h) any Claim in respect of Taxes (which are governed by the provisions of Section 6.1), other than a payment necessary to make payments under this Section 6.2 on an After-Tax Basis.

The indemnity in this Section 6.2 shall be construed as an indemnity only, and not as a guaranty of residual value of the Leased Property.

(5) Insured Claims. In the case of any Claim indemnified by Lessee hereunder that is covered by an Insurance Policy or otherwise, each Indemnified Person agrees to provide at Lessee's sole cost and expense reasonable cooperation to the insurers in the exercise of their rights to investigate, defend or compromise such Claim as may be required to retain the benefits of such insurance with respect to such Claim.

(6) Claims Procedure. An Indemnified Person shall, after obtaining actual knowledge thereof, promptly notify Lessee of any Claim as to which indemnification is sought (unless Lessee theretofore has notified such Indemnified Person of such Claim); except that the failure to give such notice shall not release Lessee from any of its obligations under this Article 6. Subject to the provisions of the following paragraph, Lessee shall at its sole cost and expense be entitled to control, and shall assume full responsibility for, the defense of such Claim; except that Lessee shall keep the Indemnified Person which is the subject of such proceeding fully apprised of the status of such proceeding and shall provide such Indemnified Person with all information with respect to such proceeding as such Indemnified Person shall reasonably request.

Notwithstanding any of the foregoing to the contrary, Lessee shall not be entitled to control and assume responsibility for the defense of such Claim if (1) a Lease Default or Lease Event of Default exists, (2) there exists a real and imminent risk of sale, forfeiture or loss of any part of the Project Facilities, Project Sites, Leased Property or Collateral or such proceeding will involve any material danger of the sale, forfeiture or loss of, or the creation of any Lien (other than any Permitted Lien) on, any part of the Project Facilities, Project Sites, Leased Property or Collateral, (3) the amounts involved, in the reasonable opinion of such Indemnified Person, are likely to have a material adverse effect on such Indemnified Person other than the ownership, leasing and financing of the Project Facilities, Project Sites, Leased Property or Collateral and it is reasonably likely that such material adverse effect will occur notwithstanding the indemnification obligations hereunder, (4) in the reasonable opinion of such Indemnified Person, there exists an actual or potential conflict of interest such that it is advisable for such Indemnified Person to retain control of such proceeding, (5) Lessee has not acknowledged its liability under this Section 6.2 to the Indemnified Person with respect to such Claim or (6) such Claim involves the risk of criminal or quasi-criminal sanctions or liability to such Indemnified Person. In the circumstances described in clauses (1) through (5), the Indemnified Person shall be entitled to control and assume responsibility for the defense of such Claim or liability at the expense of Lessee. In addition, any Indemnified Person, at its own expense, may participate in any proceeding controlled by Lessee pursuant to this Section 6.2(6). Lessee may in any event participate in all such proceedings at its own cost. Nothing contained in this Section 6.2(6) shall be deemed to require an Indemnified Person to contest any Claim or to assume responsibility for or control of any judicial proceeding with respect thereto. Neither Lessee nor such Indemnified Person shall enter into a settlement or other compromise with respect to any Claim without the prior written consent of the other, which consent shall not unreasonably be withheld or delayed, unless (x) with respect to a settlement by such Indemnified Person, such Indemnified Person waives its right to be indemnified with respect to such Claim under this Section 6.2(6) or a Lease Event of Default exists, or (y) with respect to a settlement by Lessee, the settlement involves only money damages to be paid by Lessee and includes a full and complete release of liability (satisfactory to the Indemnified Person) of the Indemnified Person.

(7) Subrogation. If a Claim indemnified by Lessee under this Section 6.2 is paid in full by Lessee or an insurer under a policy of insurance maintained by Lessee, or if payment of the Claim has otherwise been provided for in full in a manner reasonably satisfactory to the Indemnified Person, then Lessee or such insurer, as the case may be, shall be subrogated to the extent of such payment (or provision) to the rights and remedies of the Indemnified Person (other than under insurance policies maintained by such Indemnified Person) on whose behalf such Claim was paid (or provided for) with respect to the act or event giving rise to such Claim. While no Lease Default or Lease Event of Default exists, if an Indemnified Person receives any refund or amount, in whole or in part, with respect to any Claim paid by Lessee hereunder, it shall promptly pay over the amount received (but not in excess of the amount Lessee or any of its insurers has paid in respect of such Claim paid or payable by such Indemnified Person on account of such refund) to Lessee.

(8) Waiver of Certain Claims. Each Obligor hereby irrevocably and unconditionally waives and releases any Claim now or hereafter existing against any Indemnified Person, including any Claim arising out of, relating to or resulting from death or personal injury to personnel of the Obligors (including

its directors, officers, employees, agents and servants), loss or damage to property of the Obligors or their Affiliates, or the loss of use of any property of the Obligors or their Affiliates, which may result from or arise out of the condition, use or operation of the Leased Property during the Lease Term, including any latent or patent defect whether or not discoverable, other than any Claim brought by an Obligor against any Indemnified Person for breach in bad faith of such Indemnified Person's obligations under the Transaction Documents if a court of competent jurisdiction has rendered a final and non-appealable judgment in favour of the applicable Obligor on such Claim.

(9) Limitation of Liability. Notwithstanding anything to the contrary herein or in any other Transaction Document, Lessor shall have no liability to any Person based upon its errors in judgment, its performance of its duties under this Agreement or any other Transaction Document, any claimed failure to perform its duties hereunder or thereunder, any action taken or omitted in good faith or any mistake of fact or law. Lender was automatically released from all obligation and liability hereunder upon the payment of Lessor of Lessor's Cost on the Original Closing Date in accordance with the terms of the Original Participation Agreement.

ARTICLE 7 TRANSFERS OF INTERESTS

7.1 Transfer of rights and obligations by Lessor.

(1) So long as the Lease is in effect, Lessor (or any permitted successor of Lessor) shall have the right, at its sole cost and expense and without the approval of Lessee, to assign, convey, or otherwise transfer or sell all or a portion of its Leased Property and its right, title, interest and obligations in or under the Transaction Documents:

- (a) to an Affiliate of Lessor; or
- (b) to any other Person,

if in each case:

- (i) the transferee or successor makes the representations and warranties and agrees to be bound by the covenants of the transferring Lessor contained in the Transaction Documents subject to necessary changes to reflect the transfer;
- (ii) immediately after giving effect to such transfer or assignment, no breach by Lessor of its obligations under the Transaction Documents would result from such transfer or assignment; and
- (iii) the transferee or successor has all Authorizations from the Ontario Energy Board required in connection with such transfer.

Lessor shall give to Lessee, 20 Business Days' notice of any assignment, transfer or continuance intended to meet the foregoing conditions accompanied by the proposed forms of the foregoing documentation and opinions. If Lessee, does not object in writing within 20 Business Days of receipt of such notice, the foregoing documentation or opinions presented with such notice shall be conclusively deemed satisfactory.

Upon completion of a transfer in compliance with this Section 7.1(1), Lessor shall be released from any and all obligations and responsibilities under this Agreement and each of the other Transaction

Documents, except any obligation or indemnity undertaken in compliance with this Section 7.1(1) which shall survive the transfer and remain the obligation of the party providing indemnity and any guarantor or surety therefor.

ARTICLE 8 FURTHER ASSURANCES

Each party hereto will cause to be promptly and duly taken, executed, acknowledged and delivered all such further acts, documents and assurances as any other party reasonably may request from time to time in order to carry out more effectively the intent and purpose of this Agreement, the other Basic Documents and the Transaction. Each Obligor, at the Obligors' own cost and expense, will cause any and all documents, instruments or other writings necessary or reasonably required to consummate and give notice to third parties of the interests created or conveyed by the Transaction Documents to be recorded or filed at such places and times in such manner and will take all such other actions or cause such actions to be taken as may be necessary in order to establish, preserve, protect and perfect the right, title and interest of Lessor in and to the Project Facilities, the Project Sites, the Leased Property, the other Collateral, subject only to Permitted Liens. Each Obligor will cooperate with Lessee to enable it to perform its obligations under this Article 8.

ARTICLE 9 MISCELLANEOUS

9.1 Illegality

If, after the Closing Date, (i) a Cap and Trade System comes into effect (or is scheduled to come into effect) or (ii) Lessor determines that the adoption of, or change to, any Applicable Law, regulation, treaty or official directive (whether or not having the force of law) or any change therein or in the interpretation or application thereof by any court or by any Government Body or any other entity charged with the interpretation or administration thereof, now or hereafter makes it unlawful or impossible for the Lessor to give effect to its obligations in respect of the Transaction Documents or be involved in the transactions contemplated thereunder, Lessor may, in the period commencing 180 days prior to the date upon which a Cap and Trade System or change, as the case may be, becomes effective, by written notice to Lessee, declare a Lease Event of Default effective as of the date being the earlier of (x) sixty (60) days from the written notice, or (y) the effective date of the Cap and Trade System or change, as the case may be, and exercise all rights and remedies in respect thereof held by Lessor under the Transaction Documents or otherwise available under Applicable Law.

9.2 Change in Law; Increased Costs

- (1) If any Change in Law shall:
 - (i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, Lessor;
 - (ii) subject Lessor to any Taxes of any kind whatsoever with respect to the Transaction Documents, change the basis of taxation of payments due to Lessor in respect thereof or increase any existing Taxes in respect thereof; or
 - (iii) impose on Lessor any other condition, cost or expense (other than Taxes) affecting the Transaction Documents;

and the result of any of the foregoing shall be to increase the cost to Lessor of continuing or maintaining its obligations under the Transaction Documents, or to reduce the amount of any sum received or receivable by Lessor under the Transaction Documents then, upon request of Lessor, the Obligors will pay to Lessor such additional amount or amounts as will compensate Lessor for such additional costs incurred or reduction suffered.

(2) A certificate from Lessor setting forth the amount or amounts necessary to compensate it, as specified in Section 9.2(1) (collectively, "**Additional Compensation**"), including reasonable detail of the basis of calculation of the amount or amounts, and delivered to Lessee, shall be conclusive absent manifest error. The Obligors shall pay the Additional Compensation to Lessor promptly and in any event, within 10 days after receipt of any such certificate.

(3) Failure or delay on the part of Lessor to demand Additional Compensation pursuant to this Section shall not constitute a waiver of the Lessor's right to demand such compensation prior to the date that Lessor notifies Lessee of the Change in Law giving rise to such increased costs or reductions and of the Lessor's intention to claim compensation therefor.

9.3 Set-Off

If a Lease Events of Default shall have occurred and is continuing, Lessor and each of its Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off, appropriate and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency, and including prepayments) at any time held and other obligations (in whatever currency) at any time owing by Lessor or its Affiliates to or for the credit or the account of Lessee or any Obligor against any and all of the Obligations now or hereafter existing, whether direct or indirect, absolute or contingent, matured or unmatured, and irrespective of whether or not Lessor or any of its Affiliates shall have made any demand under the Transaction Documents. Lessor agrees to notify Lessee promptly after any such set off and appropriation and application; provided that, the failure to give such notice shall not affect the validity of such set off and appropriation and application. The rights of Lessor and each of its Affiliates under this Section are in addition to any other rights and remedies available to them (including, without limitation, other rights of set-off or consolidation of accounts).

9.4 Survival

All warranties, representations, indemnities and covenants made by any party hereto, whether herein or in any certificate or other instrument delivered by any such party or on behalf of any such party under this Agreement, shall be considered to have been relied upon by each other party hereto and shall survive the consummation of the Transaction on the Closing Date regardless of any investigation made by any such party or on behalf of any such party and shall continue in full force and effect as long as the any amount payable under this Agreement or any other Transaction Document is outstanding. All indemnities made by any party hereto, whether herein or in any certificate or other instrument delivered by any such party or on behalf of any such party under this Agreement, shall survive the termination of this Agreement or any other Transaction Document.

9.5 Waiver of Jury Trial

THE PARTIES HERETO WAIVE ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO ANY MATTER ARISING UNDER THE BASIC DOCUMENTS.

9.6 Notices

Unless otherwise expressly specified or permitted hereby, all communications, requests, consents and notices provided for herein or in any other Transaction Document shall be in writing, and any such communication shall become effective when received (and notices given pursuant to clause (b) shall be deemed received three (3) days after being deposited in the mail). Any written communication shall be by (a) personal delivery thereof, including, without limitation, by overnight mail and courier service, (b) Canadian mail, registered, postage prepaid, return receipt requested or (c) receipt of telecopy transmission (as evidenced by the sender's receipt of electronic confirmation of the addressee's receipt) or email, in each case addressed to the Person at its respective address set forth on Schedule 2 or at such other address as such Person may from time to time designate by written notice in accordance herewith to the other Persons on such Schedule 2.

9.7 Successors and Assigns

This Agreement shall be binding upon the parties hereto and their respective successors and assigns and shall inure to the benefit of, and shall be enforceable by, the parties hereto and their respective successors and assigns, in each case as permitted by and in accordance with the terms hereof, including each successive holder of the Leased Property permitted under Section 7.1. Except as expressly provided herein or in the other Transaction Documents, no party hereto may assign its interests herein, in whole or in part, without the consent of the other parties hereto.

9.8 Business Day

If the date on which any payment is to be made pursuant to this Agreement or any other Basic Document is not a Business Day, the payment otherwise payable on such date shall be payable on the immediately preceding Business Day, with the same force and effect as if made on the date when such payment is due.

9.9 Governing Law

This agreement shall be governed by, and construed in accordance with, the laws of the Province of Ontario and the laws of Canada applicable therein.

9.10 Severability

Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under Applicable Law, but if any provision of this Agreement shall be prohibited by or invalid under the laws of any jurisdiction, such provision, as to such jurisdiction, shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement as to such jurisdiction or any other jurisdiction.

9.11 Counterparts

This Agreement may be executed in any number of counterparts and by the parties hereto on separate signature pages, each such executed counterpart constituting an original but all together only one Agreement.

9.12 Termination of Transaction Documents

This Agreement and all other Transaction Documents shall terminate upon the indefeasible payment, performance and satisfaction of all Indebtedness, liabilities and obligations of the Obligors arising under the Transaction Documents and delivery of an acknowledgement from Lessor to Lessee in writing of such termination, not to be unreasonably withheld or delayed.

9.13 Heading and Table of Contents

The headings of the Sections of this Agreement and the Table of Contents are inserted for purposes of convenience only and shall not be construed to affect the meaning or construction of any of the provisions hereof.

9.14 Reproduction of Documents

This Agreement, all documents constituting exhibits hereto, and all documents relating hereto received by a party hereto, including, without limitation, (a) consents, waivers and modifications that may hereafter be executed, (b) documents received by Lessor in connection with the purchase of the Leased Property and (c) financial statements, certificates, and other information previously or hereafter furnished to Lessor may be reproduced by the party receiving the same by any photographic, photostatic, microfilm, micro-card, miniature photographic or other similar process. Each party hereto agrees and stipulates that, to the extent permitted by law, any such reproduction shall be admissible in evidence as the original itself in any judicial or administrative proceeding (whether or not the original is in existence and whether or not such reproduction was made by such party in the regular course of business) and that, to the extent permitted by law, any enlargement, facsimile, or further reproduction of such reproduction shall likewise be admissible in evidence.

9.15 Limitation of Liability of the Lessor

The Lessor shall not have any obligation or duty to the Obligors or to others with respect to the Transaction, except those obligations or duties expressly set forth with respect to it in this Agreement and the other Transaction Documents; and the Lessor shall not be liable for performance by any other party hereto of such other party's obligations or duties hereunder.

9.16 Amendments and Waivers

This Agreement may not be terminated or amended, or compliance herewith waived (either generally or in a particular instance, retroactively or prospectively) except by an instrument or instruments in writing executed by each party hereto.

9.17 Confidential Information

For the purposes of this Section 9.17 "**Confidential Information**" means information delivered to Lessor by or on behalf of an Obligor or any Affiliate thereof in connection with the Transaction that is proprietary in nature, provided that such term does not include information that (a) was publicly known or otherwise known to Lessor prior to the time of Lessor's disclosure, (b) subsequently becomes publicly known through no act or omission by Lessor or any Person acting on Lessor's behalf, (c) otherwise becomes known to Lessor other than through disclosure by an Obligor or any Affiliate thereof or (d) constitutes financial statements delivered to Lessor under Section 4.1 that are otherwise publicly available. The Lessor will maintain the confidentiality of such Confidential Information in accordance with procedures adopted by Lessor in good faith to protect confidential information of third parties delivered to Lessor, provided

that Lessor may deliver or disclose Confidential Information to (i) Lessor's directors, officers, employees, agents, attorneys and Affiliates (to the extent such disclosure reasonably relates to the administration of the investment represented by Lessor's investment in the Transaction), (ii) Lessor's financial advisors and other professional advisors who agree to hold confidential the Confidential Information substantially in accordance with the terms of this Section 9.17, (iii) any Person from which Lessor offers to purchase any security of an Obligor or any Affiliate thereof (if such Person has agreed in writing prior to its receipt of such Confidential Information to be bound by the provisions of this Section 9.17), (iv) any federal or state regulatory authority having jurisdiction over Lessor, (v) the National Association of Insurance Commissioners or any similar organization, bank examiners or any nationally recognized rating agency that requires access to information about Lessor's investment portfolio or (vi) any other Person to which such delivery or disclosure may be necessary or appropriate (w) to effect compliance with any law, rule, regulation or order applicable to Lessor, (x) in response to any subpoena or other legal process or (y) in connection with any litigation to which Lessor is a party. With respect to disclosures under clause (vi)(y) above, Lessor will give to Lessee reasonable prior notice of such disclosure; provided, however, that any failure to give such notice shall not give rise to any default or breach by Lessor or any claim or right against Lessor for damages.

9.18 Forum Selection and Consent to Jurisdiction

Each party hereto irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of the courts of Ontario, in any action or proceeding arising out of or relating to this Agreement or any other Transaction Document, or for recognition or enforcement of any judgment, and each of the parties hereto irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such court. Each party hereto hereby irrevocably waives, to the fullest extent it may effectively do so, the defence of inconvenient forum to the maintenance of such action or proceeding. Nothing in this Agreement or in any other Transaction Document shall affect any right that Lessor may otherwise have to bring any action or proceeding relating to this Agreement or any other Transaction Document against any Obligor or its properties in the courts of any jurisdiction having jurisdiction over an Obligor or any of its property or assets.

9.19 Interest Act (Canada)

If applicable, each rate of interest referred to in the Transaction Documents which is calculated with reference to a period (the "**deemed interest period**") that is less than the actual number of days in the calendar year of calculation is, for the purposes of the *Interest Act* (Canada), equivalent to a rate based on a calendar year equal to such rate of interest multiplied by the actual number of days in the calendar year of calculation and divided by the number of days in the deemed interest period.

9.20 Maximum Rate

(1) If any provision of any Transaction Document would oblige a party to make any payment of interest or other amount payable to any Person in an amount or calculated at a rate prohibited by law or would result in a receipt by that Person of interest at a criminal rate (as such terms are construed under the *Criminal Code* (Canada)), then notwithstanding such provision, such amount or rate shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not be so prohibited by law or so result in a receipt by that Person of interest at a criminal rate, such adjustment to be effected, to the extent necessary, as follows:

- (a) firstly, by reducing the amount or rate of interest required to be paid to such Person under the Transaction Document; and

(b) thereafter, by reducing any fees, commissions, premiums and other amounts required to be paid to such Person that would constitute interest for purposes of Section 347 of the *Criminal Code* (Canada).

(2) Notwithstanding Section 9.20(1) and after giving effect to all adjustments contemplated thereby, if any Person receives an amount in excess of the maximum permitted by that Section, then the relevant party shall be entitled, by notice in writing to such Person, to obtain reimbursement from that Person in an amount equal to such excess, and pending such reimbursement, such amount shall be deemed to be an amount payable by that Person to the relevant party.

(3) Any amount or rate of interest referred to in this Section 9.20 shall be determined in accordance with generally accepted actuarial practices and principles as an effective annual rate of interest over the term of any Transaction Document on the assumption that any charges, fees or expenses that fall within the meaning of "interest" (as defined in the *Criminal Code* (Canada)) shall, if they relate to a specific period of time, be pro-rated over the period of time and otherwise be pro-rated over the period from the Closing Date to the Base Term Expiration Date, and, if there is a dispute, a certificate of a Fellow of the Canadian Institute of Actuaries appointed by Lessor shall be conclusive for the purposes of such determination.

9.21 Integrated Contract

This Agreement and the other Transaction Documents have been entered into by the parties hereto in consideration of all such agreements and documents, and all thereof constitute a single and integrated contract. The parties make no representations, warranties or covenants except as set forth in this Agreement, the other Transaction Documents and the items delivered pursuant thereto, and all prior agreements and negotiations are superseded thereby, unless, with respect to the parties to such agreements, such agreements are in writing and expressly provide that such agreements shall not be superseded by any other agreements.

9.22 Cooperation among Parties

Each party hereto agrees that at any time and from time to time, upon request of any other party hereto, it will, at the cost and reasonable expense of the party making such a request (except that if the Transaction Documents provide that any of the foregoing are to be at the expense of another party, such other party shall bear such expense) execute, deliver or furnish or cause to be executed, delivered or furnished, such further assurances, certificates, powers of attorney, affidavits, opinions and other documents and writings, and perform or cause to be performed such other acts and things, as such other party may deem reasonably necessary in order to carry out or further the purposes of this Participation Agreement, the other Transaction Documents and the Transaction.

9.23 Electronic Execution; Counterparts

This Agreement and any other Transaction Document may be signed by way of associating or otherwise appending an electronic signature or other facsimile signature of the applicable signatory and the words "execution", "signed", "signature", and words of like import in this Agreement and any other Transaction Document shall be deemed to include electronic signatures or other facsimile signature, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature.

This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract.

9.24 Amendment and Restatement

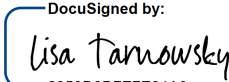
This Participation Agreement is an amendment and restatement of the Existing Participation Agreement and not a novation of the Existing Participation Agreement. For greater certainty, all Indebtedness and other Obligations under the Existing Participation Agreement and other Transaction Documents that remains outstanding on the date hereof shall, with effect from the date hereof, constitute Indebtedness or other Obligations hereunder or under the Transaction Documents, as applicable, governed by the terms hereof and shall continue to be secured by the Security Documents. Such Indebtedness and other Obligations shall be continuing in all respects, and this Participation Agreement shall not be deemed to be evidence of, or result in, a novation of such Indebtedness and other Obligations. This Participation Agreement reflects amendments to the Existing Participation Agreement and has been restated solely for the purposes of reflecting amendments to the Existing Participation Agreement which the Lessor and the Lessee have agreed upon. All references to the "Participation Agreement" or similar references contained in the documents delivered prior to the effectiveness of this Participation Agreement in connection or under the Existing Participation Agreement (including for certainty the Transaction Documents) shall be references to this Participation Agreement without further amendment to those documents. The Lessee confirms that each of the foregoing documents, including without limitation any delivered under the Existing Participation Agreement and other Transaction Documents, remains in full force and effect. For the purposes of the Security Documents, all references therein to the "Participation Agreement" shall be to this Participation Agreement, as the same may be amended, restated, supplemented or modified from time to time.

* * * * *

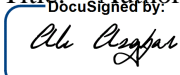
IN WITNESS WHEREOF, the parties hereto have caused this Participation Agreement to be executed and delivered all as of the date first above written.

Lessor:

MACQUARIE EQUIPMENT FINANCE LTD.

By:  _____
DocuSigned by: Lisa Tarnowsky

2950D8D7E7E846...
Name: Lisa Tarnowsky
Title: Authorized Signatory

By:  _____
DocuSigned by: Ali Asghar

5AF9988D66684F2...
Name: Ali Asghar
Title: Authorized Signatory

Lessee:

IROQUOIS FALLS POWER CORP.

By:  _____

Name: Todd Shortt
Title: President and CEO

Guarantors

VALIDUS POWER CORP.

By: 

Name: Todd Shortt
Title: President and CEO

BAY POWER CORP.

By: 

Name: Todd Shortt
Title: President and CEO

KAP POWER CORP.

By: 

Name: Todd Shortt
Title: President and CEO

**KINGSTON COGEN LIMITED
PARTNERSHIP, by its general partner,
KINGSTON COGEN GP INC.**

By: 

Name: Todd Shortt
Title: President and CEO

KINGSTON COGEN GP INC.

By: 

Name: Todd Shortt
Title: President and CEO

**EXHIBIT A
TO
PARTICIPATION AGREEMENT**

BILL OF SALE FORM

BILL OF SALE

Dated April 7, 2022

from

**IROQUOIS FALLS POWER CORP.,
("Seller")**

to

**MACQUARIE EQUIPMENT FINANCE LTD.,
("Purchaser")**

Relating to Lease of Combined Cycle Turbines

Iroquois Falls Cogeneration Station
Located in Iroquois Falls, Ontario, Canada

BILL OF SALE

This Bill of Sale is made this 7th day of April, 2022.

BY:

IROQUOIS FALLS POWER CORP., a corporation organized under the laws of the Province of Ontario, Canada (“**Seller**”)

IN FAVOUR OF:

MACQUARAIE EQUIPEMNT FINANCE LIMITED, a corporation organized under the laws of Canada (“**Purchaser**”)

WITNESSETH THAT:

WHEREAS Seller and Purchaser are parties to the participation agreement dated as of April 7, 2022 (the “**Participation Agreement**”);

AND WHEREAS the Participation Agreement provides that it is a condition precedent to the obligations of Purchaser under the Participation Agreement that Seller provide to Purchaser this Bill of Sale covering the matters specified herein;

AND WHEREAS Seller intends that the Leased Property be severed from the Land and be and remain personal property notwithstanding the manner in which it may be attached or affixed to the Land;

Unless otherwise defined herein, capitalized terms used herein have the meanings ascribed thereto in the Participation Agreement.

NOW THEREFORE, for the consideration provided for in the Participation Agreement and other good and valuable consideration, receipt of which is acknowledged by Seller, Seller hereby bargains, sells, transfers, conveys, assigns and quitclaims to Purchaser:

1. all of Seller’s right, title and interest in and to the Leased Property, including legal and beneficial ownership thereof (the “**Transferred Property**”), free and clear of all Liens; and
2. to the fullest extent assignable, all of Seller’s right, title and interest in, to and under, any and all warranties of and other claims against dealers, manufacturers, vendors, contractors and subcontractors relating to the construction, use and maintenance of the Leased Property or any portion thereof now existing or hereafter acquired (excluding from such assignment any such warranties and claims in respect of any property title to which, in accordance with the Lease, is vested in Seller) (collectively, the “**Transferred Rights**”; the Transferred Property and the Transferred Rights are collectively referred to herein as the “**Transferred Assets**”).

TO HAVE AND TO HOLD the Transferred Assets, and every item and part thereof, with the appurtenances and all the right, title and interest of Seller thereto and therein, as aforesaid, unto and to the use of Purchaser.

AND Seller warrants to Purchaser that it has good and valid ownership of the Transferred Assets and good and lawful right to sell the same, and the Transferred Assets are free and clear of all Liens, and

this Bill of Sale is valid and effective to transfer, and does transfer, good and valid ownership of the Transferred Assets to Purchaser, free and clear of all Liens.

AND Seller certifies that no filings or recordings are necessary to validly and effectively convey to Purchaser good and valid ownership of the Transferred Assets in all cases free and clear of all Liens.

AND Seller covenants and agrees that it will defend Purchaser's ownership interest in the Transferred Assets against the claims and demands of all Persons whomsoever.

AND Seller warrants that it is the Seller's fullest intention that the Leased Property, to the maximum extent permitted by applicable law, is severed-in-fact and shall be and remain severed from the real property constituting the Lands and even if physically attached thereto, shall retain its character as and shall constitute personal property with respect to the rights of all Persons whomsoever and shall not be property of Seller, regardless of the manner or degree of installation, annexation or affixation of such improvements on the Land.

AND MOREOVER, Seller shall, from time to time and at all times hereafter, upon every reasonable request of Purchaser, make, do and execute or cause or procure to be made, done and executed without further consideration all such further acts, deeds and assurances for the effectual assigning and assuring of the Transferred Assets unto Purchaser, according to the true intent and meaning of these presents.

THIS Bill of Sale shall be governed by and construed in accordance with the laws in force in the Province of Ontario and shall be binding upon Seller and shall enure to the benefit of Purchaser and their respective successors and assigns, as the case may be.

-Signature Page Follows-

IN WITNESS WHEREOF the Seller has executed this Bill of Sale as of the date and year first above written.

IROQUOIS FALLS POWER CORP.

By: _____
Name:
Title:

**SCHEDULE 1
TO
PARTICIPATION AGREEMENT**

LESSOR'S COST

Lessor:

Lessor's Cost

MACQUARIE EQUIPMENT
FINANCE LTD.

\$45,000,000

**SCHEDULE 2
TO
PARTICIPATION AGREEMENT**

ADDRESSES FOR NOTICE AND PAYMENT

1. Lessor:

Notice:

Macquarie Equipment Finance Ltd.
181 Bay Street, Toronto, Ontario M5J 2T3 Canada

Attention: Legal Department, Specialized and Asset Finance Division
Email: nasr.jeries@macquarie.com, Joshua.Stevens@macquarie.com and
ronnie.alam@macquarie.com

With a copy to:

Torys LLP
79 Wellington St W #3300, Toronto, ON M5K 1N2

Attention: Scott Kraag
Email: skraag@torys.com

2. Lessee:

Notice:

Iroquois Falls Power Corp.
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON
Canada M5J 2R2

Attention: Todd Shortt
Email: todd.shortt@validuspower.com

With a copy to:

Attention: General Counsel
Email: legal@validuspower.com

**SCHEDULE 3²
TO
PARTICIPATION AGREEMENT**

LAND AND SITE DESCRIPTIONS

Iroquois Falls Land:

PIN 65337-0369(LT)

PCL 9012 SEC NEC SRO; PT LT 11 CON 5 TEEFY PT 1, 6R6645 T/W PT 1 TO 4, 6R6644 & 1 TO 6, 6R6626 AS IN C447208 AMENDED BY C470222 T/W PT 2 TO 7 & 13 TO 16, 6R6645 AS IN C447209 AMENDED BY C470223 T/W PT 2, 6 TO 12, 6R6645 AS IN C447211 AMENDED BY C470225 T/W PT 17 TO 19, 6R6645 AS IN C447212 AMENDED BY C470226 T/W PT 1, 6R6898 AS IN C469024 AMENDED BY C470227 T/W PT 4 & 5, 6R6896 AS IN C469025 AMENDED BY C470228 T/W C469026 AMENDED BY C470229 T/W PT 1 & 2, 6R6853 AS IN C474890 AMENDED BY C521180 ; TOWN OF IROQUOIS FALLS

PIN 65337-0456(LT)

SURFACE RIGHTS ONLY; PT S 1/2 LT 12 CON 3 TEEFY PT 1, 6R5962 EXCEPT PT 1, 6R8283 S/T PT 2, 6R6832 AS IN C469070 AMENDED BY C470222, C470223, C470224, C470225, C470226, C470227, C470228, C470229 & C470230; DISTRICT OF COCHRANE

PIN 65337-0458(LT)

SURFACE RIGHTS ONLY; S 1/2 LT 12 CON 3 TEEFY EXCEPT PT 1, 6R5962, PTS 2 & 3, 6R8283 & PT 1, 6R8318, S/T PT 1, 3 & 4, 6R6832 AS IN C469070 AMENDED BY C470222, C470223, C470224, C470225, C470226, C470227, C470228, C470229 & C470230; DISTRICT OF COCHRANE

PIN 65337-0372(LT)

PCL 9070 SEC NEC; LOCATION RY 357 TEEFY COMPOSED OF THOSE PARTS OF THE BED OF THE ABITIBI RIVER LYING IN FRONT OF LT 11, CON 5, PT 2, 6R6853; DISTRICT OF COCHRANE

PIN 65337-0373(LT)

PCL 9070 SEC NEC; LOCATION RY 357 TEEFY COMPOSED OF THOSE PARTS OF THE BED OF THE ABITIBI RIVER LYING IN FRONT OF LT 11, CON 3, PT 1, 6R6853; DISTRICT OF COCHRANE

Kapuskasing Land:

PIN 65095-0051(LT)

² NTD: All disclosure schedules to be updated by Validus to reflect Kingston and new Closing Date.

PCL 12700 SEC CC; PT LT 24 CON 11 O'BRIEN PT 2, 6R6749 T/W PT 3, CR548 AS IN C478024; TOWN OF KAPUSKASING

PIN 65095-0052(LT)

PCL 12927 SEC CC; PT LT 23 CON 10 O'BRIEN PT 1, 6R5800 T/W PARTS 1 & 2, 6R6731 AS IN C452347 T/W PT 3, 6R6731 AS IN C451853 T/W PARTS 4 & 5, 6R6731 AS

IN C451851 T/W PARTS 3 TO 7, 6R6749 AS IN C453701 T/W PT 3, CR548 AS IN C478024; TOWN OF KAPUSKASING

North Bay Land:

PIN 49127-0021(LT)

PCL 18734 SEC WF; PT LT 21 CON 2 WIDDIFIELD PT 7 & 8, 36R9382 T/W PT 1, 36R9384 AS IN LT332823, PT 1, 36R9381 AS IN LT332824, PT 2, 36R9381 AS IN LT332826, PT 2, 36R9384 AS IN LT332902, PT 3 & 9, 36R9381 AS IN LT332885, PT 7 & 8, 36R9381 AS IN LT333337, PT 4-6, 36R9381 AS IN LT339664, PT 2, 36R9382 & PT 1, 2, 3 & 5, 36R10374 AS IN LT366707, PT 1-3, 36R10375 AS IN LT366710; T/W LT366708 & LT366709; NORTH BAY; DISTRICT OF NIPISSING

Kingston Land:

Fee Simple/Owned Lands:

1. **PIN 45132-0375(LT)**

PT LT 23 CON 1 ERNESTOWN PT 1 29R6737,; TOGETHER WITH AN EASEMENT AS IN LA69824; TOGETHER WITH AN EASEMENT AS IN LA208637; TOGETHER WITH AN EASEMENT AS IN LA208644; TOGETHER WITH AN EASEMENT AS IN LA210426; TOGETHER WITH AN EASEMENT AS IN LA210734; TOGETHER WITH AN EASEMENT AS IN LA210736; TOGETHER WITH AN EASEMENT AS IN LA210738; TOGETHER WITH AN EASEMENT OVER PTS 1 - 49 29R9849 UNTIL 2025/12/31 AS IN LX37160; TOGETHER WITH AN EASEMENT OVER PTS 1,3,4 29R6966 UNTIL 2025/12/31 AS IN LX37161; TOGETHER WITH AN EASEMENT OVER PTS 1 - 50 29R9850 UNTIL 2025/12/31 AS IN LX37162; TOGETHER WITH AN EASEMENT OVER PTS 1 - 11 29R9845 UNTIL 2030/12/31 AS IN LX37163; TOGETHER WITH AN EASEMENT OVER PTS 1 - 71 29R9851 UNTIL 2025/12/31 AS IN LX37164; TOGETHER WITH AN EASEMENT OVER PTS 1 - 14 29R9846 UNTIL 2025/12/31 AS IN LX37165; TOGETHER WITH AN EASEMENT OVER PTS 1 - 16 29R9847 AS IN LX37166; TOGETHER WITH AN EASEMENT OVER PTS 1 - 7 29R6860, PTS 1 & 2 29R7373, PTS 1 - 13 29R7650 AS IN LX37167; LOYALIST TOWNSHIP

Leasehold Lands:

1. **PIN 45132-0377(LT)(Leasehold PIN)**

PT LT 24 CON BROKEN FRONT ERNESTOWN, PTS 1 TO 12 29R9843; T/W LA69824;; TOGETHER WITH AN EASEMENT OVER PTS 1 - 49 29R9849 UNTIL 2025/12/31 AS IN LX37160; TOGETHER WITH AN EASEMENT OVER PTS 1,3,4 29R6966 UNTIL

2025/12/31 AS IN LX37161; TOGETHER WITH AN EASEMENT OVER PTS 1 - 50 29R9850 UNTIL 2025/12/31 AS IN LX37162; TOGETHER WITH AN EASEMENT OVER PTS 1 - 11 29R9845 UNTIL 2030/12/31 AS IN LX37163; TOGETHER WITH AN EASEMENT OVER PTS 1 - 4 29R9844 AS IN LX37168; TOGETHER WITH AN EASEMENT OVER PTS 1 - 12 29R9843 AS IN LX37169; SUBJECT TO AN EASEMENT OVER PTS 1 - 12 29R9843 IN FAVOUR OF LA285539 (PARCELS 1,2,3); EXCEPT PTS 1 - 12 29R9843 & LA285539 (PARCEL 4) AS IN LX37170; LOYALIST TOWNSHIP

- a. Pursuant to Instrument No. LX36982 registered September 28, 2011 being a Notice of Lease over PART OF LOT 24, BROKEN FRONT CONCESSION ERNESTOWN, DESIGNATED AS PARTS 1 TO 12, PLAN 29R9843; LOYALIST TOWNSHIP, COUNTY OF LENNOX AND ADDINGTON registered against Fee Simple PIN 45132-0378(LT)

Sublease Interest:

1. **PIN 45132-0362(LT)**

LOC. CL14116, BEING PT OF THE BED OF LAKE ONTARIO IN FRONT OF LT 24, BROKEN FRONT CON. ERNESTOWN, PT 1 29R9227; LOYALIST

- a. Pursuant to Instrument No. LX37609 registered on October 26, 2011 being an Application General (Sublease).

Easement Interests:

1. **PIN 45132-0379(LT):**

PT LT 23, 24 & 25 CON 1, PT LT 23, 24 & 25 CON BROKEN FRONT, PT RDAL BTN CON 1 & CON BROKEN FRONT CLOSED BY LA45719 AS IN LA285539 ERNESTOWN (PARCELS 1,2 & 3); EXCEPT PTS 1 TO 12 29R9843; S/T LA58484, LA184396; T/W LA69824; SUBJECT TO AN EASEMENT OVER PTS 1 - 49 29R9849 IN FAVOUR OF PT 1 29R6737 & PTS 1 - 12 29R9843 UNTIL 2025/12/31 AS IN LX37160; SUBJECT TO AN EASEMENT OVER PTS 1,3,4 29R6966 IN FAVOUR OF PT 1 29R6737 & PTS 1 - 12 29R9843 UNTIL 2025/12/31 AS IN LX37161; SUBJECT TO AN EASEMENT OVER PTS 1 - 50 29R9850 IN FAVOUR OF PT 1 29R6737 & PTS 1 - 12 29R9843 UNTIL 2025/12/31 AS IN LX37162; SUBJECT TO AN EASEMENT OVER PTS 1 - 11 29R9845 IN FAVOUR OF PT 1 29R6737 & PTS 1 - 12 29R9843 UNTIL 2030/12/31 AS IN LX37163; SUBJECT TO AN EASEMENT OVER PTS 1 - 71 29R9851 IN FAVOUR OF PT 1 29R6737 UNTIL 2025/12/31 AS IN LX37164; SUBJECT TO AN EASEMENT OVER PTS 1 - 14 29R9846 IN FAVOUR OF PT 1 29R6737 UNTIL 2025/12/31 AS IN LX37165; SUBJECT TO AN EASEMENT OVER PTS 1 - 16 29R9847 IN FAVOUR OF PT 1 29R6737 AS IN LX37166; SUBJECT TO AN EASEMENT OVER PTS 1 - 7 29R6860, PTS 1 & 2 29R7373, PTS 1 - 13 29R7650 IN FAVOUR OF PT 1 29R6737 AS IN LX37167; SUBJECT TO AN EASEMENT OVER PTS 1 - 4 29R9844 IN FAVOUR OF PTS 1 - 12 29R9843 AS IN LX37168; TOGETHER WITH AN EASEMENT OVER PTS 1 - 12 29R9843 AS IN LX37170; SUBJECT TO AN EASEMENT OVER PARTS 1 TO 15 PLAN 29R10514 IN FAVOUR OF PT LT 35 CON 1 ERNESTOWN AS IN

LA44574 AS IN LX80512; SUBJECT TO AN EASEMENT IN GROSS OVER PARTS 15 TO 17 PLAN 29R10514 AS IN LX80513; LOYALIST TOWNSHIP

- a. Pursuant to Instrument No. LX37160 registered October 4, 2011 being a Fire Water Line over PARTS OF LOTS 23, 24 AND 25, CONCESSION 1 ERNESTOWN; PART OF LOT 24, BROKEN FRONT CONCESSION ERNESTOWN; PART OF THE ROAD ALLOWANCE BETWEEN SAID CONCESSION 1 AND THE BROKEN FRONT CONCESSION (CLOSED BY BY-LAW 322-1966 REGISTERED AS LA45719) ERNESTOWN, DESIGNATED AS PARTS 1 TO 49, PLAN 29R9849; LOYALIST TOWNSHIP, COUNTY OF LENNOX AND ADDINGTON
- b. Pursuant to Instrument No. LX37161 registered October 4, 2011 being the Process Waste Water Easement over PARTS OF LOTS 23 AND 24, CONCESSION 1 ERNESTOWN; PART OF LOT 24, BROKEN FRONT CONCESSION ERNESTOWN; PART OF THE ROAD ALLOWANCE BETWEEN SAID CONCESSION 1 AND THE BROKEN FRONT CONCESSION (CLOSED BY BY- LAW 322-1966 REGISTERED AS LA45719) ERNESTOWN, DESIGNATED AS PARTS 1, 3 AND 4, PLAN 29R6966, AND PARTS 1 TO 26, PLAN 29R9848; LOYALIST TOWNSHIP, COUNTY OF LENNOX AND ADDINGTON
- c. Pursuant to Instrument No. LX37162 registered October 4, 2011 being an Additional Transmission Line Easement over PARTS OF LOTS 23 AND 24, CONCESSION 1 ERNESTOWN; PART OF LOT 24, BROKEN FRONT CONCESSION ERNESTOWN; PART OF THE ROAD ALLOWANCE BETWEEN SAID CONCESSION 1 AND THE BROKEN FRONT CONCESSION (CLOSED BY BY-LAW 322-1966 REGISTERED AS LA45719) ERNESTOWN, LOYALIST TOWNSHIP, COUNTY OF LENNOX AND ADDINGTON DESIGNATED AS: Firstly: PARTS 1 TO 17, PLAN 29R9850 [115kv electricity transmissions lines]
Secondly: PARTS 17 TO 26, 39 TO 45, AND 47 TO 50, PLAN 29R9850 [13.8kv electricity transmissions lines]
Thirdly: PARTS 26 TO 38, AND 46 TO 50, PLAN 29R9850 [electrical and/or telemetry lines]
- d. Pursuant to Instrument No. LX37163 registered October 4, 2011 being a Corridor Easement over PARTS OF LOTS 23 AND 24, CONCESSION 1 ERNESTOWN; PART OF LOT 24, BROKEN FRONT CONCESSION ERNESTOWN; PART OF THE ROAD ALLOWANCE BETWEEN SAID CONCESSION 1 AND THE BROKEN FRONT CONCESSION (CLOSED BY BY- LAW 322-1966 REGISTERED AS LA45719) ERNESTOWN, DESIGNATED AS PARTS 1 TO 11, PLAN 29R9845; LOYALIST TOWNSHIP, COUNTY OF LENNOX AND ADDINGTON
- e. Pursuant to Instrument No. LX37164 registered October 4, 2011 being a Maintenance Easement over PARTS OF LOTS 23, 24 AND 25,

CONCESSION 1 ERNESTOWN; PART OF LOT 25, BROKEN FRONT CONCESSION ERNESTOWN; PART OF THE ROAD ALLOWANCE BETWEEN SAID CONCESSION 1 AND THE BROKEN FRONT CONCESSION (CLOSED BY BY-LAW 322-1966 REGISTERED AS LA45719) ERNESTOWN, DESIGNATED AS PARTS 1 TO 71, PLAN 29R9851; LOYALIST TOWNSHIP, COUNTY OF LENNOX AND ADDINGTON

- f. Pursuant to Instrument No. LX37165 registered October 4, 2011 being a Stormwater Line Easement over PARTS OF LOTS 23 AND 24, CONCESSION 1 ERNESTOWN, DESIGNATED AS PARTS 1 TO 14, PLAN 29R9846; LOYALIST TOWNSHIP, COUNTY OF LENNOX AND ADDINGTON
 - g. Pursuant to Instrument No. LX37166 registered October 4, 2011 being the Taylor-Kidd Utilities Easement over PARTS OF LOTS 23 AND 24, CONCESSION 1 ERNESTOWN, DESIGNATED AS PARTS 1 TO 16, PLAN 29R9847; LOYALIST TOWNSHIP, COUNTY OF LENNOX AND ADDINGTON
 - h. Pursuant to Instrument No. LX37167 registered October 4, 2011 being a Transmission Line Easement over PARTS OF LOTS 23, 24 AND 25, CONCESSION 1 ERNESTOWN, LOYALIST TOWNSHIP, COUNTY OF LENNOX AND ADDINGTON, DESIGNATED AS:
Firstly: PARTS 1, 3, 4, 5 AND 6, PLAN 29R6860, AND PART 2, PLAN 29R7373 [Main Easement]
Secondly: PARTS 2 AND 7, PLAN 29R6860, PART 1, PLAN 29R7373 [Air Easement]
Thirdly: PARTS 1 TO 13, PLAN 29R7650 [Back-up Power]
 - i. Pursuant to Instrument No. LX37168 registered October 4, 2011 being the Pump House Road Access Easement over PART OF LOT 24, CONCESSION 1 ERNESTOWN; PARTS OF LOTS 23 AND 24, BROKEN FRONT CONCESSION ERNESTOWN; PART OF THE ROAD ALLOWANCE BETWEEN SAID CONCESSION 1 AND THE BROKEN FRONT CONCESSION (CLOSED BY BY-LAW 322-1966 REGISTERED AS LA45719) ERNESTOWN, DESIGNATED AS PARTS 1 TO 4, PLAN 29R9844; LOYALIST TOWNSHIP, COUNTY OF LENNOX AND ADDINGTON
2. **PIN 45312-0373(LT)**
PT LT 23-24 CON BROKEN FRONT ERNESTOWN; AS IN LA285539 (PARCEL 4); TOGETHER WITH AN EASEMENT OVER PTS 1 - 12 29R9843 AS IN LX37170; SUBJECT TO AN EASEMENT OVER PTS 23 & 24 29R6889 IN FAVOUR OF PTS 1 - 12 29R9843 AS IN LX37169; LOYALIST TOWNSHIP

- a. Pursuant to Instrument No. LX37169 registered October 4, 2011 being the Intake-Outfall Easement over PART OF LOT 24, BROKEN FRONT CONCESSION ERNESTOWN, DESIGNATED AS PARTS 23 AND 24, PLAN 29R6889; LOYALIST TOWNSHIP, COUNTY OF LENNOX AND ADDINGTON

**SCHEDULE 4
TO
PARTICIPATION AGREEMENT**

PENSION PLANS

1. Group retirement savings plan and policy issued by The Canada Life Assurance Company (Canada Life).
 - a. Eligible employee class: employees at the Project Sites (and other locations).
 - b. Employer Contributions: The employer will match 100% of the member's regular contribution, up to an annual maximum of \$10,000. Collection of payroll deduction amounts is to be captured by Canada Life at the initial plan launch only. Payroll change functionality to be turned off after initial plan launch. Employees will provide payroll deduction changes directly to the Parent.

**SCHEDULE 5
TO
PARTICIPATION AGREEMENT**

INSTRUMENTS FOR REGISTRATION

A. Ontario Land Titles Office Registrations

1. Debenture granted by Lessee in favour of Lessor on the Iroquois Falls Land
2. Debenture granted by Kapuskasing Subsidiary in favour of Lessor on the Kapuskasing Land
3. Debenture granted by North Bay Subsidiary in favour of Lessor on the North Bay Land
4. Debenture granted by Kingston Subsidiary in favour of Lessor on the Kingston Land

B. Personal Property Security Act (Ontario) Registrations

1. Financing Statement in favour of Lessor respecting Lease
2. Financing Statements in favour of Lessor respecting the Security Documents

**SCHEDULE 6
TO
PARTICIPATION AGREEMENT**

AUTHORIZATIONS AND GOVERNMENT ACTIONS

PART A – OBTAINED MATERIAL AUTHORIZATIONS

See below and table below.

Iroquois Falls Project

1. Transmission Connection Agreement between IFPC and Hydro One Networks Inc. dated October 23, 2002. Letter from Transport Canada confirming compliance with Air Navigation Standards for Stacks to Facility dated July 25, 1994
2. Certificate of Approval – Air issued by the Ministry of Environment.
3. Certificate of Approval – Industrial Sewage issued by the Ministry of Environment.
4. Permit to Take Water dated March 15, 2016
5. Hazardous Waste Information Network Registration (HWIN) # ON1524602.
6. Plant Pressure Vessels Approvals from the TSSA.
7. Generator Licence issued by the Ontario Energy Board to IFPC to own the Iroquois Falls Facility
8. IESO Registration as a Generator. – Generator, Capacity Market, Capacity Market Participant
9. Certificates of Operating Engineers & Operators. - TSSA
10. Market Participation Agreement between Lessee and IESO
11. Facility Registrations and Metering Registrations with the IESO

North Bay Project

12. Electricity Generation Licence from the OEB authorizing ownership and operation of the generation facility
13. Electricity Retailer Licence from the OEB authorizing sale of electricity directly to a large consumer
14. Transmission Connection Agreement with Hydro One.

Kapuskasing Project

15. Electricity Generation Licence from the OEB authorizing ownership and operation of the generation facility

16. Electricity Retailer Licence from the OEB authorizing sale of electricity directly to a large consumer
17. Transmission Connection Agreement with Hydro One.

Kingston Project

18. See table below

PART B – IN PROCESS MATERIAL AUTHORIZATIONS

Iroquois Falls Project

19. OEB Generator Licence to be issued by the Ontario Energy Board to IFPC to operate the Facility.
20. Electricity Retailer Licence from the OEB authorizing sale of electricity directly to a large consumer

North Bay Project

None.

Kapuskasing Project

None.

Kingston Project

Electricity Retailer Licence from the OEB authorizing sale of electricity

PART C – OTHER AUTHORIZATIONS AND GOVERNMENT ACTION

Iroquois Falls Project

None.

North Bay Project

None.

Kapuskasing Project

21. Parent
 - a. - Letter of No Review from the OEB in response to Notices of Proposal under Section 81 of the Ontario Energy Board Act, 1998 OEB File Nos. EB-2022-0009 and EB-2022-0010 (MAADs application)

- b. Letter of No Review from the OEB in response to Notice of Proposal under Section 81 of the *Ontario Energy Board Act, 1998* OEB File No. EB-2022-0076 (construction of DX line)

22. Kap Subsidiary

- a. Letter of No Review from the OEB in response to Notice of Proposal under Section 81 of the Ontario Energy Board Act, 1998 OEB File No. EB-2022-0077 (**construction of DX line**)

23. Hosting: Hosting will obtain Electricity Wholesaler Licence from the OEB (for the offtake customer) authorizing purchase of electricity directly from a generator

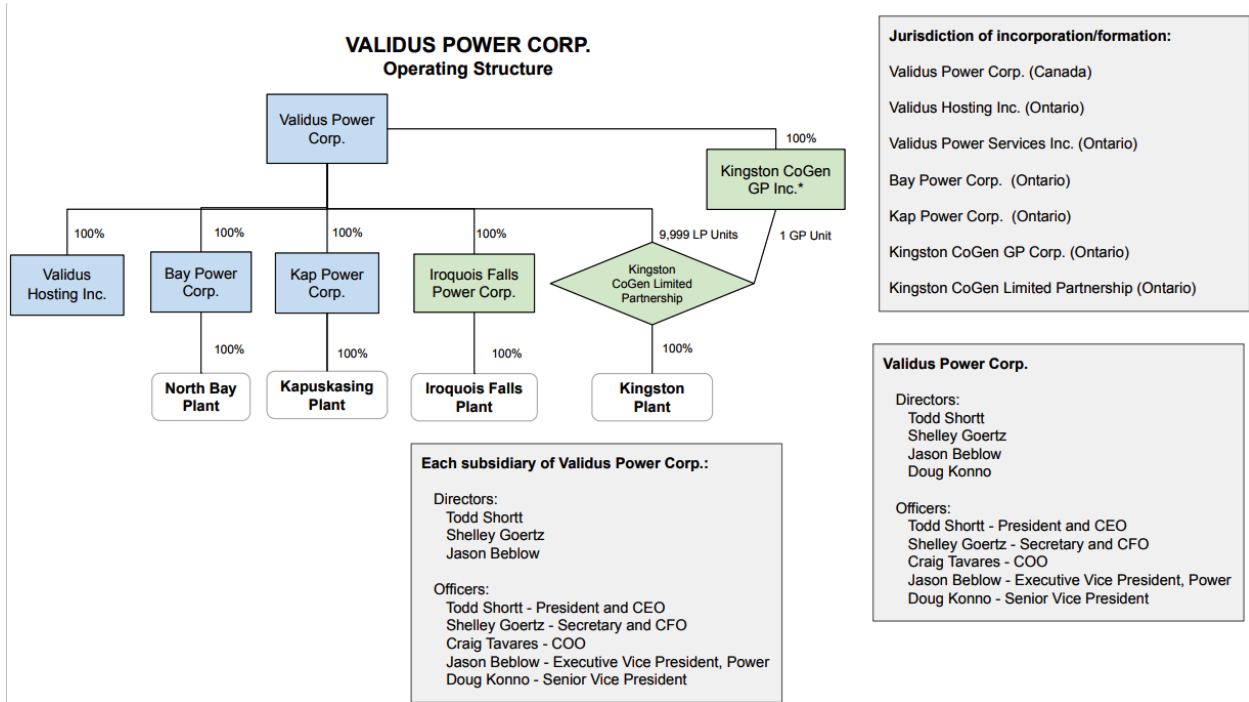
Kingston Project

N/A

Site	Name	Authorizing Body	Legislation/ Regulation	Entity on Permit	Status (Applied or Obtained)	Permit Number	Issue Date	Expiry Date	Notes
North Bay	Sign Permit	Ministry of Transportation	Public Transportation and Highway Improvement Act	Atlantic Power	Obtained				Need to update
North Bay	Permit to Take Water	Ministry of the Environment, Conservation and Parks	Ontario Water Resources Act	N/A	N/A	N/A	N/A	N/A	Did not re-apply when sold from Atlantic. Don't need for less than 50,000 L/day
North Bay	Electricity Generation License	Ontario Energy Board	Ontario Energy Board Act, 1998	Bay Power Corp	Obtained	EG-2021-0295	2/10/2022	2/9/2042	
North Bay	Electricity Retailer License	Ontario Energy Board	Ontario Energy Board Act, 1998	Bay Power Corp	Obtained	ER-2021-0329	2/10/2022	2/9/2027	
North Bay	Environmental Compliance Approval for Air	Ministry of the Environment, Conservation and Parks	Environmental Protection Act	Atlantic Power GP Inc.	Obtained	7326-9XHGKX	8/7/2015	N/A	MECP verifying if administrative amendment for change of ownership was submitted
North Bay	Environmental Compliance Approval for Industrial Sewage	Ministry of the Environment, Conservation and Parks	Ontario Water Resources Act	TransCanada PipeLines Limited	Obtained	4-0014-92-957	2/9/1995	N/A	MECP verifying if administrative amendment for change of ownership was submitted
North Bay	Radio License	Innovation, Science and Economic Development Canada	Radiocommunication Act			010346249-001	5/25/1998	Annually on March 31	Base station
						010550799-01			Mobile radios
North Bay	Waste Generation License	Ministry of the Environment, Conservation and Parks	Reg 347 - Hazardous Waste Charge Initiative	Bay Power Corp	Obtained	ON9250417	N/A	N/A	Annual renewal
North Bay	Plant Registration	Technical Standards and Safety Authority	Technical Standards and Safety Act, 2000		Applied	R-8350		N/A	Waiting for certificate with new name.
Kapuskasing	Permit to Take Water	Ministry of the Environment, Conservation and Parks	Ontario Water Resources Act	N/A	N/A	N/A	N/A	N/A	Did not re-apply when sold from Atlantic. Don't need for less than 50,000 L/day
Kapuskasing	Electricity Generation License	Ontario Energy Board	Ontario Energy Board Act, 1998	Kap Power Corp	Obtained	EG-2021-0298	2/10/2022	2/9/2042	
Kapuskasing	Electricity Retailer License	Ontario Energy Board	Ontario Energy Board Act, 1998	Kap Power Corp	Obtained	ER-2021-0331	2/10/2022	2/9/2027	
Kapuskasing	Environmental Compliance Approval for Air	Ministry of the Environment, Conservation and Parks	Environmental Protection Act	Atlantic Power GP Inc.	Obtained	7978-A4RRJF	12/17/2015	N/A	MECP verifying if administrative amendment for change of ownership was submitted
Kapuskasing	Environmental Compliance Approval for Industrial Sewage	Ministry of the Environment, Conservation and Parks	Ontario Water Resources Act	TransCanada PipeLines Limited	Obtained	4-0015-92-957	9/7/1995	N/A	MECP verifying if administrative amendment for change of ownership was submitted
Kapuskasing	Radio License	Innovation, Science and Economic Development Canada	Radiocommunication Act		Obtained	010608243-001	4/1/2006	Annually on March 31	Mobile radios
						010413777-001	4/1/2006	Annually on March 31	Base station
Kapuskasing	Waste Generation License	Ministry of the Environment, Conservation and Parks	Reg 347 - Hazardous Waste Charge Initiative	Kap Power Corp	Obtained	ON9719652	N/A	N/A	Annual renewal
Kapuskasing	Plant Registration	Technical Standards and Safety Authority	Technical Standards and Safety Act, 2000		Applied	R-8353		N/A	Waiting for certificate with new name.
All Ontario	Continuous Safety Services Agreement	Electrical Safety Authority	Electricity Act, 1998 Ontario Electrical Safety Code	Validus Power Corp	Obtained	N/A	N/A	N/A	Annual renewal
Iroquois Falls	Permit to Take Water	Ministry of the Environment, Conservation and Parks	Ontario Water Resources Act	Iroquois Falls Power Corp	Obtained	5368-A7ULKF	3/15/2016	3/15/2026	
Iroquois Falls	Electricity Generation License	Ontario Energy Board	Ontario Energy Board Act, 1998	Iroquois Falls Power Corp	Obtained	EG-2003-0144	10/21/2003	10/20/2023	
Iroquois Falls	Electricity Retailer License	Ontario Energy Board	Ontario Energy Board Act, 1998	Iroquois Falls Power Corp	Obtained	ER-20220304	1/26/2023	1/25/2028	
Iroquois Falls	Environmental Compliance Approval for Air	Ministry of the Environment, Conservation and Parks	Environmental Protection Act	Iroquois Falls Power Corp	Obtained	1113-5JRKTP	2/14/2003	N/A	
Iroquois Falls	Environmental Compliance Approval for Industrial Sewage	Ministry of the Environment, Conservation and Parks	Ontario Water Resources Act	Iroquois Falls Power Corp	Obtained	4818-4WHJL6	5/30/2001	N/A	
Iroquois Falls	Radio License	Innovation, Science and Economic Development Canada	Radiocommunication Act	Iroquois Falls Power Corp	Obtained	010531775-001	9/30/1996	Annually on March 31	Mobile Radios
Iroquois Falls	Waste Generation License	Ministry of the Environment, Conservation and Parks	Reg 347 - Hazardous Waste Charge Initiative	Iroquois Falls Power Corp	Obtained	ON1524602	N/A	N/A	Annual renewal
Iroquois Falls	Plant Registration	Technical Standards and Safety Authority	Technical Standards and Safety Act, 2000		Obtained	R-8345		N/A	
Kingston	Permit to Take Water	Ministry of the Environment, Conservation and Parks	Ontario Water Resources Act	NPIF Kingston Cogen Corp	Obtained	2410-B4JQMJ	11/22/2019	11/20/2029	
Kingston	Electricity Generation License	Ontario Energy Board	Ontario Energy Board Act, 1998	Kingston Cogen Limited Partnership	Obtained	EG-2003-0137	10/17/2003	10/16/2023	
Kingston	Electricity Retailer License	Ontario Energy Board	Ontario Energy Board Act, 1998	Kingston Cogen Limited Partnership	Obtained	ER-2017-0312	3/15/2018	3/14/2023	
Kingston	Environmental Compliance Approval for Air	Ministry of the Environment, Conservation and Parks	Environmental Protection Act	Kingston Cogen Limited Partnership	Obtained	8575-7VZKNV	12/1/2009	N/A	
Kingston	Environmental Compliance Approval for Industrial Sewage	Ministry of the Environment, Conservation and Parks	Ontario Water Resources Act	NPIF Kingston Cogen Corp	Obtained	9067-8W5HBH	9/11/2012	N/A	
Kingston	Radio License	Innovation, Science and Economic Development Canada	Radiocommunication Act	Kingston Cogen LP	Obtained	010345465-001		Annually on March 31	Base station
						010495233-001			Mobile radios
						010604793-001			Mobile radios
Kingston	Waste Generation License	Ministry of the Environment, Conservation and Parks	Reg 347 - Hazardous Waste Charge Initiative		Obtained	ON2118900	N/A	N/A	Annual renewal
Kingston	Plant Registration	Technical Standards and Safety Authority	Technical Standards and Safety Act, 2000	Kingston Cogen	Obtained	R-8359	6/27/2005	N/A	

**SCHEDULE 7
TO
PARTICIPATION AGREEMENT**

OWNERSHIP STRUCTURE



	Jurisdiction of Organization/Formation	Chief Executive Office / Registered Office / Principal Place of Business	Location of Collateral
Iroquois Falls Power Corp.	Ontario	1 Northwest Industrial Rd, Iroquois Falls, ON P0K 1E0	Ontario
Bay Power Corp.	Ontario	Registered Office: 2300-100 Wellington Street West, Toronto ON, M5J 2R2	Ontario

		Facility Address: 4001 Highway 11, North Bay ON P1B 8G4	
Kap Power Corp.	Ontario	Registered Office: 2300-100 Wellington Street West, Toronto ON, M5j 2r2 Facility Address: 47 Gough Road Kapuskasing, ON P5N 2X7	Ontario
Kingston CoGen Limited Partnership	Ontario	Registered Office: 100 Wellington Street West, 2300, Toronto, Ontario, Canada, M5J 2R2 Facility Address: 100 Wellington St W TD West Tower Suite 2300, P.O. Box 155 Toronto, ON, M5K 1H1	Ontario

**SCHEDULE 8
TO
PARTICIPATION AGREEMENT**

ENVIRONMENTAL MATTERS

None.

**SCHEDULE 9
TO
PARTICIPATION AGREEMENT**

Intentionally Deleted

**SCHEDULE 10
TO
PARTICIPATION AGREEMENT**

INTENTIONALLY DELETED

**SCHEDULE 11
TO
PARTICIPATION AGREEMENT**

INTENTIONALLY DELETED

**SCHEDULE 12
TO
PARTICIPATION AGREEMENT**

INTENTIONALLY DELETED

**APPENDIX A
TO
PARTICIPATION AGREEMENT**

DEFINITIONS

The following terms shall have the following meanings for all purposes of the Basic Documents referred to below, unless otherwise defined in a Basic Document or the context thereof otherwise requires.

“Accounting Principles” means, with respect to the Lessee, GAAP and with respect to any other Person, GAAP or the generally accepted accounting principles and standards (as may be modified from time to time by the organization promulgating such principles or standards in the applicable jurisdiction for such Person) then in effect in such Person’s jurisdiction of incorporation or formation or, if such Person is a Subsidiary of another Person (the **“Applicable Parent”**) and does not prepare financials independently of such Applicable Parent, the jurisdiction of incorporation or formation of the Applicable Parent, as the case may be.

“Acknowledgement, Confirmation and Amendment Agreement” means the acknowledgement, confirmation and amendment agreement dated as of the Closing Date by the Lessee and each Guarantor (other than the Kingston Subsidiary) for the benefit of the Lessor.

“Additional Material Project Document” means (A) any Replacement Agreement, any power purchase agreement (whether public or private), any electricity power agreement, any operating and/or maintenance agreements, any connection or interconnection agreements, any agreements related to waste disposal, any agreements related to waste disposal or other waste arrangements, any agreement for the provision of hosting or co-location arrangements, any transmission agreements (or related), any gas arrangements (including gas transportation or supply contracts), any Real Property Interests, any leases or licenses or in each case, entered into at any time (prior to and after the Closing Date) by (I) an Obligor or (II) Hosting in connection with or with any reliance upon a Project in respect of which Lessor holds a Security Interest, in each case, from time to time, or (B) any additional Project Document (a) if the aggregate cost or value of goods, services, equipment and property to be acquired or sold by the Obligor pursuant thereto could reasonably be expected to exceed (i) \$250,000 (or the equivalent) in the aggregate in any single fiscal year or (ii) \$250,000 (or the equivalent) in the aggregate, (b) if the aggregate amount of termination fees or liquidated damages that could be incurred or received by such Person in respect of such Additional Material Project Document in any single calendar year could reasonably be expected to exceed (i) \$250,000 (or the equivalent) in the aggregate in any single calendar year or (ii) \$250,000 (or the equivalent) in the aggregate, or (c) if the goods, services, equipment or property to be provided thereunder to or by such Person or for the any Project are such that the absence thereof could reasonably be expected to result in or cause a Material Adverse Effect.

“Affiliate” of any Person means any other Person which directly or indirectly Controls, or is Controlled by, or is under common Control with, such Person.

“After-Tax Basis” means, with respect to any indemnity payment to be received by any Person, the amount of such payment (the base payment) supplemented by a further payment (the additional payment) to that Person so that the sum of the base payment plus the additional payment shall, after deduction of the amount of all federal and provincial income taxes, if any, required to be paid by such Person in respect of the receipt or accrual of the base payment and the additional payment (taking into account any reduction in such income taxes resulting from tax benefits realized or to be realized by the recipient as a result of the payment or the event giving rise to the payment), be equal to the amount required to be received. Such calculations shall be made on the basis of the highest applicable federal and provincial

income tax rates applicable to the corporation or entity for whom the calculation is being made for all relevant periods in effect for the year of the payment, and shall take into account the deductibility of provincial income taxes for federal income tax purposes.

“**Anti-Corruption Laws**” means the *Corruption of Foreign Public Officials Act* (Canada) and all laws, rules and regulations of any jurisdiction applicable to Lessee or any of its Affiliates from time to time concerning or relating to bribery or corruption.

“**Anti-Money Laundering Laws**” means any law relating to money laundering or terrorism, including the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada), the *Criminal Code* (Canada), Executive Order No. 13224, and in each case the regulations promulgated thereunder.

“**Applicable Law**” means with respect to any Person or property and as the context may require, all laws, including Canadian common law, Canadian federal, provincial, state, municipal and local banking, securities, personal and real property security, water, energy, investment, doing business, property ownership, land use and zoning, sanitary and occupational health and safety laws, Environmental Laws, treaties, statutes, ordinances, by-laws, judgments, decrees, injunctions, writs and orders of any Government Body (to the extent the Person or property is subject to the jurisdiction of such Government Body) and rules, regulations, policies and guidelines (having the force of law), directives, interpretations, approvals, licenses, exemptions and permits of any Government Body, in each case applicable from time to time to such Person or property within the jurisdiction of such Government Body.

“**Assignment of Material Project Documents**” means the assignment of material project documents dated as of the Original Closing Date granted by Hosting in favour of Lessor.

“**Authorizations**” means (a) the Authorizations set out in Schedule 6 and (b) at any relevant time, any other permits, entitlements, licenses, orders, consents, approvals, exemptions, authorities, certifications, franchises, building permits, authorities to construct, permits to operate, certificates of occupancy, plot plan approvals, subdivision approvals, site plan reviews, environmental approvals, registrations, certificates, certificates of approval and licenses (including an environmental impact assessment, statement or report if required under Applicable Law), sewer and waste discharge permits, industrial development permits, water pollution discharge permits, water and air permits, zoning and land use entitlements and other authorizations whether now existing or hereafter issued to or obtained by or required to be issued to or obtained by or on behalf of Lessee, any other Obligor or Lessor or that relate to or concern in any way the Project Facilities, the Project Sites, the Leased Property or any other Collateral, any ground lease relating to the Project Sites, any license relating to the Project Sites, including, pursuant to any Environmental Laws, and are given or issued by any Government Body, or quasi-Government Body or administrative or regulatory agency pursuant to Applicable Law, whether now existing or hereafter created.

“**Base Rent**” means with respect to the Leased Property all rent from time to time payable by Lessee to Lessor pursuant to Section 3.2 of the Lease during the Lease Term.

“**Base Term**” has the meaning set out in Section 3.1 of the Lease.

“**Base Term Expiration Date**” has the meaning set out in Section 3.1 of the Lease.

“**Basic Documents**” means the Participation Agreement, the Bill(s) of Sale, the Lease (including each Lease Supplement), the Security Documents, the Guarantee, the Limited Recourse Guarantee, and any other document entered into by an Obligor with, or for the benefit of, the Lessor, or is agreed to be a Basic Document by the Lessor and the Lessee.

"Benefit Plan" means any employee benefit, fringe benefit, supplemental unemployment benefit, bonus, incentive, profit sharing, termination, change of control, stock, stock option, stock purchase, stock appreciation, health, welfare, medical, dental, disability, life insurance and other benefit plan, program or arrangement (other than a Pension Plan) established, contributed to or maintained by or on behalf of an Obligor for the benefit of current or former employees, or dependents or beneficiaries of either of them.

"Bill of Sale" means the bill of sale dated as of the Original Closing Date from Lessee to Lessor covering the Leased Property, substantially in the form of Exhibit A to the Participation Agreement.

"Business Day" means any day other than a Saturday, Sunday or a day on which commercial banking institutions are authorized or required by law, regulation or executive order to be closed in Toronto, Ontario or the city and province in Canada in which the principal offices of Lessee is located.

"Cap and Trade System" means any regional, national provincial, or North American cap and trade system for greenhouse gases that (i) is applicable to any of the Projects; (ii) is linked, pursuant to the Western Climate Initiative, to the cap and trade system established by the California Air Resources Board; and (iii) could reasonably be expected to affect the purchase or holding limits of any Affiliate of the Lessor under such cap and trade system described in (ii).

"Casualty Event" means any loss of, destruction of or damage to the Project Facilities or the Project Sites.

"CAD", "Cdn. \$", "Cdn. dollar", "Dollars" or "\$" means lawful currency of Canada.

"Change in Law" means the occurrence of: (a) the adoption or effectiveness of any law, rule, regulation, judicial ruling, judgment or treaty; (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application by any Government Body of any law, rule, regulation or treaty; or (c) the making or issuance by any Government Body of any request, rule, guideline or directive, whether or not having the force of law, including, without limitation, the introduction and implementation of a Cap and Trade System.

"Claims" has the meaning set out in Section 6.2(1) of the Participation Agreement.

"Cleanup" means all actions required to: (1) clean up, remove, treat or remediate Specified Substances in the Environment; (2) control or prevent the Release of Specified Substances so that they do not migrate, endanger or threaten to endanger public health or welfare of the Environment; (3) perform pre-remedial studies and investigations and post-remedial monitoring and care; or (4) respond to any requests of Government Bodies for information or documents in any way relating to cleanup, removal, treatment or remediation or potential cleanup, removal, treatment or remediation of Specified Substances in the Environment.

"Closing" has the meaning set out in Section 2.4 of the Participation Agreement.

"Closing Date" means the date that the Closing occurred (being February 24, 2023).

"Collateral" means: (i) with respect to Parent, its equity interests in Lessee, Kapuskasing Subsidiary, North Bay Subsidiary and Kingston Subsidiary; (ii) with respect to each Obligor other than Parent, all real and personal property (and the rents, insurance proceeds, issues, profits, proceeds and products of the foregoing), assets and undertaking of such Obligor and (iii) with respect to Hosting, the Collateral (as defined in the Assignment of Material Project Documents), in each case, together with all

other real and personal property, assets and undertaking which are subject, or are intended or required to become subject, to the Liens granted under any of the Security Documents.

“Commercial Operation” means, (i) in respect of the Iroquois Falls Project, that the Iroquois Falls Project is capable of generating electricity in compliance with all laws and regulations on a daily basis (except for scheduled maintenance) at an uninterrupted rate of 100% of the Rated Capacity in accordance with its plans and specifications, (ii) in respect of the North Bay Project, that the North Bay Project is capable of generating electricity in compliance with all laws and regulations on a daily basis (except for scheduled maintenance) at an uninterrupted rate of 100% of the Rated Capacity in accordance with its plans and specifications, (iii) in respect of the Kapuskasing Project, that the Kapuskasing Project is capable of generating electricity in compliance with all laws and regulations on a daily basis (except for scheduled maintenance) at an uninterrupted rate of 100% of the Rated Capacity in accordance with its plans and specifications; and (iv) in respect of the Kingston Project, that the Kingston Project is capable of generating electricity in compliance with all laws and regulations on a daily basis (except for scheduled maintenance) at an uninterrupted rate of 100% of the Rated Capacity in accordance with its plans and specifications

“Commodity Hedge Agreement” means any power or gas swap, cap, collar, forward agreement or similar arrangement entered for the purpose of managing, mitigating or eliminating risks relating to natural gas and electricity price fluctuations.

“Condemnation Event” means any taking, seizure, confiscation, requisition, exercise of rights of eminent domain, public improvement, inverse condemnation, condemnation or similar action or threat of any such action of or proceeding by any Government Body or other Person relating to all or any part of the Project Facilities or Project Sites.

“Constituent Documents” means, with respect to any Person, the constituting and organizational documents of such Person.

“Control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise, and **“Controlled”** shall have a meaning correlative to the foregoing.

“DBRS” means Dominion Bond Rating Service Limited.

“Debentures” means each debenture, dated as of the Original Closing Date or the Closing Date, granted by Lessee and each Guarantor (other than the Parent), as grantor, and Lessor, as grantee.

“Deposit” has the meaning set out in Section 4.48(3) of the Participation Agreement.

“Environment” means the indoor and outdoor environment, including: (i) water (whether surface water or groundwater); (ii) air (whether ambient air or the earth’s atmosphere); (iii) soil, land surface and subsurface strata (whether submerged or covered by a structure); (iv) organic and inorganic matter, (v) living species and organisms; or (vi) a combination of any of the foregoing; and **“Environmental”** shall have a corresponding meaning.

“Environmental Claim” means any action, cause of action, notice of violation, prosecution, claim, demand, abatement order, enforcement action or other order or direction (conditional or otherwise), or other mandatory communication by any Government Body or any Person for any damage, including, without limitation, personal injury (including sickness, disease or death), tangible or intangible property damage, contribution, indemnity, indirect or consequential damages, investigatory costs, Cleanup costs, damage to the Environment, violation of pollution standards, nuisance, pollution, contamination or other adverse

effects on the Environment, and/or for fines, penalties or restrictions, resulting from or based upon at any time (whether or not on the basis of negligence, strict or absolute liability or liability in tort or arising out of regulatory requirements of any kind) (i) the existence of a Release (whether sudden or non-sudden or accidental or non-accidental) of, or exposure to, any Specified Substance, in, into, out of or onto the Environment at, in, by, from or related to the Leased Property, the Project Facilities, the Project Sites or the Collateral; (ii) the use, manufacture, processing, handling, transportation, storage, treatment or disposal of Specified Substances in connection with the operation of the Leased Property, the Project Facilities, the Project Sites or the Collateral; or (iii) the violation, or alleged violation, of any Environmental Law or any Authorization required by or issued pursuant to any Environmental Law in connection with the Leased Property, the Project Facilities, the Project Sites or the Collateral.

“Environmental Event” means any occurrence which might give rise to an Environmental Claim or the discovery of any environmental condition in, on, from, beneath or involving the Project Facilities, the Project Sites, any other Collateral or any part thereof (including the presence, emission or Release of any Specified Substance or the violation of any applicable Environmental Law) that would have a material adverse effect on the use, occupancy, possession, ownership, or operation of the Project Facilities, the Project Sites, any other Collateral or any part thereof or the improvements thereon or the value or condition of the Project Facilities, the Project Sites, any other Collateral or any part thereof.

“Environmental Laws” means all federal, state, provincial, municipal or local laws, statutes, ordinances, by-laws, orders, directives, judgments, decrees, injunctions, writs, policies and guidelines (having the force of law), approvals, notices, rules, regulations, common law and other Applicable Laws relating to Environmental matters, and occupational health and safety matters including those relating to the Release or threatened Release of Specified Substances and to the generation, use, storage, treatment, disposal or transportation of Specified Substances, including, without limitation, the *Environmental Protection Act* (Ontario), *Ontario Water Resources Act*, and comparable Canadian federal, provincial or local laws, and any similar or analogous local, provincial and federal statutes and regulations promulgated pursuant thereto.

“Event of Abandonment” means (a) a written announcement by an Obligor of a decision to abandon or indefinitely defer or the abandonment of, the construction, completion or operation of a material portion of a Project Facility or a Project Site for any reason, (b) the voluntary suspension or abandonment of all or substantially all activities in respect of a Project Facility or a Project Site for more than ninety (90) consecutive days or (c) Lessee, shall make any filing with a Government Body giving notice of the intent or requesting authority to abandon the construction, completion or operation of a Project Facility or a Project Site for any reason.

“Event of Loss” has the meaning set out in Section 10.1 of the Lease.

“First Nations” means any first nations, Métis and/or indigenous and/or aboriginal person(s), tribe(s) and/or band(s) of Canada.

“First Nations Claims” means any claims, assertions or demands, written or oral, whether proven or unproven, made by any First Nations to Lessee, Obligor or a Government Body, or any representatives thereof, in respect of aboriginal rights, aboriginal title, treaty rights or any other aboriginal interest in or to all or any portion of the Project Sites, Project Facilities or Leased Property.

“Funds Flow Memorandum” means that certain funds flow memorandum, dated the Original Closing Date, executed by Lessee.

“**GAAP**” means the generally accepted accounting principles which are in effect from time to time approved by the Chartered Professional Accountants of Canada or any successor institute as applicable including, without limitation, International Financial Reporting Standards to the extent consistent such generally accepted accounting principles.

“**General Security Agreements**” means each General Security Agreement dated as of the Closing Date or the Original Closing Date granted by the Lessee and each Guarantor in favour of the Lessor.

“**Good Industry Practices**” means those practices, methods, equipment, specifications and standards of safety and performance, as are commonly accepted in Canada and in the international independent power project industry as good, safe and prudent practices in connection with the design, construction, operation, maintenance, repair and use of the Project Facilities or the Project Sites, as they may change from time to time. “Good Industry Practices” as defined herein does not necessarily mean one particular practice, method, equipment specification or standard in all cases, but is instead intended to encompass a broad range of acceptable practices, methods, equipment specifications and standards for power plants that are actively operating or for power plants that are in a dormant or mothballed state, as applicable.

“**Government Action**” means all consents, approvals or Authorizations of, or filings, registrations or qualifications with, or the giving of notice or taking of any other action with respect to, any Government Body.

“**Government Body**” means any nation or government, any state, province, county, territory, municipality, or other government, quasi-government, administrative or regulatory authority, agency, board, body, commission, instrumentality, court or tribunal or other political subdivision thereof, or any central bank (or similar monetary or regulatory authority) thereof, any tax authority, any ministry or department or agency of the foregoing, any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, and any corporation or other entity owned or controlled, through stock or capital ownership or otherwise, by any of the foregoing or any arbitrator or panel of arbitrators, including the IESO.

“**Guarantors**” means the Parent, the Lessee, Kapuskasing Subsidiary, North Bay Subsidiary and Kingston Subsidiary.

“**Guarantee**” means the amended and restated guarantee dated as of the Closing Date, executed by each Guarantor in favor of the Lessor.

“**Hosting**” means Validus Hosting Inc.

“**Hut 8 Lease**” means the indenture dated as of October 27, 2021 between the Parent and Hut 8 Mining Corp.

“**Hut 8 PPA**” means the power purchase agreement dated as of October 22, 2021 between the Parent, as seller and Hut 8 Mining Corp., as buyer.

“**HST**” means the goods and services tax levied under Part IX of the *Excise Tax Act* (Canada).

“**IESO**” means the Independent Electricity System Operator of Ontario established under Part II of the Electricity Act, 1998 S.O. 1998, c.15, Sch. A, as amended or replaced from time to time, or its successor.

“**Income Tax Act (Canada)**” means the *Income Tax Act*, Revised Statutes of Canada, 1985 c.1 (5th Supplement).

“**Indebtedness**” means, as to any Person, without duplication (i) all indebtedness (including principal, interest, fees and charges) of such Person for borrowed money, (ii) all obligations of such Person for the deferred purchase price of property, goods or services that in accordance with the Accounting Principles would be shown on the liability side of the balance sheet of such Person, (iii) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, (iv) obligations of such Person in respect of letters of credit, bank guarantees or similar instruments issued or accepted for the account of such Person and, without duplication, all outstanding reimbursement obligations and drafts drawn with respect thereto (excluding letters of credit that are cash collateralized on a Dollar (or other currency) for Dollar (or such other currency) basis and only to the extent of such cash collateral and to the extent that the such Person is permitted to grant a Lien over such cash collateral), (v) all liabilities secured by any Lien on any property owned by such Person, whether or not such liabilities have been assumed by such Person, (vi) any guarantee of Indebtedness by such Person, (vii) all obligations under trade or bankers’ acceptances, (viii) capitalized amounts of obligations under leases (whether in respect of land, machinery, equipment or otherwise) entered into by such Person primarily as a method of raising financing or of financing the acquisition of the asset leased, (ix) without duplication, any amounts due to trade creditors and accrued expenses, (x) all obligations under agreements providing for swaps, ceiling rates, ceiling and floor rates, contingent participation or other hedging mechanisms with respect to the payment of interest, the convertibility of currency or the price of any commodity, (xi) all obligations under any conditional sale agreement, capital lease or other title retention agreement, (xii) the Indebtedness of any partnership or joint venture (other than a joint venture that is itself a corporation or a limited liability company) in which such Person is a general partner or a joint venture, unless such Indebtedness is expressly made non-recourse to such Person, (xiii) all unconditional obligations of such Person to purchase, redeem, retire, defease or otherwise require for value any capital stock or other equity interests of such Person, or any warrants, rights or options to acquire such capital stock or other equity interests, and (xiv) obligations of such Person in respect of surety bonds or other similar instruments. For all purposes hereof, the Indebtedness of any Person shall include the Indebtedness of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person is a general partner or a joint venturer, unless such Indebtedness is expressly made non-recourse to such Person.

“**Indemnified Person**” has the meaning set out in Section 6.2(2) of the Participation Agreement.

“**Insolvency Event**” means the occurrence of any of the following events:

- (a) an order is made that a body corporate be wound up;
- (b) an order appointing a liquidator, an administrator or a provisional liquidator in respect of a body corporate is made, or one of them is appointed;
- (c) a receiver, receiver and manager, statutory manager, trustee or other similar official, is appointed in respect of a body corporate or all or substantially all of its assets (other than assets which are subject to a limited recourse obligation of such body corporate);
- (d) a body corporate enters into, or resolves to enter into, an arrangement or reconstruction or composition with, or assignment for the benefit of, all or any class of its creditors or it proposes a reorganization, moratorium or other administration involving any of them for reasons relating to insolvency;

- (e) a body corporate is or states that it is unable to pay its debts generally when they fall due (other than limited recourse obligations of such body corporate);
- (f) a body corporate resolves to wind itself up, assigns itself into bankruptcy or commits any act of bankruptcy as such term is defined in Section 42 of the *Bankruptcy and Insolvency Act* (Canada), or gives notice of intention to do so for reasons relating to insolvency;
- (g) a body corporate takes any steps to obtain or is granted protection from its creditors, under any applicable legislation;
- (h) (A) commencement of an involuntary proceeding against a body corporate (X) seeking bankruptcy, liquidation, reorganization, dissolution, winding up, a composition or arrangement with creditors, a readjustment of debts, or other relief with respect to it or its debts under any bankruptcy or insolvency laws or other customary insolvency actions or (Y) seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its assets, the issuance of a writ of attachment or execution, or similar process, or like relief if, in each such case, subparagraphs (B), (C) and (D) of this paragraph (h) do not apply and such involuntary proceeding shall remain undismissed and unstayed for a period of 60 days, (B) an order for relief is entered against a body corporate under the bankruptcy or insolvency laws of Canada as now or hereafter in effect, (C) filing by a body corporate of an answer admitting the material allegations of a petition filed against it in any involuntary proceeding commenced against it, or (D) consent by a body corporate to any relief referred to in this paragraph (h) or to the appointment of or taking possession by any such official in any involuntary proceeding commenced against it;
- (i) anything analogous or having a substantially similar effect to any of the events specified above in relation to a trust, trust estate, trustee of a trust or any other Person; or
- (j) anything analogous or having a substantially similar effect to any of the events specified above happens under the law of any applicable jurisdiction.

“**Insurance Policies**” has the meaning set out in Section 4.22.

“**Insurance Requirements**” means all terms and conditions of any insurance policy providing coverage to the Obligors or their Affiliates (including with respect to the Collateral) or otherwise maintained by the Obligors and their Affiliates, and all requirements of the issuer of any such policy.

“**Insurance Threshold**” means \$1,000,000.

“**Intellectual Property Rights**” means all patents, patent applications, proprietary computer software, manuals, “know-how,” copyrights and trade secrets, whether owned, leased or licensed, used or to be used in the ordinary course of operation of the Project Facilities or the Project Sites that are necessary or desirable for Commercial Operation of the Iroquois Falls Project.

“**Iroquois Falls Land**” means the parcels of land in Iroquois Falls, Ontario, Canada described in Schedule 3 to the Participation Agreement on which the Iroquois Falls Project (including the Leased Property) is located.

“**Iroquois Falls Project**” means the 120MW natural gas-fired combined-cycle power plant and all associated ancillary facilities located on the Iroquois Falls Land, together with all buildings, structures or

improvements owned or leased by Lessee erected on the Iroquois Falls Project Site in connection therewith, all electrical interconnections thereto, all alterations thereto or replacements thereof, all fixtures, attachments, appliances, equipment, machinery and other articles attached thereto or used in connection therewith and all parts which may from time to time be incorporated or installed in or attached thereto, all contracts and agreements for the purchase or sale of commodities or other personal property related thereto, all leases of real or personal property related thereto, and all other real and tangible and intangible personal property leased or owned by Lessee.

“Iroquois Falls Project Site” means the Iroquois Falls Land, upon which the Iroquois Falls Project is located, and all rights of way, and real estate properties or rights required to develop, construct, operate and maintain the Iroquois Falls Project.

“Iroquois Falls Site Interest” means Lessor’s leasehold interest in the Iroquois Falls Project Site.

“Kapusksasing Land” means the parcels of land in Kapuskasing, Ontario, Canada described in Schedule 3 to the Participation Agreement on which the Kapuskasing Project is located.

“Kapusksasing Project” means the 40MW natural gas-fired combined-cycle power plant and all associated ancillary facilities located on the Kapuskasing Land, together with all buildings, structures or improvements owned or leased by Kapuskasing Subsidiary erected on the Kapuskasing Project Site in connection therewith, all electrical interconnections thereto, all alterations thereto or replacements thereof, all fixtures, attachments, appliances, equipment, machinery and other articles attached thereto or used in connection therewith and all parts which may from time to time be incorporated or installed in or attached thereto, all contracts and agreements for the purchase or sale of commodities or other personal property related thereto, all leases of real or personal property related thereto, and all other real and tangible and intangible personal property leased or owned by Kapuskasing Subsidiary.

“Kapusksasing Project Site” means the Kapuskasing Land, upon which the Kapuskasing Project is located, and all rights of way, and real estate properties or rights required to develop, construct, operate and maintain the Kapuskasing Project.

“Kapusksasing Subsidiary” means Kap Power Corp.

“Kingston Land” means the parcels of land in Ernestown, Loyalist Township, County of Lennox and Addington, Ontario, Canada described in Schedule 3 to the Participation Agreement on which the Kingston Project is located.

“Kingston Project” means the 110MW natural gas-fired combined-cycle power plant and all associated ancillary facilities located on the Kingston Land, together with all buildings, structures or improvements owned or leased by Kingston Subsidiary erected on the Kingston Project Site in connection therewith, all electrical interconnections thereto, all alterations thereto or replacements thereof, all fixtures, attachments, appliances, equipment, machinery and other articles attached thereto or used in connection therewith and all parts which may from time to time be incorporated or installed in or attached thereto, all contracts and agreements for the purchase or sale of commodities or other personal property related thereto, all leases of real or personal property related thereto, and all other real and tangible and intangible personal property leased or owned by Kingston Subsidiary.

“Kingston Project Site” means the Kingston Land, upon which the Kingston Project is located, and all rights of way, and real estate properties or rights required to develop, construct, operate and maintain the Kingston Project.

“**Kingston Subsidiary**” means Kingston CoGen Limited Partnership.

“**Lands**” means the Iroquois Falls Land, the North Bay Land, the Kapuskasing Land and the Kingston Land.

“**Late Rate**” means an annual rate of 18%.

“**Lease**” means the amended and restated lease agreement, dated as of the Closing Date, between Lessor, as lessor, and Lessee, as lessee, and each Lease Supplement entered into pursuant thereto.

“**Lease Default**” means an event which with notice or lapse of time or both would become a Lease Event of Default.

“**Lease Events of Default**” has the meaning set out in Section 12 of the Lease.

“**Lease Supplement**” means (i) a Lease Supplement, in the form of Exhibit A to the Lease, dated as of the Original Closing Date, between Lessor and Lessee, covering the Leased Property, (ii) a Lease Supplement, in the form of Exhibit A to the Lease, dated as of the Closing Date, between Lessor and Lessee or (iii) any supplement or amendment to the Lease entered into from time to time between Lessor and Lessee.

“**Lease Term**” has the meaning set out in Section 3.1 of the Lease.

“**Leased Property**” means the property and assets set out in Schedule 1 of the Lease Supplement, including for certainty, the any and all Modifications made pursuant the Lease and Parts incorporated in, installed on or attached to any thereof pursuant to the Lease.

“**Lessee**” means Iroquois Falls Power Corp., a corporation organized under the laws of Ontario.

“**Lessor**” means Macquarie Equipment Finance Ltd.

“**Lessor’s Cost**” means the amount set forth in Section 3 of the Lease Supplement and Schedule 1 of the Participation Agreement.

“**Lessor Liens**” means any Lien on any portion of the Leased Property arising as a result of (i) claims against Lessor or any other Obligor not related to the transactions contemplated by the Basic Documents or not indemnified against by Lessee in the Basic Documents, (ii) acts or omissions of Lessor not related to the transactions contemplated by the Basic Documents or in breach of any covenant or agreement of such Person set forth in any of the Basic Documents or which are not indemnified against or assumed by Lessee in the Basic Documents or (iii) claims against Lessor arising out of the transfer (whether voluntary or involuntary) by Lessor of the Leased Property without the consent of Lessee of all or any portion of the Leased Property or the rights of Lessor under the Basic Documents.

“**Lessor Transfer**” means a transfer by Lessor, without recourse or warranty (except that Lessor has not previously conveyed all or any part of its interest in the Leased Property other than as permitted by the Basic Documents and as to the absence of any Lessor Liens), of all of Lessor’s right, title and interest in the Leased Property, “as-is, where-is,” to a Person.

“**Lien**” means any security interest, Mortgage, deed of trust, pledge, hypothecation, assignment, charge or deposit arrangement, license, garnishment, trust (actual or deemed) intended as a security device, encumbrance, easement, preference, priority, lease (including those intended as a security device), lien

(statutory or other) or preferential arrangement of any kind or nature whatsoever in respect of any property including those created by, arising under or evidenced by any conditional sale or other title retention agreement, the interest of a lessor under a capital lease, a lease having the characteristics of a secured lending arrangement, any financing lease having substantially the same economic effect as any of the foregoing, or the filing of any financing statement naming the owner or conditional purchaser of the asset to which such lien relates as debtor, under the PPSA or any comparable law, but not including the interest of a lessor under an operating lease.

“Limited Recourse Guarantee” means the limited recourse guarantee dated as of the Original Closing Date granted by Hosting in favour of Lessor.

“Material Adverse Effect” means with respect to the Obligors, taken as a whole, any change or changes, effect or effects or condition or conditions that individually or in the aggregate are or are reasonably expected to be materially adverse to (i) the financial position, operations, properties or assets of the Obligors, (ii) the ability of the Obligors to perform their obligations under the Transaction Documents, or (iii) the validity or enforceability of any of the Transaction Documents or any rights or remedies under any thereof.

“Material Authorizations” means the material Authorizations required in the ordinary course of business for the financing, development, construction and operation of the Projects.

“Material Event” means an Environmental Event which could not be cured by a Permitted Remediation.

“Material Project Documents” means the following Project Documents:

(a) the Hut 8 PPA;

(b) the Hut 8 Lease; and

(c) the Additional Material Project Documents with respect to any Project, provided that the respective Subsidiary managing such Project has not been released from its obligations hereunder in accordance with the term hereof.

“Modification” has the meaning set out in Section 9.1 of the Lease.

“Moody’s” means Moody’s Investors Service, Inc.

“Mortgage” means any mortgage, leasehold mortgage, deed of trust or indenture of mortgage and deed of trust and any modification, amendment, consolidation or renewal thereof.

“North Bay Land” means the parcels of land in North Bay, Ontario, Canada described in Schedule 3 to the Participation Agreement on which the North Bay Project is located.

“North Bay Project” means the 40MW natural gas-fired combined-cycle power plant and all associated ancillary facilities located on the North Bay Land, together with all buildings, structures or improvements owned or leased by North Bay Subsidiary erected on the North Bay Project Site in connection therewith, all electrical interconnections thereto, all alterations thereto or replacements thereof, all fixtures, attachments, appliances, equipment, machinery and other articles attached thereto or used in connection therewith and all parts which may from time to time be incorporated or installed in or attached thereto, all contracts and agreements for the purchase or sale of commodities or other personal property related thereto,

all leases of real or personal property related thereto, and all other real and tangible and intangible personal property leased or owned by North Bay Subsidiary.

“**North Bay Project Site**” means the North Bay Land, upon which the North Bay Project is located, and all rights of way, and real estate properties or rights required to develop, construct, operate and maintain the North Bay Project.

“**North Bay Subsidiary**” means Bay Power Corp.

“**Northland Securities Purchase Agreement**” means the securities purchase agreement dated December 9, 2021 among, *inter alios*, Northland Power Inc., NPIF Kingston L.P. and the Parent, as the same may be amended, supplemented or amended and restated from time to time.

“**Obligations**” means, collectively, all obligations of the Obligor now existing or hereinafter arising, direct or indirect, absolute or contingent, due or to become due, to Lessor under the Transaction Documents or otherwise, and in respect of an Obligor, all obligations of that Obligor now existing or hereinafter arising, direct or indirect, absolute or contingent, due or to become due, to Lessor under the Transaction Documents or otherwise.

“**Obligors**” means the Lessee and the Guarantors.

“**OEB Act**” means the *Ontario Energy Board Act, 1998*

“**OEB Electricity Generation License**” means the electricity generation license(s) issued by the Ontario Energy Board pursuant the OEB Act to Lessee designated as EG-2003-0144.

“**Officer’s Certificate**” means a certificate signed (i) in the case of an Obligor, by a Responsible Officer, (ii) in the case of any other corporation or company, by the President, any Vice President, any Assistant Vice President, the Treasurer or an Assistant Treasurer, (iii) in the case of a partnership by the President, any Vice President, the Treasurer or an Assistant Treasurer of a corporate general partner, and (iv) in the case of a commercial bank or trust company, the President, any Vice President, any Trust Officer or any other officer customarily performing the functions similar to those performed by the persons who at the time shall be such officers, or to whom any corporate trust matter is referred because of his knowledge of and familiarity with the particular subject.

“**Operating Capacity**” means, (i) in the case of the Iroquois Falls Project, the ability of the Iroquois Falls Project to produce at least 120MWh of electricity per year, (ii) in the case of the North Bay Project, the ability of the North Bay Project to produce at least 40MWh of electricity per year, (iii) in the case of the Kapuskasing Project, the ability of the Kapuskasing Project to produce at least 40MWh of electricity per year and (iv) in the case of the Kingston Project, the ability of the Kingston Project to produce at least 110MWh of electricity per year.

“**Operating Inputs**” means any services, products or things consumed directly or indirectly, wholly or in part, in the Process and which are in the opinion of the Lessor, reasonably necessary therefor including gas, steam, utility water, electricity and cooling water.

“**Original Closing**” has the meaning set out in Section 2.4 of the Participation Agreement.

“**Original Closing Date**” means April 7, 2022.

“**Original Participation Agreement**” has the meaning set out in recitals of the Participation Agreement.

“**out-of-pocket costs**” and “**out-of-pocket expenses**” means, whether or not capitalized, properly documented costs and expenses of travel, lodging, meals and other incidental expenses of a Person or its Affiliates which are directly related to the Transaction and which are paid to any Person who is not an Affiliate of the payor.

“**Parent**” means Validus Power Corp.

“**Participation Agreement**” has the meaning set out in the preamble.

“**Parts**” has the meaning set out in Section 8.4 of the Lease.

“**Pension Plan**” means any pension, retirement or supplemental retirement benefit plans, arrangements or agreements, including any defined benefit or defined contribution pension plans and any group registered retirement savings plans, employee benefit plans and any other similar employee benefit plans, arrangements or agreements, whether oral or written, formal or informal, funded or unfunded, that are, in each case, sponsored, contributed to by or maintained by the any Obligor providing for retirement income for the benefit of any such party’s employees or former employees, or dependents or beneficiaries of either of them, whether or not insured.

“**Pension and Benefit Laws**” means the *Pension Benefits Act* (Ontario), and any other law, rule, regulation, guideline, directive, order or notice of any Government Body having jurisdiction over or affecting any Pension Plan or Benefit Plan.

“**Permitted Commodity Hedge**” means a Commodity Hedge Agreement entered into by the an Obligor and a counterparty acceptable to Lessor in good faith in the ordinary course of business providing for the non-speculative transfer or mitigation of gas or energy price risks either generally or under specific contingencies on terms and conditions acceptable to Lessor (including a monthly reporting protocol in respect thereof if requested by Lessor).

“**Permitted Contest**” means in respect of any Person, a contest of any Claim, Tax, Lien or Applicable Law in good faith and by appropriate proceedings diligently conducted, so long as the proceedings do not (i) involve any danger of criminal, quasi-criminal or material unindemnified penalties or liability on the part of any other Person that is a party to a Basic Document or of the loss of priority of Liens created by the Security Documents, (ii) pose a material risk of sale, forfeiture or loss of any part of the Leased Property, the Project Facilities, the Project Sites or the Collateral, (iii) interfere in any material manner with the use or operation of the Leased Property, the Project Facilities, the Project Sites or the Collateral; (iv) pose any risk of interference with the payment of rent or interest or any other payments to or for the account of Lessor or (v) subject any other Person that is a party to a Transaction Document to any material civil liability.

“**Permitted Indebtedness**” means the following, except that no Indebtedness counted under a category shall be counted under any other category:

- (a) Indebtedness under the Transaction Documents;
- (b) any trade or other similar unsecured Indebtedness in each case that is incurred in the ordinary course of Lessee’s business (provided, that it does not involve advance or deferred

payment for a period of more than six (6) months after incurrence thereof) that is not past due or is being contested in good faith;

- (c) Indebtedness under any Material Project Document;
- (d) Indebtedness in respect of Purchase Money Security Interests, capital leases or sale and lease back transactions (other than the Transaction) granted by the Obligors in an aggregate amount not to exceed \$1,000,000 in the aggregate, at any time;
- (e) Indebtedness arising in respect of any security instrument (including any letter of credit) posted by, for or on behalf of any Obligor with the IESO in the ordinary course of business;
- (f) guarantees, bonds and letters of credit in relation to Material Project Documents and otherwise in the ordinary course of business, in aggregate up to a maximum of \$1,000,000;
- (g) unsecured Indebtedness owing from one Obligor to another Obligor (other than the Parent);
- (h) unsecured Indebtedness owing from an Obligor to Parent provided payments are postponed to after the Lease has terminated in accordance with its terms, and such postponement is in form and substance satisfactory to Lessor, and any and all amounts under the Basic Documents are fully and finally paid and discharged;
- (i) unsecured Indebtedness of Parent owing to Lessee in the amount of \$36,000,000 that is incurred pursuant to a promissory note, the proceeds of which will be used to partially fund the acquisition by Parent under the Northland Securities Purchase Agreement and in accordance with 4.24;
- (j) in the case of Parent, Indebtedness arising pursuant to any limited recourse obligation granted to a third party in support of financing for any Subsidiary or Affiliate of Parent (other than Kapuskasing Subsidiary, North Bay Subsidiary and Lessee);
- (k) *Intentionally Deleted;*
- (l) unsecured Indebtedness of the Parent owing to its shareholders that is subject to a subordination and postponement agreement, in form and substance satisfactory to Lessor;
- (m) any other unsecured Indebtedness of the Obligors up to the aggregate outstanding amount of \$500,000.

“Permitted Investment” means each of the following investments with no more than one year remaining on the Base Term from time of acquisition (i) obligations of, or guaranteed by, the United States government or the Government of Canada or any province of Canada or agencies of the foregoing, (ii) open market commercial paper of any corporation (other than Lessee or one of its Affiliates) incorporated under the laws of the United States of America or any State thereof or Canada or any province thereof rated at least P-1 or its equivalent by Moody’s or at least A-1 or its equivalent by S&P or at least R-1 (low) or its equivalent by DBRS, (iii) certificates of deposit issued by commercial banks organized under the laws of the United States or of any political subdivision thereof having a combined capital and surplus in excess of \$500,000,000, which banks or their holding companies have a rating of A or its equivalent by Moody’s or S&P, or by any one of the five largest (in terms of assets) chartered banks incorporated in Canada, (iv) money market mutual funds registered under the *Investment Company Act of 1940*, as amended, having a commercial paper rating to the time of such investment of not less than P-1 by Moody’s or A- by S&P or

the equivalent by DBRS, (v) notes, bonds, debentures or other debt securities issued by any Canadian corporation or other issuer (other than Lessee or one of its Affiliates) which are rated at least A (low) or its equivalent by DBRS; (vi) notes, bonds, debentures or other debt securities issued by any United States corporation or other issuer (other than Lessee or one of its Affiliates) which are rated at least A or its equivalent by S&P or which are rated at least A or its equivalent by Moody's; (vii) U.S. or Canadian dollar denominated offshore certificates of deposit issued or guaranteed by, or demand, notice or time deposits with, any commercial bank described in clause (iii), (viii) repurchase agreements with any financial institution having combined capital and surplus of at least \$500,000,000 with any of the obligations described in clause (i) as collateral and (xiv) each Obligor (other than Parent) may invest in improvements at its Project Site, including the development and building of data centers on such Project Site and the expansion of power generation at such Project Site.

"Permitted Liens" means (i) the respective rights and interests of Lessee, each Guarantor and Lessor under the Transaction Documents, (ii) Liens for Taxes assessed against an Obligor or Lessee as owner of the Land either not delinquent or being contested by Permitted Contests, (iii) builder's, materialmen's and mechanics' Liens arising in the ordinary course of constructing, improving, using, operating or maintaining the Project Facilities, the Leased Property or the Land (or any portion thereof) for amounts either not delinquent or being contested by Permitted Contests, (iv) Liens arising out of judgments or awards against an Obligor or Lessee as owner of the Project Facilities, Project Sites or the Leased Property with respect to which at the time an appeal or proceeding for review is being diligently prosecuted in good faith and either which have been bonded or for the payment of which adequate reserves shall have been provided in accordance with GAAP, (v) *Intentionally Deleted*, (vi) *Intentionally Deleted*; (vii) *Intentionally Deleted*, (viii) Liens arising in support of any security instrument (including any letter of credit) posted by, for or on behalf of any Obligor with the IESO in the ordinary course of business, (ix) Liens against the Parent over its equity interests in its Subsidiaries that are not Obligors, (x) easements, rights-of-way, servitudes or other similar rights in or in respect of any Land (including rights-of-way and servitudes for railways, sewers, drains, gas and oil pipelines, gas and water mains, electrical light and power and telecommunication conduits, poles, wires and cables) registered on title as of the Closing Date; (xi) *Intentionally Deleted* (xii) Liens over specific personal property securing Permitted Indebtedness pursuant to clause (d) (*PMSI & Capital Lease*) of such definition, (xiii) construction, repair and storage liens and other similar Liens imposed by law, arising in the ordinary course of business and securing obligations that are not overdue by more than 30 days or that are being contested in good faith and by appropriate proceedings diligently conducted, (xiv) Liens arising in connection with workers' compensation, employment insurance, pension and employment or other social security laws or regulations in respect of amounts which are not due or delinquent.

"Permitted Remediation" means any remediation of an Environmental Event (i) the cost of which is not anticipated, in the reasonable judgment of Lessor (at Lessor's discretion, after consulting with an environmental consultant), to exceed \$1,000,000 over and above the amount of any available insurance proceeds and (ii) which could not be expected to result in any additional liability for which Lessor and any other Indemnified Person have not received an adequate indemnity in an amount and from Guarantor or another Person reasonably satisfactory to Lessor.

"Permitted Restricted Payments" means any dividend or distribution on or any other payment or distribution on account of or any payment for or any purchase, redemption, retirement or other acquisition, directly or indirectly of, any equity interests in the Parent, provided that Lessee (or the Parent at the direction of Lessee) concurrently with such dividend, distribution or other payment, pays to Lessor as a prepayment of the Base Rent in accordance with Section 3.3(b)(ii) of the Lease, an amount equal to:

(i) if the aggregate amount of Base Rent previously paid to Lessor (including any prepayments thereof) is less than or equal to the product of 12 and \$1,250,000, 50% of such dividend, distribution or other payment;

(ii) if the aggregate amount of Base Rent previously paid to Lessor (including any prepayments thereof) is greater than the product of 12 and \$1,250,000, but less than or equal to the product of 24 and \$1,250,000, 25% of such dividend, distribution or other payment;

(iii) if the aggregate amount of Base Rent previously paid to Lessor (including any prepayments thereof) is greater than the product of 24 and \$1,250,000, but less than or equal to the product of 36 and \$1,250,000, 10% of such dividend, distribution or other payment; and

(iv) if the aggregate amount of Base Rent previously paid to Lessor (including any prepayments thereof) is greater than the product of 36 and \$1,250,000, \$0.

“**Person**” means an individual, partnership, joint venture, corporation, trust, limited liability company, unlimited liability company, association or unincorporated organization, and a government or agency or political subdivision thereof.

“**Pledge Agreement**” means the securities pledge agreement dated as of the Original Closing Date granted by the Parent in favour of Lessor, as amended on the Closing Date.

“**PPSA**” means the *Personal Property Security Act* in effect in the Province of Ontario, Canada.

“**Proceeds**” has the meaning set out in the PPSA.

“**Process**” means the use, occupancy, maintenance and operation of the Leased Property and other Collateral in commercial operation at Operating Capacity for the generation of electricity in a manner that complies with Applicable Law, Insurance Requirements and prudent industry practice.

“**Project Document**” means any contract or agreement (including each Material Project Document) relating to the development, construction, testing, operation, maintenance, repair, financing or use of the Projects entered into by an Obligor with any other Person (including any contract(s) or agreement(s) entered into in substitution for any Project Document that has been terminated in accordance with its terms or otherwise).

“**Project Facilities**” means the Projects and any other equipment or ancillary facility required for the performance of the Projects including but not limited to any facilities for the water supply, delivery, storage or treatment as well as the air monitoring stations, in each case, on the Project Sites.

“**Project Sites**” means Iroquois Falls Project Site, the North Bay Project Site, the Kapuskasing Project Site and the Kingston Project Site.

“**Projects**” means the Iroquois Falls Project, the North Bay Project, the Kapuskasing Project and the Kingston Project.

“**Property**” means any right or interest in or to property of any kind whatsoever, whether real, personal or mixed and whether tangible or intangible.

“**Purchase Money Security Interest**” means a Lien on property (including, for certainty, any Lien created by a title retention arrangement or other form of conditional sale or sale and lease-back): (a) taken

or reserved by the seller of such property to secure payment of all or part of the purchase price of such property; or (b) taken by a Person who gives value to a purchaser of such property for the purpose of permitting the purchaser to acquire rights in or to the property, provided that (i) such Lien is created substantially simultaneously with the acquisition of such property, (ii) such Lien does not at any time create a Lien on any property (including any proceeds thereof) other than the property financed by such Indebtedness, (iii) the principal amount of Indebtedness secured thereby is not increased subsequent to such acquisition, and (iv) the principal amount of Indebtedness secured by any such Lien at no time exceeds 100% of the original purchase price of such property at the time it was acquired, and for the purposes of this definition the term “acquisition” shall include, without limitation, a capital lease and the term “acquire” shall have a corresponding meaning.

“**Rated Capacity**” means, (i) in respect of the Iroquois Falls Project, the nameplate capacity of the Iroquois Falls Project, being 120MW, (ii) in respect of the North Bay Project, the nameplate capacity of the North Bay Project, being 40MW, (iii) in respect of the Kapuskasing Project, the nameplate capacity of the Kapuskasing Project, being 40MW and (iv) in respect of the Kingston Project, the nameplate capacity of the Kingston Project, being 110MW.

“**Real Property Interests**” means the leasehold, fee simple and occupancy interests of the Obligors in the Project Sites, together with any easements, rights of way, crossing agreements and other property rights, required for the construction and operation of the Project Facilities.

“**Related Person**” means with respect to any Person, an Affiliate, director, officer, employee, agent or servant of such Person.

“**Release**” means any release, spill, emission, leaking, pumping, pouring, injection, escaping, deposit, disposal, discharge, dispersal, leaching or migration in, into, upon or out of the Environment (including the abandonment or disposal of any barrels, containers or other closed receptacles containing any Specified Substance), or in, into or out of any vessel or facility, including the movement of any Specified Substance through the air, soil, surface water, groundwater or property, and when used as a verb has a like meaning.

“**Renewal Term**” has the meaning set out in Section 3.1 of the Lease.

“**Rent**” means all Base Rent and Supplemental Rent.

“**Rent Payment Date**” means the Rent Payment Dates as set out in Schedule 1 to the Lease, unless Lessor and Lessee otherwise agree in writing.

“**Replacement Agreement**” means any agreement, contract or document entered into in replacement of a Material Project Document that (a) (i) has substantially the same or more favourable terms (taken as a whole) for the applicable Obligor compared with the Material Project Document being replaced, or (ii) is otherwise in form and substance satisfactory to Lessor, acting reasonably; and (b) is with a replacement counterparty (or is guaranteed by a replacement counterparty) that (i) has experience and credit-worthiness (or is guaranteed by a Person with such experience or credit-worthiness) that is similar or better to that of the counterparty to the Material Project Document (or its guarantor) being replaced at the time such replaced Material Project Document was originally entered into; or (ii) is satisfactory to Lessor, acting reasonably.

“**Responsible Officer**” means with respect to Lessee or Guarantor, the President, the Treasurer, the Assistant Treasurer, the Controller, the Chief Financial Officer or the General Counsel of Lessee or Guarantor, respectively.

“Restricted Payments” means any of the following:

- (a) (i) any dividend or distribution (in cash, property or obligations) on or any other payment or distribution on account of or any payment for or any purchase, redemption, retirement or other acquisition, directly or indirectly of, any equity interests (or any shareholder loan) in any Obligor, (ii) any option or warrant for the purchase or acquisition of any such equity interests (or shareholder loans), (iii) interest and principal repayment on shareholder loans, or (iv) the setting apart of any money for a sinking or other analogous fund for any of the foregoing;
- (b) (i) any payment (in cash, property or obligations) with respect to principal or interest on or any other payment or distribution on account of or any payment for, the purchase, redemption, retirement or other acquisition of, shareholder loans or (ii) the setting apart of any money for a sinking or other analogous fund for any of the foregoing; or
- (c) any management fee or equivalent and any bonus or premium or other amount payable by or on behalf of any Obligor to any Affiliate of such Obligor (including for any loans or disbursements made by such Affiliate of such Obligor) that is not otherwise expressly permitted to be made under the Transaction Documents.

“S&P” means Standard and Poor’s, a division of The McGraw-Hill Companies.

“Sanctioned Jurisdiction” means, at any time, a country or territory which is, or whose government is, the subject or target of any applicable Sanctions broadly restricting or prohibiting dealings with such country, territory or government (currently including, but not limited to, Cuba, Iran, North Korea, Sudan, and Syria).

“Sanctions” means economic or financial sanctions or trade embargoes or restrictive measures enacted, imposed, administered or enforced from time to time by (a) the U.S. government, including the Office of Foreign Assets Control of the U.S. Department of the Treasury, the U.S. Department of State, or the U.S. Department of Commerce (b) the United Nations Security Council; (c) the European Union or any of its member states; (d) Her Majesty’s Treasury; (e) the Canadian Government; (f) Switzerland; or (g) any other relevant authority.

“Sanctions Target” means, at any time, any Person with whom dealings are restricted or prohibited under applicable Sanctions, including (a) any Person listed in any Sanctions-related list of designated or identified Persons maintained by the United States (including by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the U.S. Department of State, or the U.S. Department of Commerce), the United Nations Security Council, the European Union or any of its member states, Her Majesty’s Treasury, the Canadian Government, Switzerland or any other relevant authority, (b) any Person located, organized or resident in, or any governmental entity or governmental instrumentality of, a Sanctioned Jurisdiction or (c) any Person directly or indirectly owned by, controlled by, or acting for the benefit or on behalf of, any Person described in clauses (a) or (b) hereof.

“Security Documents” means the following:

- (a) each General Security Agreement;
- (b) each Debenture;
- (c) the Pledge Agreement;

- (d) the Guarantee;
- (e) the Limited Recourse Guarantee;
- (f) the Assignment of Material Project Documents;
- (g) the Acknowledgement Confirmation and Amendment Agreement; and
- (h) any other security document, agreement, instrument or filing, including the addition of the Lessor as additional insured and loss payee under the Insurance Policies, executed in favour of the Lessor.

“**Security Interest**” means, collectively, the first-ranking Lien given by each Obligor and Hosting in favour of Lessor pursuant to the Security Documents.

“**Seller**” means the Lessee, in its capacity as seller under the Bill of Sale.

“**Specified Substances**” means (i) any chemical, waste, material, pollutant or substance defined as or included in the definition of “hazardous substances”, “hazardous wastes”, “hazardous materials,” “extremely hazardous waste,” “restricted hazardous waste” or “toxic substances” or words of similar import under any applicable Environmental Laws; (ii) any substance, waste or material which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, pathological, or otherwise hazardous by listing, characteristic or definition under any Environmental Law; (iii) any (A) oil, natural gas, petroleum or petroleum derived substance, any drilling fluids, wastes produced in association with the exploration, development or production of crude oil, natural gas or geothermal fluid, any flammable substances or explosives, any radioactive materials, any hazardous wastes or substances, any toxic wastes or substances or (B) other materials or pollutants that, in the case of both (A) and (B), (1) pose a hazard to the Project Facilities or the Project Sites or to Persons on or about such property or to any other property that may be affected by the Release of such materials or pollutants from the Project Facilities or the Project Sites or to Persons on or about such property or (2) cause such property or such other property to be in violation of any Environmental Law or Authorization; (iv) asbestos, urea formaldehyde foam insulation, toluene, lead, radon gas, polychlorinated biphenyls and any electrical equipment which contains any oil or dielectric fluid containing levels of polychlorinated biphenyls in excess of fifty parts per million; and (v) any solid, liquid, gas, odor, sound, vibration, heat, radiation or other form of energy or combination of any of them and any other chemical, waste, material or substance, exposure to which is prohibited, limited or regulated by any Environmental Law or Government Body.

“**Start Mining**” means StartMining SAS, a société par actions simplifiée organized under the laws of France with a share capital of 26,100 euros registered with the Trade Register of Toulon under number 853 111 698.

“**Start Mining Agreement**” means Hosting Agreement between Validus Hosting Inc., StartMining SAS and Europe Invest Consulting C&P SAS executed on 28 March 2022.

“**Start Mining Covenant**” has the meaning set out in Section 4.48(3) of the Participation Agreement.

“**Stipulated Loss Value**” has the meaning given to such term under the Lease.

“**Subsidiary**” means, for any Person, any other Person (whether now existing or hereafter organized) for which at least a majority of the securities or other ownership interests having ordinary voting

power for the election of directors, managers or other Persons performing similar functions are at the time owned or Controlled by such first Person or one or more Subsidiaries of such first Person or any combination thereof.

“Supplemental Rent” means all amounts, liabilities and obligations (other than Base Rent) which Lessee is from time to time obligated to pay under the Basic Documents to or on behalf of any of the other parties thereto, including Stipulated Loss Value payments, and payments pursuant to Article 6 of the Participation Agreement and Section 3.4 of the Lease.

“Support Facilities” means any property of any kind whatsoever, in which an Obligor has an interest, whether real or personal, now or hereafter installed or constructed on, incorporated into, attached to, or located in, on, over or under a Project Site, including any equipment, improvement, structure or fixture, used or necessary in the reasonable opinion of Lessor in connection with the Process, including all roads, pipes, transfer lines, tanks, sewers, ditches, ducts, pumps, compressors, boilers, substations, electric generating facilities, wires, conduits, lines, storage tanks, loading and unloading docks, control rooms, computer equipment and software, shared flare header systems, and the circulation and treatment system in connection therewith and all replacements and substitutions of, additions to, and proceeds of the foregoing.

“Support Services” means all materials, facilities, equipment, services, utilities, personnel and supplies that any Obligor has available for use, or would use, including those obtained from Affiliates of Lessee and other third parties, which are or may reasonably be expected to be necessary for the access to or operation or use of the Leased Property or other Collateral at Operating Capacity for the duration of the Lease Term or to conduct the Process and rights pursuant to contracts or otherwise to obtain or use the same or relating to the Process.

- (a) Utility Services;
- (b) copies of manuals for the ownership, use, operation and maintenance of the Iroquois Falls Project;
- (c) (x) rights to Operating Inputs to the extent not otherwise commercially available on commercially reasonable terms to a person unrelated to Lessee; and (y) assistance in identifying (A) sources for the provision of Operating Inputs; and (B) providers of transportation services for the provision of Operating Inputs and removal of all outputs;
- (d) access to and use of and, to the extent permitted under Applicable Law, assignments of all Authorizations necessary for operation of the Iroquois Falls Project other than emissions credits or similar credits;
- (e) to the extent that Lessee has the right to provide or grant such rights, use, by non-exclusive, royalty-free irrevocable licenses or similar arrangements, of all computers and Intellectual Property Rights, and, if Lessee does not have the right to provide or grant such rights, Lessee will use commercially reasonable efforts to obtain such rights or to cause such rights to be provided to Lessor;
- (f) access to and use of information provided by pollution control and monitoring equipment and services;
- (g) use of the analytical services of the onsite laboratory in conjunction with the operation of the Iroquois Falls Project;

- (h) use of information systems;
- (i) use of any process control system which Lessee may have commenced to utilize before or during the prior 12-month period of operation for use exclusively at the Iroquois Falls Project Site, and for these purposes a process control system shall include hardware and all relevant software, in source code and object code form, to operate and control the Iroquois Falls Project and, in addition, Lessee shall make available personnel knowledgeable with respect to such hardware and software if requested by Lessor (or its successor) in order to modify, upgrade or improve the process control system without any warranty for or liability to Lessee as to or resulting from any such modifications, upgrades or improvements;
- (j) to the extent not otherwise commercially available on commercially reasonable terms to a person unrelated to Lessee, waste disposal and management services (including offsite disposal services), including those provided by third party vendors; and
- (k) use of cooling towers, saltwater injection well, storm water and process water disposal system.

“Supports” means rights to use Support Facilities and receive Support Services upon payment of fair value therefor, and a royalty-free and non-exclusive right to Intellectual Property Rights, in each case during the Lease Term.

“Taxes” means any and all present or future income, stamp or other taxes, levies, imposts, duties, deductions, charges, fees or withholdings imposed, levied, withheld or assessed by any Government Body, together with any interest, additions to tax or penalties imposed thereon and with respect thereto.

“Transaction” means the purchase of the Leased Property by Lessor, the lease of the Leased Property by Lessor to Lessee and the payment of Lessor’s Cost, pursuant to the Basic Documents, and the transactions contemplated by the Basic Documents relating thereto.

“Transaction Costs” has the meaning set out in Section 2.5 of the Participation Agreement.

“Transition Date” means the earlier of (a) the later of: (i) the date of termination of the Lease pursuant to Section 13 thereof, and (ii) the first to occur of Lessor’s or its assignee’s or designee’s receipt of possession of the Leased Property on the Iroquois Falls Project Site and (b) the date Lessee delivers possession to Lessor or its assignee or designee of the Leased Property following expiration of the Lease at the end of the Lease Term and Lessee has satisfied each of the conditions to such return in the Lease set out in the Lease and any other applicable Transaction Documents.

“Transaction Documents” means, collectively, the Basic Documents and any other document agreed as such by the Lessor and the Lessee.

“Utility Services” means utility and similar services including:

- (a) natural or synthetic gas or such other fuels as may be used from time to time as an energy source for the Leased Property;
- (b) electric power and power distribution for lighting, production and other electrical uses;
- (c) telephone services and other data communication services;

- (d) waste material storage, disposal and purification services and systems, including sewer services;
- (e) fresh water;
- (f) fire and explosion protection and safety facilities services and systems;
- (g) heating, ventilation and air conditioning systems; and
- (h) steam.

THIS IS **EXHIBIT “C”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,
THIS 31st DAY OF JULY, 2023.



Michael Noel

Commissioner for Taking Affidavits

AMENDED AND RESTATED LEASE AGREEMENT

dated as of February 24, 2023

between

MACQUARIE EQUIPMENT FINANCE LTD.,
as Lessor

and

IROQUOIS FALLS POWER CORP.
as Lessee

THIS LEASE HAS BEEN EXECUTED IN SEVERAL COUNTERPARTS, BUT ONLY THE COUNTERPART TO BE DEEMED THE ORIGINAL FOR CHATTEL PAPER PURPOSES CONTAINS THE RECEIPT THEREFOR EXECUTED BY IROQUOIS FALLS POWER CORP. AS LESSEE ON THE SIGNATURE PAGES THEREOF.

Lease of Combined Cycle Turbines and related Equipment - Iroquois Falls Cogeneration Station
Located in
Iroquois Falls,
Ontario, Canada

LEASE

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Attachments:

Exhibit A Lease Supplement Form

AMENDED AND RESTATED LEASE AGREEMENT dated as of February 24, 2023 (this “**Lease**”) between Macquarie Equipment Finance Ltd., a corporation organized under the laws of Canada (“**Lessor**”), and Iroquois Falls Power Corp., a corporation continued under the laws of the Province of Ontario (“**Lessee**”).

WHEREAS the Lessor and the Lessee are party to a lease agreement dated as of April 7, 2022 (as amended, amended and restated, supplemented, revised or otherwise modified from time to time prior to the date hereof, the “**Existing Lease**”).

AND WHEREAS the Lessor and the Lessee wish to make certain amendments to the Original Lease on the terms and conditions set forth herein.

In consideration of the mutual agreements herein contained and other good and valuable consideration, receipt of which is hereby acknowledged, Lessor and Lessee agree as follows:

SECTION 1. DEFINITIONS.

For all purposes of this Lease, except as otherwise defined herein or unless the context otherwise requires, capitalized terms used herein shall have the meanings assigned thereto in the participation agreement dated as of the date hereof (the “**Participation Agreement**”) between Lessee, the Guarantors and Lessor.

Reference is made to Section 1.2 (*Rules of Interpretation*) of the Participation Agreement for general rules of construction, which are applicable to this Lease.

SECTION 2. LEASE; ACCEPTANCE OF LEASED ASSETS; SUBLEASE.

On the Closing Date, Lessor agreed to lease the Leased Property to Lessee and Lessee agreed to lease the Leased Property from Lessor by the execution and delivery of a Lease Supplement in the form of Exhibit A, on the terms and conditions set forth herein. Execution and delivery of such Lease Supplement by Lessee shall, without further act, irrevocably constitute acceptance by Lessee of the Leased Property under and on the terms of this Lease, and all risk of loss of the Leased Property during the Lease Term shall pass to Lessee upon such acceptance.

SECTION 3. TERM AND RENT.

3.1 Lease Term.

Unless earlier terminated in accordance with the terms of this Lease, the term of this Lease (the “**Lease Term**”) shall begin on the Closing Date and shall consist of (i) a base term (the “**Base Term**”) that shall expire at 11:59 p.m. (Iroquois Falls time) on the day being thirty-six (36) months after the Closing Date (“**Initial Base Term**”, and as such Initial Base Term may be reduced in accordance with Section 3.3(c) from time to time to reflect prepayments of Base Rent in accordance with the terms of the Transaction Documents, the “**Base Term Expiration Date**”) and (ii) a month to month renewal term (the “**Renewal Term**”) of this Lease in accordance with Section 19.1, if applicable, until Lessee terminates the Renewal Term in accordance with Section 19.1 in which case, the Renewal Term shall expire at 11:59 p.m. (Iroquois Falls time) on the day on which the renewal terminates in accordance with Section 19.1 (the “**Renewal Term Expiration Date**”), and that the Lease Term shall expire upon any earlier termination of this Lease in accordance with its terms. Lessee shall have no right to terminate the Lease other than in accordance with the express terms set out herein.

3.2 Base Rent.

Lessee hereby agrees to pay Base Rent for the Leased Property throughout the Lease Term in consecutive monthly payments payable on each Rent Payment Date in the amounts and on the date set forth on Schedule A hereto. Base Rent shall accrue during the Lease Term, beginning on and from the Closing Date.

3.3 Prepayment of Base Rent.

(a) Except as otherwise expressly contemplated in this Section 3.3, Lessee shall not have the right to prepay, at any time or times, the whole or any part of the Base Rents which have not yet become payable under the Lease and have not already been prepaid, without penalty or bonus.

(b) Lessee may prepay the whole or any part of the Base Rents which have not yet become payable under the Lease during the Base Term and have not already been prepaid as follows:

(i) in accordance with the definition of "Permitted Restricted Payments" in the Participation Agreement as well as Section 4.48(3) (*Start Mining Covenants*) of the Participation Agreement; and

(ii) should Lessee otherwise wish to make a prepayment towards Base Rent which have not yet become payable under the Lease during the Base Term and have not already been prepaid, Lessee shall give Lessor at least five (5) Business Days prior written notice that it intends to make such a prepayment (which notice shall include the amount of such intended prepayment), and by expiry of such notice Lessee shall pay such prepayment to Lessor together with any applicable taxes or duties thereon.

(c) Where Lessee has made, and Lessor has received, a prepayment in respect of Base Rent as contemplated by Section 3.3(b):

(i) such prepayment shall be applied by Lessor to the outstanding Base Rent in inverse order of maturity, beginning with the last payment of Base Rent remaining due during the remainder of the Base Term, and any applicable taxes or duties thereon;

(ii) following such application, for each Base Rent instalment (together with any applicable taxes or duties thereon) discharged in full by such application, the Initial Base Term shall be reduced by one (1) month; and

(iii) in all cases, all prepayments of Base Rent shall be non-refundable for any reason and shall be property of the Lessor upon receipt.

3.4 Supplemental Rent.

Lessee shall pay to Lessor, or to whomsoever is entitled thereto, any and all Supplemental Rent, promptly when due, or where no due date is specified, promptly after written demand by the Person entitled thereto is received by Lessee as provided in Section 18, and in any event within 10 Business Days after receipt of such demand. If Lessee fails to pay any Supplemental Rent, Lessor shall have all rights, powers and remedies provided for herein or by law or equity or otherwise as in the case of nonpayment of Base Rent. Lessee will also pay to Lessor, as Supplemental Rent, on demand, to the extent permitted by Applicable Law, an amount equal to interest at the Late Rate on any part of any payment of Base Rent not paid when due for any period for which the same is overdue and on any payment of Supplemental Rent

payable to any Indemnified Person not paid when due or demanded, as the case may be, for the period from the earlier of such due date or demand until paid. All Supplemental Rent to be paid pursuant to this Section 3.4 shall be payable in the type of funds and in the manner set forth in Section 3.6 and be payable on an After-Tax Basis.

3.5 *Intentionally Deleted.*

3.6 Manner of Payments.

All Rent and other amounts, other than Supplemental Rent payable to Persons other than Lessor, unless otherwise provided in any of the Basic Documents, shall be paid by Lessee to Lessor by transferring or delivering such amounts in immediately available funds to Lessor at the account listed on Schedule 2 to the Participation Agreement or to such other account in Canada as Lessor specifies in writing. Supplemental Rent payable to Persons other than Lessor shall be payable to such other Persons in accordance with written instructions furnished to Lessee by such Persons.

3.7 Net Lease, Warranties, Etc.

(a) NET LEASE. THIS LEASE IS A NET LEASE AND LESSEE'S OBLIGATION TO PAY ALL RENT PAYABLE HEREUNDER IS ABSOLUTE, UNCONDITIONAL AND IRREVOCABLE AND SHALL NOT BE AFFECTED BY ANY CIRCUMSTANCE OF ANY CHARACTER WHATSOEVER, INCLUDING, (a) ANY SET-OFF, ABATEMENT, COUNTERCLAIM, SUSPENSION, RECOUPMENT, REDUCTION, RESCISSION, DEFENSE OR OTHER RIGHT THAT LESSEE MAY HAVE AGAINST LESSOR, ANY VENDOR OR MANUFACTURER OF THE LEASED PROPERTY OR ANY PART THEREOF OR ANY OTHER PERSON FOR ANY REASON WHATSOEVER, (b) ANY DEFECT IN OR FAILURE OF TITLE, MERCHANTABILITY, CONDITION, DESIGN, COMPLIANCE WITH SPECIFICATIONS, OPERATION OR FITNESS FOR USE OF ALL OR ANY PART OF THE LEASED PROPERTY, (c) ANY DAMAGE TO, OR REMOVAL, ABANDONMENT, REQUISITION, TAKING, CONDEMNATION, LOSS, THEFT OR DESTRUCTION OF ALL OR ANY PART OF THE LEASED PROPERTY OR ANY INTERFERENCE, INTERRUPTION, RESTRICTION, CURTAILMENT OR CESSATION IN THE USE OR POSSESSION OF THE LEASED PROPERTY BY LESSEE OR ANY OTHER PERSON FOR ANY REASON WHATSOEVER OR OF WHATEVER DURATION, (d) ANY INSOLVENCY, BANKRUPTCY, REORGANIZATION OR SIMILAR PROCEEDING BY OR AGAINST LESSEE, LESSOR, OR ANY OTHER PERSON, (e) THE INVALIDITY, ILLEGALITY OR UNENFORCEABILITY OF THIS LEASE, ANY OTHER BASIC DOCUMENT, OR ANY OTHER AGREEMENT, DOCUMENT OR INSTRUMENT REFERRED TO HEREIN OR THEREIN OR ANY OTHER INFIRMITY HEREIN OR THEREIN OR ANY LACK OF RIGHT, POWER OR AUTHORITY OR AUTHORIZATION OF LESSEE, LESSOR, OR ANY OTHER PERSON TO ENTER INTO THIS LEASE OR ANY OTHER BASIC DOCUMENT OR TO PERFORM THE OBLIGATIONS HEREUNDER OR THEREUNDER OR CONSUMMATE THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY OR ANY DOCTRINE OF FORCE MAJEURE, IMPOSSIBILITY, FRUSTRATION OR FAILURE OF CONSIDERATION, (f) THE BREACH OR FAILURE OF ANY WARRANTY OR REPRESENTATION MADE IN THIS LEASE OR ANY OTHER BASIC DOCUMENT BY LESSEE, LESSOR, OR ANY OTHER PERSON, OR (g) TO THE EXTENT PERMITTED BY APPLICABLE LAW, ANY OTHER CIRCUMSTANCE OR HAPPENING WHATSOEVER, WHETHER OR NOT SIMILAR TO ANY OF THE FOREGOING, ANY PRESENT OR FUTURE LAW NOTWITHSTANDING, it being the intention of the parties hereto that all Rent payable by Lessee shall continue to be payable in all events in the manner and at the times provided herein. To the maximum extent permitted by law, Lessee hereby waives any and all rights which it may now have or at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender this Lease, except in accordance with the express terms hereof. If for

any reason whatsoever this Lease is terminated in whole or in part by operation of law or otherwise, except as specifically provided herein, Lessee nonetheless agrees to the maximum extent permitted by law, to pay to Lessor and/or to any other Person entitled thereto, amounts equal to each payment of Base Rent and all Supplemental Rent due and owing at the time such payment would have become due and payable in accordance with the terms hereof had this Lease not been terminated in whole or in part. The obligations of Lessee in the immediately preceding sentence shall survive the expiration or termination of this Lease other than in accordance with its terms. Absent manifest error, each payment of Rent made by Lessee hereunder (or by any other Person under a Basic Document) shall be final and Lessee shall not seek or have any right to recover all or any part of such payment from Lessor or any Person for any reason whatsoever. Nothing contained in this Section 3.7 shall be construed as a waiver of any warranty or other claim against any manufacturer, supplier, dealer, vendor, contractor, subcontractor or installer. Lessor expressly acknowledges and agrees that nothing contained in this Section 3.7 in any way modifies, limits or diminishes any covenant or obligation of Lessor expressly set out in this Lease or in any way restricts the rights of Lessee to pursue independently any other remedies it may have (in law or in equity), unless expressly waived herein, against Lessor if Lessor fails to perform its covenants and obligations hereunder.

(b) Assertion of Rights under Warranties. Unless a Lease Event of Default shall exist and Lessor has notified Lessee that the authorization contemplated herein no longer is effective, Lessor authorizes Lessee (directly or through agents), at Lessee's expense, to assert during the Lease Term, all of Lessor's rights (if any) under any applicable warranty and any other claim that Lessee or Lessor may have against any vendor, manufacturer, contractor or subcontractor (other than Lessee or a Guarantor) with respect to any part of the Leased Property or any portion thereof, and Lessor agrees to cooperate, at Lessee's expense (on an After-Tax Basis), with Lessee and its agents in asserting such rights. Any amount recovered by Lessee under any such warranty or other claim against any vendor, manufacturer, contractor or subcontractor shall be applied first to meet the requirements of Section 8 or, if appropriate, in accordance with Section 10 or Section 13, and, upon completion of any repairs or replacement in connection with such warranty or other claim, the balance, if any, of amounts received from such vendor, manufacturer, contractor or subcontractor shall be released to Lessee.

3.8 HST and Other Taxes.

All sales, value added or similar taxes imposed shall be added to, and are payable at the same time as, each amount (calculated exclusive of any forementioned taxes) required to be paid by Lessee to Lessor pursuant to this Lease (except any amount that is not subject to the taxes described in this Section 3.8), including HST at the rate of 13% (or such other rate as may be imposed at the relevant time). Notwithstanding that any HST is collectible by Lessor in respect of payments required to be paid by Lessee to Lessor pursuant to this Lease (except any amount that is not subject to HST) at the time any such payment is due, Lessee shall pay the HST to Lessor and Lessor will, by the time required under applicable law, remit to the Canada Revenue Agency the applicable HST in immediately available Canadian funds, in an amount equal to the Canadian dollar equivalent of the HST imposed. Lessee agrees to defend and indemnify Lessor on a net after-tax basis against (a) liability for all license and/or registration fees, assessments, and other charges or fees now or hereafter imposed by any governmental body or agency upon the Leased Property; and (b) any penalties, charges, interest or costs imposed with respect to any sales, value added or similar taxes imposed but not paid by Lessee in accordance with this Section.

SECTION 4. OWNERSHIP AND MARKING OF UNIT; PERSONAL PROPERTY.

4.1 Retention of Title.

Lessor shall retain title to and ownership of the Leased Property notwithstanding the delivery to and possession and use of the Leased Property by Lessee hereunder. Lessee does not and will not have or

obtain any title, right, or interest, legal or equitable, in the Leased Property, other than its rights and interests as a lessee hereunder and subject to all the terms hereof.

4.2 Duty to Mark Leased Property.

Lessee shall cause signs bearing the legend set forth below to be plainly, permanently and conspicuously placed at the entrance to the Iroquois Falls Project and in the proximity of each Leased Property being a turbine:

“THE TURBINE AND VARIOUS OTHER EQUIPMENT IS OWNED AND LEASED BY MACQUARAIE EQUIPEMNT FINANCE LTD. TO IROQUOIS FALLS POWER CORP.”

Lessee shall replace promptly any legend that may be removed, defaced, obliterated or destroyed. Lessee shall make all appropriate changes and additions to such legend as may be required from time to time in order to protect Lessor’s right, title and interest in and to the Leased Property, its rights under this Lease.

4.3 Prohibition Against Certain Designations.

Except as above provided and as provided in the Basic Documents, and other than Lessee putting its name and company trademark on the Iroquois Falls Project or other equipment located within the Iroquois Falls Project, Lessee will not allow the name of any Person to be placed on the Iroquois Falls Project or any Leased Property as a designation that might reasonably be interpreted as a claim of ownership or of any Lien other than as created under the Basic Documents.

4.4 Personal Property.

Lessor and Lessee agree that the Leased Property is and shall be and remain personal property notwithstanding the manner in which it may be attached or affixed to the Iroquois Falls Project Site, and Lessee waives and disclaims any and all claims and causes of action the Lessee may make to the contrary.

SECTION 5. DISCLAIMER OF WARRANTIES.

Without waiving any claim Lessee may have against any seller, supplier or manufacturer, **LESSEE ACKNOWLEDGES AND AGREES THAT, (a) THE LEASED PROPERTY IS OF A SIZE, DESIGN, CAPACITY AND MANUFACTURE SELECTED BY AND ACCEPTABLE TO LESSEE, AND THAT LESSEE HAS EXAMINED AND APPROVED ALL SUPPLY CONTRACTS RELATING TO THE LEASED PROPERTY, (b) LESSEE IS SATISFIED THAT THE LEASED PROPERTY IS SUITABLE FOR ITS INTENDED PURPOSES, (c) LESSOR IS NOT A MANUFACTURER OF OR A DEALER IN PROPERTY OF SUCH KIND, (d) THE LEASED PROPERTY IS LEASED HEREUNDER SUBJECT TO ALL APPLICABLE LAWS NOW IN EFFECT OR HEREAFTER ADOPTED AND IT AND THE LEASED PROPERTY IS IN THE STATE AND CONDITION OF EVERY PART THEREOF WHEN THE SAME FIRST BECAME SUBJECT TO THIS LEASE, WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND BY LESSOR, (e) LESSOR LEASES AND LESSEE TAKES THE LEASED PROPERTY (A) “AS-IS”, “WHERE-IS” AND “WITH ALL FAULTS”, IN WHATEVER CONDITION IT MAY BE, (B) SUBJECT TO ALL APPLICABLE (1) ZONING REGULATIONS, (2) ENVIRONMENTAL LAWS, (3) BUILDING RESTRICTIONS AND (4) OTHER APPLICABLE LAWS NOW IN EFFECT OR HEREAFTER ADOPTED AND (f) LESSOR DOES NOT MAKE ANY, NOR SHALL LESSOR BE DEEMED TO HAVE MADE ANY, AND LESSOR EXPRESSLY DISCLAIMS ANY AND ALL,**

WARRANTIES OR REPRESENTATIONS, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, CONDITION, FITNESS FOR ANY PARTICULAR PURPOSE, DESIGN, OPERATION, MERCHANTABILITY, OR TITLE, OF THE LEASED PROPERTY, THE QUALITY OF THE MATERIAL THEREIN OR WORKMANSHIP THEREOF OR CONFORMITY THEREOF TO SPECIFICATIONS, FREEDOM FROM PATENT, COPYRIGHT OR TRADEMARK INFRINGEMENT, THE ABSENCE OF ANY LATENT OR OTHER DEFECT, WHETHER OR NOT DISCOVERABLE, OR AS TO THE ABSENCE OF ANY OBLIGATIONS BASED ON STRICT LIABILITY IN TORT OR ANY OTHER EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY WHATSOEVER WITH RESPECT THERETO, IT BEING AGREED THAT ALL SUCH RISKS, AS BETWEEN LESSOR AND LESSEE, ARE TO BE BORNE BY LESSEE, except that Lessor hereby represents and warrants that (i) Lessor received whatever title to or interest in the Leased Property as was conveyed to it by Lessee and (ii) the Leased Property is free and clear of Liens. It is also agreed that, as between the Indemnified Persons and Lessee, all risks incident to the matters discussed in the preceding sentence are to be borne by Lessee. The provisions of this Section 5 have been negotiated and, except to the extent otherwise stated in the Basic Documents, the foregoing provisions are intended to be a complete exclusion and negation of any representations or warranties, express or implied, by Lessor with respect to the Leased Property or any part thereof, that may arise pursuant to any Applicable Law, or otherwise. Lessor shall have no responsibility or liability to Lessee or any other Person with respect to any of the following, to the extent that any of the following arise on or before the last day of the Lease Term: (w) any liability, loss or damage caused or alleged to be caused directly or indirectly by the Leased Property or any part thereof or by any inadequacy thereof or deficiency or defect therein or by any other circumstances in connection therewith; (x) the use, operation or performance of the Leased Property or any part thereof, or any risks relating thereto; (y) any interruption of service, loss of business or anticipated profits or consequential damages arising directly or indirectly from the use, operation or maintenance of the Leased Property; or (z) the delivery, operation, servicing, maintenance, repair, improvement or replacement of the Leased Property or any part thereof. Lessee's delivery of the Lease Supplement on the Closing Date and any other Lease Supplement thereafter shall be conclusive evidence as between Lessee and Lessor that the Leased Property described therein is in good order and condition, conforms to specifications applicable thereto and to all government standards and requirements reasonably interpreted as being applicable thereto and is in all respects satisfactory to Lessee, and Lessee will not assert any claim of any nature whatsoever against Lessor based on any of the foregoing matters.

SECTION 6. RETURN OF LEASED PROPERTY; CONDITION.

6.1 Return of Leased Property.

(a) Upon termination of the Lease or on the date Lessee is to return Leased Property pursuant to Section 19.1, Lessee, at its cost and expense, will surrender possession of, and return, the Leased Property to Lessor by complying with the requirements of this Section 6.

(b) At any time that Lessee delivers physical possession of the Leased Property to Lessor:

(i) Lessee also shall deliver originals or copies of all documents, instruments, plans, maps, specifications, manuals, drawings and other materials relating to the installation, operation, maintenance, sale, construction, design, modification and repair of the Leased Property, together with all maintenance, repair and upgrade logs then in the possession of Lessee or any Affiliate of Lessee as may reasonably be necessary for the continued operation of the Leased Property.

(ii) At its expense, Lessee shall cause any licenses, patents, copyrights, trade secrets and similar rights necessary for the operation of the Leased Property to be assigned or conveyed to Lessor or its designee; except that if Lessee is unable to obtain such assignment or conveyance of

such rights, Lessee shall notify Lessor immediately, and at Lessor's election such failure shall be deemed an Event of Loss as of the last day of the Lease Term.

6.2 Condition of Leased Property.

When Lessee returns the Leased Property to Lessor pursuant to Section 6.1, the Leased Property shall be free and clear of all Liens and any damage caused by such removal shall have been repaired; the Leased Property shall be in the condition required by Section 8.1; and the Iroquois Falls Project Site shall be free and clear of all Liens.

Without limiting any of the other terms of this Lease or any other Basic Document, Lessee shall be liable to Lessor for: (i) any reasonable costs and expenses incurred by Lessor as a result of any damage caused by removal of the Leased Property, and (ii) any costs and expenses incurred by Lessor as a result of Lessee's failure to duly perform and comply with any of the terms of this Section 6.

6.3 Dismantling of Leased Property.

Lessor shall have no duty or obligation to disassemble the Leased Property or remove the Leased Property or further duty or obligation upon the expiration or termination of the Lease.

In order for Lessee to return the Leased Property to Lessor pursuant to Section 6.1, Lessee, at its own risk and expense, shall dismantle and disassemble the Leased Property and properly prepare for shipment, and arrange for the transportation of the Leased Property, in whole or in part, at Lessee's risk and expense, to a destination of Lessor's choice in Canada, and the return of the Leased Property shall be in accordance with the requirements set out below:

(a) All equipment purchased in connection with the Leased Property from the original equipment manufacturer or replaced as a capital replacement or upgrade shall be deemed to be part of the Leased Property and returned to Lessor;

(b) The Leased Property shall be undamaged (prior to and after removal from the Project Site), be in the condition required under Section 8 and fit for sale or redeployment elsewhere;

(c) For all Leased Property being gas turbines, the gas turbines (as well as all life-limited parts) shall have at least 10,000 hours remaining before their next hot section and / or major overhaul;

(d) The Leased Property shall be crated such that it is protected from the elements and from any potential damage during the shipping process (including from humidity);

(e) The Leased Property should be "match-marked" and mapped for reassembly such that a reasonably qualified individual or entity would be able to reassemble such Leased Property;

(f) All fasteners should be packed and kept together with the applicable Leased Property; and

(g) The Leased Property shall be loaded and ready for transport.

Any such dismantling and disassembling of the Leased Property will be supervised, at Lessee's expense, by a qualified engineer, acceptable to Lessor and Lessee (which engineer will also certify that the Leased Property, including each component thereof, is in the condition required by Section 8) and will be done so as to (x) best preserve the Leased Property for reinstallation at another location, (y) comply with procedures recommended by the manufacturer or designer to the maximum extent practicable and (z)

minimize the cost of such reinstallation at another location. Without limiting the foregoing, the following actions, as applicable, shall be taken in connection with the dismantling and disassembly of the Leased Property:

(i) Combustion Turbines. (a) enclosures are to be returned together with the turbines, remove lube oil (2-300 gallons, synthetic); Disconnect all wiring and cables. De-couple generator from low-pressure turbine ("LPT", LM6000) power turbine ("PT", FT8); Remove generator from enclosure and ship separately due to weight; Remove filter house; Unbolt/remove exhaust, inlet, and low-pressure compressor/high pressure compressor bleed air (LM6000) expansion joints; Unbolt enclosure sections from one another and foundation.; Prepare for removal external skids such as start system as well as fire system bottles; Remove from control room control cabinets containing controls and relays, plus external equipment such as exciter.

(ii) Steam Turbines. Remove lubricating and hydraulic oil; De-couple from generator.; Remove trip/throttle valve.; Disconnect non-return valve, other piping; Remove exhaust trunk.; Lift top case; Remove rotor, place in shipping stand; Unbolt lower case from foundation, front stand.; Unbolt generator from foundation.; Disconnect controls and relays; and prepare all for shipping.

Lessee also shall deliver to Lessor originals or copies of all documents, instruments, plans, maps, specifications, manuals, drawings and other materials relating to the installation, operation, maintenance, sale, construction, design, modification and repair of the Leased Property, together with all maintenance, repair and upgrade logs then in the possession of Lessee or any Affiliate of Lessee.

SECTION 7. LIENS; CONVEYANCES.

Lessee will not directly or indirectly create, incur, assume, permit or suffer to exist any Lien on or with respect to the Leased Property, the Iroquois Falls Project Site or Lessee's leasehold interest in the Leased Property and the Iroquois Falls Project Site, except Permitted Liens (which such Liens must be released and discharged prior to the occurrence of a Lease Default or Lease Event of Default, or the return of the Leased Property in accordance with Section 6). Lessee shall promptly, at its own expense, take such action or cause such action to be taken as may be necessary to duly discharge (by bonding or otherwise) any such Lien not excepted above that may arise at any time. Without limiting the foregoing, Lessee covenants and agrees that it will keep the Leased Property, the Iroquois Falls Project Site, its leasehold interest in the Leased Property and the Iroquois Falls Project Site free and clear of any Liens of or on the owner or owners of any interest in the Iroquois Falls Land or any other real estate on which the Leased Property may from time to time be located and any purchaser, or present or future creditor of, such real estate owner or owners. Lessee will obtain and deliver on the Closing Date, and promptly after delivery or change in location of any part of the Leased Property, or any sale or encumbrance of the Iroquois Falls Project Site or such other real estate, waivers and acknowledgments of the priority of, and subordination to, Lessor's rights in the Leased Property and the Iroquois Falls Project Site, in recordable form, reasonably satisfactory to Lessor necessary to maintain Lessor's interests in the Leased Property and the Iroquois Falls Project Site, and to maintain the Leased Property, the Iroquois Falls Project Site, Lessee's leasehold interest in the Leased Property and the Iroquois Falls Project Site, free and clear of all Liens other than, and subject only to, Permitted Liens (which such Liens must be released and discharged prior to the occurrence of a Lease Default or Lease Event of Default, or the return of the Leased Property in accordance with Section 6). Except as otherwise provided in a Basic Document, Lessee shall not sell or assign its rights in the Leased Property, the Iroquois Falls Project Site, its leasehold interests in the Leased Property or the Iroquois Falls Project Site.

SECTION 8. MAINTENANCE; OPERATION; POSSESSION; INSPECTION

8.1 Maintenance and Operation.

Lessee, at its own cost and expense, shall maintain, service, repair, operate, protect and keep, or shall cause to be maintained, serviced, repaired, operated, protected and kept, the Leased Property (a) in good operating order and repair, (b) in at least as good condition, ordinary wear and tear excepted, as on the Closing Date, (c) in a manner comparable to and no less favorable than maintenance and repair practices (including the periodicity of rebuilding and maintenance or record keeping in respect of the Leased Property) used by Lessee or any Affiliate thereof in respect of plants owned or leased by Lessee or any Affiliate thereof substantially similar in type to the Leased Property, but, in any case, in a manner that is in accordance with the customary industry standards for prudent owners for property substantially similar in type to the Leased Property, and as required by the manufacturer(s) for maintenance, operation and the preservation of warranties, (d) in accordance with all insurance policies required to be maintained pursuant to Section 11, if applicable, and (e) so that it is readily capable of being used in Commercial Operation. Lessee shall use the Leased Property only in the manner for which it was designed and intended. Lessee shall maintain all blueprints, operating manuals, maintenance manuals, parts lists and other technical documents and information necessary for the assembly and operation of the Leased Property in accordance with past practices and all records, logs and other materials for the Leased Property or any component or part thereof required by any Government Body, all as if Lessee were the owner of the Leased Property, regardless of whether any such requirements, by their terms, are nominally imposed on Lessee or Lessor. In no event shall Lessee adversely discriminate as to the use or maintenance of the Leased Property (including the periodicity of maintenance, rebuilds, or record keeping in respect of the Leased Property) as compared to property of a substantially similar nature that Lessee or its Affiliates owns or leases.

Without limiting the requirements of the preceding paragraph, the Leased Property shall be operated in accordance with "Good Engineering and Operating Practices", which such term shall mean any of the practices, methods and activities adopted by a significant portion of the North American electric utility industry as good practices applicable to the design, building, and operation of generating facilities of similar type, size and capacity or any of the practices, methods or activities which, in the exercise of skill, diligence, prudence, foresight and reasonable judgement by a prudent generator in light of the facts known at the time the decision was made, could reasonably have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety, expedition and Applicable Laws. Good Engineering and Operating Practices are not intended to be limited to the optimum practices, methods or acts to the exclusion of all others, but rather are intended to delineate acceptable practices, methods, or acts generally accepted in the North American electric utility industry. Without limiting the generality of the foregoing and in respect of the operation of the Iroquois Falls Project and the Leased Property, Good Engineering and Operating Practices include taking reasonable steps to ensure that:

a) adequate materials, resources and supplies, including fuel, are available to meet the Iroquois Falls Project's and Leased Property's needs under reasonable conditions and reasonably anticipated abnormal conditions;

b) sufficient operating personnel are available and are adequately experienced and trained to operate the Iroquois Falls Project and Leased Property properly, efficiently and taking into account manufacturers' guidelines and specifications and are capable of responding to abnormal conditions;

c) preventative, routine and non-routine maintenance and repairs are performed on a basis on the Iroquois Falls Project and Leased Property that ensures reliable long-term and safe operation and taking into account manufacturers' recommendations and are performed by knowledgeable, trained and experienced personnel utilising proper equipment, tools and procedures; and

d) appropriate monitoring and testing is done to ensure equipment used in connection with the Iroquois Falls Project and Leased Property is functioning as designed and to provide assurance that equipment will function properly under both normal and abnormal conditions.

8.2 Possession and Use.

Lessee will use the Leased Property for operation of the Iroquois Falls Project and the Iroquois Falls Project Site. Subject to Section 8.3, (a) Lessee will use the Leased Property and the Iroquois Falls Project Site solely in the conduct of its business, (b) the Leased Property will at all times remain in the possession and control of Lessee on the Iroquois Falls Project Site and (c) Lessee will maintain, use and operate the Leased Property, or will cause the Leased Property and the Iroquois Falls Project Site to be maintained, used and operated at all times under and in compliance with all Applicable Laws in all material respects or as required by any Government Body having power to regulate or supervise the use of the Leased Property and the Iroquois Falls Project Site.

8.3 Sublease or Assignment.

Lessee shall not without the prior written consent of Lessor (which consent may be given or withheld in Lessor's sole and absolute discretion) sublease all or a portion of the Leased Property, its leasehold rights in the Leased Property or the Iroquois Falls Project Site; and shall not assign all or a portion of the Leased Property, its leasehold rights in the Leased Property or the Iroquois Falls Project Site or assign all or any portion of its rights under this Lease. In providing its consent, Lessor may do so on such terms, conditions and requirements as it may consider necessary in its sole and absolute discretion, including the requirement for Lessee or any other Person to enter into or provide any documents Lessor may require.

8.4 Replacement of Parts.

Subject to Section 10, Lessee, at its sole cost and expense, will promptly replace all appliances, parts, instruments, appurtenances, accessories, furnishings, fixtures and other equipment of whatever nature (herein collectively called "**Parts**") from time to time incorporated or installed in or attached to the Leased Property and which may from time to time become worn out, lost, stolen, destroyed, seized, confiscated, damaged beyond repair or permanently rendered unfit for use by damage or obsolescence so that upon completion of any replacing, restoring or repairing of Parts, the Leased Property is in the same condition as required by Section 8.1. All replacement Parts shall be free and clear of all Liens and rights of others on the date they become subject to this Lease and shall be in as good operating condition as, and shall have a utility and estimated value at least equal to, the Parts replaced, assuming such replaced Parts were in at least the condition and repair required to be maintained by the terms of this Lease.

All Parts at any time removed from the Leased Property shall remain subject to the rights of Lessor no matter where located, until Parts replacing such Parts are incorporated or installed in or attached to the Leased Property and which meet the requirements for replacement Parts specified above. Immediately upon any replacement Part becoming incorporated or installed in or attached to the Leased Property as above provided, without further act:

- (i) title to the removed Part shall thereupon vest in such Person as Lessee may designate, free and clear of all rights of Lessor on an "as is, where is" and with all faults basis;
- (ii) the replacement Part shall become subject to this Lease and such replacement Part shall be deemed part of the Leased Property for all purposes hereof to the same extent as the Parts originally incorporated or installed in the Leased Property; and

(iii) title to such replacement Part shall thereupon vest in Lessor.

8.5 Maintenance of Authorizations.

In the furtherance of, and not in limitation of, Lessee's obligations under Section 8.2, throughout the Lease Term, Lessee shall do and cause to be done all things reasonably necessary to preserve and keep in full force and effect all Authorizations required for the conduct of its business and operations with respect to the Leased Property and the Iroquois Falls Project Site from time to time in effect. Lessee shall retain copies of all records and reports required pursuant to all Authorizations, for the period mandated by Applicable Law, and shall, upon return of the Leased Property to Lessor, turn over to Lessor all such records and reports required to be maintained under Applicable Law by the owner or operator of the Leased Property or the Iroquois Falls Project Site.

8.6 Inspection.

Without limiting any inspection rights set out in the Participation Agreement, during the Lease Term, Lessor shall have the right, but not the obligation, at its sole risk, cost and expense (except that if a Lease Default or Lease Event of Default exists such inspection shall be at the sole risk (other than with respect to gross negligence or willful misconduct by the inspector), cost and expense of Lessee) by its authorized representatives to inspect the Leased Property and all logs, records, books and other materials relating to the use, damage, repair and maintenance of the Leased Property and the Iroquois Falls Project Site, to make copies and take extracts therefrom, and to discuss the affairs, finances and accounts of Lessee and the Guarantors with Lessee's and Guarantor's officers, in each case during Lessee's normal business hours so as not to materially interrupt the commercial operation of the Leased Property, subject to Lessee's standard security and safety rules and procedures and, unless a Lease Event of Default exists, upon five Business Days' prior notice to Lessee (such notice being waived by Lessee during the continuance of a Lease Event of Default). Without limiting the foregoing, Lessee shall promptly furnish to Lessor such information with respect to the Leased Property, the Iroquois Falls Project Site, Lessee, each Guarantor, this Lease and the other Basic Documents as Lessor may from time to time reasonably request.

SECTION 9. MODIFICATIONS.

9.1 Required Modifications.

Lessee, at its own expense, shall make such alterations, modifications, reconfigurations, improvements and additions to the Leased Property (collectively, "**Modifications**") as may be reasonably required from time to time to meet the requirements of Section 8.1, or of Applicable Law or to maintain the insurance coverage of Section 11 (collectively, a "**Required Modification**"). Title to any Required Modification shall immediately vest in Lessor. All Modifications shall be located wholly within the Iroquois Falls Project Site. Lessee shall not make any Modification to Leased Property other than a Required Modification.

SECTION 10. LOSS, DESTRUCTION, REQUISITION, ETC.

10.1 Event of Loss.

(a) The term "**Event of Loss**" shall mean, with respect to the Leased Property, any of the following events:

(i) Any item of the Leased Property is totally destroyed, or a constructive total loss of the Leased Property under applicable insurance policies and in accordance with standard industry practice occurs, or a compromised total loss of the Leased Property occurs;

(ii) Any item of the Leased Property is damaged beyond economic repair; or the Leased Property (in its entirety or a substantial portion thereof such that the then remaining portion cannot practically be utilized for the purposes intended) is permanently rendered unfit for normal use;

(iii) Any item of the Leased Property (in its entirety or a substantial portion thereof such that the remaining portion cannot practically be utilized for the purposes intended) or the Iroquois Falls Project Site is condemned, confiscated or seized, or title thereto or use thereof is expropriated by any Government Body and, in the case of any such expropriation of use, Lessor or Lessee loses, or is expected from the circumstances of such expropriation to lose, the use or possession of all or a substantial portion of its interest in any of the Leased Property or the Iroquois Falls Project Site for a period either (A) exceeding 6 months or (B) ending after the last day of the Base Term;

(iv) the occurrence of a Material Event; or

(v) the occurrence of any damage or casualty beyond economic repair to the Iroquois Falls Project Site or any portion thereof which, as a consequence thereof, would result in the Leased Property not being capable of Commercial Operation throughout the balance of its economic useful life (a “**Material Casualty**”).

(b) The date of occurrence of any Event of Loss shall be, in the case of an Event of Loss arising pursuant to Section 10.1(a)(i) or (ii), the date of the event or condition giving rise thereto; and in the case of an Event of Loss arising pursuant to Section 10.1(a)(iii), the date on which the expropriation of title or use becomes effective. The date of occurrence of an Event of Loss shall be, in the case of an Event of Loss arising pursuant to Section 10.1(a)(iv), the date on which Lessee first became aware of, or reasonably should have become aware of, the fact that the environmental condition could not be cured by a Permitted Remediation; and in the case of an Event of Loss arising pursuant to Section 10.1(a)(v), the date of the Material Casualty. If in the case of the Event of Loss arising pursuant to Section 10.1(a)(i) or (ii), the date of the subject event or condition is uncertain, such date shall be the date on which Lessee first became aware of, or reasonably should have become aware of, such event or condition.

10.2 Consequence of Event of Loss.

Upon the occurrence of an Event of Loss, Lessee shall promptly give Lessor written notice thereof (or Lessor may alternatively give Lessee written notice thereof) and, on the date (the “**Settlement Date**”) which is the earlier of (i) the first Rent Payment Date occurring at least 90 days after the date on which the Event of Loss occurred and (ii) the Base Term Expiration Date, Lessee shall pay or cause to be paid to Lessor in funds of the type specified in Section 3.6, the sum of (x) an amount equal to the Stipulated Loss Value, determined as of such Settlement Date, of the Leased Property, (y) to the extent not theretofore paid, Base Rent and other amounts due and payable before, and in arrears on, such Settlement Date, and (z) all other accrued and unpaid Supplemental Rent, together with any applicable taxes or duties on any such amounts, and upon such payment Lessor will make a Lessor Transfer to Lessee.

10.3 Rent Termination.

Upon the payment of all sums required to be paid pursuant to Section 10.2, the Lease with respect to the Leased Property and the obligation to pay Rent for the Leased Property due and accruing after the latter of (i) the date of payment of Stipulated Loss Value and other required amounts owing under Section 10.2 and (ii) the date of the Lessor Transfer, shall terminate in accordance with the terms hereof, without prejudice to the continuation of those obligations.

10.4 Disposition of Leased Property.

Upon the payment of all sums required to be paid pursuant to Section 10.2 and satisfaction of all conditions in Section 10.2, Lessor will make a Lessor Transfer to Lessee.

10.5 Application of Event of Loss Proceeds.

Lessor shall be entitled to receive, and Lessee hereby irrevocably assigns to Lessor, all right, title and interest of Lessee in and to any proceeds of any claims for damage, insurance or award received on account of an Event of Loss insofar as they are related to the Leased Property; except that the insurance proceeds and claims for damage, in each case with respect to insurance carried by Lessee, shall be treated in the manner set forth in Section 11.3.

10.6 Expropriation.

If during the Lease Term the use of the Leased Property is requisitioned or taken by any Government Body under the power of confiscation, seizure or expropriation or otherwise and such event does not constitute an Event of Loss, Lessee's obligation to pay all payments of Rent shall continue for the duration of such requisitioning or taking. Lessee shall be entitled to receive and retain for its own account all sums payable for any such period by such Government Body as compensation for requisition or taking of possession. Nothing herein contained shall affect the obligations of Lessee contained in Section 6 with respect to the condition in which the Leased Property is to be when the Leased Property is surrendered to Lessor. A requisition or taking of use for an indefinite period shall not be deemed to exceed the remaining Base Term until the period of such requisition or taking does, in fact, exceed the remaining Base Term. In such case, the Event of Loss shall be deemed to have occurred on the 10th day preceding the last day of the Base Term.

10.7 Lease Event of Default.

Any amount referred to in Section 10.5 or 10.6 that is payable to Lessee shall not be paid to Lessee, or if it has been previously paid directly to Lessee, shall not be retained by Lessee, if at the time of such payment a Lease Default or Lease Event of Default exists, but shall be paid to and held by Lessor as security for the obligations of Lessee under this Lease and when there shall not exist any such Lease Default or Lease Event of Default, such amount (unless theretofore otherwise applied to the obligations of Lessee hereunder) shall be paid over to Lessee.

SECTION 11. INSURANCE.

11.1 Property Damage and Public Liability Insurance.

Subject to the proviso in clause (a) below, Lessee will at all times at its own expense cause to be carried and maintained with reputable insurance companies of recognized responsibility, such insurance in such amounts against such risks and with such terms (including co-insurance, deductibles and limits of

liability and loss payment provisions) as is customary for similar facilities and projects of similar type, nature and size to the Leased Property and the Iroquois Falls Project Site which have risks associated with them substantially similar to those anticipated in connection with the operation, maintenance and use of similar equipment, fixtures and improvements owned or leased by Lessee and its Affiliates and in keeping with prudent industry practice including (a) no later than three (3) months from the date hereof, property insurance in respect of the Leased Property in an amount at all times at least equal to the \$30,000,000 less any deductible amount or self-insurance amount not to exceed \$1,000,000 per occurrence, (b) public liability insurance (including contractual liability) against loss or damage including for personal injury, death or property damage occurring as a result of the ownership, use, maintenance or operation of the Leased Property or the Iroquois Falls Project Site, and in any event insuring against such loss or damage from such risks and in such amounts as is maintained by Lessee in respect of similar equipment, fixtures and improvements owned or leased by it; except that such public liability insurance shall at least be sufficient to afford protection to the limit of \$100,000,000 in respect of any one occurrence, subject to a deductible provision not exceeding \$1,000,000 per occurrence and (c) pollution insurance coverage. Such liability insurance may be carried under blanket policies maintained by Lessee so long as such policies otherwise comply with the provisions of this Section 11. Lessee may reduce the limits of liability of its public liability insurance (but not below \$30,000,000 per occurrence) to the extent (i) public liability insurance is not commercially available on terms and conditions reasonable to it and (ii) Lessee delivers to Lessor a certificate of an independent, reputable insurance broker that is not an Affiliate of Lessee and that is familiar with facilities and projects of similar type, nature and size of the Leased Property to the effect that the proposed insurable limit per occurrence is consistent with prudent gas generated electricity industry practice. All such insurance shall cover the interests of Lessor in the Leased Property and shall protect Lessor and Lessee in respect of the above-described risks and shall be no less favorable than insurance maintained by Lessee and its Affiliates with respect to facilities and projects of similar type, nature and size as the Leased Property. Any property insurance which Lessee obtains in respect of the Leased Property in excess of the amounts required hereunder shall be obtained as insurance of Lessee's rights and interests under this Lease.

11.2 Policy Provisions.

(a) All policies required by Section 11.1 which cover loss or damage to the Leased Property insofar as it relates to the Leased Property shall name Lessor as insured as sole loss payee (except as provided in Section 11.3).

(b) All liability policies required by Section 11.1 shall name Lessor (collectively, "**Additional Insured**") and Lessee as additional insureds.

(c) All policies described in this Section 11 shall expressly provide that: (i) coverage thereunder shall not be canceled, reduced or otherwise materially changed without at least 30 days' prior written notice from the insurer to Lessor, (ii) no loss payee or Additional Insured shall have any obligation or liability for premiums in connection with such insurance, (iii) the insurers waive any rights of subrogation against loss payee and Additional Insureds, except for claims that arise from the willful misconduct or gross negligence of any such loss payee or Additional Insured, (iv) such insurance shall be primary, without right of contribution from any other insurance carried by any loss payee or Additional Insured and shall not be invalidated as against such loss payee or Additional Insured by any act or neglect of Lessee or of any other Person (other than, with respect to such Person, the acts of such Person) or by any breach or violation by Lessee or by any other Person (other than, with respect to such Person, breaches or violations by such Person) of any warranties, declarations or conditions contained in such policies or by any change in the title or ownership of the Leased Property or any interest therein or with respect thereto and (v) all provisions thereof except the limits of liability and deductibles shall operate in the same manner as if there were a separate policy insuring each insured.

11.3 Proceeds of Insurance.

(a) So long as no Lease Default or Lease Event of Default exists, any loss with respect to the Leased Property under any policy carried by Lessee covering the Leased Property shall be adjusted with the insurance companies by Lessor, at its option, and all insurance proceeds with respect to any losses relating to the Leased Property shall be paid directly to Lessor. Lessee shall promptly pay to Lessor any proceeds of insurance that Lessee receives covering loss or damage to the Leased Property relating to the Leased Property payable to Lessor under this Section 11.3. The proceeds of any insurance carried by Lessee received by Lessor on account of or for any loss or damage in respect of the Leased Property relating to the Leased Property shall be applied as follows:

(i) If the Leased Property is to be repaired or replaced, the insurance proceeds shall be released, to Lessee or as it may direct from time to time as restoration, replacement, rebuilding, alterations and additions (collectively, the “**Restoration**”) proceeds to pay (or reimburse Lessee for), the cost of the Restoration, but only upon receipt by Lessor of an Officer’s Certificate of Lessee in form and substance reasonably acceptable to Lessor showing in reasonable detail the nature of the Restoration, the purpose for which the expenditures were made, the actual cash expenditures made for such purpose and stating that the remaining insurance proceeds, are at least 105% of the remaining cost to complete the Restoration and that there is no Lease Default or Lease Event of Default; or

(ii) If this Lease is terminated in accordance with Section 10.2 and all amounts payable by Lessee under Section 10.2 are paid, such insurance proceeds shall be released to Lessee;

except that any amount referred to herein that is payable to Lessee shall not be paid to Lessee if at the time a Lease Default or Lease Event of Default exists, in which event all such amounts shall be paid to and held by Lessor as security for the obligations of Lessee to make payments under and perform this Lease. When a Lease Default or Lease Event of Default no longer exists, all such amounts (unless theretofore otherwise applied to the obligations of Lessee hereunder) shall be paid to Lessee.

11.4 Notice, Etc.

Lessee will, or will cause Lessee’s independent insurance broker to, advise Lessor in writing promptly of any default in the payment of any premium and of any other act or omission on the part of Lessee that might invalidate or render unenforceable, in whole or in part, any insurance on or with respect to the Leased Property or the Iroquois Falls Project Site. Lessee will, or will cause Lessee’s independent insurance broker to, advise Lessor in writing of the expiration, termination or any material change of any insurance carried and maintained on or with respect to the Leased Property or the Iroquois Falls Project Site pursuant to this Section 11 at least 30 days before the expiration or termination date or effective date of any material change unless such insurance has been replaced. If Lessee fails to maintain insurance as herein provided, Lessor may at its sole option provide such insurance and, in such event, Lessee shall thereupon reimburse Lessor, as Supplemental Rent, for the reasonable cost thereof. The exercise by Lessor of that option shall not affect the provisions of this Lease, including the provisions that failure by Lessee to maintain the prescribed insurance constitutes a Lease Event of Default.

11.5 Reports and Certificates.

On the Closing Date, and annually upon renewal of the insurance policies carried by Lessee pursuant to this Section 11, and upon any material modification of such policies, Lessee will furnish to Lessor all applicable certificates of insurance and a report from Lessee’s insurance broker describing in

reasonable detail the insurance then carried and maintained on and with respect to the Leased Property and with respect to the Leased Property, certifying that such insurance complies with the terms hereof.

11.6 Additional Insurance.

At any time Lessor may at its own expense carry insurance with respect to the Leased Property if such insurance does not interfere with Lessee's ability to maintain the insurance required by this Section 11 or adversely affect Lessee's insurance, or the ability of Lessee to collect a claim under any such insurance policy, it being understood that all salvage rights to the Leased Property and all primary subrogation rights shall remain with Lessee's insurers at all times. Any insurance payments received from policies maintained by Lessor pursuant to the previous sentence shall be retained by Lessor without reducing or otherwise affecting Lessee's obligations hereunder.

SECTION 12. LEASE EVENTS OF DEFAULT.

The following events shall constitute "**Lease Events of Default**" hereunder (whether any such event is voluntary or involuntary or comes about or is effected by operation of law or pursuant to or in compliance with any judgment, decree or order of any court or any order, rule or regulation of any Government Body):

(a) Lessee fails to make within seven (7) Business Days after the same becomes due (x) any payment of Base Rent or other amount under this Lease, or (y) any payment under Section 10.2 or Section 20 hereof;

(b) Any Obligor or Hosting fails to make any other payment under the Basic Documents after the same becomes due and such failure continues unremedied for seven (7) Business Days after receipt by Lessee of written notice of such failure from Lessor;

(c) Lessee fails to maintain the insurance coverages required by Section 11, except that, in the case of failure to deliver certificates, notices and reports pursuant to Sections 11.4 and 11.5, Lessee shall have 30 days after written notice of such failure to deliver before a related Lease Event of Default occurs hereunder;

(d) Any Obligor or Hosting consummates a merger or other transaction in violation of Section 4.2 (*Merger Covenant*) of the Participation Agreement;

(e) Any Obligor or Hosting fails to observe or perform any of its covenants or agreements set out in Sections 4.48(1), (2), (3), (5), (6) or (7) of the Participation Agreement and remains unremedied for 30 days after written notice to Lessee of such breach;

(f) the representation or warranty made by the Obligors in Section 3.1(jj) (*Competition*) of the Participation Agreement was untrue or incorrect in any respect as of the date of making thereof;

(g) any representation or warranty made by any Obligor or Hosting in this Lease, the Guarantee, or in any other Basic Document or in any other certificate furnished by an Obligor or Hosting (or a Responsible Officer of either) pursuant to the Basic Documents (other than Section 3.1(jj) of the Participation Agreement) was untrue or incorrect in any material respect as of the date of making thereof, and remains material and unremedied for 30 days after written notice to the party issuing or making such incorrect representation or warranty of the inaccuracy thereof, except if (i) the inaccuracy is capable of being corrected, (ii) such inaccuracy cannot, with diligence be corrected within 30 days of such notice and (iii) such party is diligently proceeding in good faith to correct such inaccuracy, no such inaccuracy shall

constitute a Lease Event of Default so long as such party is diligently proceeding to correct the inaccuracy, if such inaccuracy does not (w) pose a material risk of sale, forfeiture or loss of any interest in the Leased Property or the Iroquois Falls Project Site, (x) interfere in any material respect with the use or operation of the Leased Property, (y) pose any risk of interference with the payment of Rent or any other payment to or for the account of Lessor, or (z) subject Lessor to any criminal, quasi-criminal or material civil liability, but in no case shall such inaccuracy continue uncorrected for a period ending on the earlier of 60 days from the date of such notice and the Base Term Expiration Date;

(h) the occurrence of an Insolvency Event in respect of any Obligor or Hosting;

(i) Lessee (in any capacity), each other Obligor or Hosting fails to observe or perform any of its covenants or agreements (other than those described elsewhere in this Section 12) to be observed or performed by Lessee, any other Obligor or Hosting hereunder or under the Participation Agreement or any other Basic Document and the failure continues unremedied for 30 days after such failure becomes known to a Responsible Officer of Lessee, any other Obligor or Hosting; except, if (i) the failure is capable of being remedied, (ii) such failure cannot, with diligence, be cured within 30 days of such notice, and (iii) Lessee, the applicable Obligor or Hosting is diligently proceeding in good faith to cure such failure, no such failure shall constitute a Lease Event of Default so long as Lessee or the applicable Obligor is diligently proceeding to remedy the failure, if such failure does not (w) pose a material risk of sale, forfeiture or loss of any interest in the Leased Property, (x) interfere in any material manner with the use or operation of the Leased Property, (y) pose any risk of interference with the payment of Rent or interest or any other payments for the account of Lessor, or (z) subject Lessor to any criminal, quasi-criminal or material civil liability, but in no event shall the failure continue unremedied for a period in excess of the lesser of 120 days from the date such failure becomes known to a Responsible Officer of Lessee, any other Obligor or Hosting and the remaining number of days in the Base Term;

(j) (A) Any breach of any Material Project Document by a party thereto, and such default is not remedied within the grace period specified therein or (B) any breach, amendment, supplement, modification, suspension, cancellation or termination of any Material Authorization; provided that, there shall be no Lease Event of Default under this clause (i) in respect of a breach by a Material Project Document if the applicable Obligor or Hosting, as applicable, executes and delivers a Replacement Agreement satisfactory to Lessor with the original counterparty or another Person of similar or superior creditworthiness and experience as the original counterparty at the time such replaced Material Project Document was originally entered into (as confirmed by Lessor in consultation with its advisors, such confirmation not to be unreasonably withheld or delayed) within forty-five (45) days of the occurrence of such event or circumstance or, if within such forty-five (45) day period the applicable Obligor or Hosting has prepared and delivered a written replacement plan to the reasonable satisfaction of Lessor (acting in consultation with its advisors) and has started to implement and comply with such replacement plan, such forty-five (45) day period shall be extended so long as such replacement plan is capable of being performed in full during such extension period and so long as the applicable Obligor or Hosting is continuing during such extension period to implement and comply with such replacement plan to the reasonable satisfaction of Lessor (acting in consultation with its advisors) until it has been performed in all material respects;

(k) any Material Project Document or Authorization (A) ceases to be binding, is repudiated, revoked, cancelled, suspended or terminated or (B) becomes illegal or invalid; provided that if such ceasing to be binding, repudiation, revocation, cancellation, suspension, termination, illegality or invalidity is not as a result of the breach by an Obligor or Hosting of the Material Project Document, the Authorization or any Basic Document, there shall be no Lease Event of Default under this clause (k) in respect of a Material Project Document or Authorization to which an Obligor or Hosting is a party if the applicable Obligor or Hosting executes and delivers a Replacement Agreement or Authorization with the original counterparty or another Person of similar or superior creditworthiness and experience as the original counterparty at the

time such replaced Material Project Document was originally entered into (as confirmed by Lessor in consultation with its advisors, such confirmation not to be unreasonably withheld or delayed) within sixty (60) days of the occurrence of such event or circumstance or, if within such sixty (60) day period the applicable Obligor or Hosting has prepared and delivered a written replacement plan to the reasonable satisfaction of the Lessor (acting in consultation with its advisors) and has started to implement and comply with such replacement plan, such sixty (60) day period shall be extended so long as such replacement plan is capable of being performed in full during such extension period and so long as the applicable Obligor or Hosting is continuing during such extension period to implement and comply with such replacement plan to the reasonable satisfaction of Lessor (acting in consultation with its advisors) until it has been performed in all material respects;

(l) any Obligor or Hosting (i) repudiates, otherwise declares unenforceable or fails to perform any of its covenants or obligations under any Security Document, Guarantee and/or the Limited Recourse Guarantee, as applicable, or fails to make any payments when due under any Security Document, Guarantee or the Limited Recourse Guarantee, as applicable, and such failure continues unwaived and uncured for five (5) Business Days or (ii) fails to keep any Security Document, Guarantee or Limited Recourse Guarantee, as applicable, in full force and effect; or any of the material obligations of any Guarantor or Hosting, as applicable, under any Security Document, Guarantee or Limited Recourse Guarantee are found to be unenforceable by a court of competent jurisdiction;

(m) the failure of Lessee or any other Obligor to make any payment, before the expiration of any applicable grace period in respect of indebtedness (including lease obligations) that causes or permits the acceleration of such indebtedness;

(n) the loss, for any reason whatsoever, of any Real Property Interests necessary to own and operate the Projects, provided such loss is not a result of fraud, gross negligence, or willful misconduct on the part of the Lessor or its Affiliates or any of their respective representatives or agents;

(o) the declaration of a Lease Event of Default by Lessor in accordance with Section 9.1 of the Participation Agreement; or

(p) if any of the Obligors enter into any written or oral agreements with First Nations to provide benefits, pecuniary or otherwise, with respect to the Project Facilities, Project Sites or any other Collateral at any stage of development that could result in a Material Adverse Effect.

SECTION 13. REMEDIES.

13.1 Remedies.

If a Lease Event of Default exists, Lessor may, at its option, declare this Lease to be in default by a written notice to Lessee (but this Lease shall be deemed to be in default and no written notice to Lessee shall be required if a Lease Event of Default occurs under Section 12(h)); and at any time thereafter, so long as Lessee has not remedied all outstanding Lease Events of Default before the exercise of any remedy below, Lessor may do one or more of the following as Lessor in its sole discretion may elect, to the extent permitted by, and subject to compliance with any mandatory requirement of, Applicable Law then in effect, whether or not Lessor rescinds or terminates this Lease (other than clause (b)(i) below):

(a) proceed by appropriate court action or actions, either at law or in equity, to enforce performance by Lessee of this Lease or the other Basic Documents or to recover damages for the breach thereof;

(b) by notice in writing to Lessee, (i) rescind or terminate this Lease; (ii) demand in writing that Lessee, and Lessee shall forthwith upon such demand and at Lessee's expense, return the Leased Property to Lessor in the manner and condition required by, and otherwise in accordance with, this Lease; and (iii) whether or not Lessor exercises the remedies in Section 13.1(b)(i) or (ii), with or without judicial process and without the necessity for first instituting any proceedings, or by summary proceedings or otherwise, itself or by its agents (together with the owners of all other undivided interests in the Leased Property, other than Lessee) enter upon the Iroquois Falls Project Site or other premises where the Leased Property or any part thereof may be located or believed to be located and take immediate possession of the Leased Property (to the exclusion of Lessee) and if it so chooses, cause the Leased Property to be operated at the Iroquois Falls Project Site, remove the Leased Property and thenceforth hold, possess and enjoy the same free from any right of Lessee, its successors or assigns to use the Leased Property or the Leased Property for any purpose whatever, all without liability of Lessor or its agents (except liability for fraud, gross negligence or willful misconduct) for or by reason of such entry or taking of possession, whether for the restoration of damage to property caused by such action or otherwise;

(c) enforce and realize upon all or part of the Security Interest and/or with or without taking possession thereof, sell or otherwise dispose of all or part of the Leased Property at public or private sale, in accordance with or as permitted by Applicable Law, and Lessor may hold Lessee liable for any payment of Base Rent and other amounts due on or before the date of such sale or disposition (and, if payable in arrears, the pro rata portion of the payment of Base Rent due on the next succeeding Rent Payment Date in respect of any period beginning on the immediately preceding Rent Payment Date to the date of such sale or disposition, in which event Lessee's obligation to pay Base Rent with respect to such Leased Property hereunder due for any periods after the date of such sale shall terminate (except to the extent that Base Rent is to be included in computations under Section 13.1(e) or (f) if Lessor elects to exercise its rights under either of said Sections));

(d) repossess and hold, use, operate or lease to others or keep idle the Leased Property as Lessor in its sole discretion may determine, free and clear of any rights of Lessee, and Lessee's obligation to pay Base Rent with respect to such Leased Property due for any periods after the date upon which Lessee shall have been deprived of possession and use of such Leased Property pursuant to this Section 13 shall be reduced by the net proceeds, if any, received by Lessor from leasing such Leased Property to any Person other than Lessee (other than to the extent that Base Rent is to be included in amounts payable under Sections 13.1(e) and (f) if Lessor elects to exercise its rights under either of such Sections);

(e) if Lessor has exercised its rights under Section 13.1(c) or (d), by written notice to Lessee specifying a payment date, which shall be not earlier than ten (10) days after the date of such notice (for purposes of Sections 13.1(e) and (f), the "**Default Payment Date**"), demand that Lessee pay to Lessor, and Lessee shall pay to Lessor, on the Default Payment Date, as a genuine pre-estimate of liquidated damages and not as a penalty (in lieu of the Base Rent due thereafter), the sum of:

(w) any unpaid Base Rent and other amounts due before, and in arrears on, the Default Payment Date; plus

(x) an amount equal to the excess, if any, of (a) the Stipulated Loss Value for the Leased Property determined as of the date of written notice from Lessor to Lessee under this Section 13.1(e), over (b) the net proceeds after deduction of all of Lessor's costs and expenses of sale or lease as contemplated under Section 13.1(c) or (d), including sales or transfer taxes, and any expenses of repossession, overhaul, maintenance, preparation, transportation, sale or lease of the Leased Property, and service provider's, brokers' and attorneys' fees; plus

(y) interest on the sum of (w) and (x) at the Late Rate from the Default Payment Date to the date of actual payment;

and upon payment in full of such amount, together with payment of all other amounts of Supplemental Rent then and any applicable taxes or duties on any amounts hereunder due, the Lease for the Leased Property, if not theretofore ended, shall end;

(f) unless Lessor exercises its rights under Section 13.1(e), Lessor, by written notice to Lessee specifying a Default Payment Date, may require that Lessee pay to Lessor, and Lessee shall pay to Lessor, on the Default Payment Date as a genuine pre-estimate of liquidated damages and not as a penalty (in lieu of scheduled Base Rent due thereafter and in respect of the Leased Property), the sum of:

(w) any unpaid Base Rent and other amounts due before, and in arrears on, the Default Payment Date; plus

(x) the Stipulated Loss Value for the Leased Property, as specified on Schedule 3 to the initial Lease Supplement determined as of the date of written notice from Lessor to Lessee under this Section 13.1(f); plus

(y) interest on such sum of (w) and (x) at the Late Rate from the Default Payment Date to the date of actual payment;

and upon payment in full of such amount, together with all other amounts of Supplemental Rent then due and any applicable taxes or duties on any amounts hereunder, Lessor shall make a Lessor Transfer to Lessee or as it may direct, and the Lease for the Leased Property, if not theretofore ended, shall end;

(g) Lessor may apply to a court of competent jurisdiction for the appointment of a receiver or receiver and manager to take possession of all or such part of the Leased Property as Lessor shall designate, with such duties, powers and obligations as the court making the appointment shall confer; and upon the appointment of any such receiver or receivers from time to time, in the absence of any provisions in the court order to the contrary, the following provisions shall apply:

(i) every such receiver shall be the irrevocable agent or attorney of Lessee in respect of the Leased Property or any part thereof and all rents, income or proceeds in respect thereof;

(1) every such receiver may, at the discretion of such court, be vested with all or any of the powers and discretions as such court shall see fit;

(2) every such receiver shall, so far as concerns the responsibility for his acts or omissions, be deemed the agent or attorney of Lessee and in no event the agent of the Lessor;

(3) every such receiver shall from time to time have the power to rent any portion of the Leased Property which may become vacant for such term and subject to such provisions as he or she may deem advisable or expedient and in so doing every such receiver shall act as the attorney or agent of Lessee and he or she shall have authority to execute under seal any lease of any such premises in the name and on behalf of Lessee and Lessee undertakes to ratify and confirm whatever any such receiver may do in the premises;

(4) every such receiver shall have full power to manage, operate, amend, repair, alter or extend the Leased Property or any part thereof in the name of Lessee; and

(5) no such receiver shall be liable to Lessee to account for monies other than monies received by such receiver in respect of the Leased Property or any part thereof and every such receiver shall apply such monies so received to pay in the following order: (i) such receiver's remuneration; (ii) all expenses made or incurred by such receiver in connection with the management, operations, amendment, repair, alteration or extension of the Leased Property or any part thereof; (iii) money or Liens which may from time to time become charged upon the Leased Property in priority to this Lease and all taxes, utility charges, insurance premiums and every other proper expenditure made or incurred by such receiver in respect of the Leased Property or any part thereof; (iv) to Lessor all amounts due or falling due under this Lease; and (v) thereafter any surplus remaining in the hand of every such receiver to any Person legally entitled thereto; and

(6) the appointment of any such receiver shall not incur or create any liability on the part of Lessor to the receiver in any respect and such appointment or anything which may be done by any such receiver or the removal of any such receiver or the termination of any such receivership shall not have the effect of constituting in itself Lessor a mortgagee in possession in respect of the Leased Property or any part thereof.

(ii) Lessor may exercise any other right or remedy that may be available to it under Applicable Law, whether at law, in equity or by statute.

In addition, Lessee shall be liable, except as otherwise provided above, for any and all unpaid Rent and other amounts due hereunder before, during and after the exercise of any of the foregoing remedies (together with interest thereon at the Late Rate from the due date thereof until paid), for all amounts payable by Lessee under the Participation Agreement and the other Basic Documents before and after any termination thereof, and for reasonable legal fees (including reasonable allocated time charges of internal counsel) and other costs and expenses incurred by Lessor by reason of the occurrence of any Lease Event of Default or the exercise of Lessor's remedies with respect thereto, including all costs and expenses incurred in connection with the surrender of the Leased Property in accordance with the terms of this Lease or in placing the Leased Property in the condition required by this Lease or in connection with any use, operation, maintenance, storage or leasing carried out as part of such exercise of remedies. Sums recovered by Lessor shall be applied in respect of obligations owing to Lessor hereunder, as Lessor shall determine in its discretion.

13.2 Cumulative Remedies.

Except as otherwise provided in this Section 13, each right, power and remedy in this Lease provided in favor of Lessor shall not be deemed exclusive, but shall be cumulative and shall be in addition to all other rights, powers and remedies in its favor existing under any other Basic Document, at law, in equity or by statute; and the exercise or beginning of exercise by Lessor of any one or more of such remedies shall not preclude the simultaneous or later exercise by Lessor of any or all other remedies. **LESSEE HEREBY WAIVES ANY AND ALL EXISTING OR FUTURE CLAIMS OF ANY RIGHT TO ASSERT ANY OFFSET OR COUNTERCLAIM AGAINST THE PAYMENTS DUE FROM IT UNDER THIS SECTION 13, AND AGREES TO MAKE SUCH PAYMENTS REGARDLESS OF ANY OFFSET OR COUNTERCLAIM OR CLAIM THAT MAY BE ASSERTED BY LESSEE OR ON ITS BEHALF IN CONNECTION THEREWITH.** Lessor expressly acknowledges and agrees that nothing contained in this Section 13.2 in any way modifies, limits or diminishes any covenant or obligation of Lessor under this Lease or in any way restricts the rights of Lessee to pursue independently any other remedies it may have (at law or in equity), unless expressly waived herein, against Lessor if Lessor fails to perform its covenants and obligations under this Lease.

13.3 No Waiver.

No delay or omission to exercise any right, power or remedy accruing to Lessor upon any breach or default by Lessee under this Lease shall impair any such right, power or remedy of Lessor, nor shall any such delay or omission be construed as a waiver of any breach or default, or of any similar breach or default, thereafter occurring; nor shall any express or implied waiver of a single breach or default be deemed a waiver of any subsequent breach or default.

13.4 Notice of Lease Default.

Lessee agrees to furnish to Lessor promptly upon any Responsible Officer becoming aware of any condition that constitutes a Lease Default or Lease Event of Default, an Officer's Certificate of Lessee specifying such condition or event and the nature, period of existence and status thereof and what action Lessee has taken or proposes to take with respect thereto.

13.5 Waiver of Mitigation Rights.

To the extent permitted by Applicable Law, Lessee hereby waives any right to mitigation of damages now or in the future conferred by statute or otherwise to the extent that such right to mitigation may limit or modify any remedy of damages measured by reference to liquidated damages.

13.6 Specific Performance; Appointment of Agent.

The surrender of possession of the Leased Property and return thereof as provided in Section 6.1 or Section 13.1 is of the essence of this Lease and shall not be impaired. Upon application to any court of competent jurisdiction in the premises, Lessor shall be entitled to a decree against Lessee requiring specific performance of the covenants of Lessee so to surrender possession of the Leased Property. Without in any way limiting the obligation of Lessee under Section 6.1 or Section 13.1, Lessee hereby irrevocably appoints Lessor as the agent and attorney of Lessee, with full power and authority, at any time while Lessee is obligated to surrender possession of the Leased Property to Lessor pursuant to this Section 13, to demand and take possession of such Leased Property and any materials or property required to fully use the Leased Property in the name and on behalf of Lessee from whosoever shall be at the time in possession thereof.

SECTION 14. FURTHER ASSURANCES; REPORTS.

14.1 Further Assurances.

Lessee will, at its own expense, do, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, transfers and assurances as Lessor may reasonably request in order to protect the right, title and interest of Lessor hereunder or in the Leased Property or the perfection or protection of the Lien granted by the Security Documents, including ordering such searches for recorded liens as Lessor may reasonably request. Without limiting the foregoing, Lessee, at its own expense, will take, or cause to be taken, such action with respect to the recording, filing, re-recording and re-filing of this Lease, any supplements thereto or hereto and any financing statements and continuation statements or other instruments deemed necessary or advisable and requested by Lessor to maintain the perfection of the first lien or security interest created by the Security Documents and the protection of Lessor's right and title to the Leased Property as against Lessee and any third parties, or will furnish to Lessor timely notice of the necessity of such action, together with such instruments, in execution and recordable form, and such information as may be reasonably required to enable Lessor to take such action in a timely manner and at Lessee's expense.

14.2 Reports.

Lessee will, at its own expense, promptly file any reports (other than reports required to be filed generally with a Government Body by Lessor pursuant to banking, financial institution and securities laws of general application) or (at Lessor's option) furnish to Lessor such information as may be reasonably required to enable Lessor timely to file any reports, reasonably required to be filed by Lessor with any Government Body with respect to the Basic Documents or the ownership of the Leased Property.

SECTION 15. LESSOR'S RIGHT TO PERFORM.

If Lessee fails to make any payment required to be made by it hereunder or in any other Transaction Document, or fails to perform or comply with any of its other agreements contained herein or in any other Transaction Documents, Lessor may itself make such payment or perform or comply with such agreement, but shall not be obligated hereunder to do so, and the amount of such payment and of the reasonable expenses of Lessor incurred in connection with such payment or the performance of or compliance with such agreement, as the case may be, together with interest thereon at the Late Rate from the date of such payment or incurrence of expenditure until Lessor has been fully reimbursed therefor, to the extent permitted by Applicable Law, shall be deemed to be Supplemental Rent, payable by Lessee to Lessor on demand. Any such payment by Lessor shall not discharge Lessee's liability therefor and Lessor may demand of Lessee payment of, and may enforce Lessee's obligation to make, such payment by proceeding by appropriate court action (at law or in equity).

SECTION 16. INTENTIONALLY DELETED

SECTION 17. SECURITY FUNDS.

Any moneys received by Lessor that are required to be paid to Lessee pursuant to Section 10.5, 10.6, 10.7 or 11.3, as the case may be, until paid to Lessee as provided in Section 10.5, 10.6, 10.7 or 11.3, or as otherwise applied as provided herein, shall be held by Lessor in such account or investment as Lessor determines in its sole and absolute discretion from time to time.

SECTION 18. NOTICES.

Unless otherwise expressly specified or permitted by the terms hereof, all communications and notices provided for herein shall be in writing, and shall be given in the manner and to the address set forth in Section 9.3 (*Notice*) of the Participation Agreement.

SECTION 19. LEASE RENEWAL.

19.1 Lease Renewal.

(a) Unless this Lease has been earlier terminated in accordance with its terms, and subject to payment to Lessor of all Rent and other amounts payable under this Lease and the Basic Documents, Lessee may terminate the Lease at the end of the Base Term or a month during any Renewal Term thereafter, if Lessee (i) provides Lessor an irrevocable written notice not less than (A) if the Leased Property is to be returned at the end of the Base Term, 180 days before expiry of the Base Term or (B) if the Leased Property is to be returned at the end of a month during a Renewal Term, 180 days before the proposed date for the return to Lessor of the Leased Property, as applicable, of its intention to return to Lessor the Leased Property; (ii) provides Lessor, together with such notice, an environmental due diligence compliance assessment with respect to the Leased Property and the Iroquois Falls Project Site by a reputable environmental engineering firm reasonably acceptable to Lessor upon which Lessor may rely certifying as

to (A) the extent of the contamination, if any, to the Environment comprising the water, land and air and any combination of them and as to compliance with all Environmental Laws applicable to the Leased Property and the Iroquois Falls Project Site, and (B) that no Material Event that could result in an Event of Loss under Section 10.1(a)(iv) exists; and (iii) returns all of the Leased Property to Lessor on the Base Term Expiration Date, or if applicable, the last day of the month during the Renewal Term, in accordance with Section 6.

(b) If this Lease has not been terminated by Lessee in accordance with Section 19.1(a) or earlier terminated in accordance with its terms, this Lease will automatically renew on a month to month basis and all the terms and conditions of the Lease shall continue in full force and effect, including the obligation upon Lessee to pay Rent on each Rent Payment Date during the Lease Term.

SECTION 20. PURCHASE OPTION

(a) Provided that no Lease Event of Default subsists, Lessee may purchase all (but not less than all) of the Leased Property then leased hereunder on the Base Term Expiration Date (the "**Purchase Option Date**") at an amount equal to the aggregate of (i) \$16,200,000.00, (ii) the greater of (A) the amount being 13% of the Fair Market Value of the Plant (w/o Behind the Meter) and (B) \$0 and (iii) the greater of (A) the amount being 5% of the Fair Market Value of the Plant (w/Behind the Meter) and (b) \$0, (the aggregate amount being the "**Purchase Option Price**"), pursuant to, and subject to compliance with, this Section 20 (the "**Purchase Option**"). If Lessee would like to purchase all of the Leased Property on the Purchase Option Date under the Purchase Option and no Lease Event of Default subsists, Lessee shall give Lessor irrevocable written notice (the "**Purchase Option Notice**") not more than six (6) months and not less than three (3) months before the Purchase Option Date of its election to exercise the Purchase Option. Lessor shall then determine each Fair Market Value of the Plant and shall provide a written notice (the "**Lessor FMV Notice**") thereof and of the Purchase Option Price to Lessee within ten (10) Business Days of receiving the Purchase Option Notice. Lessee must then inform the Lessor of whether it accepts or rejects the determination by Lessor of each Fair Market Value of the Plant and the Purchase Option Price by providing a written notice thereof to the Lessor within ten (10) Business Days of receiving the Lessor FMV Notice. If Lessee accepts the determination by Lessor of each Fair Market Value of the Plant and the Purchase Option Price as set out in the Lessor FMV Notice, such Purchase Option Price shall be the Purchase Option Price for the purposes of the Purchase Option. If Lessee rejects the determination by the Lessor of each Fair Market Values of the Plant and Purchase Option Price as set out in the Lessor FMV Notice, Lessor shall appoint a suitably experienced third-party valuer ("**Valuer**") to determine each Fair Market Value of the Plant and the cost of the Valuer shall be borne by Lessor. Lessee shall promptly upon request provide such information, documents and access to inspect the Lessee Plant, as the Valuer may require for the purposes of determining each Fair Market Value of the Plant. Upon each party receiving the Valuer's written determination of each Fair Market Value of the Plant, the Purchase Option Price shall be determined by using the Fair Market Value of the Plant (w/o Behind the Meter) and the Fair Market Value of the Plant (w/Behind the Meter) determined by the Valuer for the purposes of clause (ii) and (iii) of the definition of the Purchase Option Price respectively. Following determination of the Purchase Option Price in accordance with this Section, and provided that no Lease Event of Default subsists, Lessee shall purchase the Leased Property on the Purchase Option Date by paying to Lessor the Purchase Option Price together with any and all taxes applicable thereto on the Purchase Option Date, together with any and all Rent and other amounts due and owing by Lessee under the Basic Documents, at the place of payment specified in writing by Lessor in immediately available funds, and upon receipt of such payment Lessor shall transfer to Lessee, without recourse or warranty (except that Lessor has not previously conveyed all or part of its interest in the Leased Property other than as permitted by the Basic Documents and as to the absence of any Lessor Liens) all of Lessor's right, title and interest in the Leased Property "as-is," "where-is." If Lessee fails to comply with any of the foregoing terms in this Section or if a Lease Event of Default occurs or is continuing after the giving of a Purchase Option Notice, Lessor may in its absolute discretion

elect to terminate the Purchase Option Notice by giving notice thereof to Lessee. If Lessor gives such a notice to terminate the Purchase Option Notice, or if, as of the Purchase Option Date, a Lease Event of Default subsists, or if Lessee fails to pay, as required, the Purchase Option Price and all other Rent and amounts as required under the Purchase Option on the Purchase Option Date (including all Rent and other amounts under the Basic Documents becoming due and payable up to and including the Purchase Option Date), the Purchase Option Notice given by Lessee will be null and void and the terms of the Lease shall apply as if no Purchase Option Notice were given, and Lessor may proceed as otherwise permitted by this Lease, including exercising any remedies provided for in this Lease or at law.

(b) The terms “Fair Market Value of the Plant”, “Fair Market Value of the Plant (w/o Behind the Meter)”, “Fair Market Value of the Plant (w/Behind the Meter)” and “Lessee Plant” as used in this Section 20 have the meanings set out below:

“Fair Market Value of the Plant” means the Fair Market Value of the Plant (w/Behind the Meter) and/or the Fair Market Value of the Plant (w/o Behind the Meter), as the context requires.

“Fair Market Value of the Plant (w/o Behind the Meter)” means the price that a willing purchaser would pay to a willing seller (both dealing with each other at arm’s length without compulsion) of the Lessee Plant, determined according to the present value of the cash flows projected to be generated by the Lessee Plant operating at full power and capacity and assuming the Lessee Plant is in the condition required under the Basic Documents, and all energy, capacity, ancillary services and other products, services or assets generated by, at or from the Lessee Plant are sold into markets administrated by the Independent Electricity System Operator (“**IESO**”) for the Province of Ontario or any successor thereto or any other Government Body or pursuant to stand-alone agreements with the IESO or other Government Body, excluding, for greater certainty, the sale of output from the Lessee Plant to any person other than the IESO pursuant to a behind-the-meter agreement.

“Fair Market Value of the Plant (w/Behind the Meter)” means the price that a willing purchaser would pay to a willing seller (both dealing with each other at arm’s length without compulsion) of the Lessee Plant, determined according to the present value of the cash flows projected to be generated by the Lessee Plant operating at full power and capacity and assuming the Plant is in the condition required under the Basic Documents, , including the sale of output from the Lessee Plant to any person other than the IESO pursuant to a behind-the-meter agreement.

“Lessee Plant” means the 120 MW Iroquois Falls Natural Gas Combined-Cycle Cogeneration Station located at 1 Northwest Industrial Rd, Iroquois Falls, ON P0K 1E0, and all assets that contribute to power generation on the Iroquois Falls Project Site in connection therewith and all assets owned, leased or used by Lessee including all buildings, structures or improvements owned or leased by Lessee erected on the site upon which it is located, all alterations thereto or replacements thereof, all fixtures, attachments, appliances, equipment, machinery and other articles attached thereto or used in connection therewith and all parts which may from time to time be incorporated or installed in or attached thereto, all contracts and agreements for the purchase or sale of commodities or other personal property related thereto, all leases of real or personal property related thereto, and all other real and tangible and intangible personal property leased or owned by Lessee and placed upon or used in connection with the generation of electricity.

SECTION 21. MISCELLANEOUS.

21.1 Governing Law; Severability.

THIS LEASE HAS BEEN, AND ANY EXTENSIONS, AMENDMENTS, MODIFICATIONS, RENEWALS OR SUPPLEMENTS HERETO SHALL BE DELIVERED IN, AND ALL SUCH INSTRUMENTS SHALL BE IN ALL RESPECTS GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF ONTARIO, CANADA AND THE LAWS OF CANADA APPLICABLE THEREIN. Whenever possible, each provision of this Lease shall be interpreted in such manner as to be effective and valid under Applicable Law, but if any provision of this Lease is prohibited by or invalid under the laws of any jurisdiction, such provision, as to such jurisdiction, shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Lease as to such jurisdiction or in any other jurisdiction.

21.2 Execution in Counterparts.

This Lease is being executed in a number of counterparts and by the parties hereto on separate signature pages, each such executed counterpart constituting an original, but all together only one agreement. To the extent that this Lease constitutes chattel paper (as such term is defined in the PPSA) no security interest in this Lease may be created through the transfer or possession of any counterpart hereof other than the counterpart bearing the receipt therefor executed by Lessor on the signature page thereof, which counterpart shall constitute the only "original" hereof for purposes of the PPSA.

21.3 Headings; Section References.

The headings of the sections of this Lease and the table of contents are inserted for purposes of convenience only and shall not be construed to affect the meaning or construction of any of the provisions hereof.

21.4 Successors and Assigns.

This Lease shall be binding upon the parties hereto and their respective successors and assigns and shall inure to the benefit of, and shall be enforceable by, the parties hereto and their respective permitted successors and assigns. Except as provided herein and in the Participation Agreement, no party hereto may assign its interests herein.

21.5 Amendments and Waivers.

Subject to Section 9.12 of the Participation Agreement, no term, covenant, agreement or condition of this Lease may be terminated, amended or compliance therewith waived (either generally or in a particular instance, retroactively or prospectively) except by an instrument or instruments in writing executed by each party hereto.

21.6 Survival.

All warranties, representations, indemnities and covenants made by either party hereto herein or in any certificate or other instrument delivered by such party or on the behalf of any such party under this Lease shall be considered to have been relied upon by the other party hereto and shall survive the consummation of the transactions contemplated hereby on the Closing Date regardless of any investigation made by either such party or on behalf of either such party.

21.7 Lessee's Right of Possession and Use.

Lessor agrees that it shall not take, or cause to be taken, any action contrary to Lessee's right to quiet possession of the Leased Property by Lessee unless a Lease Event of Default exists or the term of the Lease expires (and Lessee has not exercised its option to purchase the Leased Property) or is terminated in accordance with the terms hereof.

21.8 No Merger.

There shall be no merger of this Lease or of the leasehold estates in the Leased Property created hereby with any other estate in the Leased Property or the Iroquois Falls Project Site, or any part thereof, by reason of the fact that the same Person may acquire or own such estates, directly or indirectly.

21.9 Incorporation by Reference.

The indemnity obligations of Lessee set forth in Sections 6.1 and 6.2 (*Indemnities*) of the Participation Agreement are hereby incorporated by reference and such obligations shall continue notwithstanding expiration or termination of this Lease.

21.10 True Lease.

It is the intent of the parties to this Lease that it will be a true lease and not a "conditional sale" or a financing arrangement. Lessor shall at all times be considered to be the owner of the Leased Property for all purposes, including the purposes of all Federal, provincial, state, city and local income and capital taxes or for franchise taxes measured by income, and that this Lease conveys to Lessee no right, title or interest in the Leased Property except as lessee. Nothing contained in this Section 21.10 shall be construed to limit Lessee's use or operation of the Leased Property in accordance with the terms hereof or to constitute a representation, warranty or covenant by Lessee as to tax consequences except as specifically set forth in the Basic Documents.

21.11 Amendment and Restatement.


This Lease is an amendment and restatement of the Existing Lease and not a novation of the Existing Lease. For greater certainty, all Indebtedness and other Obligations under the Existing Lease and other Transaction Documents that remains outstanding on the date hereof shall, with effect from the date hereof, constitute Indebtedness or other Obligations hereunder or under the Transaction Documents, as applicable, governed by the terms hereof and shall continue to be secured by the Security Documents. Such Indebtedness and other Obligations shall be continuing in all respects, and this Lease shall not be deemed to be evidence of, or result in, a novation of such Indebtedness and other Obligations. This Lease reflects amendments to the Existing Lease and has been restated solely for the purposes of reflecting amendments to the Existing Lease which the Lessor and the Lessee have agreed upon. All references to the "Lease" or similar references contained in the documents delivered prior to the effectiveness of this Agreement in connection or under the Existing Lease (including for certainty the Transaction Documents) shall be references to this Lease without further amendment to those documents. The Lessee confirms that each of the foregoing documents, including without limitation any delivered under the Existing Lease and other Transaction Documents, remains in full force and effect. For the purposes of the Security Documents, all references therein to the "Lease" shall be to this Agreement, as the same may be amended, restated, supplemented or modified from time to time.

* * * * *

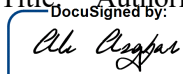
IN WITNESS WHEREOF, Lessor and Lessee have caused this Lease to be duly executed and delivered on the date first above written.

LESSOR:

MACQUARIE EQUIPMENT FINANCE LTD.

By:  DocuSigned by:
2950D8D7E7E84A6...

Name: Lisa Tarnowsky
Title: Authorized Signatory

By:  DocuSigned by:
5AF9988D66684F2...

Name: Ali Asghar
Title: Authorized Signatory

LESSEE:

IROQUOIS FALLS POWER CORP.


By: 
Name: Todd Shortt
Title: President and CEO

EXHIBIT A
SUPPLEMENT TO AMENDED AND RESTATED LEASE AGREEMENT

LEASE SUPPLEMENT NO. ____

dated _____, _____

between

MACQUARIE EQUIPMENT FINANCE LTD.

Lessor

and

IROQUOIS FALLS POWER CORP.

Lessee.

THIS LEASE SUPPLEMENT HAS BEEN EXECUTED IN SEVERAL COUNTERPARTS, BUT ONLY THE COUNTERPART TO BE DEEMED THE ORIGINAL COUNTERPART FOR CHATTEL PAPER PURPOSES CONTAINS THE RECEIPT THEREFOR EXECUTED BY IROQUOIS FALLS POWER CORP. AS LESSEE ON THE SIGNATURE PAGES THEREOF.

LEASE SUPPLEMENT No. 1 dated _____, ____ (this “**Lease Supplement**”) between Macquarie Equipment Finance Ltd. (“**Lessor**”) and **Iroquois Falls Power Corp.** (“**Lessee**”).

R E C I T A L S:

- A. Lessor and Lessee have entered into a Lease Agreement, dated as of April 7, 2022, as amended and restated on February 24, 2023 (the “**Lease**”). Unless otherwise defined herein, capitalized terms used herein shall have the meanings specified in the Lease.
- B. Lessor and Lessee entered into a Lease Supplement dated as of April 7, 2022 (the “**Existing Lease Supplement**”).
- C. The Lease provides for the execution and delivery of a Lease Supplement on the Closing Date substantially in the form hereof for the purpose of confirming the acceptance and lease of the Leased Property under the Lease in accordance with the terms thereof.

NOW, THEREFORE, in consideration of the premises and other good and sufficient consideration, Lessor and Lessee hereby agree as follows:

- 1. Inspection and Approval. Lessee hereby acknowledges and confirms that it has inspected and approved the Leased Property described in Schedule 1 (the “**Leased Property**”) and, as between Lessor and Lessee, the Leased Property complies in all material respects with the specifications for the Leased Property and is in good working order.
- 2. Delivery and Acceptance. Lessor hereby confirms delivery and lease to Lessee, and Lessee hereby confirms acceptance and lease from Lessor, under the Lease as hereby supplemented, of the Leased Property.
- 3. Representations and Warranties. Lessee hereby represents and warrants that:
 - (a) No event that would constitute an Event of Loss under the Lease exists with respect to the Leased Property as of the date hereof;
 - (b) Lessor’s Cost for the Leased Property is \$45,000,000;
 - (c) The Leased Property has been assembled and installed at the Iroquois Falls Project Site set out in Schedule 2 of this Lease Supplement.
 - (d) The Leased Property is free and clear of all Liens.
 - (e) The Leased Property, the Iroquois Falls Project Site and the Iroquois Falls Land and the current operation, use and possession thereof do not violate in any material respect any Applicable Laws, including any such law, regulation or order relating to matters of occupational safety and health or the Environment, other than those being contested pursuant to a Permitted Contest; and
 - (f) The Leased Property, taken as a whole, and each major component thereof, is substantially complete such that it is ready and available to perform in Commercial Operation the function for which it was designed. In addition: (i) all material approvals of any Government Body necessary for Commercial Operation of the Leased Property have been received and are in full force and effect; (ii) during the time that Lessee has owned or been

in possession of the Leased Property has been maintained, serviced and repaired in a manner consistent with prudent industry practice and in compliance in all material respects with (A) Applicable Law and (B) all requirements of manufacturers of the Leased Property for maintaining in full force and effect any warranties of such manufacturers with respect to the Leased Property; (iii) there is no present event or condition that is directed, addressed or relates specifically to the Leased Property and that would materially and adversely affect the capability of the Leased Property to operate as intended by Lessee or materially impair its fair market value, utility, condition, remaining economic useful life or expected residual value; and (iv) all licenses, patents, trademarks, trade names and similar rights, if any, relating to the Leased Property insofar as the Leased Property is concerned, are in full force and effect.

4. Base Rent and Stipulated Loss Values. The Base Rent payable under Section 3.2 of the Lease, and Stipulated Loss Values are set forth and attached as Schedule 3 to this Lease Supplement.
5. Confirmation. Lessee hereby confirms its agreement, in accordance with the Lease as supplemented by this Lease Supplement, to pay Rent to Lessor for the Leased Property as provided for in the Lease.
6. Incorporation into Lease. This Lease Supplement shall be construed in connection with and as part of the Lease, and all terms, conditions and covenants contained in the Lease, as supplemented by this Lease Supplement, shall be and remain in full force and effect.
7. References. Any and all notices, requests, certificates and other instruments executed and delivered concurrently with or after the execution and delivery of this Lease Supplement may refer to the “Amended and Restated Lease Agreement dated as of February 24, 2023” or may identify the Lease in any other respect without making specific reference to this Lease Supplement, but nevertheless all such references shall be deemed to include this Lease Supplement, unless the context shall otherwise require.
8. Counterparts. This Lease Supplement is being executed in a number of counterparts and by the parties hereto on separate signature pages, each such executed counterpart constituting an original, but all together only one agreement. To the extent that this Lease Supplement constitutes chattel paper (as such term is defined in the PPSA) no security interest in this Lease Supplement may be created through the transfer or possession of any counterpart hereof other than the counterpart bearing the receipt therefor executed by Lessor on the signature page thereof, which counterpart shall constitute the only “original” hereof for purposes of the PPSA.
9. Governing Law. **THIS LEASE SUPPLEMENT HAS BEEN DELIVERED IN, AND SHALL BE IN ALL RESPECTS GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF ONTARIO CANADA AND THE LAWS OF CANADA APPLICABLE THEREIN.**
10. This Lease Supplement is an amendment and restatement of the Existing Lease Supplement and not a novation of the Existing Lease Supplement. This Lease Supplement reflects amendments to the Existing Lease Supplement and has been restated solely for the purposes of reflecting amendments to the Existing Lease Supplement which the Lessor and the Lessee have agreed upon. All applicable references to the “Lease Supplement” or similar references contained in the documents delivered prior to the effectiveness of this Lease Supplement in connection or under the Existing Lease Supplement (including for certainty the Transaction Documents) shall be references to this Lease Supplement without further amendment to those documents.

IN WITNESS WHEREOF, Lessor and Lessee have caused this Lease Supplement No. 1 to be duly executed and delivered on the date first above written.

LESSOR:

MACQUARIE EQUIPMENT FINANCE LTD.

By: _____
Name: Lisa Tarnowsky
Title: Authorized Signatory

By: _____
Name: Ali Asghar
Title: Authorized Signatory

LESSEE:

IROQUOIS FALLS POWER CORP.

By: _____
Name:
Title:

Receipt of the original counterpart
of the foregoing Lease Supplement No. ____ is
hereby acknowledged on _____

**SCHEDULE 1
TO LEASE SUPPLEMENT NO. 1**

Leased Property

Quantity	Item
2	47 MW GE LM6000 PD gas turbines with dry low NOx combustors including filterhouses, ductwork, and stacks. Life-limited parts to have sufficient remaining hours and cycles to reasonably assure each gas turbine will make it to the next major overhaul. All spare parts. Including water-wash systems, SPRINT systems, natural gas receiving systems associated with the turbines.
1	32 MW GE 16-stage sliding pressure steam turbine, exhaust trunk, and all spare parts
2	55.4 MVA GE gas turbine synchronous generators and excitation system and voltage regulation system
2	Babcock & Wilcox heat recovery heat generators (HRSGs) and all appurtenances, walkways, platforms
2	duct burner systems
1	37.4 MVA GE steam turbine synchronous generator, all attached piping, valves and appurtenances
1	steam turbine lubrication oil system
1	steam turbine hydraulic system
2	gas fired Volcano auxiliary boilers
1	150 MVA main step-up transformer (13.8 kV to 230 kV)
1	spare transformer coils in an outdoor purpose-built oil tank
1	230-kV 52A-1 Breaker
Lot	All relays and metering systems
3	13.8-kV to 240-V distribution transformers
2	Emergency Generators
1	Condenser (steam turbine exhaust and dumps)
3	boiler high pressure feed water pumps
2	intake water screens
2	fire water pumps, 1 x jockey pump
4	plant cooling water pump
2	cooling water booster pump
2	station service transformers
Lot	13.8 kV MCCs and switchgear
Lot	600 V MCCs and switchgear
1	Uninterrupted power supply (UPS) system
1	Plant electrical protection panel
Lot	600V motor control centers
1	Plant Bailey DCS system, complete
Lot	All flow and pressure control valves

Lot	All carbon steel pipe and valves
Lot	All stainless-steel pipe and valves
3	low pressure boiler feedwater pump
3	condensate (Hotwell) pumps
1	deaerator tank
1	fuel oil tank
1	demineralized water storage tank
3	air compressors
2	air dryers
Lot	Automatic carbon dioxide fire extinguishing systems
1	complete water treatment system including acid and caustic tanks
Lot	Pre-fab buildings
<i>For each of the above, such asset to include associated pieces (e.g., safety valves, I/O cards, PLCs). In each case all spares on hand at the time of asset transfer to Lessor to be included.</i>	

SCHEDULE 2
TO LEASE SUPPLEMENT NO. 1

Legal Description of Iroquois Falls Project Site

PIN 65337-0369(LT)

PCL 9012 SEC NEC SRO; PT LT 11 CON 5 TEEFY PT 1, 6R6645 T/W PT 1 TO 4, 6R6644 & 1 TO 6, 6R6626 AS IN C447208 AMENDED BY C470222 T/W PT 2 TO 7 & 13 TO 16, 6R6645 AS IN C447209 AMENDED BY C470223 T/W PT 2, 6 TO 12, 6R6645 AS IN C447211 AMENDED BY C470225 T/W PT 17 TO 19, 6R6645 AS IN C447212 AMENDED BY C470226 T/W PT 1, 6R6898 AS IN C469024 AMENDED BY C470227 T/W PT 4 & 5, 6R6896 AS IN C469025 AMENDED BY C470228 T/W C469026 AMENDED BY C470229 T/W PT 1 & 2, 6R6853 AS IN C474890 AMENDED BY C521180 ; TOWN OF IROQUOIS FALLS

PIN 65337-0456(LT)

SURFACE RIGHTS ONLY; PT S 1/2 LT 12 CON 3 TEEFY PT 1, 6R5962 EXCEPT PT 1, 6R8283 S/T PT 2, 6R6832 AS IN C469070 AMENDED BY C470222, C470223, C470224, C470225, C470226, C470227, C470228, C470229 & C470230; DISTRICT OF COCHRANE

PIN 65337-0458(LT)

SURFACE RIGHTS ONLY; S 1/2 LT 12 CON 3 TEEFY EXCEPT PT 1, 6R5962, PTS 2 & 3, 6R8283 & PT 1, 6R8318, S/T PT 1, 3 & 4, 6R6832 AS IN C469070 AMENDED BY C470222, C470223, C470224, C470225, C470226, C470227, C470228, C470229 & C470230; DISTRICT OF COCHRANE

PIN 65337-0372(LT)

PCL 9070 SEC NEC; LOCATION RY 357 TEEFY COMPOSED OF THOSE PARTS OF THE BED OF THE ABITIBI RIVER LYING IN FRONT OF LT 11, CON 5, PT 2, 6R6853; DISTRICT OF COCHRANE

PIN 65337-0373(LT)

PCL 9070 SEC NEC; LOCATION RY 357 TEEFY COMPOSED OF THOSE PARTS OF THE BED OF THE ABITIBI RIVER LYING IN FRONT OF LT 11, CON 3, PT 1, 6R6853; DISTRICT OF COCHRANE

SCHEDULE 3
TO LEASE SUPPLEMENT NO. 1

Stipulated Loss Values

The amount determined at the relevant time using the following table:

Number of Base Rents paid (including, without double counting, prepaid Base Rent in accordance with the Lease) at the relevant time	\$ Amount
1	54,000,000
2	53,100,000
3	52,200,000
4	51,300,000
5	50,400,000
6	49,500,000
7	48,600,000
8	47,700,000
9	46,800,000
10	45,900,000
11	45,000,000
12	44,100,000
13	43,200,000
14	42,300,000
15	41,400,000
16	40,500,000
17	39,600,000
18	38,700,000

19	37,800,000
20	36,900,000
21	36,000,000
22	35,100,000
23	34,200,000
24	33,300,000
25	32,400,000
26	31,500,000
27	30,600,000
28	29,700,000
29	28,800,000
30	27,900,000
31	27,000,000
32	26,100,000
33	25,200,000
34	24,300,000
35	23,400,000
36	22,500,000
37	21,600,000
38	20,700,000
39	19,800,000
40	18,900,000
41	18,000,000
42	17,100,000
43	16,200,000

44	15,300,000
45	14,400,000
46	13,500,000
47	12,600,000
48	11,700,000
49	10,800,000
50	9,900,000
51	9,000,000
52	8,100,000
53	7,200,000
54	6,300,000
55	5,400,000
56	4,500,000
57	3,600,000
58	2,700,000
59	1,800,000
60+	900,000

SCHEDULE 1 TO LEASE

BASE RENT

Base Term

Rent Payment Date	Amount in \$
15-Apr-22	\$1,250,000
7-May-22	\$1,250,000
7-Jun-22	\$1,250,000
7-Jul-22	\$1,250,000
7-Aug-22	\$1,250,000
7-Sep-22	\$1,250,000
7-Oct-22	\$1,250,000
7-Nov-22	\$1,250,000
7-Dec-22	\$1,250,000
7-Jan-23	\$1,250,000
31-May-23	\$6,000,000
7-Jun-23	\$1,250,000
7-Jul-23	\$1,250,000
7-Aug-23	\$1,250,000
7-Sep-23	\$1,250,000
7-Oct-23	\$1,250,000
7-Nov-23	\$1,250,000
7-Dec-23	\$1,250,000
7-Jan-24	\$1,250,000
7-Feb-24	\$1,250,000
7-Mar-24	\$1,250,000

7-Apr-24	\$1,250,000
7-May-24	\$1,250,000
7-Jun-24	\$1,250,000
7-Jul-24	\$1,250,000
7-Aug-24	\$1,250,000
7-Sep-24	\$1,250,000
7-Oct-24	\$1,250,000
7-Nov-24	\$1,250,000
7-Dec-24	\$1,250,000
7-Jan-25	\$1,250,000
7-Feb-25	\$1,250,000
7-Mar-25	\$1,250,000

Renewal Term

During the Renewal Term, the Base Rent payable in respect of each successive month in a Renewal Term is equal to \$1,000,000, and the Rent Payment Date thereof is the first day of each such month.

THIS IS **EXHIBIT “D”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,
THIS 31st DAY OF JULY, 2023.



Michael Noel

Commissioner for Taking Affidavits

ACKNOWLEDGMENT AND RESERVATION OF RIGHTS AGREEMENT

This Acknowledgment and Reservation of Rights Agreement (the “**Agreement**”) is made this 24th day of February 2023, by and between Validus Power Corp. (“**VPC**”), Iroquois Falls Power Corp. (“**IFPC**”), Bay Power Corp. (“**BPC**”), Kap Power Corp. (“**KPC**”), Kingston Cogen Limited Partnership (“**Kingston LP**”), Kingston Cogen GP Inc. (“**Kingston GP**”) and Validus Hosting Inc. (“**VHI**”, and individually and together with VPC, IFPC, BPC, KPC, Kingston LP and Kingston GP, the “**Validus Parties**”) and Macquarie Equipment Finance Limited (“**Macquarie**”, and together with the Validus Parties, collectively, the “**Parties**”, and each individually, a “**Party**”).

RECITALS:

- A. VPC and Macquarie are, among others, parties to certain agreements and documents entered into on or about April 7, 2022, including the following:
- (i) the Participation Agreement dated April 7, 2022 between, among others, IFPC and Macquarie (the “**Participation Agreement**”); and
 - (ii) the Lease Agreement dated April 7, 2022 between IFPC and Macquarie (the “**Lease Agreement**”).
- B. Macquarie has sent to Validus Parties a number of notices of default and reservations of rights relating to the Participation Agreement, Lease Agreement and other Transaction Documents, including notices sent on or about May 17, 2022, July 13, 2022, November 16, 2022 and January 17, 2023 (each and together “**Default Notices**”).
- C. The Default Notices have included reference to, and reserved rights in respect of, among others, the following:
- (i) non-performance of certain post-closing covenants in accordance with Section 4.48 of the Participation Agreement;
 - (ii) a breach of the Hut 8 PPA (a Material Project Document) by one or both parties thereto; and
 - (iii) non-payment of a prepayment due January 16, 2022 in accordance with Section 3.3 of the Lease Agreement.
- D. In connection with the Default Notices, the Parties entered into a Heads of Agreement (the “**HOA**”) dated February 6, 2023 pursuant to which (i) the Parties agreed to consider the Prospective Transaction (as defined in the HOA), and (ii) certain terms of forbearance and standstill were agreed to in connection with certain Existing Specified Defaults (as defined in the HOA) (the “**Existing Specified Defaults**”);
- E. Macquarie wishes to exercise its right to terminate the HOA and to (i) amend or amend and restate, as applicable, the Participation Agreement, the Lease Agreement (including to provide a three-month rent holiday (the “**Rent Holiday**”)) and the Security Documents (the “**Amendments**”), (ii) enter into new Security Documents in respect of the Kingston Subsidiary and

the Kingston Project (as each term is defined in the Participation Agreement) (the “**Kingston Security**”), (iii) reserve its rights in respect of the Existing Specified Defaults and any other defaults or events of default under the Participation Agreement or Lease Agreement; and (iv) set out the terms pursuant to which Validus will be required to commence the process of selling its interest in IFPC;

- F. Each of the parties hereto acknowledge and agree that the Rent Holiday is adequate and fair consideration for the covenants of the Validus Parties herein and in each other Transaction Document;
- G. For the purposes of the Parties’ further discussions, consideration and potential negotiation of a prospective transaction, the Parties have agreed to enter into this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Definitions and Interpretation.

1.1 Capitalized terms used but not otherwise defined in this Agreement have the same meaning given to them under the Participation Agreement (including terms defined by way of incorporation).

1.2 Except as otherwise expressly provided herein, in this Agreement:

- (a) each reference to, and the definition of, any agreement, instrument or other document (including any Transaction Document) herein shall be deemed to refer to such agreement, instrument or other document as it may be amended, amended and restated, supplemented, revised or otherwise modified from time to time in accordance with its terms and, to the extent applicable, the terms of such agreement, instrument or other document shall be deemed to incorporate any appendices, annexes, schedules or exhibits to such agreement, instrument or other document;
- (b) each reference to an Applicable Law or Authorization shall be deemed to refer to such Applicable Law or Authorization as the same may be amended, supplemented or otherwise modified from time to time;
- (c) any reference to a Person in any capacity includes a reference to its successors and assigns in such capacity to the extent permitted under the terms of this Agreement and, in the case of any Government Body, any Person succeeding to any of its functions and capacities;
- (d) references to days shall refer to calendar days unless Business Days are specified; references to weeks, months or years shall be to calendar weeks, months or years, respectively;
- (e) all references to a “Section”, “clause”, “paragraph”, “sub paragraph”, “Appendix”, “Annex”, “Schedule” or “Exhibit” are to a Section, clause, paragraph or sub paragraph of this Agreement or to an Appendix, Annex, Schedule or Exhibit attached thereto;

- (f) Section headings and other captions are for the purpose of reference only and do not affect the interpretation of this Agreement;
- (g) defined terms in the singular shall include the plural and vice versa, and the masculine, feminine or neuter gender shall include all genders;
- (h) the words “hereof”, “herein” and “hereunder”, and words of similar import, when used in this Agreement, shall refer to the Agreement as a whole and not to any particular provision of the Agreement;
- (i) the words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”;
- (j) where the terms of this Agreement require that the approval, opinion, consent or other input of any party be obtained, such requirement shall be deemed satisfied only where the requisite approval, opinion, consent or other input is given by or on behalf of the relevant party in writing;
- (k) the word “will” shall be construed to have the same meaning and effect as the word “shall”;
- (l) the word “notice” means written notice;
- (m) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights;
- (n) references to a time of day means such time in Toronto, Ontario, Canada, unless otherwise specified herein; and
- (o) all amounts payable shall be amounts in Canadian Dollars.

2. Termination of HOA.

2.1 The HOA is hereby terminated and of no further force and effect and each of the parties thereto is released from all obligations, liabilities and duties thereunder.

2.2 The termination of the HOA shall be effective upon the date hereof and shall be binding upon and shall enure to the benefit of the parties thereto and their respective successors and assigns.

2.3 For greater certainty, the Parties acknowledge and agree that the forbearance provided for in Section 4.2 of the HOA has been terminated and no longer has any further force or effect whatsoever, effective immediately.

3. Reservation of Rights

3.1 In this Section,

“Existing Specified Defaults” means each and together the following:

- (a) non-performance of certain post-closing covenants in accordance with Section 4.48 of the Participation Agreement;
- (b) a breach of the Hut 8 PPA (a Material Project Document) by one or both parties thereto; and
- (c) non-payment of a prepayment due January 16, 2022 in accordance with Section 3.3 of the Lease Agreement.

3.2 Each of the Validus Parties acknowledge and agree that, notwithstanding that the Parties are entering into this Agreement, the Amendments and the Kingston Security and have initiated the IFPC Sale process, Macquarie reserves any and all actions, rights, remedies and powers it has under or in connection with the Transaction Documents, including in respect of the Existing Specified Defaults, each other circumstance, default or Lease Event of Default (known or unknown to any one or more Parties) or otherwise available to Macquarie at law, under statute or in equity. Specifically and without limiting the foregoing, the Validus Parties acknowledge and agree that:

- (a) Macquarie may at any time immediately proceed to exercise any and all actions, rights, powers and remedies it has, including with respect to the Existing Specified Defaults, as exist under and in accordance with the Transaction Documents and/or applicable law, or any of its enforcement and foreclosure rights and remedies under the Security Documents;
- (b) nothing shall preclude Macquarie from filing, commencing and prosecuting any legal or equitable actions, or initiating or taking any legal or equitable right, power, remedy or action against a party to the Transaction Documents, including on the basis of an Existing Specified Default at any time; and
- (c) nothing affects or in any way limits the actions, rights, powers, and remedies of Macquarie arising from or on the basis of any other fact, matter, event and/or circumstance, including those in existence as of the date hereof, and whether or not known to Macquarie at the date hereof.

3.3 Macquarie's agreement to enter into this Agreement, the Amendments or the Kingston Security and to take part in the IFPC Sale process in accordance herewith, should not in any way be construed to be an agreement not to enforce rights, or a waiver of, and this Section 3.3 is without prejudice to, any actions, rights, powers and remedies which Macquarie may have now or in the future, including in relation to the Existing Specified Defaults or any other matter whether or not known to Macquarie at the date hereof, and Macquarie expressly reserves its rights in connection therewith.

3.4 Each of the Validus Parties acknowledge, consent to and agree that:

- (a) all Transaction Documents remain in full force and effect and are enforceable in accordance with their terms;
- (b) Base Rent and Supplemental Rent will continue to be accrued and paid by IFPC in accordance with the terms and conditions of the Lease Agreement;
- (c) nothing in this Agreement:

- (i) amends, supplements, waives or otherwise affects any of the terms and conditions of the Transaction Documents;
 - (ii) prejudices or adversely affects any of Macquarie's right, power, authority, discretion, action or remedy arising under or in relation to any Transaction Document; or
 - (iii) discharges, releases or otherwise affects any liability or obligations arising under or in connection with any Transaction Document; and
- (d) the Validus Parties must continue to comply with all the terms and conditions of the Transaction Documents.

4. Covenants.

In consideration of Macquarie entering into this Agreement and the Amendments, the Validus Parties hereby agree to the following covenants in each case subject, and without prejudice, to any provision set forth in the Transaction Documents:

- (a) ***Proposed Sale of IFPC.***
 - (i) The Validus Parties will take all steps required to undertake a process for the sale of the equity interests in IFPC (the "**IFPC Sale**"), targeted to complete as soon as may be commercially reasonable and in any case by 31 May 2023 (or such later date as Macquarie may in its discretion agree in writing) in compliance with this Section;
 - (ii) *Macquarie Consultation and Consent Required.* The Validus Parties agree to work in close consultation with Macquarie throughout the process of promoting, marketing, negotiating and documenting the IFPC Sale and shall not proceed with the IFPC Sale without the express written consent and approval of Macquarie, which may be given or withheld in Macquarie's absolute discretion and if given, on such terms as Macquarie sees fit.
 - (iii) *Ownership of IFPC.* The Validus Parties acknowledge that ownership of the Leased Property is governed by the Lease Agreement, the Participation Agreement and other Transaction Documents, and no sale of the Leased Property shall proceed except as permitted pursuant to the Lease Agreement, the Participation Agreement and the other Transaction Documents.
 - (iv) *Information Regarding IFPC Sale.* The Validus Parties will at all times provide to Macquarie and the advisors timely and accurate information regarding or for the purposes of the IFPC Sale.
 - (v) *Right to Enforce Security.* Notwithstanding that the process for the IFPC Sale may have commenced, Macquarie's rights under the Security Documents (including, without limitation, its right to foreclose on the equity interests of IFPC) shall remain unaffected and unamended and Macquarie may at any time immediately proceed to exercise any and all of its rights and remedies it has, including with

respect to the Existing Specified Defaults (or any other default or event of default that may occur and then be continuing) in accordance with the Transaction Documents and/or applicable law, and its rights and remedies under the Security Documents.

(b) **Other Covenants.**

- (i) *Opinion.* Deliver to Macquarie on the date hereof, a legal opinion from external counsel to the Validus Parties regarding, among other things, the due execution and delivery of the Kingston Security and the enforceability of the Kingston Security, in form and substance satisfactory to Macquarie, together with supporting certificates and resolutions and other necessary documentation.
- (ii) *Registration of Name Change.* On the date hereof, register or cause to be registered, a registration of name change of NPIF KINGSTON COGEN CORP. in each applicable real property or land registry reasonable requested by Macquarie in order to permit the registration of the Security Interest referenced in clause (iii) below.
- (iii) *Registrations.* Deliver to Macquarie, on the date hereof, evidence of registration (or the extension/renewal of existing registrations), or arrangements satisfactory to Macquarie for registration, in the necessary jurisdictions of the Security Interest or notice thereof in favour of Macquarie, created by the Security Documents in order to preserve or protect the Liens created thereby or other arrangements for effecting such registrations (or extensions/renewals of such registrations) acceptable to Macquarie;
- (iv) *Survey.* Deliver to Macquarie on the date hereof, a current survey of the Kingston Land prepared by an accredited Ontario Land Surveyor (or such other person reasonably satisfactory to Macquarie) in the Validus Parties' possession or control;
- (v) *Title Insurance.* Deliver to Macquarie on the date hereof, a commitment to title insure in favour of Macquarie in respect of the Kingston Project Site and/or Kingston Land, as applicable, together with such endorsements and any officer's certificates as to any title and off-title matters as are reasonably required by Macquarie, in form and substance satisfactory to Macquarie;
- (vi) *Ministry of Natural Resources.* Delivery to Macquarie (or cause to be delivered to Macquarie), consent from the Ministry of Natural Resources in connection with the charge of the Sublease Interest set out in Schedule 3 of the Participation Agreement in respect of the Kingston Land;
- (vii) *Notice to Landlord and Landlord Consent.* Deliver to Macquarie on the date hereof, notices to landlords and landlord consent agreement(s) in respect of any leased properties where requested by Macquarie in respect of the Kingston Land.
- (viii) *Environmental Permits.* Within 30 days of the date hereof, deliver to Macquarie amended versions of the Amended Environmental Compliance Approvals for Air

and Sewage Works and the Permit to Take Water to change the name of the permit holder to be Kingston CoGen GP Inc.;

- (ix) *Environmental Reports.* Within 30 days of the date hereof, deliver to Macquarie updated and recently dated versions of the environmental reports detailing subsurface conditions in respect of the Kingston Land;
- (x) *TCA.* Within 30 days of the date hereof, deliver to Macquarie an amended Transmission Connection Agreement with Hydro One which (a) reflects that the “Customer” thereunder is the current general partner of Kingston Cogen LP, and (b) reflects that the “Customer thereunder” is the current general partner acting “as general partner on behalf of Kingston Cogen LP;
- (xi) *KCLP Electricity License.* Within 30 days of the date hereof, provide evidence satisfactory to Macquarie of renewal of the KCLP Electricity Retailer License from the Ontario Energy Board; and
- (xii) *Employment.* Deliver to Macquarie (a) within 30 days of the date hereof, current copies of all employment agreements, offer letters or similar for Jacob Richardson, Curtis Carriere, Stephen Ukatu, Chris Jarvis and Derek Blais, and (b) promptly following execution, the assignment agreements with each employee transferring their employment from Validus to one of Validus’ Subsidiaries.

5. Prospective Kingston Financing.

The Validus Parties confirm they are in discussion with third party financiers to consider obtaining a financing facility which may be secured by the assets of Kingston (“**Prospective Kingston Financing**”), and acknowledge such Prospective Kingston Financing is subject to the terms and conditions of the Transaction Documents. Should any of the Validus Parties (or their affiliates) receive transaction documents for a proposal of Prospective Kingston Financing that it wishes to proceed with, and without any affect on or prejudice to the Transaction Documents:

- (a) the Validus Parties must, prior to committing to or executing any such transaction documents, request the approval of Macquarie as required under the Transaction Documents; and
- (b) following receipt of such Validus Party request, Macquarie agrees to consider the request in good faith and provide a response thereto in a timely manner, where such response (including whether or not approval is given, and if given, on such terms such approval may be given upon) remains and is at the discretion of Macquarie.

6. Ratification of Liability.

Each of the Validus Parties as debtors, grantors, pledgors, guarantors, assignors, or in other similar capacities in which such parties grant liens or security interests in their properties or otherwise act as accommodation parties or guarantors, as the case may be, under the Transaction Documents, hereby ratifies and reaffirms all of its payment and performance obligations and obligations to indemnify, contingent or otherwise, under each of such Transaction Documents to which such party is a party, and each such party hereby ratifies and reaffirms its grant of liens on or security interests in its properties

pursuant to such Transaction Documents to which it is a party as security for the Obligations under or with respect to the Lease Agreement, and confirms and agrees that such liens and security interests hereafter secure all of the obligations, including, without limitation, all additional obligations hereafter arising or incurred pursuant to or in connection with this Agreement, the Lease Agreement or any other Transaction Document.

7. No Waiver or Release.

Nothing in this Agreement will be construed to be a waiver or release of any cause of action, claim, defence or right that either Party may have.

8. Representations and Warranties.

Each of the Validus Parties makes, as of the date hereof, the representations and warranties of the Obligors set out in Section 3.1, and where applicable, in respect of this Agreement, mutatis mutandis.

9. Notices.

Notices to be given under this Agreement shall be given the manner, and on the terms, set out in Section 9.6 of the Participation Agreement, mutatis mutandis.

10. Enurement.

This Agreement shall be binding upon and enure to the benefit of the Parties and their respective successors and assigns. Further, provisions expressed in favour of, in respect of or for the benefit of Macquarie Parties not being a Party, shall inure to the benefit of, and shall be enforceable by, such parties directly or by Macquarie on their behalf and for their benefit.

11. Governing Law; Forum Selection and Consent to Jurisdiction; Waiver of Jury Trial.

11.1 This Agreement shall be governed by, and construed in accordance with, the laws of the Province of Ontario and the laws of Canada applicable therein.

11.2 Each Party hereto irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of the courts of Ontario, in any action or proceeding arising out of or relating to this Agreement, or for recognition or enforcement of any judgment, and each of the parties hereto irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such court. Each party hereto hereby irrevocably waives, to the fullest extent it may effectively do so, the defence of inconvenient forum to the maintenance of such action or proceeding. Nothing in this Agreement shall affect any right that Macquarie may otherwise have to bring any action or proceeding relating to this Agreement against any Obligor or its properties in the courts of any jurisdiction having jurisdiction over an Obligor or any of its property or assets.

11.3 THE PARTIES HERETO WAIVE ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO ANY MATTER ARISING UNDER THIS AGREEMENT.

12. Severability.

Each provision of this Agreement shall be interpreted in such manner as to be valid under Applicable Law, but if any provision of this Agreement shall be ruled invalid or prohibited thereunder, such provision's invalidity or prohibition shall not invalidate or render unenforceable the remaining provisions of this Agreement.

13. Counterparts.

This Agreement may be executed, including by electronic means, in any number of counterparts, each of which is deemed an original, including any electronic transmission of an executed signature page, and all of which together are deemed to be one and the same agreement.

14. Basic Document.

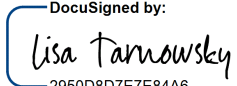
This Agreement, and each document, agreement and instrument executed by any of the Validus Parties pursuant to this Agreement, shall each constitute a Basic Document for all purposes. For the avoidance of doubt, the breach by any Validus Party of any of the terms, conditions or covenants under this Agreement is a Lease Event of Default (without the benefit of any cure periods).

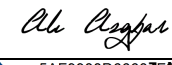
15. Entire Agreement; Amendment.

This Agreement constitutes the sole and entire agreement between the Parties with respect to the subject matter of this Agreement and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to the subject matter. No provision of this Agreement may be amended, modified, waived or changed unless made in writing and signed by the Parties.


IN WITNESS WHEREOF the Parties have executed this Agreement on the date set forth above.

MACQUARIE EQUIPMENT FINANCE LTD.


By: 
Name: Lisa Tarnowsky
Title: Senior Manager, Operations

By: 
Name: Ali Asghar
Title: Team Lead, Operations


IROQUOIS FALLS POWER CORP.

By: 
Name: Todd Shortt
Title: President and CEO


VALIDUS POWER CORP.

By: 
Name: Todd Shortt
Title: President and CEO


VALIDUS HOSTING INC.

By: 
Name: Todd Shortt
Title: President and CEO

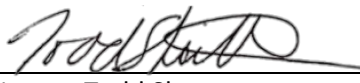
BAY POWER CORP.

By: 
Name: Todd Shortt
Title: President and CEO


KAP POWER CORP.

By: 
Name: Todd Shortt
Title: President and CEO

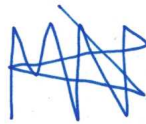
**KINGSTON COGEN LIMITED PARTNERSHIP, by
its general partner KINGSTON COGEN GP
INC., as a Guarantor**

By: 
Name: Todd Shortt
Title: President and CEO

KINGSTON COGEN INC.

By: 
Name: Todd Shortt
Title: President and CEO

THIS IS **EXHIBIT “E”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,
THIS 31st DAY OF JULY, 2023.



Michael Noel
Commissioner for Taking Affidavits

**ACKNOWLEDGEMENT,
CONFIRMATION AND AMENDMENT AGREEMENT**

TO: Macquarie Equipment Finance Ltd. (together with its successors and assigns, the “**Lessor**”)

RE: (i) Amended and restated participation agreement dated as of the date hereof (the “**Participation Agreement**”) between Iroquois Falls Power Corp., as lessee (“**IFPC**”), and the Lessor, as lessor, and (ii) amended and restated lease agreement dated as of the date hereof (together with the Participation Agreement, the “**A&R Agreements**”) between IFPC, as lessee, and the Lessor, as lessor

DATE: February 24, 2023

RECITALS:

- A. Pursuant to the terms of (i) a participation agreement dated as of April 7, 2022 and (ii) a lease agreement dated as of April 7, 2022 (collectively, the “**Original Agreements**”), each between IFPC, as lessee, and the Lessor, as lessor, the Lessor agreed to purchase the Leased Property from IFPC and the IFPC agreed to lease the Leased Property from the Lessor;
- B. Each of IFPC, Validus Power Corp. (“**Parent**”), Bay Power Corp. (“**Bay**”), Kap Power Corp. (“**Kap**”) and Validus Hosting Inc. (“**Hosting**” and collectively with IFPC, Parent, Bay and Kap, the “**Credit Parties**”) executed and delivered certain guarantees and security documents in favour of the Lessor in support of the Credit Parties’ obligations as described on Schedule I attached hereto (collectively and as amended by this Agreement, as applicable, the “**Existing Documents**”);
- C. IFPC and the Lessor have agreed to amend and restate, in their entirety, each of the Original Agreements pursuant to the terms of the A&R Agreements; and
- D. The undersigned have entered into this Acknowledgement, Confirmation and Amendment Agreement (this “**Agreement**”) to (i) acknowledge and confirm the continuing enforceability and effect of the Existing Documents, notwithstanding the entering into of the A&R Agreements and (ii) amend certain of the Existing Documents on the terms and conditions set out herein.

THIS AGREEMENT WITNESSES THAT for good and valuable consideration (the receipt and sufficiency of which are hereby irrevocably acknowledged) each of the undersigned hereby covenants, agrees and confirms with the Lessor as follows:

- 1. Defined terms used herein and not otherwise defined herein shall have the meanings given to them in the Participation Agreement.

2. Each Credit Party hereby acknowledges the execution and delivery of the A&R Agreements and agrees that the entering into of the A&R Agreements does not and shall not limit or diminish in any manner its obligations under the Existing Documents.

3. Effective as of the date hereof, the Pledge Agreement is amended as follows:

(a) Deleting the definition of “**Pledged Issuer**” in Section 1 in its entirety and replacing it with the following:

““**Pledged Issuer**” means each of the following:

- (a) the Lessee;
- (b) Bay Power Corp.;
- (c) Kap Power Corp.;
- (d) Kingston Cogen GP Inc.; and
- (e) Kingston Cogen Limited Partnership.”

(b) Deleting the first sentence of Section 8 in its entirety and replacing it with the following:

“Unless a Lease Event of Default (and for greater clarity, whether or not the Lease has been rescinded or terminated) pursuant to and as permitted by Section 13 of the Lease (an “**Event of Acceleration**”) has occurred and is continuing, the Debtor shall be entitled to exercise all voting power from time to time exercisable with respect to the Pledged Shares and give consents, waivers and ratifications with respect thereto; provided, however, that no vote shall be cast or consent, waiver or ratification given or action taken which would be, or would have a reasonably likelihood of being, prejudicial to the interests of the Lessor or which would have the effect of reducing the value of the Collateral as security for the Secured Liabilities or imposing any restriction on the transferability of any of the Collateral.”

(c) Adding the following to Section 10 as new clauses (h) and (i):

(h) Appoint Receiver. Appoint by instrument in writing one or more Receivers of the Debtor or any or all of the Collateral with such rights, powers and authority (including any or all of the rights, powers and authority of the Lessor under this Agreement) as may be provided for in the instrument of appointment or any supplemental instrument, and remove and replace any such Receiver from time to time. To the extent permitted by Applicable Law, any Receiver appointed by the Lessor shall (for purposes relating to responsibility for the Receiver’s acts or omissions) be considered to be the agent of the Debtor and not of the Lessor.

- (i) Court-Appointed Receiver. Obtain from any court of competent jurisdiction an order for the appointment of a Receiver of the Debtor or of any or all of the Collateral.
 - (d) Deleting Schedule A in its entirety and replacing it with Schedule A attached hereto.
- 4. Effective as of the date hereof, each of the Security Agreements is amended by deleting the first sentence of Section 3 in its entirety and replacing it with the following:

“If the grant of the Security Interests with respect to any Contract, Intellectual Property Right or Permit under Section 2 would result in the termination or breach of such Contract, Intellectual Property Right or Permit or is otherwise prohibited or ineffective (whether by the terms thereof or under Applicable Law), then such Contract, Intellectual Property Right or Permit shall not be subject to the Security Interests but shall be held in trust by the Debtor for the benefit of the Lessor and, on the exercise by the Lessor of any of its rights or remedies under this Agreement following a Lease Event of Default (and for greater clarity, whether or not the Lease has been rescinded or terminated) pursuant to and as permitted by Section 13 of the Lease (an “**Event of Acceleration**”), shall be assigned by the Debtor as directed by the Lessor; provided that: (a) the Security Interests shall attach to such Contract, Intellectual Property Right or Permit, or applicable portion thereof, immediately at such time as the condition causing such termination or breach is remedied, and (b) if a term in a Contract that prohibits or restricts the grant of the Security Interests in the whole of an Account or Chattel Paper forming part of the Collateral is unenforceable against the Lessor under Applicable Law, then the exclusion from the Security Interests set out above shall not apply to such Account or Chattel Paper.”
- 5. Effective as of the date hereof, each of the Debentures is amended by deleting the first clause of Section 3.1 in its entirety and replacing it with the following:

“On or after the occurrence and during the continuance of a Lease Event of Default that has not been waived or cured (and for greater clarity, whether or not the Lease Agreement has been rescinded or terminated), in accordance with the provisions of the Participation Agreement or the Lease Agreement, as applicable, the Lessor may do any one or more of the following:”
- 6. Effective as of the date hereof, the Assignment is amended by deleting Section 2 in its entirety and replacing it with the following:

“As general and continuing security for the due payment and performance of the Secured Liabilities, the Assignor hereby grants to the Lessor as and by way of a specific assignment (the “Assignment”) all of the right, title and interest of the Assignor in and to each of the Material Project Documents (together with all amendments, modifications, supplements, restatements or replacements, if any, from time to time thereafter made thereto, and subject to any consent and acknowledgment agreements obtained in connection therewith, if any, collectively, the “Assigned Documents”) including, without

limitation, (i) all deeds, documents, writings, papers, books, books of account and other records relating to the Assigned Documents, (ii) all revenues and other moneys due and payable or hereafter to become due and payable to the Assignor under or in connection with the Assigned Documents, (iii) the benefit of any guarantees or indemnities relating to any of the foregoing, (iv) the rights and benefits of any warranties and any confirmation letters relating thereto and (v) all benefit, power and advantage of the Assignor to be derived therefrom, including, without limitation, the benefit, power and advantage to enforce the rights of the Assignor thereunder in the name of the Assignor after a Lease Event of Default (and for greater clarity, whether or not the Lease has been rescinded or terminated) pursuant to and as permitted by Section 13 of the Lease (an “**Event of Acceleration**”) has occurred and is continuing.”


7. Each Credit Party hereby acknowledges, confirms and agrees that:
 - (a) all of the Existing Documents (as amended by this Agreement, as to which it is a party shall continue in full force and effect as continuing security for the Obligations;
 - (b) all of the Existing Documents to which it is a party constitute a legal, valid and binding obligation of it enforceable against it in accordance with its terms;
 - (c) all of the Existing Documents to which it is a party are hereby ratified and confirmed;
 - (d) all of the mortgages, charges, pledges, assignments and security interests contained in or created by the Existing Documents provided by any one or more Credit Parties continue in full force and effect, without novation, and constitute good and valid mortgages, charges, pledges, assignments and security interests on such Credit Party’s interests in the property and the other collateral described in the Existing Documents and secure the due and punctual payment of all Obligations, and without limiting the generality of the foregoing, each Credit Party hereby further ratifies and confirms its obligations under the Existing Documents; and
 - (e) all filings and registrations with respect to the Existing Documents remain in place and continue to be binding and effective as against each Credit Party.
8. The provision of this Agreement shall be binding upon the undersigned and their respective successors and assigns and shall enure to the benefit of the Lessor and its successors and permitted assigns under the A&R Agreements.
9. In the event of any conflict or inconsistency between any provisions of this Agreement and any provision of the Participation Agreement, the provisions of the Participation Agreement will prevail and be paramount.
10. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

11. This Agreement may be executed in any number of counterparts and all of such counterparts taken together shall be deemed to constitute one and the same document. Delivery of an executed signature page to this Agreement by facsimile or in electronic (i.e., "pdf" or "tif") format and other electronic signatures (including, without limitation, DocuSign and AdobeSign) shall be as effective as delivery of a manually executed counterpart of this Agreement.


[signature pages to follow]

IN WITNESS WHEREOF the undersigned have each caused this Agreement to be duly executed and delivered by its respective officer(s).


IROQUOIS FALLS POWER CORP.

By: 
Name: Todd Shortt
Title: President and CEO


VALIDUS POWER CORP.

By: 
Name: Todd Shortt
Title: President and CEO


BAY POWER CORP.

By: 
Name: Todd Shortt
Title: President and CEO

KAP POWER CORP.

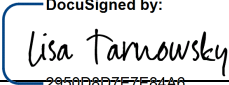
By: 
Name: Todd Shortt
Title: President and CEO

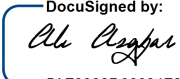
VALIDUS HOSTING INC.

By: 
Name: Todd Shortt
Title: President and CEO

ACCEPTED AND ACKNOWLEDGED BY:

MACQUARIE EQUIPMENT FINANCE LTD., as Lessor

DocuSigned by:

By: _____
Name: Lisa Tarnowsky
Title: Authorized Signatory

DocuSigned by:

By: _____
Name: Ali Asghar
Title: Authorized Signatory

SCHEDULE I

EXISTING DOCUMENTS

1. General security agreement dated as of April 7, 2022, granted by IFPC to the Lessor;
2. Debenture dated as of April 7, 2022, granted by IFPC in favour of the Lessor;
3. General security agreement dated as of April 7, 2022, granted by Bay to the Lessor;
4. Debenture dated as of April 7, 2022, granted by Bay in favour of the Lessor;
5. General security agreement dated as of April 7, 2022, granted by Kap to the Lessor;
6. Debenture dated as of April 7, 2022, granted by Kap in favour of the Lessor;
7. Securities pledge agreement dated as of April 7, 2022, granted by Parent in favour of the Lessor (the “**Pledge Agreement**”); and
8. Assignment of material project documents dated as of April 7, 2022, granted by Hosting in favour of the Lessor (the “**Assignment**”).

Item 1, 3 and 5 above are collectively referred to herein as the “**Security Agreements**”, and items 2, 4 and 6 above are collectively referred to herein as the “**Debentures**”.

SCHEDULE A

DEBTOR & PLEDGED PROPERTY INFORMATION

Full legal name:

Validus Power Corp.

Prior names:

None

Predecessor companies:

None

Jurisdiction of incorporation or organization:

Canada

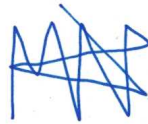
Address of chief executive office:

2B-1500 Sandhill Drive, Ancaster, Ontario, L9G 4V5

Pledged Certificated Securities:

Pledged Issuer	Securities Owned	% of issued and outstanding Securities of Pledged Issuer	Security Certificate Numbers	Security Certificate Location
Iroquois Falls Power Corp.	57,041,211	100%	C-07	Ontario
Bay Power Corp.	1,000	100%	AC-1	Ontario
Kap Power Corp.	1,000	100%	AC-1	Ontario
Kingston Cogen GP Inc.	1 common share	100%	C-06	Ontario
Kingston Cogen Limited Partnership	4,529,051 Limited Partner Units	100% of Limited Partner Units	LP-04	Ontario

THIS IS **EXHIBIT “F”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,
THIS 31st DAY OF JULY, 2023.



Michael Noel

Commissioner for Taking Affidavits

SUPPLEMENT TO AMENDED AND RESTATED LEASE AGREEMENT

LEASE SUPPLEMENT NO. 1

dated February 24, 2023

between

MACQUARIE EQUIPMENT FINANCE LTD.

Lessor

and

IROQUOIS FALLS POWER CORP.

Lessee.

THIS LEASE SUPPLEMENT HAS BEEN EXECUTED IN SEVERAL COUNTERPARTS, BUT ONLY THE COUNTERPART TO BE DEEMED THE ORIGINAL COUNTERPART FOR CHATTEL PAPER PURPOSES CONTAINS THE RECEIPT THEREFOR EXECUTED BY IROQUOIS FALLS POWER CORP. AS LESSEE ON THE SIGNATURE PAGES THEREOF.

LEASE
SUPPLEMENT

LEASE SUPPLEMENT No. 1 dated February 24, 2023 (this “**Lease Supplement**”) between Macquarie Equipment Finance Ltd. (“**Lessor**”) and **Iroquois Falls Power Corp.** (“**Lessee**”).

R E C I T A L S :

Lessor and Lessee have entered into a Lease Agreement, dated as of April 7, 2022, as amended and restated on February 24, 2023 (the “**Lease**”). Unless otherwise defined herein, capitalized terms used herein shall have the meanings specified in the Lease.

Lessor and Lessee entered into a Lease Supplement dated as of April 7, 2022 (the “**Existing Lease Supplement**”).

The Lease provides for the execution and delivery of a Lease Supplement on the Closing Date substantially in the form hereof for the purpose of confirming the acceptance and lease of the Leased Property under the Lease in accordance with the terms thereof.

NOW, THEREFORE, in consideration of the premises and other good and sufficient consideration, Lessor and Lessee hereby agree as follows:

Inspection and Approval. Lessee hereby acknowledges and confirms that it has inspected and approved the Leased Property described in Schedule 1 (the “**Leased Property**”) and, as between Lessor and Lessee, the Leased Property complies in all material respects with the specifications for the Leased Property and is in good working order.

Delivery and Acceptance. Lessor hereby confirms delivery and lease to Lessee, and Lessee hereby confirms acceptance and lease from Lessor, under the Lease as hereby supplemented, of the Leased Property.

Representations and Warranties. Lessee hereby represents and warrants that:

No event that would constitute an Event of Loss under the Lease exists with respect to the Leased Property as of the date hereof;

Lessor’s Cost for the Leased Property is \$45,000,000;

The Leased Property has been assembled and installed at the Iroquois Falls Project Site set out in Schedule 2 of this Lease Supplement.

The Leased Property is free and clear of all Liens.

The Leased Property, the Iroquois Falls Project Site and the Iroquois Falls Land and the current operation, use and possession thereof do not violate in any material respect any Applicable Laws, including any such law, regulation or order relating to matters of occupational safety and health or the Environment, other than those being contested pursuant to a Permitted Contest; and

The Leased Property, taken as a whole, and each major component thereof, is substantially complete such that it is ready and available to perform in Commercial Operation the function for which it was designed. In addition: (i) all material approvals of any Government Body necessary for Commercial Operation of the Leased Property have been received and are in full force and effect; (ii) during the time that Lessee has owned or been in possession of the Leased Property has been maintained, serviced and repaired in a

manner consistent with prudent industry practice and in compliance in all material respects with (A) Applicable Law and (B) all requirements of manufacturers of the Leased Property for maintaining in full force and effect any warranties of such manufacturers with respect to the Leased Property; (iii) there is no present event or condition that is directed, addressed or relates specifically to the Leased Property and that would materially and adversely affect the capability of the Leased Property to operate as intended by Lessee or materially impair its fair market value, utility, condition, remaining economic useful life or expected residual value; and (iv) all licenses, patents, trademarks, trade names and similar rights, if any, relating to the Leased Property insofar as the Leased Property is concerned, are in full force and effect.

Base Rent and Stipulated Loss Values. The Base Rent payable under Section 3.2 of the Lease, and Stipulated Loss Values are set forth and attached as Schedule 3 to this Lease Supplement.

Confirmation. Lessee hereby confirms its agreement, in accordance with the Lease as supplemented by this Lease Supplement, to pay Rent to Lessor for the Leased Property as provided for in the Lease.

Incorporation into Lease. This Lease Supplement shall be construed in connection with and as part of the Lease, and all terms, conditions and covenants contained in the Lease, as supplemented by this Lease Supplement, shall be and remain in full force and effect.

References. Any and all notices, requests, certificates and other instruments executed and delivered concurrently with or after the execution and delivery of this Lease Supplement may refer to the “Amended and Restated Lease Agreement dated as of February 24, 2023” or may identify the Lease in any other respect without making specific reference to this Lease Supplement, but nevertheless all such references shall be deemed to include this Lease Supplement, unless the context shall otherwise require.

Counterparts. This Lease Supplement is being executed in a number of counterparts and by the parties hereto on separate signature pages, each such executed counterpart constituting an original, but all together only one agreement. To the extent that this Lease Supplement constitutes chattel paper (as such term is defined in the PPSA) no security interest in this Lease Supplement may be created through the transfer or possession of any counterpart hereof other than the counterpart bearing the receipt therefor executed by Lessor on the signature page thereof, which counterpart shall constitute the only “original” hereof for purposes of the PPSA.


Governing Law. **THIS LEASE SUPPLEMENT HAS BEEN DELIVERED IN, AND SHALL BE IN ALL RESPECTS GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF ONTARIO CANADA AND THE LAWS OF CANADA APPLICABLE THEREIN.**

This Lease Supplement is an amendment and restatement of the Existing Lease Supplement and not a novation of the Existing Lease Supplement. This Lease Supplement reflects amendments to the Existing Lease Supplement and has been restated solely for the purposes of reflecting amendments to the Existing Lease Supplement which the Lessor and the Lessee have agreed upon. All applicable references to the “Lease Supplement” or similar references contained in the documents delivered prior to the effectiveness of this Lease Supplement in connection or under the Existing Lease Supplement (including for certainty the Transaction Documents) shall be references to this Lease Supplement without further amendment to those documents.

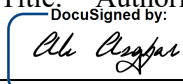
IN WITNESS WHEREOF, Lessor and Lessee have caused this Lease Supplement No. 1 to be duly executed and delivered on the date first above written.

LESSOR:

MACQUARIE EQUIPMENT FINANCE LTD.

By: 
2950D8D7E7E84A6...

Name: Lisa Tarnowsky
Title: Authorized Signatory

By: 
5AF9980D6684F21

Name: Ali Asghar
Title: Authorized Signatory

LESSEE:

IROQUOIS FALLS POWER CORP.

By: 

Name: Todd Shortt
Title: President and CEO

**SCHEDULE 1
TO LEASE SUPPLEMENT NO. 1**

Leased Property

Quantity	Item
2	47 MW GE LM6000 PD gas turbines with dry low NOx combustors including filterhouses, ductwork, and stacks. Life-limited parts to have sufficient remaining hours and cycles to reasonably assure each gas turbine will make it to the next major overhaul. All spare parts. Including water-wash systems, SPRINT systems, natural gas receiving systems associated with the turbines.
1	32 MW GE 16-stage sliding pressure steam turbine, exhaust trunk, and all spare parts
2	55.4 MVA GE gas turbine synchronous generators and excitation system and voltage regulation system
2	Babcock & Wilcox heat recovery heat generators (HRSGs) and all appurtenances, walkways, platforms
2	duct burner systems
1	37.4 MVA GE steam turbine synchronous generator, all attached piping, valves and appurtenances
1	steam turbine lubrication oil system
1	steam turbine hydraulic system
2	gas fired Volcano auxiliary boilers
1	150 MVA main step-up transformer (13.8 kV to 230 kV)
1	spare transformer coils in an outdoor purpose-built oil tank
1	230-kV 52A-1 Breaker
Lot	All relays and metering systems
3	13.8-kV to 240-V distribution transformers
2	Emergency Generators
1	Condenser (steam turbine exhaust and dumps)
3	boiler high pressure feed water pumps
2	intake water screens
2	fire water pumps, 1 x jockey pump
4	plant cooling water pump
2	cooling water booster pump
2	station service transformers
Lot	13.8 kV MCCs and switchgear
Lot	600 V MCCs and switchgear
1	Uninterrupted power supply (UPS) system
1	Plant electrical protection panel
Lot	600V motor control centers
1	Plant Bailey DCS system, complete
Lot	All flow and pressure control valves

Lot	All carbon steel pipe and valves
Lot	All stainless-steel pipe and valves
3	low pressure boiler feedwater pump
3	condensate (Hotwell) pumps
1	deaerator tank
1	fuel oil tank
1	demineralized water storage tank
3	air compressors
2	air dryers
Lot	Automatic carbon dioxide fire extinguishing systems
1	complete water treatment system including acid and caustic tanks
Lot	Pre-fab buildings
<i>For each of the above, such asset to include associated pieces (e.g., safety valves, I/O cards, PLCs). In each case all spares on hand at the time of asset transfer to Lessor to be included.</i>	

SCHEDULE 2
TO LEASE SUPPLEMENT NO. 1

Legal Description of Iroquois Falls Project Site

PIN 65337-0369(LT)

PCL 9012 SEC NEC SRO; PT LT 11 CON 5 TEEFY PT 1, 6R6645 T/W PT 1 TO 4, 6R6644 & 1 TO 6, 6R6626 AS IN C447208 AMENDED BY C470222 T/W PT 2 TO 7 & 13 TO 16, 6R6645 AS IN C447209 AMENDED BY C470223 T/W PT 2, 6 TO 12, 6R6645 AS IN C447211 AMENDED BY C470225 T/W PT 17 TO 19, 6R6645 AS IN C447212 AMENDED BY C470226 T/W PT 1, 6R6898 AS IN C469024 AMENDED BY C470227 T/W PT 4 & 5, 6R6896 AS IN C469025 AMENDED BY C470228 T/W C469026 AMENDED BY C470229 T/W PT 1 & 2, 6R6853 AS IN C474890 AMENDED BY C521180 ; TOWN OF IROQUOIS FALLS

PIN 65337-0456(LT)

SURFACE RIGHTS ONLY; PT S 1/2 LT 12 CON 3 TEEFY PT 1, 6R5962 EXCEPT PT 1, 6R8283 S/T PT 2, 6R6832 AS IN C469070 AMENDED BY C470222, C470223, C470224, C470225, C470226, C470227, C470228, C470229 & C470230; DISTRICT OF COCHRANE

PIN 65337-0458(LT)

SURFACE RIGHTS ONLY; S 1/2 LT 12 CON 3 TEEFY EXCEPT PT 1, 6R5962, PTS 2 & 3, 6R8283 & PT 1, 6R8318, S/T PT 1, 3 & 4, 6R6832 AS IN C469070 AMENDED BY C470222, C470223, C470224, C470225, C470226, C470227, C470228, C470229 & C470230; DISTRICT OF COCHRANE

PIN 65337-0372(LT)

PCL 9070 SEC NEC; LOCATION RY 357 TEEFY COMPOSED OF THOSE PARTS OF THE BED OF THE ABITIBI RIVER LYING IN FRONT OF LT 11, CON 5, PT 2, 6R6853; DISTRICT OF COCHRANE

PIN 65337-0373(LT)

PCL 9070 SEC NEC; LOCATION RY 357 TEEFY COMPOSED OF THOSE PARTS OF THE BED OF THE ABITIBI RIVER LYING IN FRONT OF LT 11, CON 3, PT 1, 6R6853; DISTRICT OF COCHRANE

SCHEDULE 3
TO LEASE SUPPLEMENT NO. 1

Stipulated Loss Values

The amount determined at the relevant time using the following table:

Number of Base Rents paid (including, without double counting, prepaid Base Rent in accordance with the Lease) at the relevant time	\$ Amount
1	54,000,000
2	53,100,000
3	52,200,000
4	51,300,000
5	50,400,000
6	49,500,000
7	48,600,000
8	47,700,000
9	46,800,000
10	45,900,000
11	45,000,000
12	44,100,000
13	43,200,000
14	42,300,000
15	41,400,000
16	40,500,000
17	39,600,000
18	38,700,000

19	37,800,000
20	36,900,000
21	36,000,000
22	35,100,000
23	34,200,000
24	33,300,000
25	32,400,000
26	31,500,000
27	30,600,000
28	29,700,000
29	28,800,000
30	27,900,000
31	27,000,000
32	26,100,000
33	25,200,000
34	24,300,000
35	23,400,000
36	22,500,000
37	21,600,000
38	20,700,000
39	19,800,000
40	18,900,000
41	18,000,000
42	17,100,000
43	16,200,000

44	15,300,000
45	14,400,000
46	13,500,000
47	12,600,000
48	11,700,000
49	10,800,000
50	9,900,000
51	9,000,000
52	8,100,000
53	7,200,000
54	6,300,000
55	5,400,000
56	4,500,000
57	3,600,000
58	2,700,000
59	1,800,000
60+	900,000

SCHEDULE 1 TO LEASE

BASE RENT

Base Term

Rent Payment Date	Amount in \$
15-Apr-22	\$1,250,000
7-May-22	\$1,250,000
7-Jun-22	\$1,250,000
7-Jul-22	\$1,250,000
7-Aug-22	\$1,250,000
7-Sep-22	\$1,250,000
7-Oct-22	\$1,250,000
7-Nov-22	\$1,250,000
7-Dec-22	\$1,250,000
7-Jan-23	\$1,250,000
31-May-23	\$6,000,000
7-Jun-23	\$1,250,000
7-Jul-23	\$1,250,000
7-Aug-23	\$1,250,000
7-Sep-23	\$1,250,000
7-Oct-23	\$1,250,000
7-Nov-23	\$1,250,000
7-Dec-23	\$1,250,000
7-Jan-24	\$1,250,000
7-Feb-24	\$1,250,000
7-Mar-24	\$1,250,000

7-Apr-24	\$1,250,000
7-May-24	\$1,250,000
7-Jun-24	\$1,250,000
7-Jul-24	\$1,250,000
7-Aug-24	\$1,250,000
7-Sep-24	\$1,250,000
7-Oct-24	\$1,250,000
7-Nov-24	\$1,250,000
7-Dec-24	\$1,250,000
7-Jan-25	\$1,250,000
7-Feb-25	\$1,250,000
7-Mar-25	\$1,250,000

Renewal Term

During the Renewal Term, the Base Rent payable in respect of each successive month in a Renewal Term is equal to \$1,000,000, and the Rent Payment Date thereof is the first day of each such month.

THIS IS **EXHIBIT “G”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,

THIS 31st DAY OF JULY, 2023.



Michael Noel

Commissioner for Taking Affidavits

AMENDED AND RESTATED GUARANTEE

Dated as of February 24, 2023

by

VALIDUS POWER CORP.
(“Parent”)

and

**IROQUOIS FALLS POWER CORP., BAY POWER CORP., KAP POWER CORP.,
KINGSTON COGEN LIMITED PARTNERSHIP and KINGSTON COGEN GP INC.** as
Guarantors
(together with Parent, the “Guarantors”)

in favour of

MACQUARIE EQUIPMENT FINANCE LTD., as Lessor

Lease of Combined Cycle Turbines – Iroquois Falls Cogeneration Station
Located in Iroquois Falls, Ontario, Canada

A&R Guarantee –
Validus

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THIS AMENDED AND RESTATED GUARANTEE, dated as of February 24, 2023 (this “**Guarantee**”), is given by VALIDUS POWER CORP. (“**Parent**”), IROQUOIS FALLS POWER CORP. (“**Lessee**”) and each of BAY POWER CORP., KAP POWER CORP., KINGSTON COGEN LIMITED PARTNERSHIP and KINGSTON COGEN GP INC. (collectively with Parent and Lessee, the “**Guarantors**” and each individually, a “**Guarantor**”), for the benefit of MACQUARIE EQUIPMENT FINANCE LTD., as lessor (the “**Lessor**”), and amends and restates the guarantee dated as of April 7, 2022 (the “**Original Guarantee**”) in its entirety as set out herein.

RECITALS:

A. Lessee, each other Guarantor and Lessor are party to an amended and restated participation agreement dated as of the date hereof (as may be further amended, supplemented, restated or replaced from time to time, the “**Participation Agreement**”), which amends and restates a participation agreement dated as of April 7, 2022 pursuant to which, among other things, (i) Lessor agreed to purchase the Leased Property from Lessee, and (ii) Lessee agreed to lease the Leased Property from Lessor.

B. Concurrently with the execution and delivery of the Participation Agreement, Lessor and Lessee are entering into an amended and restated lease agreement dated as of the date hereof between Lessor, as lessor, and Lessee, as lessee (as may be further amended, supplemented, restated or replaced from time to time, the “**Lease**”), which amends and restates a lease agreement dated as of April 7, 2022 under which Lessor agreed to lease to Lessee, and Lessee agreed to lease from Lessor, the Leased Property.

C. It is a condition to the transactions contemplated by the Participation Agreement and the Lease that each Guarantor guarantee (or continue to guarantee, as the case may be) the obligations of Lessee and each other Guarantor under the Basic Documents in favour of Lessor.

D. Each Guarantor has duly authorized the execution, delivery and performance of this Guarantee.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein contained, each Guarantor hereby agrees as follows:

SECTION 1. GUARANTEE.

1.1 Guarantee. Each Guarantor hereby absolutely, unconditionally and irrevocably guarantees, as primary obligor and not merely as surety, to Lessor, (i) the full and punctual payment when due of each and every payment due from Lessee and each other Guarantor to such Person pursuant to or arising under or from the Basic Documents, including Base Rent, Supplemental Rent and all other amounts payable by Lessee under the Lease and indemnity payments due from Lessee under the Participation Agreement (whether or not such amounts described in this clause (i) are allowed as a claim in a bankruptcy of Lessee or a Guarantor), and (ii) the full and punctual performance of, observance of and compliance with all other obligations, covenants, and undertakings binding upon Lessee and each other Guarantor contained in or arising under or from the Basic Documents (such payments and other obligations referred to in clauses (i)

and (ii) above hereinafter referred to as the “**Obligations**”). In addition to and without affecting or reducing each Guarantor’s obligations hereunder, if for any reason any of the Obligations are not paid, performed or discharged when due (taking into account any applicable grace period), each Guarantor will immediately pay, perform or discharge, or cause to be paid, performed or discharged, such Obligations, and each Guarantor hereby agrees to pay and indemnifies and holds harmless, Lessor for any and all reasonable out-of-pocket costs and expenses (including reasonable attorneys’ fees, including allocated time charges of internal counsel, and expenses) incurred by Lessor, as the case may be, in enforcing any rights under this Guarantee. Each Guarantor acknowledges receipt of a copy of each Basic Document. Each Guarantor’s liability to make payment or to perform under this Guarantee shall arise forthwith after demand for payment or performance has been made in writing by Lessor to such Guarantor in accordance with the provisions hereof (including, without limitation, Section 2.1).

1.2 Indemnity. In addition to the guarantee specified in Section 1.1, each Guarantor agrees to indemnify and save Lessor harmless from and against all out-of-pocket costs, losses, expenses and damages it may suffer as a result or consequence of, any inability by Lessor to recover the ultimate balance due or remaining unpaid to Lessor in respect of the Obligations, including, without limitation, legal fees incurred by or on behalf of Lessor resulting from any action instituted on the basis of this Guarantee.

SECTION 2. GENERAL PROVISIONS.

2.1 Actions for Default. Each and every failure to pay or perform any Obligation shall give rise to a separate claim and cause of action hereunder, and separate claims or suits may be made and brought, as the case may be, hereunder as each such default occurs. Upon the occurrence and during the continuance of a Lease Default or Lease Event of Default which has not been waived or cured, Lessor may treat all Obligations as due and payable and Lessor may forthwith demand payment under this Guarantee and collect from any Guarantor the total amount hereby guaranteed. A written statement of an officer of Lessor as to the amount of Obligations remaining unpaid to Lessor at any time shall be *prima facie* evidence thereof absent manifest error.

2.2 Unconditional Nature of Obligations. Each Guarantor’s guarantee of the Obligations under Section 1 shall be a continuing, absolute and unconditional guarantee of payment and performance as aforesaid and not of collection and shall remain in full force and effect until each and all of the Obligations are fully, indefeasibly and satisfactorily discharged and performed in accordance with the Basic Documents. Each Guarantor’s guarantee hereunder is a primary obligation of such Guarantor and is not contingent upon Lessor bringing any action against Lessee or any other Person, or resorting to any other security, and each Guarantor hereby expressly waives any claim that its guarantee hereunder is so contingent. The obligations of each Guarantor hereunder shall be direct and unconditional and independent of the obligations of any other Guarantor or any other Person, and a separate action or actions may be brought and maintained against a Guarantor without the necessity of joining or previously proceeding against or exhausting any other remedy against any Guarantor or any other Person, or any security then held.

2.3 Waiver. Until all the Obligations are indefeasibly satisfied in full, each Guarantor hereby unconditionally waives, to the fullest extent permitted by Applicable Law, any right, claim or remedy of subrogation, reimbursement, contribution or any similar rights which such Guarantor

may now have or hereafter acquire against Lessee or any other guarantor of Lessee in respect of the Obligations, including any right, claim or remedy of Lessor against Lessee or any other Person, or any security which Lessor may have under the Basic Documents, whether such right, claim or remedy arises in equity, under contract, by statute, under common law or otherwise.

2.4 Survival of Obligations. This Guarantee and the liability of each Guarantor hereunder shall, to the maximum extent permitted by Applicable Law, remain in full force and effect and be absolute, unconditional and irrevocable irrespective of:

(a) any lack of legality, validity, regularity or enforceability of the Basic Documents, or any of them or of the Obligations created thereunder or any agreement or instrument relating to the Obligations or the lack of power and authority of Lessee to enter into any of the Basic Documents; or

(b) any amendment, supplement to, rescission, waiver, or other modification of, or any consent to or departure from, any of the terms of any of the Basic Documents, or any of them, or any leasing, subleasing or assignment of the Leased Property; or

(c) any reduction, limitation, impairment or termination of the Obligations for any reason, other than indefeasible satisfaction in full of all Obligations, including any claim of waiver, compromise, settlement, release, renewal, extension, indulgence, amendment, addition, deletion, change in, modification of, or release of any security for or acceptance of additional security for, the Obligations, or any of them or any redelivery, repossession, sale, transfer or other disposition, surrender or destruction of the Leased Property, the Site, the Land, the Support Rights or the Facility; or

(d) the transfer, assignment, subletting or mortgaging or the purported transfer, assignment, subletting or mortgaging of all or any part of the interest of Lessor or Lessee in the Basic Documents, the Leased Property, the Site, the Land, the Support Rights or the Facility; or

(e) any failure of right, title or interest with respect to Lessor's or Lessee's interest in the Leased Property, the Land, the Site, the Support Rights or the Facility; or

(f) any failure, neglect or omission on the part of Lessor or any other Person to give the Guarantors notice of the occurrence of any Lease Default or Lease Event of Default under the Basic Documents, or to realize upon any Obligations, or to provide for any insurance required under the Basic Documents, or to establish or maintain the priority or perfection of any interest in the Leased Property, the Site, the Land, the Support Rights or the Facility, or to assert any claim or demand or to exercise or enforce any right or remedy against Lessee or any other Person; or

(g) any defect in the compliance with specifications, condition, design, operation or fitness for use of, or any damage to or loss or destruction of, or any interruption, interference or cessation in the use of the Leased Property, the Site, the Land, the Support Rights or the Facility by Lessee or any other Person for any reason whatsoever (including any government prohibition or restriction, condemnation, requisition, seizure or any other act on the part of any Government Body; or any act of God or of the public enemy; any casualty, any condemnation or any Event of Loss) regardless of the duration thereof (even though such duration would otherwise

constitute a frustration of the Lease), whether or not without fault on the part of Lessee or any other Person; or

(h) any merger, amalgamation, consolidation or other similar occurrence of Lessee or any other Guarantor into or with any other Person or any sale, lease or transfer of any other assets of Lessee or any other Guarantor to any other Person (and, in the case of any merger, amalgamation, consolidation or other similar occurrence of Lessee into or with any other Person or any sale, lease or transfer of any other assets of Lessee to any other Person, this Guarantee shall apply to the obligations of such other Person and the term "Lessee" shall include each such other Person and the Person resulting from such merger, consolidation or other similar occurrence); or

(i) any change in the structure of, including the ownership of any shares of equity securities of, Lessee or any other Guarantor (including changes to their Constituent Documents); or

(j) any rejection of any Basic Document (including the Lease) in a bankruptcy or similar proceeding for the adjustment of creditors' rights filed by or against any Person, including Lessee, any other Guarantor or Lessor; or

(k) any failure on the part of Lessee to perform or comply with the Basic Documents or any failure of any other Person to perform or comply with any term of the Basic Documents, or any other agreement as aforesaid or any misrepresentation, negligence, misconduct or other action or inaction of any kind by Lessor or any claim, set off, deduction or defense (other than full and indefeasible performance of the obligations under this Guarantee) that any Guarantor may have against Lessor; or

(l) the occurrence of an Insolvency Event in respect of Lessee, any other Guarantor or any other Person; or

(m) the failure of any Guarantor to receive any benefit from or as a result of its execution, delivery and performance of this Guarantee; or

(n) any amendment to or waiver or release or addition of, or consent to departure from, any other guarantee held by Lessor securing the Obligations; or

(o) any waiver, consent or acceptance of additional security or any release of any security by Lessor; or

(p) any other occurrence or circumstance whatsoever, whether similar or dissimilar to the foregoing and any other circumstance that might otherwise vary the risk of any Guarantor or constitute a legal or equitable defense to or discharge of the liabilities of a guarantor or surety or that might otherwise limit recourse against any Guarantor.

The obligations of each Guarantor set forth herein constitute the full recourse obligations of each Guarantor enforceable against it to the full extent of all its assets and properties. In order to hold the Guarantors liable hereunder, there shall be no obligation on the part of Lessor or any other Person at any time to demand or resort for payment or performance to Lessee or any other Person or to any property or other rights or remedies whatsoever. Without limiting the foregoing, it is

understood that repeated and successive demands may be made and recoveries may be had hereunder as and when, from time to time, the Obligations are not paid or performed when due and that, notwithstanding the recovery hereunder for or in respect of any of the Obligations, this Guarantee shall remain in force and effect and shall apply to each and every subsequent failure of any Obligation to be paid or performed when due.

2.5 Impairment of Obligations. To the maximum extent permitted by Applicable Law, the obligations and liabilities of each Guarantor hereunder shall not for any reason be impaired, diminished, abated or otherwise affected by or subject to (i) any set off, defense, counterclaim, termination, recoupment or reduction of any kind that Lessee, any other Guarantor or any other Person may have or claim to have, at any time or from time to time by reason of the invalidity, illegality, irregularity, compromise, unenforceability of, or any other event or occurrence affecting the Obligations or otherwise, or (ii) the commencement by or against Lessee, any other Guarantor or any other Person of any proceedings under any bankruptcy or insolvency law or laws relating to the relief of debtors, readjustment of indebtedness, reorganizations, arrangements, compositions, liquidation, dissolution or extension or other similar laws, or (iii) any reduction, impairment or modification of the Obligations pursuant to any bankruptcy or insolvency laws or otherwise.

2.6 Waiver of Defenses. It is the intent and purpose hereof that each Guarantor shall not be entitled to the benefit of, and does hereby waive, to the fullest extent permitted by Applicable Law, any and all defenses available to guarantors and sureties at law or in equity (except for the defense of indefeasible satisfaction in full of all Obligations). Without limiting the generality of the foregoing, each Guarantor hereby waives promptness, diligence, and notice of acceptance of this Guarantee and of the nonperformance by Lessee or any other Person, presentment, protest, dishonor, demand for payment from Lessee or any other Person and notice of nonpayment or failure to perform on the part of Lessee or any other Person and all other notices whatsoever whether required by Applicable Law or otherwise, and each Guarantor further hereby waives any and all notice of the creation, renewal, extension or accrual of any of the Obligations and notice of or proof of reliance by Lessor upon this Guarantee; and the Obligations shall conclusively be deemed to have been created, contracted or incurred, or renewed, extended, amended or waived, in reliance upon this Guarantee. Each Guarantor assumes responsibility for keeping informed of, and waives any right to be informed by Lessor of, Lessee's or any other Person's financial condition or any other circumstance bearing on the risk of nonperformance of the Obligations, including any requirement that Lessor protects, secures, perfects or insures any security interest or Lien, or any property subject thereto.

2.7 Impairment of Guarantee. No act or omission of any kind or at any time on the part of Lessor or any other Person in respect of any matter whatsoever including any omission in performance of their respective obligations under the Basic Documents, shall in any way affect or impair the guarantee hereunder, save for an express written waiver or variation of its terms, which shall be effective only with respect to the Person granting the same and its successors and assigns.

2.8 Continuation or Reinstatement of Guarantee. The guarantee hereunder shall continue to be effective, or be reinstated, as the case may be, if at any time payment, or any part thereof, of any of the Obligations is rescinded or must otherwise be restored or returned by Lessor upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of Lessee or any other

Guarantor, or otherwise, all as though such payment had not been made. Each Guarantor further agrees that, without limiting the generality of this Guarantee, if a Lease Event of Default exists and Lessor is prevented by Applicable Law, including any bankruptcy or insolvency laws or other laws for the relief of debtors, from exercising its remedies under the Basic Documents, Lessor shall be entitled to receive hereunder from each Guarantor, upon demand therefor, the sums which would have otherwise been due from Lessee had such remedies been exercised.

2.9 Payments by Guarantors. All payments to be made by any Guarantor under this Guarantee to Lessor shall be paid to Lessor's account as provided on Schedule 2 of the Participation Agreement or, if no address or account is therein provided, at the address and/or to the account specified in the notice demanding payment be made by such Guarantor, which notice shall be given not later than the third Business Day prior to the required payment date therefor. The Guarantors shall make all payments due hereunder pursuant to the terms of the Participation Agreement.

2.10 Subrogation. The Guarantors shall have no right of subrogation in respect of payments made to Lessor hereunder or under the other Basic Documents, nor shall it claim any benefit of any security at any time held by Lessor, until such time as the Obligations shall have been satisfied in full. In addition, any indebtedness of Lessee or any other obligor now or hereafter held by each Guarantor is hereby subordinated to the indebtedness of Lessee or such other obligor to Lessor; and such indebtedness of Lessee or such other obligor to any Guarantor, if Lessor, after any Lease Event of Default has occurred and is continuing, so requests, shall be collected, enforced and received by such Guarantor as trustee for Lessor and be paid over to Lessor on account of the indebtedness of Lessee or such other obligor to Lessor, but without affecting or impairing in any manner the liability of such Guarantor under the other provisions of this Guarantee. Notwithstanding the foregoing, until the occurrence of any Lease Event of Default that is continuing, each Guarantor may receive payment of any such indebtedness except as prohibited under the Participation Agreement or the Lease.

2.11 Set-Off. If any Lease Event of Default has occurred and is continuing, then each Guarantor agrees that any and all deposits, general or special, term or demand, provisional or final, matured or unmatured, and any other indebtedness at any time owing by Lessor to any Guarantor or for the credit or account of any Guarantor, may be set-off and applied by Lessor at any time and from time to time, without notice (such notice being expressly waived by the applicable Guarantor), against and on account of the Obligations whether or not any of them are contingent or unmatured, all as permitted by Applicable Law.

SECTION 3. REMEDIES.

3.1 Cumulative Remedies. No right or remedy under this Guarantee is intended to be exclusive, but each shall be cumulative and in addition to any other remedy provided under this Guarantee or under the other Basic Documents or otherwise available at law or in equity and the exercise by Lessor of any one or more of such rights or remedies shall not preclude the simultaneous or later exercise by Lessor of any other right or remedy.

3.2 No Waiver. No express or implied waiver by Lessor of any Lease Event of Default or default under a Basic Document shall in any way be, or be construed to be, a waiver of any

future or subsequent Lease Event of Default or default under a Basic Document. The failure or delay of Lessor in exercising any rights granted to it hereunder upon any occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies and any single or partial exercise of any particular right by Lessor shall not exhaust the same or constitute a waiver of any other right provided herein.

SECTION 4. MISCELLANEOUS.

4.1 Default Rate. If any Guarantor fails to pay any amount hereunder when due, such Guarantor shall pay interest, on demand, on such amount at the Late Rate, to the Person entitled thereto. The rate of interest referred to herein which is calculated with reference to a period (the “deemed interest period”) that is less than the actual number of days in the calendar year of calculation is, for the purposes of the *Interest Act* (Canada) equivalent to a rate based on a calendar year equal to such rate of interest multiplied by the actual number of days in the calendar year of calculation and divided by the number of days in the deemed interest period.

4.2 Marshalling. Neither Lessor nor any other Person shall be under any obligation (a) to marshal any assets in favour of any Guarantor or in payment of any or all of the liabilities of Lessee under the Basic Documents or the obligation of any Guarantor hereunder or (b) to pursue any other remedy that any Guarantor may or may not be able to pursue itself.

4.3 Notices. Any notice or other communication required or permitted to be given under this Guarantee will be given in accordance with the terms of the Participation Agreement.

4.4 Amendments. The terms of this Guarantee shall not be terminated or amended, or compliance herewith waived (either generally or in a particular instance, retroactively or prospectively) except by an instrument or instruments in writing signed by each Guarantor and Lessor.

4.5 Headings and Table of Contents. The headings of the Sections of this Guarantee and the table of contents are inserted for purposes of convenience only and shall not be construed to affect the meaning or construction of any of the provisions hereof.

4.6 Successors and Assigns. This Guarantee shall enure to the benefit of, and be binding on, each Guarantor and its successors and permitted assigns, and shall enure to the benefit of, and be binding on, the Lessor and its successors and permitted assigns. The Guarantors may not assign this Agreement, or any of its rights or obligations under this Agreement. The Lessor may assign this Agreement and any of its rights and obligations hereunder to any Person that replaces it in its capacity as such in accordance with and subject to the terms and conditions applicable to such assignment as set out in the Participation Agreement. If any Guarantor or the Lessor is an individual, then the term “Guarantor” or “Lessor”, as applicable, shall also include his or her heirs, administrators and executors.

4.7 Expenses of Enforcement. Each Guarantor shall pay all expenses (including all reasonable legal fees, including allocated time charges of internal counsel, and reasonable out-of-pocket expenses) that may be paid or incurred by Lessor in enforcing (through negotiations, legal proceedings or otherwise) or determining whether or how to enforce any rights with respect to, or

collecting, any or all of the Obligations and/or enforcing (through negotiations, legal proceedings or otherwise) or determining whether or how to enforce any rights with respect to, or collecting against any Guarantor under, this Guarantee.

4.8 Severability. Whenever possible, each provision of this Guarantee shall be interpreted in such manner as to be effective and valid under Applicable Law, but if any provision of this Guarantee shall be prohibited by or invalid under any Applicable Law, such provision, as to the applicable jurisdiction, shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Guarantee as to such jurisdiction or any other jurisdiction. To the extent permitted by Applicable Law, each Guarantor waives any provision of law which renders any term or provision hereof invalid or unenforceable in any respect.

4.9 Attornment. Each of the parties irrevocably submits to the non-exclusive jurisdiction of any court in the Province of Ontario for the purposes of any legal or equitable suit, action or proceeding in connection with this Guarantee.

4.10 **GOVERNING LAW.** THIS GUARANTEE SHALL BE IN ALL RESPECTS GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF PROVINCE OF ONTARIO AND THE FEDERAL LAWS OF CANADA APPLICABLE THEREIN, AND INCLUDING ALL MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE WITHOUT REGARD, HOWEVER, TO PRINCIPLES OF CONFLICTS OF LAW.

4.11 **WAIVER OF JURY TRIAL.** EACH GUARANTOR WAIVES ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO ANY MATTER ARISING UNDER THIS GUARANTEE.

4.12 Definitions. For all purposes of this Guarantee, except as otherwise defined herein or unless the context otherwise requires, capitalized terms used herein and defined in the Participation Agreement or the Lease, as applicable, shall have the meanings so assigned to them.

4.13 Further Assurances. Each Guarantor shall at all times do all such things and provide all such reasonable assurances as may be required to consummate the transactions contemplated by this Guarantee, and shall provide such further documents or instruments required by Lessor as may be reasonably necessary or desirable to effect the purpose of this Guarantee and carry out its provisions.

4.14 Paramountcy. Except as otherwise specifically provided in this Guarantee, in the event of any conflict or inconsistency between a term or provision of this Guarantee and a term or provision of the Participation Agreement or the Lease, the provisions of the Participation Agreement or the Lease, as applicable, shall govern and prevail to the extent required to resolve the conflict or inconsistency and to the extent necessary to preserve the rights of the Lessor. Any right or remedy in this Guarantee which may be in addition to the rights and remedies contained in the Participation Agreement or the Lease shall not constitute a conflict, inconsistency, ambiguity or difference.

4.15 Execution and Delivery. This Guarantee may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all

of which when taken together shall constitute a single contract. This Guarantee shall become effective when Lessor has received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Guarantee by telecopy, facsimile or by sending a scanned copy by electronic mail shall be effective as delivery of a manually executed counterpart of this Guarantee.

4.16 Amendment and Restatement. This Guarantee is an amendment and restatement of the Original Guarantee and not a novation of the Original Guarantee. For greater certainty, all Indebtedness and other Obligations under the Original Guarantee and other Basic Documents that remains outstanding on the date hereof shall, with effect from the date hereof, constitute Indebtedness or other Obligations hereunder or under the Basic Documents, as applicable, governed by the terms hereof and shall continue to be secured by the Security Documents. Such Indebtedness and other Obligations shall be continuing in all respects, and this Guarantee shall not be deemed to be evidence of, or result in, a novation of such Indebtedness and other Obligations. This Guarantee reflects amendments to the Original Guarantee and has been restated solely for the purposes of reflecting amendments to the Original Guarantee which the Lessor and the Lessee have agreed upon. All references to the "Guarantee" or similar references contained in the documents delivered prior to the effectiveness of this Guarantee in connection or under the Original Guarantee (including for certainty the Basic Documents) shall be references to this Guarantee without further amendment to those documents. The Lessee confirms that each of the foregoing documents, including without limitation any delivered under the Original Guarantee and other Basic Documents, remains in full force and effect. For the purposes of the Security Documents, all references therein to the "Guarantee" shall be to this Guarantee, as the same may be amended, restated, supplemented or modified from time to time.

[signature pages follow]

IN WITNESS WHEREOF, each Guarantor has caused this Guarantee to be duly executed and delivered as of the date first above written.

VALIDUS POWER CORP., as Parent

By: 
Name: Todd Shortt
Title: President and CEO

IROQUOIS FALLS POWER CORP., as a Guarantor

By: 
Name: Todd Shortt
Title: President and CEO

BAY POWER CORP., as a Guarantor

By: 
Name: Todd Shortt
Title: President and CEO

KAP POWER CORP., as a Guarantor

By: 
Name: Todd Shortt
Title: President and CEO

KINGSTON COGEN LIMITED PARTNERSHIP,
by its general partner **KINGSTON COGEN GP INC.,**
as a Guarantor

By: 
Name: Todd Shortt
Title: President and CEO

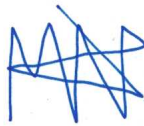
KINGSTON COGEN GP INC., as a Guarantor

By: 

Name: Todd Shortt

Title: President and CEO

THIS IS **EXHIBIT “H”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,
THIS 31st DAY OF JULY, 2023.



Michael Noel
Commissioner for Taking Affidavits

**AMENDED AND RESTATED
LIMITED RECOURSE GUARANTEE**

Dated as of February 24, 2023

by

VALIDUS HOSTING INC.
(“Hosting”)

in favour of

MACQUARIE EQUIPMENT FINANCE LTD., as Lessor

Lease of Combined Cycle Turbines – Iroquois Falls Cogeneration Station
Located in Iroquois Falls, Ontario, Canada

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THIS LIMITED RECOURSE GUARANTEE, dated as of February 24, 2023 (this “**Guarantee**”), is given by VALIDUS HOSTING INC. (“**Hosting**”), for the benefit of MACQUARIE EQUIPMENT FINANCE LTD., as lessor (the “**Lessor**”), and amends and restates the limited recourse guarantee dated as of April 7, 2022 (the “**Original Guarantee**”) in its entirety as set out herein.

RECITALS:

A. Iroquois Falls Power Corp. (“**Lessee**”), each of Validus Power Corp. (“**Parent**”), Bay Power Corp., Kap Power Corp., Kingston CoGen GP Inc., Kingston CoGen Limited Partnership and each other Person who becomes party thereto, as a Guarantor (collectively with Lessee, the “**Guarantors**”), and Lessor are party to an amended and restated participation agreement dated as of the date hereof (as may be further amended, supplemented, restated or replaced from time to time, the “**Participation Agreement**”), which amends and restates a participation agreement dated as of April 7, 2022 pursuant to which, among other things, (i) Lessor agreed to purchase the Leased Property from Lessee, and (ii) Lessee agreed to lease the Leased Property from Lessor.

B. Concurrently with the execution and delivery of the Participation Agreement, Lessor and Lessee are entering into an amended and restated lease agreement dated as of the date hereof between Lessor, as lessor, and Lessee, as lessee (as may be further amended, supplemented, restated or replaced from time to time, the “**Lease**”), which amends and restates a lease agreement dated as of April 7, 2022 under which Lessor agreed to lease to Lessee, and Lessee agreed to lease from Lessor, the Leased Property.

C. It is a condition to the transactions contemplated by the Participation Agreement and the Lease that Hosting provide a limited recourse guarantee of the obligations of Lessee and each other Guarantor under the Basic Documents in favour of Lessor.

D. Hosting has duly authorized the execution, delivery and performance of this Guarantee.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein contained, Hosting hereby agrees as follows:

SECTION 1. GUARANTEE.

1.1 Guarantee. Hosting hereby absolutely, unconditionally and irrevocably guarantees, as primary obligor and not merely as surety, to Lessor, (i) the full and punctual payment when due of each and every payment due from Lessee and each other Guarantor to such Person pursuant to or arising under or from the Basic Documents, including Base Rent, Supplemental Rent and all other amounts payable by Lessee under the Lease and indemnity payments due from Lessee under the Participation Agreement (whether or not such amounts described in this clause (i) are allowed as a claim in a bankruptcy of Lessee or a Guarantor), and (ii) the full and punctual performance of, observance of and compliance with all other obligations, covenants, and undertakings binding upon Lessee and each other Guarantor contained in or arising under or from the Basic Documents (such payments and other obligations referred to in clauses (i) and (ii) above hereinafter referred

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to as the “**Obligations**”). In addition to and without affecting or reducing Hosting’s obligations hereunder, if for any reason any of the Obligations are not paid, performed or discharged when due (taking into account any applicable grace period), Hosting will immediately pay, perform or discharge, or cause to be paid, performed or discharged, such Obligations, and Hosting hereby agrees to pay and indemnifies and holds harmless, Lessor for any and all reasonable out-of-pocket costs and expenses (including reasonable attorneys’ fees, including allocated time charges of internal counsel, and expenses) incurred by Lessor, as the case may be, in enforcing any rights under this Guarantee. Hosting acknowledges receipt of a copy of each Basic Document. Hosting’s liability to make payment or to perform under this Guarantee shall arise forthwith after demand for payment or performance has been made in writing by Lessor to Hosting in accordance with the provisions hereof (including, without limitation, Section 2.1).

1.2 Indemnity. In addition to the guarantee specified in Section 1.1, Hosting agrees to indemnify and save Lessor harmless from and against all out-of-pocket costs, losses, expenses and damages it may suffer as a result or consequence of, any inability by Lessor to recover the ultimate balance due or remaining unpaid to Lessor in respect of the Obligations, including, without limitation, legal fees incurred by or on behalf of Lessor resulting from any action instituted on the basis of this Guarantee.

1.3 Limited Recourse. Notwithstanding any other provision hereof or in any Basic Document, the only remedy that Lessor shall have against Hosting in the event of non-payment by Hosting of its obligations hereunder is to realize upon the Assigned Documents, as such term is used in the assignment of material project documents dated as of the date hereof made by Hosting in favour of Lessor (the “**Assignment Agreement**”). For greater certainty, it is hereby declared that Lessor shall in no circumstance have any right of payment from Hosting hereunder independent of the foregoing. The foregoing: (a) does not constitute a waiver, release or discharge of the Obligations, Hosting’s obligations hereunder or any portion thereof, and (b) does not limit or restrict the right of Lessor to name Hosting as a defendant in any action, suit for judicial foreclosure or for the exercise of any other remedy under or in connection with this Guarantee or any other Basic Document so long as no judgement in the nature of money or deficiency judgement shall be enforced against Hosting out of any of its property, assets or undertaking other than the Assigned Documents.

SECTION 2. GENERAL PROVISIONS.

2.1 Actions for Default. Each and every failure to pay or perform any Obligation shall give rise to a separate claim and cause of action hereunder, and separate claims or suits may be made and brought, as the case may be, hereunder as each such default occurs. Upon the occurrence and during the continuance of a Lease Default or Lease Event of Default which has not been waived or cured, Lessor may treat all Obligations as due and payable and Lessor may forthwith demand payment under this Guarantee and collect from Hosting the total amount hereby guaranteed. A written statement of an officer of Lessor as to the amount of Obligations remaining unpaid to Lessor at any time shall be *prima facie* evidence thereof absent manifest error.

2.2 Unconditional Nature of Obligations. Subject to Section 1.3, Hosting’s guarantee of the Obligations under Section 1 shall be a continuing, absolute and unconditional guarantee of payment and performance as aforesaid and not of collection and shall remain in full force and

effect until each and all of the Obligations are fully, indefeasibly and satisfactorily discharged and performed in accordance with the Basic Documents. Hosting's guarantee hereunder is a primary obligation of Hosting and is not contingent upon Lessor bringing any action against Lessee or any other Person, or resorting to any other security, and Hosting hereby expressly waives any claim that its guarantee hereunder is so contingent. The obligations of Hosting hereunder shall be direct and unconditional and independent of the obligations of Lessee, any other Guarantor or any other Person, and a separate action or actions may be brought and maintained against Hosting without the necessity of joining or previously proceeding against or exhausting any other remedy against Lessee, any other Guarantor or any other Person, or any security then held.

2.3 Waiver. Until all the Obligations are indefeasibly satisfied in full, Hosting hereby unconditionally waives, to the fullest extent permitted by Applicable Law, any right, claim or remedy of subrogation, reimbursement, contribution or any similar rights which Hosting may now have or hereafter acquire against Lessee or any other guarantor of Lessee in respect of the Obligations, including any right, claim or remedy of Lessor against Lessee or any other Person, or any security which Lessor may have under the Basic Documents, whether such right, claim or remedy arises in equity, under contract, by statute, under common law or otherwise.

2.4 Survival of Obligations. This Guarantee and the liability of Hosting hereunder shall, to the maximum extent permitted by Applicable Law, remain in full force and effect and be absolute, unconditional and irrevocable irrespective of:

(a) any lack of legality, validity, regularity or enforceability of the Basic Documents, or any of them or of the Obligations created thereunder or any agreement or instrument relating to the Obligations or the lack of power and authority of Lessee to enter into any of the Basic Documents; or

(b) any amendment, supplement to, rescission, waiver, or other modification of, or any consent to or departure from, any of the terms of any of the Basic Documents, or any of them, or any leasing, subleasing or assignment of the Leased Property; or

(c) any reduction, limitation, impairment or termination of the Obligations for any reason, other than indefeasible satisfaction in full of all Obligations, including any claim of waiver, compromise, settlement, release, renewal, extension, indulgence, amendment, addition, deletion, change in, modification of, or release of any security for or acceptance of additional security for, the Obligations, or any of them or any redelivery, repossession, sale, transfer or other disposition, surrender or destruction of the Leased Property, the Site, the Land, the Support Rights or the Facility; or

(d) the transfer, assignment, subletting or mortgaging or the purported transfer, assignment, subletting or mortgaging of all or any part of the interest of Lessor or Lessee in the Basic Documents, the Leased Property, the Site, the Land, the Support Rights or the Facility; or

(e) any failure of right, title or interest with respect to Lessor's or Lessee's interest in the Leased Property, the Land, the Site, the Support Rights or the Facility; or

(f) any failure, neglect or omission on the part of Lessor or any other Person to give Hosting notice of the occurrence of any Lease Default or Lease Event of Default under the Basic Documents, or to realize upon any Obligations, or to provide for any insurance required under the Basic Documents, or to establish or maintain the priority or perfection of any interest in the Leased Property, the Site, the Land, the Support Rights or the Facility, or to assert any claim or demand or to exercise or enforce any right or remedy against Lessee or any other Person; or

(g) any defect in the compliance with specifications, condition, design, operation or fitness for use of, or any damage to or loss or destruction of, or any interruption, interference or cessation in the use of the Leased Property, the Site, the Land, the Support Rights or the Facility by Lessee or any other Person for any reason whatsoever (including any government prohibition or restriction, condemnation, requisition, seizure or any other act on the part of any Government Body; or any act of God or of the public enemy; any casualty, any condemnation or any Event of Loss) regardless of the duration thereof (even though such duration would otherwise constitute a frustration of the Lease), whether or not without fault on the part of Lessee or any other Person; or

(h) any merger, amalgamation, consolidation or other similar occurrence of Hosting, Lessee or any other Guarantor into or with any other Person or any sale, lease or transfer of any other assets of Hosting, Lessee or any other Guarantor to any other Person (and, in the case of any merger, amalgamation, consolidation or other similar occurrence of Lessee into or with any other Person or any sale, lease or transfer of any other assets of Lessee to any other Person, this Guarantee shall apply to the obligations of such other Person and the term "Lessee" shall include each such other Person and the Person resulting from such merger, consolidation or other similar occurrence); or

(i) any change in the structure of, including the ownership of any shares of equity securities of, Hosting, Lessee or any other Guarantor (including changes to their Constituent Documents); or

(j) any rejection of any Basic Document (including the Lease) in a bankruptcy or similar proceeding for the adjustment of creditors' rights filed by or against any Person, including Hosting, Lessee, any other Guarantor or Lessor; or

(k) any failure on the part of Lessee to perform or comply with the Basic Documents or any failure of any other Person to perform or comply with any term of the Basic Documents, or any other agreement as aforesaid or any misrepresentation, negligence, misconduct or other action or inaction of any kind by Lessor or any claim, set off, deduction or defense (other than full and indefeasible performance of the obligations under this Guarantee) that Hosting may have against Lessor; or

(l) the occurrence of an Insolvency Event in respect of Hosting, Lessee, any other Guarantor or any other Person; or

(m) the failure of Hosting to receive any benefit from or as a result of its execution, delivery and performance of this Guarantee; or

(n) any amendment to or waiver or release or addition of, or consent to departure from, any other guarantee held by Lessor securing the Obligations; or

(o) any waiver, consent or acceptance of additional security or any release of any security by Lessor; or

(p) any other occurrence or circumstance whatsoever, whether similar or dissimilar to the foregoing and any other circumstance that might otherwise vary the risk of Hosting or any Guarantor or constitute a legal or equitable defense to or discharge of the liabilities of a guarantor or surety or that might otherwise limit recourse against Hosting or any Guarantor.

Subject to Section 1.3, the obligations of Hosting set forth herein constitute the full recourse obligations of Hosting enforceable against it to the full extent of all its assets and properties. In order to hold the Hosting liable hereunder, there shall be no obligation on the part of Lessor or any other Person at any time to demand or resort for payment or performance to Lessee or any other Person or to any property or other rights or remedies whatsoever. Without limiting the foregoing, it is understood that repeated and successive demands may be made and recoveries may be had hereunder as and when, from time to time, the Obligations are not paid or performed when due and that, notwithstanding the recovery hereunder for or in respect of any of the Obligations, this Guarantee shall remain in force and effect and shall apply to each and every subsequent failure of any Obligation to be paid or performed when due.

2.5 Impairment of Obligations. To the maximum extent permitted by Applicable Law, the obligations and liabilities of Hosting hereunder shall not for any reason be impaired, diminished, abated or otherwise affected by or subject to (i) any set off, defense, counterclaim, termination, recoupment or reduction of any kind that Hosting, Lessee, any other Guarantor or any other Person may have or claim to have, at any time or from time to time by reason of the invalidity, illegality, irregularity, compromise, unenforceability of, or any other event or occurrence affecting the Obligations or otherwise, or (ii) the commencement by or against Hosting, Lessee, any other Guarantor or any other Person of any proceedings under any bankruptcy or insolvency law or laws relating to the relief of debtors, readjustment of indebtedness, reorganizations, arrangements, compositions, liquidation, dissolution or extension or other similar laws, or (iii) any reduction, impairment or modification of the Obligations pursuant to any bankruptcy or insolvency laws or otherwise.

2.6 Waiver of Defenses. It is the intent and purpose hereof that Hosting shall not be entitled to the benefit of, and does hereby waive, to the fullest extent permitted by Applicable Law, any and all defenses available to guarantors and sureties at law or in equity (except for the defense of indefeasible satisfaction in full of all Obligations). Without limiting the generality of the foregoing, Hosting hereby waives promptness, diligence, and notice of acceptance of this Guarantee and of the nonperformance by Lessee or any other Person, presentment, protest, dishonor, demand for payment from Lessee or any other Person and notice of nonpayment or failure to perform on the part of Lessee or any other Person and all other notices whatsoever whether required by Applicable Law or otherwise, and Hosting further hereby waives any and all notice of the creation, renewal, extension or accrual of any of the Obligations and notice of or proof of reliance by Lessor upon this Guarantee; and the Obligations shall conclusively be deemed to have been created, contracted or incurred, or renewed, extended, amended or waived, in reliance

upon this Guarantee. Hosting assumes responsibility for keeping informed of, and waives any right to be informed by Lessor of, Lessee's or any other Person's financial condition or any other circumstance bearing on the risk of nonperformance of the Obligations, including any requirement that Lessor protects, secures, perfects or insures any security interest or Lien, or any property subject thereto.

2.7 Impairment of Guarantee. No act or omission of any kind or at any time on the part of Lessor or any other Person in respect of any matter whatsoever including any omission in performance of their respective obligations under the Basic Documents, shall in any way affect or impair the guarantee hereunder, save for an express written waiver or variation of its terms, which shall be effective only with respect to the Person granting the same and its successors and assigns.

2.8 Continuation or Reinstatement of Guarantee. The guarantee hereunder shall continue to be effective, or be reinstated, as the case may be, if at any time payment, or any part thereof, of any of the Obligations is rescinded or must otherwise be restored or returned by Lessor upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of Hosting, Lessee or any other Guarantor, or otherwise, all as though such payment had not been made. Hosting further agrees that, without limiting the generality of this Guarantee, if a Lease Event of Default exists and Lessor is prevented by Applicable Law, including any bankruptcy or insolvency laws or other laws for the relief of debtors, from exercising its remedies under the Basic Documents, Lessor shall be entitled to receive hereunder from Hosting, upon demand therefor, the sums which would have otherwise been due from Lessee had such remedies been exercised.

2.9 Payments by Hosting. All payments to be made by Hosting under this Guarantee to Lessor shall be paid to Lessor's account as provided on Schedule 2 of the Participation Agreement or, if no address or account is therein provided, at the address and/or to the account specified in the notice demanding payment be made by Hosting, which notice shall be given not later than the third Business Day prior to the required payment date therefor. Hosting shall make all payments due hereunder pursuant to the terms of the Participation Agreement.

2.10 Subrogation. Hosting shall have no right of subrogation in respect of payments made to Lessor hereunder or under the other Basic Documents, nor shall it claim any benefit of any security at any time held by Lessor, until such time as the Obligations shall have been satisfied in full. In addition, any indebtedness of Lessee or any other obligor now or hereafter held by Hosting is hereby subordinated to the indebtedness of Lessee or such other obligor to Lessor; and such indebtedness of Lessee or such other obligor to Hosting, if Lessor, after any Lease Event of Default has occurred and is continuing, so requests, shall be collected, enforced and received by Hosting as trustee for Lessor and be paid over to Lessor on account of the indebtedness of Lessee or such other obligor to Lessor, but without affecting or impairing in any manner the liability of Hosting under the other provisions of this Guarantee. Notwithstanding the foregoing, until the occurrence of any Lease Event of Default that is continuing, Hosting may receive payment of any such indebtedness except as prohibited under the Participation Agreement or the Lease.

2.11 Set-Off. If any Lease Event of Default has occurred and is continuing, then Hosting agrees that any and all deposits, general or special, term or demand, provisional or final, matured or unmatured, and any other indebtedness at any time owing by Lessor to Hosting or for the credit or account of Hosting, may be set-off and applied by Lessor at any time and from time to time,

without notice (such notice being expressly waived by Hosting), against and on account of the Obligations whether or not any of them are contingent or unmatured, all as permitted by Applicable Law.

SECTION 3. REMEDIES.

3.1 Cumulative Remedies. No right or remedy under this Guarantee is intended to be exclusive, but each shall be cumulative and in addition to any other remedy provided under this Guarantee or under the other Basic Documents or otherwise available at law or in equity and the exercise by Lessor of any one or more of such rights or remedies shall not preclude the simultaneous or later exercise by Lessor of any other right or remedy.

3.2 No Waiver. No express or implied waiver by Lessor of any Lease Event of Default or default under a Basic Document shall in any way be, or be construed to be, a waiver of any future or subsequent Lease Event of Default or default under a Basic Document. The failure or delay of Lessor in exercising any rights granted to it hereunder upon any occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies and any single or partial exercise of any particular right by Lessor shall not exhaust the same or constitute a waiver of any other right provided herein.

SECTION 4. REPRESENTATIONS AND WARRANTIES.

Hosting represents and warrants on the date of execution of this Guarantee to Lessor that:

(a) Due Incorporation. Hosting is a corporation duly organized, validly existing and in good standing under the laws of the Province of Ontario. Hosting has the corporate power and authority to own or hold under lease its properties and to enter into and perform its obligations under this Guarantee.

(b) Authorization. The execution, delivery and performance by Hosting of each of this Guarantee and the Assignment Agreement are within the corporate powers of Hosting, have been duly authorized by all necessary corporate action on the part of Hosting, require no action by or in respect of or filing with any shareholders or obligees of Hosting or any Government Body, and do not contravene, or constitute a default under, its Constituent Documents or any Applicable Law binding on Hosting or its property or any agreement, judgment, injunction, order, decree or other instrument by which Hosting or its property is bound.

(c) Government Action. All Authorizations and Government Actions required in connection with the execution, delivery and performance by Hosting of each of this Guarantee and the Assignment Agreement, have been obtained, given or made.

(d) Execution; Enforceability. Each of this Guarantee and the Assignment Agreement has been duly executed and delivered by Hosting and constitutes the legal, valid and binding obligations of Hosting, enforceable against Hosting in accordance with its terms, except as enforceability thereof may be affected by bankruptcy, insolvency or similar laws affecting the enforcement of creditors' or lessors' rights generally and the availability of equitable remedies

may be limited by equitable principles of general applicability (regardless of whether such enforceability is considered in a proceeding in equity or at law).

(e) Litigation. There is no action, suit, proceeding, arbitration or governmental investigation (whether or not purportedly on behalf of Hosting) at law or in equity or before or by any Government Body, domestic or foreign, pending or, to the knowledge of any Responsible Officer of Hosting, threatened, against or affecting Hosting or any of its Subsidiaries or any property of Hosting or any of its Subsidiaries (y) that has resulted in, or is reasonably likely to result in, a Material Adverse Effect on Hosting and its Subsidiaries considered as a whole; or (z) that purports to affect the validity or enforceability of this Guarantee or any other Basic Document to which Hosting is a party; nor is Hosting in default with respect to any order of any Government Body that could reasonably be expected to adversely affect the consummation or performance by Hosting of this Guarantee or the Assignment Agreement.

(f) Information. All information and documents provided by Hosting and each Person on behalf of Hosting in connection with the Basic Documents and the transactions contemplated by them are true and correct, and not misleading or deceptive (including by omission) in any material respect.

(g) Absence of Events. No Lease Default or Lease Event of Default exists which is attributable to any action or omission of Hosting.

(h) Liens. The Assigned Documents are not subject to any Liens other than Permitted Liens and no Person has any agreement or right to acquire an interest in the Assigned Documents other than Lessor.

(i) Taxes. Hosting has timely filed or caused to be filed all tax returns of all jurisdictions in which such returns are required to be filed by it and has paid or caused to be paid all Taxes required to have been paid by it, except Taxes being contested pursuant to a Permitted Contest and for which Hosting has set aside on its books adequate reserves, and no material controversy in respect of income taxes due is pending or, to the knowledge of a Responsible Officer of Hosting threatened, which controversy if determined adversely would have a Material Adverse Effect on Hosting and its Subsidiaries considered as a whole or its ability to perform its obligations under this Guarantee or the Assignment Agreement.

(j) Solvency. Hosting is solvent and will not be rendered insolvent by the execution, delivery and contemplated performance of this Guarantee or the Assignment Agreement, and does not intend to defeat, hinder, delay or defraud its creditors or others by or through the execution, delivery and performance of this Guarantee or the Assignment Agreement. There are no material outstanding unsatisfied judgments or Tax Liens (except as are being diligently contested pursuant to a Permitted Contest) or bankruptcy proceedings against Hosting. Hosting has not, taking into account the Transaction, incurred, and does not intend to incur, debts beyond its ability to pay such debts as they come due.

(k) Security. Upon the execution of the Assignment Agreement, the provisions of the Assignment Agreement shall be effective to create, in favour of Lessor, a legal, valid and effective Lien on all of the Assigned Documents purported to be covered thereby. All necessary

and appropriate action will be taken so that the Assignment Agreement creates first-priority, perfected Liens on and security interests in the Assigned Documents, prior and superior to all other Liens (subject only to Permitted Liens having priority as a matter of law). All necessary and appropriate consents to the creation, effectiveness, priority, perfection and enforcement of such Liens will be obtained from all relevant parties.

SECTION 5. COVENANTS.

(a) Notification of Relocation or Name Change. Hosting shall not change its name or merge or amalgamate with another Person under a different name, or move its principal place of business and chief executive office to a location other than in the Province of Ontario, without giving at least ten (10) Business Days' prior notice to Lessor of the new name or location and the date upon which such change of name, amalgamation, merger or change of location is to take effect and, within five (5) Business Days of the change of name, amalgamation or change of location, Hosting shall provide Lessor with (i) in the case of a change of name or amalgamation, a notarial or certified copy of the articles of amendment or articles of amalgamation effecting the change of name (or similar); and (ii) in any case, an opinion from legal counsel reasonably satisfactory to Lessor as to the correct name of the applicable Obligor, confirming that all appropriate registrations, filings or recordings have been made on behalf of Lessor to fully and effectively maintain the interest of Lessor in the Assigned Documents and the perfection and priority of the Liens created by the Assignment Agreement.

(b) Corporate Existence. Hosting shall at all times maintain its corporate existence and all of its rights, privileges and franchises necessary in the normal conduct of its business, except for any corporate right, privilege or franchise (x) that Hosting determines, in its reasonable, good faith business judgment, is no longer necessary or desirable (A) in the conduct of its business, or (B) in connection with the Transaction and (y) the loss of which will not result in a Material Adverse Effect.

(c) Compliance with Laws. Hosting shall comply with all Applicable Laws to which it may be subject.

(d) Authorizations, Intellectual Property. Hosting shall maintain, in all material respects, all Authorizations and Intellectual Property Rights necessary for the provision of hosting or co-location arrangements.

(e) Liens. Hosting will not and will not agree to, create, incur, assume, suffer to occur or permit to subsist any Lien upon or with respect to any of the Assigned Documents whether now owned or hereafter acquired, except for Permitted Liens.

(f) Compliance with Material Project Documents. Hosting will (a) comply with all material obligations, covenants and undertakings binding on it under the Material Project Documents to which it is a party, (b) enforce, exercise or preserve the material rights granted to it under, pursuant to or in connection with, each such Material Project Document, and (c) take any and all reasonable and prudent action to prevent the termination of any Material Project Document for reasons attributable to it.

(g) Amendments to Material Project Documents. Except for minor ministerial or administrative amendments, supplements or modifications to any Material Project Document, Hosting may not amend, supplement or modify any Material Project Document to which it is a party without the prior written approval of Lessor.

(h) Approval of Additional Material Project Documents. Hosting shall not enter into any Additional Material Project Document, including any agreement for the provision of hosting arrangements, without the prior written consent of Lessor.

(i) Notice of Default Under Material Project Documents. Hosting shall furnish to Lessor, within five (5) Business Days of Hosting becoming aware, written notice, including reasonable details, together with such notice, a description of the action that Hosting has taken and/or proposes to take with respect thereto (if any), of any material breach or event of default by Hosting or any Obligor under any Material Project Document.

SECTION 6. MISCELLANEOUS.

6.1 Default Rate. If Hosting fails to pay any amount hereunder when due, Hosting shall pay interest, on demand, on such amount at the Late Rate, to the Person entitled thereto. The rate of interest referred to herein which is calculated with reference to a period (the “deemed interest period”) that is less than the actual number of days in the calendar year of calculation is, for the purposes of the *Interest Act* (Canada) equivalent to a rate based on a calendar year equal to such rate of interest multiplied by the actual number of days in the calendar year of calculation and divided by the number of days in the deemed interest period.

6.2 Marshalling. Neither Lessor nor any other Person shall be under any obligation (a) to marshal any assets in favour of Hosting or in payment of any or all of the liabilities of Lessee under the Basic Documents or the obligation of Hosting hereunder or (b) to pursue any other remedy that Hosting may or may not be able to pursue itself.

6.3 Notices. Any notice or other communication required or permitted to be given under this Guarantee will be given in accordance with the terms of the Participation Agreement.

6.4 Amendments. The terms of this Guarantee shall not be terminated or amended, or compliance herewith waived (either generally or in a particular instance, retroactively or prospectively) except by an instrument or instruments in writing signed by Hosting and Lessor.

6.5 Headings and Table of Contents. The headings of the Sections of this Guarantee and the table of contents are inserted for purposes of convenience only and shall not be construed to affect the meaning or construction of any of the provisions hereof.

6.6 Successors and Assigns. This Guarantee shall enure to the benefit of, and be binding on, Hosting and its successors and permitted assigns, and shall enure to the benefit of, and be binding on, the Lessor and its successors and permitted assigns. Hosting may not assign this Agreement, or any of its rights or obligations under this Agreement. The Lessor may assign this Agreement and any of its rights and obligations hereunder to any Person that replaces it in its capacity as such in accordance with and subject to the terms and conditions applicable to such assignment as set out in the Participation Agreement.

6.7 Expenses of Enforcement. Hosting shall pay all expenses (including all reasonable legal fees, including allocated time charges of internal counsel, and reasonable out-of-pocket expenses) that may be paid or incurred by Lessor in enforcing (through negotiations, legal proceedings or otherwise) or determining whether or how to enforce any rights with respect to, or collecting, any or all of the Obligations and/or enforcing (through negotiations, legal proceedings or otherwise) or determining whether or how to enforce any rights with respect to, or collecting against Hosting under, this Guarantee.

6.8 Severability. Whenever possible, each provision of this Guarantee shall be interpreted in such manner as to be effective and valid under Applicable Law, but if any provision of this Guarantee shall be prohibited by or invalid under any Applicable Law, such provision, as to the applicable jurisdiction, shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Guarantee as to such jurisdiction or any other jurisdiction. To the extent permitted by Applicable Law, Hosting waives any provision of law which renders any term or provision hereof invalid or unenforceable in any respect.

6.9 Attornment. Each of the parties irrevocably submits to the non-exclusive jurisdiction of any court in the Province of Ontario for the purposes of any legal or equitable suit, action or proceeding in connection with this Guarantee.

6.10 **GOVERNING LAW.** THIS GUARANTEE SHALL BE IN ALL RESPECTS GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF PROVINCE OF ONTARIO AND THE FEDERAL LAWS OF CANADA APPLICABLE THEREIN, AND INCLUDING ALL MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE WITHOUT REGARD, HOWEVER, TO PRINCIPLES OF CONFLICTS OF LAW.

6.11 **WAIVER OF JURY TRIAL.** HOSTING WAIVES ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO ANY MATTER ARISING UNDER THIS GUARANTEE.

6.12 Definitions. For all purposes of this Guarantee, except as otherwise defined herein or unless the context otherwise requires, capitalized terms used herein and defined in the Participation Agreement or the Lease, as applicable, shall have the meanings so assigned to them.

6.13 Further Assurances. Hosting shall at all times do all such things and provide all such reasonable assurances as may be required to consummate the transactions contemplated by this Guarantee and the Assignment Agreement, and shall provide such further documents or instruments required by Lessor as may be reasonably necessary or desirable to effect the purpose of this Guarantee and carry out its provisions.

6.14 Paramountcy. Except as otherwise specifically provided in this Guarantee, in the event of any conflict or inconsistency between a term or provision of this Guarantee and a term or provision of the Participation Agreement or the Lease, the provisions of the Participation Agreement or the Lease, as applicable, shall govern and prevail to the extent required to resolve the conflict or inconsistency and to the extent necessary to preserve the rights of the Lessor. Any right or remedy in this Guarantee which may be in addition to the rights and remedies contained

in the Participation Agreement or the Lease shall not constitute a conflict, inconsistency, ambiguity or difference.

6.15 Execution and Delivery. This Guarantee may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Guarantee shall become effective when Lessor has received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Guarantee by telecopy, facsimile or by sending a scanned copy by electronic mail shall be effective as delivery of a manually executed counterpart of this Guarantee.

6.16 Amendment and Restatement. This Guarantee is an amendment and restatement of the Original Guarantee and not a novation of the Original Guarantee. For greater certainty, all Indebtedness and other Obligations under the Original Guarantee and other Basic Documents that remains outstanding on the date hereof shall, with effect from the date hereof, constitute Indebtedness or other Obligations hereunder or under the Basic Documents, as applicable, governed by the terms hereof and shall continue to be secured by the Security Documents. Such Indebtedness and other Obligations shall be continuing in all respects, and this Guarantee shall not be deemed to be evidence of, or result in, a novation of such Indebtedness and other Obligations. This Guarantee reflects amendments to the Original Guarantee and has been restated solely for the purposes of reflecting amendments to the Original Guarantee which the Lessor and the Lessee have agreed upon. All references to the "Guarantee" or similar references contained in the documents delivered prior to the effectiveness of this Guarantee in connection or under the Original Guarantee (including for certainty the Basic Documents) shall be references to this Guarantee without further amendment to those documents. The Lessee confirms that each of the foregoing documents, including without limitation any delivered under the Original Guarantee and other Basic Documents, remains in full force and effect. For the purposes of the Security Documents, all references therein to the "Guarantee" shall be to this Guarantee, as the same may be amended, restated, supplemented or modified from time to time.

[signature pages follow]

IN WITNESS WHEREOF, Hosting has caused this Guarantee to be duly executed and delivered as of the date first above written.

VALIDUS HOSTING INC., as Guarantor

By: 
Name: Todd Shortt
Title: President and CEO

THIS IS **EXHIBIT “I”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,

THIS 31st DAY OF JULY, 2023.



Michael Noel

Commissioner for Taking Affidavits

DEMAND DEBENTURE

PRINCIPAL SUM: \$60,000,000

DATE: April 7, 2022

ARTICLE 1

PROMISE TO PAY

1.1 Promise to Pay: IROQUOIS FALLS POWER CORP. (the “**Chargor**”), for value received, hereby acknowledges itself indebted and covenants and promises to pay to or to the order of MACQUARIE EQUIPMENT FINANCE LTD. (the “**Lessor**”), at the address set forth in Section 4.3 or at such other place as the Lessor may designate by notice in writing to the Chargor, ON DEMAND, the aggregate principal amount of SIXTY MILLION DOLLARS (\$60,000,000) and interest thereon, from and including the date hereof (or from and including the last interest payment date to which interest shall have been paid) to and including the date of payment, at a rate of twenty-five per cent (25%) per annum, calculated and compounded monthly on the first day of each month, as well after as before demand and as well after as before default or judgment with interest on overdue interest at the same rate.

This Debenture, *inter alia*, secures payment to the Lessor of all present and future indebtedness, liabilities and obligations of any and every kind, nature and description (whether direct or indirect, joint or several, absolute or contingent, matured or unmatured) of the Chargor to the Lessor under, in connection with or with respect to the Participation Agreement, the Lease Agreement, the Guarantee or any other Basic Document, and any unpaid balance thereof (collectively, the “**Secured Obligations**”).

1.2 Interpretation: In this Debenture, unless there is something in the subject matter or context that is inconsistent therewith, all capitalized terms used herein which are not otherwise defined herein shall have the meanings ascribed thereto in the Participation Agreement or the Lease Agreement, as applicable. In addition, the following terms shall have the following meanings:

“**Account**” has the meaning set out in Section 3.9 hereof.

“**Act**” has the meaning set out in Section 2.1(b) hereof.

“**Charged Premises**” has the meaning set out in Section 2.1 hereof.

“**Chargor**” has the meaning set out in Section 1.1 hereof.

“**Contract**” has the meaning set out in Section 3.9 hereof.

“**Easements**” means all easements, rights-of-way, licenses, privileges and any other rights in the nature of easements necessary for the development, maintenance or operation of the Iroquois Falls Project Site and the gas powered power plant and any datacenter installed at the Iroquois Falls Project Site.

“**Iroquois Falls Project Site**” means those lands and premises described in Schedule A hereto, together with the respective Easements and privileges appurtenant or appertaining thereto.

“**Lease Agreement**” means the lease agreement dated as of the date hereof between the Lessor, as lessor, and the Lessee, as lessee.

“**Leases**” means a lease, license, occupancy or tenancy agreement, land use permit or license to occupy Crown lands or binding agreement to lease, license or occupy in respect of any real property necessary for the development, maintenance or operation of the Projects.

“**Lessor**” has the meaning set out in Section 1.1 hereof.

“**Participation Agreement**” means the participation agreement dated as of the date hereof among the Lessee, as lessee, and the Lessor, as lessor.

“**Person**” or “**person**” means any natural person, corporation, limited liability company, partnership, firm, association, Government Body or any other entity whether acting in an individual, fiduciary or other capacity.

“**Real Property**” has the meaning set out in Section 2.1(a) hereof.

“**Revenues**” has the meaning set out in Section 2.1(b)(vi) hereof.

“**Secured Obligations**” has the meaning set out in Section 1.1 hereof.

“**Security Interests**” has the meaning set out in Section 2.1 hereof.

ARTICLE 2

SECURITY

2.1 **Security:** As security for the due and timely payment of the Secured Obligations, but subject to this Section 2.1, Section **Error! Reference source not found.** hereof and the Permitted Liens, the Chargor:

- (a) grants, conveys, mortgages, charges, pledges, assigns and creates a security interest in (and provided that where the interest of the Chargor in the Iroquois Falls Project Site is by way of leasehold, such mortgage and charge is by way of sublease) as and by way of a fixed and specific mortgage, charge, pledge, assignment and security interest to and in favour of the Lessor, all of its right, title, estate and interest (whether freehold or leasehold), present and future, now owned or hereafter acquired, in and to all of its undertaking, property, assets, rights, benefits and privileges, both real and personal, moveable and immovable of whatsoever nature and kind, including without limitation, the following:

- (i) all lands, premises, Easements, and portions of the Iroquois Falls Project Site (whether freehold or leasehold) in which the Chargor has any legal or beneficial right, title, interest, claim, privilege, benefit or entitlement, including, without limitation, (x) all rights, leases, subleases, licences, easements, rights-of-way, profits a prendre and interests in real property with respect to the Iroquois Falls Project Site (and all renewals, extensions and amendments or substitutions thereof) and all other facilities relating to or required for use in connection with the Iroquois Falls Project Site to the extent of any interest therein, and (y) such of the Iroquois Falls Project Site may be specifically described in any one or more supplements to this Debenture;
- (ii) all buildings, erections, structures and improvements, underground facilities, power, fuel and water supply, storage, waste disposal, roads and other transportation facilities presently situated on or under the Iroquois Falls Project Site or which may at any time hereafter be constructed or brought or placed on or under the Iroquois Falls Project Site or used in connection with the Iroquois Falls Project Site;
- (iii) all fixed machinery, plant, equipment, apparatus and fittings and other fixtures located on or at the Iroquois Falls Project Site; and
- (iv) all interests in any of the foregoing and all benefits and rights to be derived by the Chargor in respect thereof,

(all of the property and rights therein set out in paragraph 2.1(a) being collectively, the “**Real Property**”);

- (b) grants, conveys, mortgages, charges, pledges, assigns and creates a security interest in, as and by way of a fixed and specific mortgage, charge, pledge, assignment and security interest to and in favour of the Lessor, all of its right, title, estate and interest, present and future, in and to any and all personal property in which a security interest can be taken, reserved, created or granted whether under the *Personal Property Security Act* (Ontario) (the “**Act**”), any similar personal property security legislation in any jurisdiction in which any of the Charged Premises is located or otherwise under any statute or law or in equity and which is now or at any time hereafter owned by the Chargor or in which the Chargor now has or at any time hereafter acquires any interest of any nature whatsoever, including, without in any way limiting the generality of the foregoing, the interest of the Chargor in:
 - (i) all materials, supplies, machinery, equipment, fixtures, inventory, vehicles, furniture, tools, accessories and appliances now or hereafter owned or acquired by or on behalf of the Chargor and every interest therein which the Chargor now has or hereafter acquires, wheresoever situate;
 - (ii) all present and future accounts (including, without limitation, cash collateral accounts), accounts receivable, money (including, without limitation, all

money in any bank accounts), intangibles, claims, contract rights, demands, chattel papers, instruments, documents, warehouse receipts, bills of lading, notes and choses in action, together with any and all security therefor, including, without limiting the generality of the foregoing, all present and future mortgages receivable, debentures, bonds, promissory notes, bills of exchange, judgments and book debts, now due or hereafter to become due to or owned by the Chargor, together with all securities, documents, computer disks, tapes, software or records now or hereafter owned by the Chargor and representing or evidencing the said debts, accounts, accounts receivable, claims, contract rights, demands and choses in action and all other rights and benefits in respect thereof;

- (iii) all rights, agreements, licenses, permits, consents, policies, approvals, development agreements, building contracts, performance bonds, purchase orders, plans, patents, trademarks, trade names, copyrights and other industrial and intellectual property, goodwill, know-how, rights to carry on business and specifications presently owned and hereafter acquired by the Chargor in respect of or in any way relating to the development or construction of the Real Property or any part thereof, including, without limitation, all Leases and Easements relating to the Real Property and the Project and all Authorizations;
- (iv) all present and future computer hardware, software, programs and electronically stored data, and all rights, agreements, licences, permits and consents in respect of or in any way relating to such computer hardware, software and programs including, without limitation, all paper cards, magnetic tapes, discs, diskettes, drums or magnetic bubbles and whether permanently installed in hardware or crystallized in firmware, and all codes, passwords and security devices in respect thereof;
- (v) all shares, stocks, warrants, bonds, debentures, debenture stock, partnership interests, joint venture interests or other securities investments now or hereafter owned by the Chargor;
- (vi) all rents, revenues, income, insurance proceeds, expropriation proceeds, other proceeds and other monies to which the Chargor may from time to time be entitled from all sources which pertain to or are derived from the Real Property or any part thereof including, without limitation, all income and proceeds (whether in cash or on credit) received or receivable by or on behalf of the Chargor in respect of the use, occupancy or enjoyment of the Real Property or any part thereof or for the sale of goods or the provision of services on, at or from the Real Property or from judgments, settlements or other resolutions of disputes relating to the ownership, use, construction, development, operation, maintenance or management of the Real Property (collectively, “**Revenues**”); and

(vii) the benefit of any guarantees or indemnities relating to all or part of the property referred to in paragraph 2.1(b)(vi),

and with respect to paragraphs 2.1(b)(i) to (vii) inclusive, in, to and under all amendments, extensions, renewals, replacements and substitutions of any of the foregoing, all increases, additions and accessions thereto and all rights, remedies, powers, Easements, privileges and claims of the Chargor thereunder (whether arising pursuant thereto or available to the Chargor at law or in equity) including, without limitation, the right of the Chargor to enforce the foregoing and the obligations of the other parties thereto and to give or withhold any and all consents, requests, directions, approvals, extensions and/or waivers thereunder;

(c) assigns, transfers and sets over unto and in favour of the Lessor, as and by way of a fixed and specific assignment, all of its right, title, estate and interest, present and future, in and to:

(i) any agreements relating to the Real Property (including, without limitation, those relating to construction or development on, or operation of, the Real Property and all Leases and Easements relating to the Real Property) or the business, undertaking and operations of the Chargor; and

(ii) all amendments, extensions, renewals, replacements and substitutions of any of the property referred to in paragraph 2.1(c)(i) and all benefits, rights, remedies, privileges, claims, powers and advantages of the Chargor to be derived therefrom or thereunder (whether arising pursuant thereto or available to the Chargor at law or in equity) and all covenants, obligations and agreements of the other parties thereto including, without limitation, the right of the Chargor to enforce any of the foregoing and the obligations of the other parties thereto and to give or withhold any and all consents, requests, directions, approvals, extensions and/or waivers thereunder;

(d) assigns, transfers and sets over unto and in favour of the Lessor, as and by way of a general assignment, all of its right, title, estate and interest present and future, in and to:

(i) any and all existing and future Leases, Easements, any agreements relating to the Real Property (including, without limitation, those relating to construction or development on, or operation of, the Real Property) or the business, undertaking and operations of the Chargor and all existing and future leases, sub-leases, easements, sub-easements, rights of way, licenses or concessions whereby any Person is given the right by the Chargor to use or occupy the whole or any part or parts of the Real Property, and all extensions, amendments, restatements, renewals, supplements, replacements and substitutions thereof or therefor which may hereafter be effected or entered into, and all covenants, obligations and agreements of other parties thereunder or in any agreement collateral thereto, including without limitation, the benefit of any right, option or obligation of any

Person to acquire any of the Leases, Easements, or an interest therein, to renew or extend any Leases or Easements, to acquire rights in other lands and premises in connection with the Project, and any other collateral advantage or benefit to be derived from the Leases, Easements, or any of them;

- (ii) all rents and other moneys now due and payable to the Chargor or hereafter to become due and payable to the Chargor under the Leases, Easements, and each guarantee of or indemnity in respect of the obligations of the tenants thereunder with full power to demand, sue for recovery, receive and give receipts for all such rents and other moneys and otherwise to enforce the rights of the Chargor thereto in the name of the Chargor;
 - (iii) all present and future intangibles arising exclusively from or out of the Real Property or any part or parts thereof and the property and assets referred to in subsections 2.1(b) and (c) above including, without limiting the generality of the foregoing, all of its rights, title and interest in all present and future book debts, accounts and other accounts receivable, contract rights and choses in action;
 - (iv) any and all existing or future agreements, contracts, licences, permits, plans and specifications, bonds, letters of credit, letters of guarantee or other documents or instruments relating to the Real Property or any part or parts thereof and all extensions, amendments, renewals or substitutions thereof or therefor which may hereafter be effected or entered into and all benefit, power and advantage of the Chargor to be derived therefrom;
 - (v) any and all existing or future agreements of purchase and sale, options to purchase and mortgage, loan or other financing commitments relating to the Real Property or any part or parts thereof and all proceeds and other moneys now due and payable or hereafter to become due and payable thereunder and all benefit, power and advantage of the Chargor to be derived therefrom; and
 - (vi) the proceeds of any and all existing or future insurance policies pertaining to the Real Property or the property and assets referred to in subsections 2.1(b) and (c) and paragraphs 2.1(d)(i) to (v) inclusive and all proceeds of expropriation or similar taking of the Real Property or any part or parts thereof and all benefit, power and advantage of the Chargor to be derived therefrom provided that all such proceeds shall be held and applied in accordance with the Participation Agreement and the Lease Agreement;
- (e) grants, conveys, mortgages, charges, pledges, assigns and creates a security interest in, as and by way of a fixed and specific mortgage, charge, pledge, assignment and security interest to and in favour of the Lessor, all of its right, title, estate and interest, present and future, in and to all personal property in any form (including money) derived, directly or indirectly, from any dealing with the property referred

to in subsections 2.1(a) to (d) inclusive, or proceeds therefrom or that indemnifies or compensates for all or part of such property or proceeds therefrom that is destroyed and damaged; and

- (f) grants, conveys, mortgages, charges, pledges and assigns as and by way of a floating charge to and in favour of the Lessor all of the undertaking, property, assets, rights, entitlements, benefits and privileges, both real and personal, moveable and immovable, of every nature and kind, now or at any time and from time to time hereafter existing and owned by the Chargor (except such property and assets as are validly and effectively subject to any fixed and specific mortgage and charge or assignment, transfer or security interest created hereby) and which in each case is used in relation to or situated on, and which relates to the Real Property;

provided that the said grants, conveyances, mortgages, charges, pledges, transfers, assignments and security interests created pursuant to this Section 2.1 (collectively the “**Security Interests**”) shall not: (i) extend or apply to any personal property which is “consumer goods”, as such term is defined in the Act; or (ii) extend to the last day of the term of any lease, easement or any agreement therefor now held or hereafter acquired by the Chargor, but should such Security Interests become enforceable the Chargor shall thereafter stand possessed of such last day and shall hold it in trust for the Lessor for the purpose of this Debenture and assign and dispose thereof as the Lessor shall, for such purpose, direct. Upon any sale of such leasehold interest, easement or any part thereof, the Lessor, for the purpose of vesting the aforesaid one day residue of such term or renewal thereof in any purchaser or purchasers thereof, shall be entitled by deed or writing to appoint such purchaser or purchasers or any other person or persons as new trustee or trustees of the aforesaid residue of any such term or renewal thereof in the place of the Chargor and to vest the same accordingly in the new trustee or trustees so appointed free and discharged from any obligation respecting the same.

All the undertaking, property and assets mortgaged and charged pursuant to Subsection 2.1(a) and all of the undertaking, property and assets granted, assigned, transferred, mortgaged and charged pursuant to Subsections 2.1(b), (e) and (f) hereof is collectively referred to as the “**mortgaged property**”; all the undertaking, property and assets assigned, transferred and set over pursuant to Subsections 2.1(c) and (d) is collectively referred to as the “**assigned property**”; and the mortgaged property and assigned property is collectively referred to as the “**Charged Premises**”. Wherever used herein in relation to the rights and remedies of the Lessor the terms “**Real Property**”, “**mortgaged property**”, “**assigned property**” and “**Charged Premises**” shall, where the context permits, mean the whole or any part or parts thereof.

TO HAVE AND TO HOLD the Charged Premises and all rights hereby conferred unto the Lessor, its successors and assigns, for the uses and purposes and with the powers and authorities and subject to the terms and conditions set forth herein and in the Participation Agreement and the Lease Agreement.

2.2 Delivery of Instruments, Securities, Etc.: The Chargor shall, upon reasonable request from the Lessor, following the occurrence of and during the continuance of a Lease Event of Default that has not been waived or cured, forthwith deliver to the Lessor to be held by the Lessor hereunder all instruments, securities, letters of credit, advices of credit and negotiable documents

of title in its possession or control which pertain to or form part of the Charged Premises, and shall, where appropriate, duly endorse the same for transfer in blank or as the Lessor may in writing direct and shall make all commercially reasonable efforts to deliver forthwith to the Lessor any and all consents or other instruments or documents necessary to comply with any restrictions on the transfer thereof in order to transfer the same to the Lessor.

2.3 Covenant of the Chargor re Registrations: So long as any of the Secured Obligations shall remain unpaid, the Chargor covenants and agrees with the Lessor that the Chargor will, from time to time at the reasonable request of the Lessor, promptly effect all registrations, filings, recordings and all renewals thereof and all re-registrations, re-filings and re-recordings of or in respect of this Debenture and the Security Interests created hereby in such offices of public record and at such times as may be necessary or of advantage in perfecting, maintaining and protecting the validity, effectiveness and priority hereof and of the Security Interests created hereby; provided that the Lessor may effect all such registrations, filings, recordings, renewals, re-registrations, re-filings and re-recordings from time to time in its sole discretion at the expense of the Chargor.

ARTICLE 3

RIGHTS AND REMEDIES

3.1 Remedies Upon Default: On or after the occurrence and during the continuance of a Lease Event of Default that has not been waived or cured, in accordance with the provisions of the Participation Agreement or the Lease Agreement, as applicable, the Lessor may do any one or more of the following:

- (a) by written notice to the Chargor, declare the Secured Obligations to be immediately due and payable without the necessity of presentment for payment, or notice of non-payment and of protest (all of which are hereby expressly waived by the Chargor);
- (b) proceed to exercise any and all rights under this Debenture, the Participation Agreement, the Lease Agreement, any other Basic Document and any other document or instrument executed pursuant to this Debenture or any other rights otherwise available to it whether under this Debenture, the Participation Agreement, the Lease Agreement, any other Basic Document or otherwise, including enforcement of this Debenture;
- (c) take any action or proceeding authorized or permitted by this Debenture, the Participation Agreement, the Lease Agreement, any other Basic Document or by law or equity, and file or cause to be filed on its behalf such proofs of claim and other documents as may be necessary or desirable to have its claims lodged in any bankruptcy, winding-up or other judicial proceeding relative to the Chargor;
- (d) take proceedings in any court of competent jurisdiction for sale or foreclosure of all or any part of the Charged Premises;
- (e) immediately enter upon and take possession of, disable or remove all of the Charged Premises or any part or parts thereof with power, among other things, to

exclude the Chargor, to preserve and maintain the Charged Premises and make additions and replacements thereto, to receive rents, income and profits of all kinds and pay therefrom all reasonable expenses of maintaining, completing, repairing, preserving and protecting and operating the Charged Premises and all charges, payment of which may be necessary to preserve or protect the Charged Premises, and enjoy and exercise all powers necessary to the performance of all functions made necessary or advisable by possession, including, without limitation, power to advance its own moneys at the rate of interest provided for in the Lease Agreement, the Participation Agreement or any other Basic Document and enter into contracts and undertake obligations for the foregoing purposes upon the security hereof;

- (f) whether or not the Lessor has taken possession of the Charged Premises or any of it, sell, lease or otherwise dispose thereof, either as a whole or in separate parcels, at public auction, by public tender or by private sale, with only such notice as may be required by law, either for cash or upon credit, at such time and upon such terms and conditions as the Lessor may determine (including a term that a reasonable commission shall be payable to the Lessor or any related corporation in respect thereof) and enter into, rescind or vary any contract for the sale, lease or other disposition of any of the Charged Premises and sell, lease or dispose thereof and the Lessor may execute and deliver to any purchaser of the Charged Premises or any part thereof good and sufficient deeds and documents for the same;
- (g) require the Chargor, at the Chargor's expense, to assemble the Charged Premises at a place or places reasonably designated by notice in writing given by the Lessor to the Chargor, and the Chargor agrees to so assemble the Charged Premises;
- (h) require the Chargor, by notice in writing given by the Lessor to the Chargor, to disclose to the Lessor the location or locations of the Charged Premises and the Chargor agrees to make such disclosure when so required by the Lessor;
- (i) carry on all or any part of the business or businesses of the Chargor relating to the Real Property and, to the exclusion of all others including the Chargor, enter upon, occupy and, subject to any requirements of law and subject to the Leases, Easements or other agreements then in place, use all or any of the Charged Premises, premises, buildings, plant, undertaking, assets and other property comprising the Charged Premises for such time and in such manner as the Lessor sees fit, free of charge and, except to the extent required by law, the Lessor shall not be liable to the Chargor for any act or omission (other than for gross negligence or wilful misconduct) in so doing or for any rent, charges, depreciation or damages or other amounts incurred in connection therewith or resulting therefrom;
- (j) borrow money for the purpose of carrying on the business of the Chargor relating to the Charged Premises or for the maintenance, preservation or protection of the Charged Premises and mortgage, charge, pledge or grant a security interest in the Charged Premises, whether or not in priority to the Security Interests to secure repayment of any money so borrowed;

- (k) send or employ inspectors or agents to inspect, audit and report upon the value, state and condition of the Charged Premises;
- (l) pay any encumbrance, lien, claim or charge that validly exists or has been threatened against any of the Charged Premises and any amounts determined to be validly existing shall, when so paid, together with any costs, charges and expenses incurred by the Lessor (including, without limitation, legal fees and disbursements on a substantial indemnity basis), be added to the Secured Obligations and shall bear interest at the rate of interest provided for in the Lease Agreement;
- (m) take proceedings in any court of competent jurisdiction to enforce payment by the Chargor of the Secured Obligations or any deficiency remaining upon application of proceeds of realization which are actually received by the Lessor;
- (n) exercise or pursue any other remedy or proceeding authorized or permitted hereby or by the Act or any similar personal property security legislation or by any other legislation in any jurisdiction in which any of the Charged Premises is located or otherwise permitted by law or equity; and
- (o) with or without entry into possession of the Charged Premises, or any part thereof, appoint a receiver (which term shall include a receiver and manager) of the Charged Premises or any part thereof and of the rents and profits thereof pursuant to and in accordance with the provisions of the Lease Agreement, the Participation Agreement and this Debenture and with or without security for the performance of the receiver's obligations and from time to time remove any receiver and appoint another in its stead. Upon the appointment of any such receiver or receivers from time to time, subject to Applicable Laws, the following provisions shall apply:
 - (i) every such receiver shall be the irrevocable agent of the Chargor for all purposes with respect to the Charged Premises including, without limitation, for the collection of all Revenues owing or earned in respect of the Real Property or any part thereof;
 - (ii) every such receiver may, in the discretion of the Lessor, be vested with all or any of the powers and discretion of the Lessor under this Debenture, the Participation Agreement and the Lease Agreement, including, without limitation, the power to carry on all or any part of the business of the Chargor relating to the Real Property and to sell, lease or otherwise dispose of the Charged Premises, either as a whole or in separate parcels, at public auction, by public tender or by private sale, with only such notice as may be required by Applicable Laws, either for cash or on credit, at such time and upon such terms and conditions as the receiver may determine (including a term that a reasonable commission shall be payable to the receiver, or any related corporation in respect thereof) and enter into, rescind or vary any contract for the sale, lease or other disposition of any of the Charged Premises and sell, lease or dispose thereof again without being answerable for any loss occasioned thereby (other than for its gross

negligence and wilful misconduct) and the receiver may execute and deliver to any purchaser of the Charged Premises or any part thereof good and sufficient deeds and documents for the same and such receiver shall also have the power to take proceedings in any court of competent jurisdiction for sale or foreclosure of all or any part of the Charged Premises;

- (iii) the Lessor may from time to time fix the reasonable remuneration of every such receiver and every such receiver shall be entitled to deduct the same out of the income from the Charged Premises or the proceeds of disposition of the Charged Premises;
- (iv) the appointment of every such receiver by the Lessor shall not, to the extent permitted by law, incur or create any liability on the part of the Lessor to the receiver in any respect and such appointment or anything which may be done by any such receiver or the removal of any such receiver or the termination of any such receivership shall not have the effect of constituting the Lessor a mortgagee in possession in respect of the Real Property or any part thereof;
- (v) subject to the provisions of the Leases and Easements, every such receiver shall, from time to time, have the power to lease or otherwise deal with any portion of the Real Property which may become vacant or available for lease on such terms and conditions as such receiver may deem advisable and shall have full power to complete any unfinished construction upon the Real Property (such power of the receiver to include, without limitation, the power to borrow funds in the name of and on the credit of the Chargor for such purposes, which borrowings may be secured by the Charged Premises, or any part thereof, and which security shall have such priority as the receiver deems appropriate);
- (vi) subject to the provisions of the Leases and Easements, every such receiver shall have full power to fully manage, develop, operate, lease, deal with agreements and the Leases and Easements, construct, complete, repair, renovate or alter the Real Property or the Project or any part thereof on behalf of the Chargor and to take all such actions as are required in the exercise of such powers including, without limitation, entering into, amending and terminating such contracts and other agreements relating to the Charged Premises as are necessary or advisable, in the opinion of the receiver, and the entering into, renewal, amendment, supplement or termination of any agreements and the Leases and Easements as the receiver may deem appropriate in its sole and absolute discretion; the aforementioned power shall include the power to borrow money in the name of and on the credit of the Chargor for all such purposes (which borrowings may be secured by the Charged Premises, or any part thereof, and which security shall have such priority as the receiver deems appropriate);

(vii) no such receiver shall be liable to the Chargor to account for monies other than monies actually received by or in respect of the Charged Premises or any part thereof and out of such monies so received, every such receiver shall, subject to the further direction of the Lessor, in the following order pay:

(A) his reasonable remuneration aforesaid;

(B) all payments made or incurred by him in connection with the management, operation, construction, completion, repair or alteration of the Charged Premises or any part thereof in accordance with the provisions thereof,

(C) all payments of interest, principal and other money which may, from time to time, be or become charged upon the Charged Premises in priority to this Debenture, the Participation Agreement or the Lease Agreement and all taxes, insurance premiums and every other proper expenditure made or incurred by him in respect of the Charged Premises or any part thereof and in payment of all interest, fees and other similar amounts due or falling due hereunder and the balance to be applied upon the Secured Obligations; and

(D) at the discretion of the receiver, interest, principal and other monies which may from time to time constitute an encumbrance on the Charged Premises subsequent or subordinate to this Debenture, the Participation Agreement or the Lease Agreement;

and every receiver may in its discretion retain reasonable reserves to pay accruing amounts and anticipated payments in connection with any of the foregoing; and any surplus remaining in the hands of every such receiver after payments made as aforesaid shall be accountable to the Chargor and upon termination of the receivership such receiver shall pay such surplus to the Chargor or pay it into court, as the receiver may elect;

(viii) the Lessor may at any time and from time to time terminate any such receivership by notice in writing to the Chargor and to any such receiver; and

(ix) the receiver may carry out all actions and do all things that the Lessor may do under this Debenture, the Participation Agreement and the Lease Agreement as if it were the Lessor (it being agreed that such powers are not in any way limited by the foregoing provisions of this Subsection 3.1(o)).

3.2 Sale of Charged Premises: The Chargor agrees that any sale referred to in Section 3.1 may be either a sale of all or any portion of the Charged Premises and may be by way of public auction, public tender, private contract or otherwise without notice, advertisement or any other formality, except as required by law, all of which the Chargor waives to the extent permitted by law. To the extent not prohibited by law, any such sale may be made with or without any special condition as to the upset price, reserve bid, title or evidence of title or other matter and from time to time as the

Lessor, acting reasonably, thinks fit with power to vary or rescind any such sale or buy in at any public sale and resell. The Lessor may sell the Charged Premises for a consideration payable by instalments either with or without taking security for the payment of such instalments and may make and deliver to any purchaser thereof good and sufficient deeds, assurances and conveyances of the Charged Premises and give receipts for the purchase money, and any such sale shall be a perpetual bar, both at law and in equity, against the Chargor and all those claiming an interest in the Charged Premises by, from, through or under the Chargor.

3.3 References to the Lessor Include Receiver: For the purposes of Sections 3.2, 3.4, 3.7, 3.8, 3.10 and 3.11, a reference to the Lessor shall, where the context permits, include any receiver or receiver and manager or other agent on behalf of the Lessor appointed in accordance herewith.

3.4 Chargor's Rights: Notwithstanding anything to the contrary contained in this Debenture but subject to the terms of the Basic Documents, until the Security Interests shall become and remain enforceable, the Chargor shall be entitled to deal with the Charged Premises and enforce, use and enjoy all of the benefits, advantages and powers thereunder as if this Debenture had not been made. Upon the Security Interests becoming and remaining enforceable, the Lessor may, but shall not be obligated to, exercise all rights, powers, authority and discretions of the Chargor in respect of the Charged Premises in its place and stead.

3.5 Judgment: Neither the taking of any judgment nor the exercise of any power of seizure or sale shall operate to extinguish the liabilities of the Chargor to make payment of the principal hereby secured or interest thereon or other moneys owing hereunder nor shall such operate as a merger of any covenant or affect the right of the Lessor to interest at the rate hereinbefore specified and any judgment shall bear interest at such rate.

3.6 Interest: If any amount payable to the Lessor under this Debenture is not paid when due, the Chargor will pay to the Lessor, immediately on demand, interest on such amount from the date due until paid, at an annual rate equal to the rate of interest provided for in the Lease Agreement. All amounts payable by the Chargor to the Lessor under this Debenture, and all interest on all such amounts will form part of the Secured Obligations and will be secured by the Security Interests.

3.7 Charge as Security:

(1) It is expressly acknowledged and agreed that nothing herein contained shall obligate the Lessor to assume or perform any obligation of the Chargor to any third party in respect of or arising out of any of the Charged Premises. The Lessor may, however, only after the occurrence of and during the continuance of a Lease Event of Default that has not been waived or cured, at its option, assume or perform any such obligations as the Lessor considers necessary or desirable to obtain the benefit of the Charged Premises free of any set-off, deduction or abatement and any money expended by the Lessor in this regard shall form part of and shall be deemed to form part of the Secured Obligations and bear interest at the rate equal to the rate of interest plus the default rate (if any) provided for in the Lease Agreement.

(2) The exercise by the Lessor of its rights under this Debenture or the assumption after the occurrence of and during the continuance of a Lease Event of Default that has not been waived or cured, of certain obligations of the Chargor as referred to in Subsection 3.7(1) shall not

constitute or have the effect of making the Lessor a mortgagee in possession. Care, control and management of the Charged Premises shall remain and shall be deemed to be with the Chargor in the absence of clear and unequivocal action by the Lessor depriving the Chargor of such care, control and management and the assumption thereof by the Lessor.

3.8 Limitations on Lessor's Liability: Except as otherwise provided by law or this Debenture, the Lessor will not be liable to the Chargor or any other Person for any failure or delay in exercising any of the rights of the Lessor under this Debenture (including any failure to take possession of, collect, sell, lease or otherwise dispose of any Charged Premises, or to preserve rights against prior parties). Neither the Lessor, nor any receiver or agent of the Lessor is required to take, or will have any liability for any failure to take or delay in taking, any steps necessary or advisable to preserve rights against other Persons under any Charged Premises in its possession. Neither the Lessor nor any receiver or agent will be liable for any, and the Chargor will bear the full risk of all, loss or damage to any and all of the Charged Premises (including any Charged Premises in the possession of the Lessor or any receiver or agent) caused for any reason other than if such loss or damage is due to the gross negligence or wilful misconduct of the Lessor or any receiver appointed by the Lessor.

3.9 Chargor Remains Liable under Accounts and Contracts: Notwithstanding any provision of this Debenture, the Chargor will remain liable under each of the agreements, contracts, Leases, Easements, material agreements, and other documents comprising the Charged Premises (each a "**Contract**") to pay and satisfy all indebtedness, liabilities and other monetary obligations and to observe and perform all the conditions and obligations which are to be paid, satisfied, observed and performed by the Chargor thereunder, all in accordance with the terms of each such Contract. The Lessor will have no obligation or liability under any account or monetary obligation (an "**Account**") (or any Contract giving rise thereto) or Contract by reason of or arising out of this Debenture or the receipt by the Lessor of any payment relating to such Account or Contract pursuant hereto, and in particular (but without limitation), the Lessor will not be obligated in any manner to perform any of the obligations of the Chargor under or pursuant to any Account (or any Contract giving rise thereto) or under or pursuant to any Contract, to make any payment, to make any inquiry as to the nature or the sufficiency of any payment received by it or as to the sufficiency of any performance by any party under any Account (or any Contract giving rise thereto) or under any Contract, to present or file any claim, to take any action to enforce any performance or to collect the payment of any amounts which may have been assigned to it or to which it may be entitled at any time.

3.10 Dealings by Lessor: The Lessor will not be obliged to exhaust its recourse against the Chargor or any other Person or against any other security it may hold in respect of the Secured Obligations before realizing upon or otherwise dealing with the Charged Premises in such manner as the Lessor may consider desirable. The Lessor may grant extensions of time and other indulgences, take and give up security, accept compositions, grant releases and discharges and otherwise deal with the Chargor and any other Person following the occurrence of and during the continuance of a Lease Event of Default that has not been waived or cured, and with any or all of the Charged Premises, and with other security and sureties, as the Lessor may see fit, all without prejudice to the Secured Obligations or to the rights and remedies of the Lessor under this Debenture, the Participation Agreement or the Lease Agreement. The powers conferred on the

Lessor under this Debenture are solely to protect the interests of the Lessor in the Charged Premises and will not impose any duty upon the Lessor to exercise any such powers.

3.11 Possession of Charged Premises: Where any Charged Premises is in the possession of the Lessor or any receiver or agent:

- (a) the Lessor shall only have the duty of care with respect to such Charged Premises as would a reasonable and prudent owner, including the duty to use reasonable care in the custody and preservation thereof, provided that the Lessor need not take any steps of any nature to defend or preserve the rights of the Chargor therein against the claims or demands of others or to preserve rights therein against prior parties;
- (b) the Lessor may, at any time following the occurrence of and during the continuance of a Lease Event of Default that has not been waived or cured, grant or otherwise create a security interest in such Charged Premises upon any terms provided that such terms do not impair the Chargor's right to redeem such Charged Premises; and
- (c) the Lessor may, at any time following the occurrence of and during the continuance of a Lease Event of Default that has not been waived or cured, use such Charged Premises in any manner and to such extent as it deems necessary or desirable.

3.12 After Acquired Property: The Chargor covenants and agrees that, if and to the extent that any of its respective rights, titles, estates and interests in any of the Charged Premises is not acquired until after delivery of this Debenture, this Debenture shall nonetheless apply thereto and the security interest of the Lessor hereby created shall attach to such Charged Premises at the same time as the Chargor acquires rights therein, without the necessity of any further mortgage, charge, pledge, assignment or assurance and thereafter such Charged Premises shall be subject to the security interests created hereby in accordance with the provisions of Section 2.1 hereof.

3.13 Attachment: The Chargor hereby acknowledges and agrees that value has been given for the granting of the Security Interests and that there is no agreement between the Chargor and the Lessor, express or implied, to postpone the attachment of the Security Interests except in respect of after-acquired property forming part of the Charged Premises, with respect to which the Security Interests shall attach at the same time as the Chargor acquires rights therein or thereto.

3.14 No Greater Amount: Neither the Lessor nor any subsequent holder of this Debenture may, at any time, claim any greater amount in respect of the principal amount of this Debenture than the aggregate amount of the Secured Obligations outstanding at that time. Payment to the Lessor of interest for any period in respect of the Secured Obligations in accordance with the Basic Documents is deemed to be payment in satisfaction of the interest payment for the same period under this Debenture.

3.15 Application of Proceeds: All monies collected by the Lessor upon the enforcement of the Lessor's rights and remedies under this Debenture, including any sale or other disposition of this Debenture or all or any portion of the Charged Premises, together with all monies received by the Lessor under this Debenture, will be applied as provided in the Lease Agreement and the Participation Agreement.

ARTICLE 4

GENERAL PROVISIONS

4.1 Remedies Cumulative and Waivers: For greater certainty, it is expressly understood and agreed that the rights and remedies of the Lessor hereunder or under any other document or instrument executed pursuant to this Debenture are cumulative and are in addition to and not in substitution for any rights or remedies provided by law or by equity; and any single or partial exercise by the Lessor of any right or remedy for a default or breach of any term, covenant, condition or agreement contained in this Debenture or other document or instrument executed pursuant to this Debenture, the Participation Agreement, the Lease Agreement or any other Basic Document shall not be deemed to be a waiver of or to alter, affect or prejudice any other right or remedy or other rights or remedies to which the Lessor may be lawfully entitled for such default or breach. Any waiver by the Lessor of the strict observance, performance or compliance with any term, covenant, condition or agreement herein contained and any indulgence granted either expressly or by course of conduct by the Lessor shall be effective only in the specific instance and for the purpose for which it was given and shall be deemed not to be a waiver of any rights and remedies of the Lessor under this Debenture or other document or instrument executed pursuant to this Debenture as a result of any other default or breach hereunder or thereunder.

4.2 Termination: The Lessor covenants and agrees with the Chargor that, upon the Secured Obligations being performed, satisfied and extinguished, this Debenture shall be and become fully ended and terminated and all right, title, interest and benefit of the Chargor in, to, under or in respect of the Charged Premises, assigned by it to, or held by it in trust for, the Lessor hereunder shall automatically revert to the Chargor or its successors or assigns, and all covenants and agreements of the Chargor hereunder shall be at an end and the Lessor, promptly upon the request and at the expense of the Chargor, shall execute such instruments, discharges or re-assignments, return such instruments, certificates and other documents in its possession relating to the Charged Premises and give such notification or assurances as the Chargor may properly require to fully release, discharge and cancel this Debenture in the circumstances.

4.3 Notice: Any demand, notice, consent or other communication to be made or given hereunder shall be given in accordance with the terms of the Participation Agreement.

4.4 Further Assurances: Each party shall, at its own expense, promptly execute and deliver to the other upon request all such other and further documents, agreements, certificates and other instruments in compliance with or accomplishment of their covenants and agreements hereunder or under any document to be delivered pursuant hereto or otherwise necessary to make any recording, file any notice or obtain any consent, all as may be reasonably necessary and appropriate in connection herewith.

4.5 Continuing Security: This Debenture and the rights and remedies it creates are a continuing agreement and security and shall bind the parties until discharge of this Debenture as provided in Section 4.2 hereof. No payment by the Chargor of the whole or any part of any Secured Obligations shall reduce the amount secured hereby unless specifically appropriated to and noted on this Debenture by the Lessor.

4.6 No Marshalling: This Debenture shall be in addition to and not in substitution for any other security which the Lessor may now or hereafter hold in respect of the Secured Obligations and the Lessor shall be under no obligation to marshal in favour of the Chargor, any guarantor, debtor or other lender or holder of security, any monies or other assets which the Lessor may be entitled to receive or upon which the Lessor may have a claim.

4.7 Paramourncy: This Debenture has been entered into pursuant to the provisions of the Participation Agreement and the Lease Agreement and is subject to all of the terms and conditions thereof and, if there is any conflict or inconsistency between the provisions of this Debenture and the provisions of the Participation Agreement and the Lease Agreement, the rights and obligations of the parties will be governed by the provisions of the Participation Agreement and the Lease Agreement, as applicable. Without limiting the generality of the foregoing, by accepting delivery of this Debenture, the Lessor acknowledges and agrees that the sum comprising the principal amount referred to herein and the rate of interest charged and payable thereon and all interest accruing or any other amounts payable and secured hereunder shall be calculated and payable in accordance with the provisions of the Lease Agreement and that this Debenture is issued subject to the terms of the Participation Agreement, the Lease Agreement, the Guarantee and the other Basic Documents as collateral security for the obligations thereunder. This Debenture together with the Participation Agreement, the Lease Agreement and the other Basic Documents cancels and supersedes any prior understandings and agreements between such parties with respect thereto. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory, between the Lessor and the Chargor with respect to the subject matter hereof except as expressly set forth herein and in the Participation Agreement, the Lease Agreement and the other Basic Documents.

4.8 Amendment of Agreement: No supplement, modification, amendment, waiver or termination of this Debenture shall be binding unless executed in writing by all parties hereto. No waiver of any provision of this Debenture shall be deemed or shall constitute a waiver of any other provision of this Debenture (whether or not similar) nor shall any waiver constitute a continuing waiver unless otherwise so expressed or provided.

4.9 Invalidity of Provisions: In case any one or more of the provisions contained in this Debenture should be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby and shall continue in full force and effect, and the parties hereto shall enter into good faith negotiations to replace the invalid, illegal or unenforceable provision. If any provision of this Debenture shall be invalid, illegal or unenforceable in any respect in any jurisdiction, it shall not affect the validity, legality or enforceability of such provision in any other jurisdiction or the validity, legality or enforceability of any other provision of this Debenture.

4.10 Time: Time shall be of the essence in this Debenture.

4.11 Successors and Assigns: This Debenture shall enure to the benefit of, and be binding on, the Chargor and its successors and permitted assigns, and shall enure to the benefit of, and be binding on, the Lessor and its successors and permitted assigns. The Chargor may not assign this Debenture, or any of its rights or obligations under this Debenture. The Lessor may assign this Agreement and any of its rights and obligations hereunder to any Person that replaces it in its

capacity as such in accordance with and subject to the terms and conditions applicable to such assignment as set out in the Participation Agreement. If the Chargor or the Lessor is an individual, then the term “Chargor” or “Lessor”, as applicable, shall also include his or her heirs, administrators and executors.

4.12 Attorney: The Chargor hereby irrevocably nominates, constitutes and appoints the Lessor and each of its officers holding office from time to time as the true and lawful attorney of the Chargor with effect from and after the occurrence of and during the continuance of a Lease Event of Default that has not been waived or cured, with power of substitution in the name of the Chargor to, after the occurrence of and during the continuance of a Lease Event of Default that has not been waived or cured do any and all such acts and things or execute and deliver all such agreements, documents and instruments as the Lessor reasonably considers necessary or desirable to carry out the provisions and purposes of this Debenture or to exercise any of its rights and remedies hereunder and the Chargor hereby ratifies and agrees to ratify all reasonable acts of any such attorney taken or done in accordance with this Section 4.12. Without in any way limiting the generality of the foregoing, the Lessor shall have the right following the occurrence of and during the continuance of a Lease Event of Default that has not been waived or cured to execute for and in the name of the Chargor all financing statements, financing change statements, conveyances, transfers, assignments, consents and other instruments as may be required for such purposes. This power of attorney shall not be revoked or terminated by any act or thing other than the discharge of this Debenture in accordance with Section 4.2.

4.13 Acknowledgement by Chargor: The Chargor acknowledges receipt of a copy of this Debenture, the Lease Agreement and the other Basic Documents and hereby expressly waives the right to receive a copy of any financing statement or a copy of the statement confirming the registration of any financing statement that may be registered in connection with the Security Interests.

4.14 Waiver of Default: The Lessor may by written notice to the Chargor waive any default of the Chargor hereunder on such terms and conditions as the Lessor may determine, but no such waiver shall be taken to affect any subsequent default or the rights resulting therefrom.

4.15 Applicable Laws: This Debenture will be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein (without prejudice to or limitation of any other rights or remedies available to the Lessor under the laws of any jurisdiction where property or assets of the Chargor may be found).

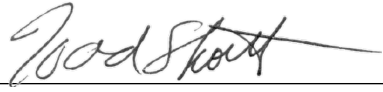
4.16 Attornment: The Chargor irrevocably submits to the non-exclusive jurisdiction of the courts of the Province of Ontario and irrevocably agrees that, at the Lessor’s discretion, any claims, actions or proceedings in respect of this Debenture will be heard and determined in such courts. The Chargor hereby waives, to the fullest extent it may effectively do so, the defence of an inconvenient forum to the maintenance of any such action or proceeding. The foregoing is without prejudice to the rights of the Lessor to, in its discretion, bring claims, actions or proceedings in respect of this Debenture before any other court of competent jurisdiction. The Chargor hereby irrevocably consents to the service of any and all process in such action or proceeding by the delivery of such process to the Chargor at its address provided in accordance with Section 4.3.

4.17 *Land Registration Reform Act*: The implied covenants deemed to be included in a charge under Subsection 7(1) of the *Land Registration Reform Act* (Ontario) are hereby excluded by the terms of this Debenture.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF the Chargor has duly executed this Debenture as of the date first written above.

IROQUOIS FALLS POWER CORP., as
Chargor

By: 
Name: Todd Shortt
Title: President and Chief Executive Officer

By: _____
Name:
Title:

We have authority to bind the above.

SCHEDULE A
IROQUOIS FALLS PROJECT SITE

The properties legally described as:

PIN 65337-0369(LT)

PCL 9012 SEC NEC SRO; PT LT 11 CON 5 TEEFY PT 1, 6R6645 T/W PT 1 TO 4, 6R6644 & 1 TO 6, 6R6626 AS IN C447208 AMENDED BY C470222 T/W PT 2 TO 7 & 13 TO 16, 6R6645 AS IN C447209 AMENDED BY C470223 T/W PT 2, 6 TO 12, 6R6645 AS IN C447211 AMENDED BY C470225 T/W PT 17 TO 19, 6R6645 AS IN C447212 AMENDED BY C470226 T/W PT 1, 6R6898 AS IN C469024 AMENDED BY C470227 T/W PT 4 & 5, 6R6896 AS IN C469025 AMENDED BY C470228 T/W C469026 AMENDED BY C470229 T/W PT 1 & 2, 6R6853 AS IN C474890 AMENDED BY C521180 ; TOWN OF IROQUOIS FALLS

PIN 65337-0456(LT)

SURFACE RIGHTS ONLY; PT S 1/2 LT 12 CON 3 TEEFY PT 1, 6R5962 EXCEPT PT 1, 6R8283 S/T PT 2, 6R6832 AS IN C469070 AMENDED BY C470222, C470223, C470224, C470225, C470226, C470227, C470228, C470229 & C470230; DISTRICT OF COCHRANE

PIN 65337-0458(LT)

SURFACE RIGHTS ONLY; S 1/2 LT 12 CON 3 TEEFY EXCEPT PT 1, 6R5962, PTS 2 & 3, 6R8283 & PT 1, 6R8318, S/T PT 1, 3 & 4, 6R6832 AS IN C469070 AMENDED BY C470222, C470223, C470224, C470225, C470226, C470227, C470228, C470229 & C470230; DISTRICT OF COCHRANE

PIN 65337-0372(LT)

PCL 9070 SEC NEC; LOCATION RY 357 TEEFY COMPOSED OF THOSE PARTS OF THE BED OF THE ABITIBI RIVER LYING IN FRONT OF LT 11, CON 5, PT 2, 6R6853; DISTRICT OF COCHRANE

PIN 65337-0373(LT)

PCL 9070 SEC NEC; LOCATION RY 357 TEEFY COMPOSED OF THOSE PARTS OF THE BED OF THE ABITIBI RIVER LYING IN FRONT OF LT 11, CON 3, PT 1, 6R6853; DISTRICT OF COCHRANE

THIS IS **EXHIBIT “J”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,

THIS 31st DAY OF JULY, 2023.



Michael Noel

Commissioner for Taking Affidavits

DEMAND DEBENTURE

PRINCIPAL SUM: \$60,000,000

DATE: April 7, 2022

ARTICLE 1

PROMISE TO PAY

1.1 Promise to Pay: BAY POWER CORP. (the “**Chargor**”), for value received, hereby acknowledges itself indebted and covenants and promises to pay to or to the order of MACQUARIE EQUIPMENT FINANCE LTD. (the “**Lessor**”), at the address set forth in Section 4.3 or at such other place as the Lessor may designate by notice in writing to the Chargor, ON DEMAND, the aggregate principal amount of SIXTY MILLION DOLLARS (\$60,000,000) and interest thereon, from and including the date hereof (or from and including the last interest payment date to which interest shall have been paid) to and including the date of payment, at a rate of twenty-five per cent (25%) per annum, calculated and compounded monthly on the first day of each month, as well after as before demand and as well after as before default or judgment with interest on overdue interest at the same rate.

This Debenture, *inter alia*, secures payment to the Lessor of all present and future indebtedness, liabilities and obligations of any and every kind, nature and description (whether direct or indirect, joint or several, absolute or contingent, matured or unmatured) of the Chargor to the Lessor under, in connection with or with respect to the Participation Agreement, the Lease Agreement, the Guarantee or any other Basic Document, and any unpaid balance thereof (collectively, the “**Secured Obligations**”).

1.2 Interpretation: In this Debenture, unless there is something in the subject matter or context that is inconsistent therewith, all capitalized terms used herein which are not otherwise defined herein shall have the meanings ascribed thereto in the Participation Agreement or the Lease Agreement, as applicable. In addition, the following terms shall have the following meanings:

“**Account**” has the meaning set out in Section 3.9 hereof.

“**Act**” has the meaning set out in Section 2.1(b) hereof.

“**Charged Premises**” has the meaning set out in Section 2.1 hereof.

“**Chargor**” has the meaning set out in Section 1.1 hereof.

“**Contract**” has the meaning set out in Section 3.9 hereof.

“**Easements**” means all easements, rights-of-way, licenses, privileges and any other rights in the nature of easements necessary for the development, maintenance or operation of the North Bay Project Site and the gas powered power plant and any datacenter installed at the North Bay Project Site.

“**Lease Agreement**” means the lease agreement dated as of the date hereof between the Lessor, as lessor, and the Lessee, as lessee.

“**Leases**” means a lease, license, occupancy or tenancy agreement, land use permit or license to occupy Crown lands or binding agreement to lease, license or occupy in respect of any real property necessary for the development, maintenance or operation of the Projects.

“**Lessor**” has the meaning set out in Section 1.1 hereof.

“**North Bay Project Site**” means those lands and premises described in Schedule A hereto, together with the respective Easements and privileges appurtenant or appertaining thereto.

“**Participation Agreement**” means the participation agreement dated as of the date hereof among the Lessee, as lessee, and the Lessor, as lessor.

“**Person**” or “**person**” means any natural person, corporation, limited liability company, partnership, firm, association, Government Body or any other entity whether acting in an individual, fiduciary or other capacity.

“**Real Property**” has the meaning set out in Section 2.1(a) hereof.

“**Revenues**” has the meaning set out in Section 2.1(b)(vi) hereof.

“**Secured Obligations**” has the meaning set out in Section 1.1 hereof.

“**Security Interests**” has the meaning set out in Section 2.1 hereof.

ARTICLE 2

SECURITY

2.1 **Security:** As security for the due and timely payment of the Secured Obligations, but subject to this Section 2.1, Section **Error! Reference source not found.** hereof and the Permitted Liens, the Chargor:

- (a) grants, conveys, mortgages, charges, pledges, assigns and creates a security interest in (and provided that where the interest of the Chargor in the North Bay Project Site is by way of leasehold, such mortgage and charge is by way of sublease) as and by way of a fixed and specific mortgage, charge, pledge, assignment and security interest to and in favour of the Lessor, all of its right, title, estate and interest (whether freehold or leasehold), present and future, now owned or hereafter acquired, in and to all of its undertaking, property, assets, rights, benefits and privileges, both real and personal, moveable and immovable of whatsoever nature and kind, including without limitation, the following:

- (i) all lands, premises, Easements, and portions of the North Bay Project Site (whether freehold or leasehold) in which the Chargor has any legal or beneficial right, title, interest, claim, privilege, benefit or entitlement, including, without limitation, (x) all rights, leases, subleases, licences, easements, rights-of-way, profits a prendre and interests in real property with respect to the North Bay Project Site (and all renewals, extensions and amendments or substitutions thereof) and all other facilities relating to or required for use in connection with the North Bay Project Site to the extent of any interest therein, and (y) such of the North Bay Project Site may be specifically described in any one or more supplements to this Debenture;
- (ii) all buildings, erections, structures and improvements, underground facilities, power, fuel and water supply, storage, waste disposal, roads and other transportation facilities presently situated on or under the North Bay Project Site or which may at any time hereafter be constructed or brought or placed on or under the North Bay Project Site or used in connection with the North Bay Project Site;
- (iii) all fixed machinery, plant, equipment, apparatus and fittings and other fixtures located on or at the North Bay Project Site; and
- (iv) all interests in any of the foregoing and all benefits and rights to be derived by the Chargor in respect thereof,

(all of the property and rights therein set out in paragraph 2.1(a) being collectively, the “**Real Property**”);

- (b) grants, conveys, mortgages, charges, pledges, assigns and creates a security interest in, as and by way of a fixed and specific mortgage, charge, pledge, assignment and security interest to and in favour of the Lessor, all of its right, title, estate and interest, present and future, in and to any and all personal property in which a security interest can be taken, reserved, created or granted whether under the *Personal Property Security Act* (Ontario) (the “**Act**”), any similar personal property security legislation in any jurisdiction in which any of the Charged Premises is located or otherwise under any statute or law or in equity and which is now or at any time hereafter owned by the Chargor or in which the Chargor now has or at any time hereafter acquires any interest of any nature whatsoever, including, without in any way limiting the generality of the foregoing, the interest of the Chargor in:
 - (i) all materials, supplies, machinery, equipment, fixtures, inventory, vehicles, furniture, tools, accessories and appliances now or hereafter owned or acquired by or on behalf of the Chargor and every interest therein which the Chargor now has or hereafter acquires, wheresoever situate;
 - (ii) all present and future accounts (including, without limitation, cash collateral accounts), accounts receivable, money (including, without limitation, all money in any bank accounts), intangibles, claims, contract rights, demands,

chattel papers, instruments, documents, warehouse receipts, bills of lading, notes and choses in action, together with any and all security therefor, including, without limiting the generality of the foregoing, all present and future mortgages receivable, debentures, bonds, promissory notes, bills of exchange, judgments and book debts, now due or hereafter to become due to or owned by the Chargor, together with all securities, documents, computer disks, tapes, software or records now or hereafter owned by the Chargor and representing or evidencing the said debts, accounts, accounts receivable, claims, contract rights, demands and choses in action and all other rights and benefits in respect thereof;

- (iii) all rights, agreements, licenses, permits, consents, policies, approvals, development agreements, building contracts, performance bonds, purchase orders, plans, patents, trademarks, trade names, copyrights and other industrial and intellectual property, goodwill, know-how, rights to carry on business and specifications presently owned and hereafter acquired by the Chargor in respect of or in any way relating to the development or construction of the Real Property or any part thereof, including, without limitation, all Leases and Easements relating to the Real Property and the Project and all Authorizations;
- (iv) all present and future computer hardware, software, programs and electronically stored data, and all rights, agreements, licences, permits and consents in respect of or in any way relating to such computer hardware, software and programs including, without limitation, all paper cards, magnetic tapes, discs, diskettes, drums or magnetic bubbles and whether permanently installed in hardware or crystallized in firmware, and all codes, passwords and security devices in respect thereof;
- (v) all shares, stocks, warrants, bonds, debentures, debenture stock, partnership interests, joint venture interests or other securities investments now or hereafter owned by the Chargor;
- (vi) all rents, revenues, income, insurance proceeds, expropriation proceeds, other proceeds and other monies to which the Chargor may from time to time be entitled from all sources which pertain to or are derived from the Real Property or any part thereof including, without limitation, all income and proceeds (whether in cash or on credit) received or receivable by or on behalf of the Chargor in respect of the use, occupancy or enjoyment of the Real Property or any part thereof or for the sale of goods or the provision of services on, at or from the Real Property or from judgments, settlements or other resolutions of disputes relating to the ownership, use, construction, development, operation, maintenance or management of the Real Property (collectively, “**Revenues**”); and
- (vii) the benefit of any guarantees or indemnities relating to all or part of the property referred to in paragraph 2.1(b)(vi),

and with respect to paragraphs 2.1(b)(i) to (vii) inclusive, in, to and under all amendments, extensions, renewals, replacements and substitutions of any of the foregoing, all increases, additions and accessions thereto and all rights, remedies, powers, Easements, privileges and claims of the Chargor thereunder (whether arising pursuant thereto or available to the Chargor at law or in equity) including, without limitation, the right of the Chargor to enforce the foregoing and the obligations of the other parties thereto and to give or withhold any and all consents, requests, directions, approvals, extensions and/or waivers thereunder;

- (c) assigns, transfers and sets over unto and in favour of the Lessor, as and by way of a fixed and specific assignment, all of its right, title, estate and interest, present and future, in and to:
 - (i) any agreements relating to the Real Property (including, without limitation, those relating to construction or development on, or operation of, the Real Property and all Leases and Easements relating to the Real Property) or the business, undertaking and operations of the Chargor; and
 - (ii) all amendments, extensions, renewals, replacements and substitutions of any of the property referred to in paragraph 2.1(c)(i) and all benefits, rights, remedies, privileges, claims, powers and advantages of the Chargor to be derived therefrom or thereunder (whether arising pursuant thereto or available to the Chargor at law or in equity) and all covenants, obligations and agreements of the other parties thereto including, without limitation, the right of the Chargor to enforce any of the foregoing and the obligations of the other parties thereto and to give or withhold any and all consents, requests, directions, approvals, extensions and/or waivers thereunder;

- (d) assigns, transfers and sets over unto and in favour of the Lessor, as and by way of a general assignment, all of its right, title, estate and interest present and future, in and to:
 - (i) any and all existing and future Leases, Easements, any agreements relating to the Real Property (including, without limitation, those relating to construction or development on, or operation of, the Real Property) or the business, undertaking and operations of the Chargor and all existing and future leases, sub-leases, easements, sub-easements, rights of way, licenses or concessions whereby any Person is given the right by the Chargor to use or occupy the whole or any part or parts of the Real Property, and all extensions, amendments, restatements, renewals, supplements, replacements and substitutions thereof or therefor which may hereafter be effected or entered into, and all covenants, obligations and agreements of other parties thereunder or in any agreement collateral thereto, including without limitation, the benefit of any right, option or obligation of any Person to acquire any of the Leases, Easements, or an interest therein, to renew or extend any Leases or Easements, to acquire rights in other lands and premises in connection with the Project, and any other collateral

advantage or benefit to be derived from the Leases, Easements, or any of them;

- (ii) all rents and other moneys now due and payable to the Chargor or hereafter to become due and payable to the Chargor under the Leases, Easements, and each guarantee of or indemnity in respect of the obligations of the tenants thereunder with full power to demand, sue for recovery, receive and give receipts for all such rents and other moneys and otherwise to enforce the rights of the Chargor thereto in the name of the Chargor;
 - (iii) all present and future intangibles arising exclusively from or out of the Real Property or any part or parts thereof and the property and assets referred to in subsections 2.1(b) and (c) above including, without limiting the generality of the foregoing, all of its rights, title and interest in all present and future book debts, accounts and other accounts receivable, contract rights and choses in action;
 - (iv) any and all existing or future agreements, contracts, licences, permits, plans and specifications, bonds, letters of credit, letters of guarantee or other documents or instruments relating to the Real Property or any part or parts thereof and all extensions, amendments, renewals or substitutions thereof or therefor which may hereafter be effected or entered into and all benefit, power and advantage of the Chargor to be derived therefrom;
 - (v) any and all existing or future agreements of purchase and sale, options to purchase and mortgage, loan or other financing commitments relating to the Real Property or any part or parts thereof and all proceeds and other moneys now due and payable or hereafter to become due and payable thereunder and all benefit, power and advantage of the Chargor to be derived therefrom; and
 - (vi) the proceeds of any and all existing or future insurance policies pertaining to the Real Property or the property and assets referred to in subsections 2.1(b) and (c) and paragraphs 2.1(d)(i) to (v) inclusive and all proceeds of expropriation or similar taking of the Real Property or any part or parts thereof and all benefit, power and advantage of the Chargor to be derived therefrom provided that all such proceeds shall be held and applied in accordance with the Participation Agreement and the Lease Agreement;
- (e) grants, conveys, mortgages, charges, pledges, assigns and creates a security interest in, as and by way of a fixed and specific mortgage, charge, pledge, assignment and security interest to and in favour of the Lessor, all of its right, title, estate and interest, present and future, in and to all personal property in any form (including money) derived, directly or indirectly, from any dealing with the property referred to in subsections 2.1(a) to (d) inclusive, or proceeds therefrom or that indemnifies or compensates for all or part of such property or proceeds therefrom that is destroyed and damaged; and

- (f) grants, conveys, mortgages, charges, pledges and assigns as and by way of a floating charge to and in favour of the Lessor all of the undertaking, property, assets, rights, entitlements, benefits and privileges, both real and personal, moveable and immovable, of every nature and kind, now or at any time and from time to time hereafter existing and owned by the Chargor (except such property and assets as are validly and effectively subject to any fixed and specific mortgage and charge or assignment, transfer or security interest created hereby) and which in each case is used in relation to or situated on, and which relates to the Real Property;

provided that the said grants, conveyances, mortgages, charges, pledges, transfers, assignments and security interests created pursuant to this Section 2.1 (collectively the “**Security Interests**”) shall not: (i) extend or apply to any personal property which is “consumer goods”, as such term is defined in the Act; or (ii) extend to the last day of the term of any lease, easement or any agreement therefor now held or hereafter acquired by the Chargor, but should such Security Interests become enforceable the Chargor shall thereafter stand possessed of such last day and shall hold it in trust for the Lessor for the purpose of this Debenture and assign and dispose thereof as the Lessor shall, for such purpose, direct. Upon any sale of such leasehold interest, easement or any part thereof, the Lessor, for the purpose of vesting the aforesaid one day residue of such term or renewal thereof in any purchaser or purchasers thereof, shall be entitled by deed or writing to appoint such purchaser or purchasers or any other person or persons as new trustee or trustees of the aforesaid residue of any such term or renewal thereof in the place of the Chargor and to vest the same accordingly in the new trustee or trustees so appointed free and discharged from any obligation respecting the same.

All the undertaking, property and assets mortgaged and charged pursuant to Subsection 2.1(a) and all of the undertaking, property and assets granted, assigned, transferred, mortgaged and charged pursuant to Subsections 2.1(b), (e) and (f) hereof is collectively referred to as the “**mortgaged property**”; all the undertaking, property and assets assigned, transferred and set over pursuant to Subsections 2.1(c) and (d) is collectively referred to as the “**assigned property**”; and the mortgaged property and assigned property is collectively referred to as the “**Charged Premises**”. Wherever used herein in relation to the rights and remedies of the Lessor the terms “**Real Property**”, “**mortgaged property**”, “**assigned property**” and “**Charged Premises**” shall, where the context permits, mean the whole or any part or parts thereof.

TO HAVE AND TO HOLD the Charged Premises and all rights hereby conferred unto the Lessor, its successors and assigns, for the uses and purposes and with the powers and authorities and subject to the terms and conditions set forth herein and in the Participation Agreement and the Lease Agreement.

2.2 Delivery of Instruments, Securities, Etc.: The Chargor shall, upon reasonable request from the Lessor, following the occurrence of and during the continuance of a Lease Event of Default that has not been waived or cured, forthwith deliver to the Lessor to be held by the Lessor hereunder all instruments, securities, letters of credit, advices of credit and negotiable documents of title in its possession or control which pertain to or form part of the Charged Premises, and shall, where appropriate, duly endorse the same for transfer in blank or as the Lessor may in writing direct and shall make all commercially reasonable efforts to deliver forthwith to the Lessor any

and all consents or other instruments or documents necessary to comply with any restrictions on the transfer thereof in order to transfer the same to the Lessor.

2.3 Covenant of the Chargor re Registrations: So long as any of the Secured Obligations shall remain unpaid, the Chargor covenants and agrees with the Lessor that the Chargor will, from time to time at the reasonable request of the Lessor, promptly effect all registrations, filings, recordings and all renewals thereof and all re-registrations, re-filings and re-recordings of or in respect of this Debenture and the Security Interests created hereby in such offices of public record and at such times as may be necessary or of advantage in perfecting, maintaining and protecting the validity, effectiveness and priority hereof and of the Security Interests created hereby; provided that the Lessor may effect all such registrations, filings, recordings, renewals, re-registrations, re-filings and re-recordings from time to time in its sole discretion at the expense of the Chargor.

ARTICLE 3

RIGHTS AND REMEDIES

3.1 Remedies Upon Default: On or after the occurrence and during the continuance of a Lease Event of Default that has not been waived or cured, in accordance with the provisions of the Participation Agreement or the Lease Agreement, as applicable, the Lessor may do any one or more of the following:

- (a) by written notice to the Chargor, declare the Secured Obligations to be immediately due and payable without the necessity of presentment for payment, or notice of non-payment and of protest (all of which are hereby expressly waived by the Chargor);
- (b) proceed to exercise any and all rights under this Debenture, the Participation Agreement, the Lease Agreement, any other Basic Document and any other document or instrument executed pursuant to this Debenture or any other rights otherwise available to it whether under this Debenture, the Participation Agreement, the Lease Agreement, any other Basic Document or otherwise, including enforcement of this Debenture;
- (c) take any action or proceeding authorized or permitted by this Debenture, the Participation Agreement, the Lease Agreement, any other Basic Document or by law or equity, and file or cause to be filed on its behalf such proofs of claim and other documents as may be necessary or desirable to have its claims lodged in any bankruptcy, winding-up or other judicial proceeding relative to the Chargor;
- (d) take proceedings in any court of competent jurisdiction for sale or foreclosure of all or any part of the Charged Premises;
- (e) immediately enter upon and take possession of, disable or remove all of the Charged Premises or any part or parts thereof with power, among other things, to exclude the Chargor, to preserve and maintain the Charged Premises and make additions and replacements thereto, to receive rents, income and profits of all kinds and pay therefrom all reasonable expenses of maintaining, completing, repairing,

preserving and protecting and operating the Charged Premises and all charges, payment of which may be necessary to preserve or protect the Charged Premises, and enjoy and exercise all powers necessary to the performance of all functions made necessary or advisable by possession, including, without limitation, power to advance its own moneys at the rate of interest provided for in the Lease Agreement, the Participation Agreement or any other Basic Document and enter into contracts and undertake obligations for the foregoing purposes upon the security hereof;

- (f) whether or not the Lessor has taken possession of the Charged Premises or any of it, sell, lease or otherwise dispose thereof, either as a whole or in separate parcels, at public auction, by public tender or by private sale, with only such notice as may be required by law, either for cash or upon credit, at such time and upon such terms and conditions as the Lessor may determine (including a term that a reasonable commission shall be payable to the Lessor or any related corporation in respect thereof) and enter into, rescind or vary any contract for the sale, lease or other disposition of any of the Charged Premises and sell, lease or dispose thereof and the Lessor may execute and deliver to any purchaser of the Charged Premises or any part thereof good and sufficient deeds and documents for the same;
- (g) require the Chargor, at the Chargor's expense, to assemble the Charged Premises at a place or places reasonably designated by notice in writing given by the Lessor to the Chargor, and the Chargor agrees to so assemble the Charged Premises;
- (h) require the Chargor, by notice in writing given by the Lessor to the Chargor, to disclose to the Lessor the location or locations of the Charged Premises and the Chargor agrees to make such disclosure when so required by the Lessor;
- (i) carry on all or any part of the business or businesses of the Chargor relating to the Real Property and, to the exclusion of all others including the Chargor, enter upon, occupy and, subject to any requirements of law and subject to the Leases, Easements or other agreements then in place, use all or any of the Charged Premises, premises, buildings, plant, undertaking, assets and other property comprising the Charged Premises for such time and in such manner as the Lessor sees fit, free of charge and, except to the extent required by law, the Lessor shall not be liable to the Chargor for any act or omission (other than for gross negligence or wilful misconduct) in so doing or for any rent, charges, depreciation or damages or other amounts incurred in connection therewith or resulting therefrom;
- (j) borrow money for the purpose of carrying on the business of the Chargor relating to the Charged Premises or for the maintenance, preservation or protection of the Charged Premises and mortgage, charge, pledge or grant a security interest in the Charged Premises, whether or not in priority to the Security Interests to secure repayment of any money so borrowed;
- (k) send or employ inspectors or agents to inspect, audit and report upon the value, state and condition of the Charged Premises;

- (l) pay any encumbrance, lien, claim or charge that validly exists or has been threatened against any of the Charged Premises and any amounts determined to be validly existing shall, when so paid, together with any costs, charges and expenses incurred by the Lessor (including, without limitation, legal fees and disbursements on a substantial indemnity basis), be added to the Secured Obligations and shall bear interest at the rate of interest provided for in the Lease Agreement;
- (m) take proceedings in any court of competent jurisdiction to enforce payment by the Chargor of the Secured Obligations or any deficiency remaining upon application of proceeds of realization which are actually received by the Lessor;
- (n) exercise or pursue any other remedy or proceeding authorized or permitted hereby or by the Act or any similar personal property security legislation or by any other legislation in any jurisdiction in which any of the Charged Premises is located or otherwise permitted by law or equity; and
- (o) with or without entry into possession of the Charged Premises, or any part thereof, appoint a receiver (which term shall include a receiver and manager) of the Charged Premises or any part thereof and of the rents and profits thereof pursuant to and in accordance with the provisions of the Lease Agreement, the Participation Agreement and this Debenture and with or without security for the performance of the receiver's obligations and from time to time remove any receiver and appoint another in its stead. Upon the appointment of any such receiver or receivers from time to time, subject to Applicable Laws, the following provisions shall apply:
 - (i) every such receiver shall be the irrevocable agent of the Chargor for all purposes with respect to the Charged Premises including, without limitation, for the collection of all Revenues owing or earned in respect of the Real Property or any part thereof;
 - (ii) every such receiver may, in the discretion of the Lessor, be vested with all or any of the powers and discretion of the Lessor under this Debenture, the Participation Agreement and the Lease Agreement, including, without limitation, the power to carry on all or any part of the business of the Chargor relating to the Real Property and to sell, lease or otherwise dispose of the Charged Premises, either as a whole or in separate parcels, at public auction, by public tender or by private sale, with only such notice as may be required by Applicable Laws, either for cash or on credit, at such time and upon such terms and conditions as the receiver may determine (including a term that a reasonable commission shall be payable to the receiver, or any related corporation in respect thereof) and enter into, rescind or vary any contract for the sale, lease or other disposition of any of the Charged Premises and sell, lease or dispose thereof again without being answerable for any loss occasioned thereby (other than for its gross negligence and wilful misconduct) and the receiver may execute and deliver to any purchaser of the Charged Premises or any part thereof good and sufficient deeds and documents for the same and such receiver shall also

have the power to take proceedings in any court of competent jurisdiction for sale or foreclosure of all or any part of the Charged Premises;

- (iii) the Lessor may from time to time fix the reasonable remuneration of every such receiver and every such receiver shall be entitled to deduct the same out of the income from the Charged Premises or the proceeds of disposition of the Charged Premises;
- (iv) the appointment of every such receiver by the Lessor shall not, to the extent permitted by law, incur or create any liability on the part of the Lessor to the receiver in any respect and such appointment or anything which may be done by any such receiver or the removal of any such receiver or the termination of any such receivership shall not have the effect of constituting the Lessor a mortgagee in possession in respect of the Real Property or any part thereof;
- (v) subject to the provisions of the Leases and Easements, every such receiver shall, from time to time, have the power to lease or otherwise deal with any portion of the Real Property which may become vacant or available for lease on such terms and conditions as such receiver may deem advisable and shall have full power to complete any unfinished construction upon the Real Property (such power of the receiver to include, without limitation, the power to borrow funds in the name of and on the credit of the Chargor for such purposes, which borrowings may be secured by the Charged Premises, or any part thereof, and which security shall have such priority as the receiver deems appropriate);
- (vi) subject to the provisions of the Leases and Easements, every such receiver shall have full power to fully manage, develop, operate, lease, deal with agreements and the Leases and Easements, construct, complete, repair, renovate or alter the Real Property or the Project or any part thereof on behalf of the Chargor and to take all such actions as are required in the exercise of such powers including, without limitation, entering into, amending and terminating such contracts and other agreements relating to the Charged Premises as are necessary or advisable, in the opinion of the receiver, and the entering into, renewal, amendment, supplement or termination of any agreements and the Leases and Easements as the receiver may deem appropriate in its sole and absolute discretion; the aforementioned power shall include the power to borrow money in the name of and on the credit of the Chargor for all such purposes (which borrowings may be secured by the Charged Premises, or any part thereof, and which security shall have such priority as the receiver deems appropriate);
- (vii) no such receiver shall be liable to the Chargor to account for monies other than monies actually received by or in respect of the Charged Premises or any part thereof and out of such monies so received, every such receiver

shall, subject to the further direction of the Lessor, in the following order pay:

- (A) his reasonable remuneration aforesaid;
- (B) all payments made or incurred by him in connection with the management, operation, construction, completion, repair or alteration of the Charged Premises or any part thereof in accordance with the provisions thereof,
- (C) all payments of interest, principal and other money which may, from time to time, be or become charged upon the Charged Premises in priority to this Debenture, the Participation Agreement or the Lease Agreement and all taxes, insurance premiums and every other proper expenditure made or incurred by him in respect of the Charged Premises or any part thereof and in payment of all interest, fees and other similar amounts due or falling due hereunder and the balance to be applied upon the Secured Obligations; and
- (D) at the discretion of the receiver, interest, principal and other monies which may from time to time constitute an encumbrance on the Charged Premises subsequent or subordinate to this Debenture, the Participation Agreement or the Lease Agreement;

and every receiver may in its discretion retain reasonable reserves to pay accruing amounts and anticipated payments in connection with any of the foregoing; and any surplus remaining in the hands of every such receiver after payments made as aforesaid shall be accountable to the Chargor and upon termination of the receivership such receiver shall pay such surplus to the Chargor or pay it into court, as the receiver may elect;

- (viii) the Lessor may at any time and from time to time terminate any such receivership by notice in writing to the Chargor and to any such receiver; and
- (ix) the receiver may carry out all actions and do all things that the Lessor may do under this Debenture, the Participation Agreement and the Lease Agreement as if it were the Lessor (it being agreed that such powers are not in any way limited by the foregoing provisions of this Subsection 3.1(o)).

3.2 Sale of Charged Premises: The Chargor agrees that any sale referred to in Section 3.1 may be either a sale of all or any portion of the Charged Premises and may be by way of public auction, public tender, private contract or otherwise without notice, advertisement or any other formality, except as required by law, all of which the Chargor waives to the extent permitted by law. To the extent not prohibited by law, any such sale may be made with or without any special condition as to the upset price, reserve bid, title or evidence of title or other matter and from time to time as the Lessor, acting reasonably, thinks fit with power to vary or rescind any such sale or buy in at any public sale and resell. The Lessor may sell the Charged Premises for a consideration payable by instalments either with or without taking security for the payment of such instalments and may

make and deliver to any purchaser thereof good and sufficient deeds, assurances and conveyances of the Charged Premises and give receipts for the purchase money, and any such sale shall be a perpetual bar, both at law and in equity, against the Chargor and all those claiming an interest in the Charged Premises by, from, through or under the Chargor.

3.3 References to the Lessor Include Receiver: For the purposes of Sections 3.2, 3.4, 3.7, 3.8, 3.10 and 3.11, a reference to the Lessor shall, where the context permits, include any receiver or receiver and manager or other agent on behalf of the Lessor appointed in accordance herewith.

3.4 Chargor's Rights: Notwithstanding anything to the contrary contained in this Debenture but subject to the terms of the Basic Documents, until the Security Interests shall become and remain enforceable, the Chargor shall be entitled to deal with the Charged Premises and enforce, use and enjoy all of the benefits, advantages and powers thereunder as if this Debenture had not been made. Upon the Security Interests becoming and remaining enforceable, the Lessor may, but shall not be obligated to, exercise all rights, powers, authority and discretions of the Chargor in respect of the Charged Premises in its place and stead.

3.5 Judgment: Neither the taking of any judgment nor the exercise of any power of seizure or sale shall operate to extinguish the liabilities of the Chargor to make payment of the principal hereby secured or interest thereon or other moneys owing hereunder nor shall such operate as a merger of any covenant or affect the right of the Lessor to interest at the rate hereinbefore specified and any judgment shall bear interest at such rate.

3.6 Interest: If any amount payable to the Lessor under this Debenture is not paid when due, the Chargor will pay to the Lessor, immediately on demand, interest on such amount from the date due until paid, at an annual rate equal to the rate of interest provided for in the Lease Agreement. All amounts payable by the Chargor to the Lessor under this Debenture, and all interest on all such amounts will form part of the Secured Obligations and will be secured by the Security Interests.

3.7 Charge as Security:

(1) It is expressly acknowledged and agreed that nothing herein contained shall obligate the Lessor to assume or perform any obligation of the Chargor to any third party in respect of or arising out of any of the Charged Premises. The Lessor may, however, only after the occurrence of and during the continuance of a Lease Event of Default that has not been waived or cured, at its option, assume or perform any such obligations as the Lessor considers necessary or desirable to obtain the benefit of the Charged Premises free of any set-off, deduction or abatement and any money expended by the Lessor in this regard shall form part of and shall be deemed to form part of the Secured Obligations and bear interest at the rate equal to the rate of interest plus the default rate (if any) provided for in the Lease Agreement.

(2) The exercise by the Lessor of its rights under this Debenture or the assumption after the occurrence of and during the continuance of a Lease Event of Default that has not been waived or cured, of certain obligations of the Chargor as referred to in Subsection 3.7(1) shall not constitute or have the effect of making the Lessor a mortgagee in possession. Care, control and management of the Charged Premises shall remain and shall be deemed to be with the Chargor in

the absence of clear and unequivocal action by the Lessor depriving the Chargor of such care, control and management and the assumption thereof by the Lessor.

3.8 Limitations on Lessor's Liability: Except as otherwise provided by law or this Debenture, the Lessor will not be liable to the Chargor or any other Person for any failure or delay in exercising any of the rights of the Lessor under this Debenture (including any failure to take possession of, collect, sell, lease or otherwise dispose of any Charged Premises, or to preserve rights against prior parties). Neither the Lessor, nor any receiver or agent of the Lessor is required to take, or will have any liability for any failure to take or delay in taking, any steps necessary or advisable to preserve rights against other Persons under any Charged Premises in its possession. Neither the Lessor nor any receiver or agent will be liable for any, and the Chargor will bear the full risk of all, loss or damage to any and all of the Charged Premises (including any Charged Premises in the possession of the Lessor or any receiver or agent) caused for any reason other than if such loss or damage is due to the gross negligence or wilful misconduct of the Lessor or any receiver appointed by the Lessor.

3.9 Chargor Remains Liable under Accounts and Contracts: Notwithstanding any provision of this Debenture, the Chargor will remain liable under each of the agreements, contracts, Leases, Easements, material agreements, and other documents comprising the Charged Premises (each a "**Contract**") to pay and satisfy all indebtedness, liabilities and other monetary obligations and to observe and perform all the conditions and obligations which are to be paid, satisfied, observed and performed by the Chargor thereunder, all in accordance with the terms of each such Contract. The Lessor will have no obligation or liability under any account or monetary obligation (an "**Account**") (or any Contract giving rise thereto) or Contract by reason of or arising out of this Debenture or the receipt by the Lessor of any payment relating to such Account or Contract pursuant hereto, and in particular (but without limitation), the Lessor will not be obligated in any manner to perform any of the obligations of the Chargor under or pursuant to any Account (or any Contract giving rise thereto) or under or pursuant to any Contract, to make any payment, to make any inquiry as to the nature or the sufficiency of any payment received by it or as to the sufficiency of any performance by any party under any Account (or any Contract giving rise thereto) or under any Contract, to present or file any claim, to take any action to enforce any performance or to collect the payment of any amounts which may have been assigned to it or to which it may be entitled at any time.

3.10 Dealings by Lessor: The Lessor will not be obliged to exhaust its recourse against the Chargor or any other Person or against any other security it may hold in respect of the Secured Obligations before realizing upon or otherwise dealing with the Charged Premises in such manner as the Lessor may consider desirable. The Lessor may grant extensions of time and other indulgences, take and give up security, accept compositions, grant releases and discharges and otherwise deal with the Chargor and any other Person following the occurrence of and during the continuance of a Lease Event of Default that has not been waived or cured, and with any or all of the Charged Premises, and with other security and sureties, as the Lessor may see fit, all without prejudice to the Secured Obligations or to the rights and remedies of the Lessor under this Debenture, the Participation Agreement or the Lease Agreement. The powers conferred on the Lessor under this Debenture are solely to protect the interests of the Lessor in the Charged Premises and will not impose any duty upon the Lessor to exercise any such powers.

3.11 Possession of Charged Premises: Where any Charged Premises is in the possession of the Lessor or any receiver or agent:

- (a) the Lessor shall only have the duty of care with respect to such Charged Premises as would a reasonable and prudent owner, including the duty to use reasonable care in the custody and preservation thereof, provided that the Lessor need not take any steps of any nature to defend or preserve the rights of the Chargor therein against the claims or demands of others or to preserve rights therein against prior parties;
- (b) the Lessor may, at any time following the occurrence of and during the continuance of a Lease Event of Default that has not been waived or cured, grant or otherwise create a security interest in such Charged Premises upon any terms provided that such terms do not impair the Chargor's right to redeem such Charged Premises; and
- (c) the Lessor may, at any time following the occurrence of and during the continuance of a Lease Event of Default that has not been waived or cured, use such Charged Premises in any manner and to such extent as it deems necessary or desirable.

3.12 After Acquired Property: The Chargor covenants and agrees that, if and to the extent that any of its respective rights, titles, estates and interests in any of the Charged Premises is not acquired until after delivery of this Debenture, this Debenture shall nonetheless apply thereto and the security interest of the Lessor hereby created shall attach to such Charged Premises at the same time as the Chargor acquires rights therein, without the necessity of any further mortgage, charge, pledge, assignment or assurance and thereafter such Charged Premises shall be subject to the security interests created hereby in accordance with the provisions of Section 2.1 hereof.

3.13 Attachment: The Chargor hereby acknowledges and agrees that value has been given for the granting of the Security Interests and that there is no agreement between the Chargor and the Lessor, express or implied, to postpone the attachment of the Security Interests except in respect of after-acquired property forming part of the Charged Premises, with respect to which the Security Interests shall attach at the same time as the Chargor acquires rights therein or thereto.

3.14 No Greater Amount: Neither the Lessor nor any subsequent holder of this Debenture may, at any time, claim any greater amount in respect of the principal amount of this Debenture than the aggregate amount of the Secured Obligations outstanding at that time. Payment to the Lessor of interest for any period in respect of the Secured Obligations in accordance with the Basic Documents is deemed to be payment in satisfaction of the interest payment for the same period under this Debenture.

3.15 Application of Proceeds: All monies collected by the Lessor upon the enforcement of the Lessor's rights and remedies under this Debenture, including any sale or other disposition of this Debenture or all or any portion of the Charged Premises, together with all monies received by the Lessor under this Debenture, will be applied as provided in the Lease Agreement and the Participation Agreement.

ARTICLE 4

GENERAL PROVISIONS

4.1 Remedies Cumulative and Waivers: For greater certainty, it is expressly understood and agreed that the rights and remedies of the Lessor hereunder or under any other document or instrument executed pursuant to this Debenture are cumulative and are in addition to and not in substitution for any rights or remedies provided by law or by equity; and any single or partial exercise by the Lessor of any right or remedy for a default or breach of any term, covenant, condition or agreement contained in this Debenture or other document or instrument executed pursuant to this Debenture, the Participation Agreement, the Lease Agreement or any other Basic Document shall not be deemed to be a waiver of or to alter, affect or prejudice any other right or remedy or other rights or remedies to which the Lessor may be lawfully entitled for such default or breach. Any waiver by the Lessor of the strict observance, performance or compliance with any term, covenant, condition or agreement herein contained and any indulgence granted either expressly or by course of conduct by the Lessor shall be effective only in the specific instance and for the purpose for which it was given and shall be deemed not to be a waiver of any rights and remedies of the Lessor under this Debenture or other document or instrument executed pursuant to this Debenture as a result of any other default or breach hereunder or thereunder.

4.2 Termination: The Lessor covenants and agrees with the Chargor that, upon the Secured Obligations being performed, satisfied and extinguished, this Debenture shall be and become fully ended and terminated and all right, title, interest and benefit of the Chargor in, to, under or in respect of the Charged Premises, assigned by it to, or held by it in trust for, the Lessor hereunder shall automatically revert to the Chargor or its successors or assigns, and all covenants and agreements of the Chargor hereunder shall be at an end and the Lessor, promptly upon the request and at the expense of the Chargor, shall execute such instruments, discharges or re-assignments, return such instruments, certificates and other documents in its possession relating to the Charged Premises and give such notification or assurances as the Chargor may properly require to fully release, discharge and cancel this Debenture in the circumstances.

4.3 Notice: Any demand, notice, consent or other communication to be made or given hereunder shall be given in accordance with the terms of the Participation Agreement.

4.4 Further Assurances: Each party shall, at its own expense, promptly execute and deliver to the other upon request all such other and further documents, agreements, certificates and other instruments in compliance with or accomplishment of their covenants and agreements hereunder or under any document to be delivered pursuant hereto or otherwise necessary to make any recording, file any notice or obtain any consent, all as may be reasonably necessary and appropriate in connection herewith.

4.5 Continuing Security: This Debenture and the rights and remedies it creates are a continuing agreement and security and shall bind the parties until discharge of this Debenture as provided in Section 4.2 hereof. No payment by the Chargor of the whole or any part of any Secured Obligations shall reduce the amount secured hereby unless specifically appropriated to and noted on this Debenture by the Lessor.

4.6 No Marshalling: This Debenture shall be in addition to and not in substitution for any other security which the Lessor may now or hereafter hold in respect of the Secured Obligations and the Lessor shall be under no obligation to marshal in favour of the Chargor, any guarantor, debtor or other lender or holder of security, any monies or other assets which the Lessor may be entitled to receive or upon which the Lessor may have a claim.

4.7 Paramourncy: This Debenture has been entered into pursuant to the provisions of the Participation Agreement and the Lease Agreement and is subject to all of the terms and conditions thereof and, if there is any conflict or inconsistency between the provisions of this Debenture and the provisions of the Participation Agreement and the Lease Agreement, the rights and obligations of the parties will be governed by the provisions of the Participation Agreement and the Lease Agreement, as applicable. Without limiting the generality of the foregoing, by accepting delivery of this Debenture, the Lessor acknowledges and agrees that the sum comprising the principal amount referred to herein and the rate of interest charged and payable thereon and all interest accruing or any other amounts payable and secured hereunder shall be calculated and payable in accordance with the provisions of the Lease Agreement and that this Debenture is issued subject to the terms of the Participation Agreement, the Lease Agreement, the Guarantee and the other Basic Documents as collateral security for the obligations thereunder. This Debenture together with the Participation Agreement, the Lease Agreement and the other Basic Documents cancels and supersedes any prior understandings and agreements between such parties with respect thereto. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory, between the Lessor and the Chargor with respect to the subject matter hereof except as expressly set forth herein and in the Participation Agreement, the Lease Agreement and the other Basic Documents.

4.8 Amendment of Agreement: No supplement, modification, amendment, waiver or termination of this Debenture shall be binding unless executed in writing by all parties hereto. No waiver of any provision of this Debenture shall be deemed or shall constitute a waiver of any other provision of this Debenture (whether or not similar) nor shall any waiver constitute a continuing waiver unless otherwise so expressed or provided.

4.9 Invalidity of Provisions: In case any one or more of the provisions contained in this Debenture should be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby and shall continue in full force and effect, and the parties hereto shall enter into good faith negotiations to replace the invalid, illegal or unenforceable provision. If any provision of this Debenture shall be invalid, illegal or unenforceable in any respect in any jurisdiction, it shall not affect the validity, legality or enforceability of such provision in any other jurisdiction or the validity, legality or enforceability of any other provision of this Debenture.

4.10 Time: Time shall be of the essence in this Debenture.

4.11 Successors and Assigns: This Debenture shall enure to the benefit of, and be binding on, the Chargor and its successors and permitted assigns, and shall enure to the benefit of, and be binding on, the Lessor and its successors and permitted assigns. The Chargor may not assign this Debenture, or any of its rights or obligations under this Debenture. The Lessor may assign this Agreement and any of its rights and obligations hereunder to any Person that replaces it in its

capacity as such in accordance with and subject to the terms and conditions applicable to such assignment as set out in the Participation Agreement. If the Chargor or the Lessor is an individual, then the term “Chargor” or “Lessor”, as applicable, shall also include his or her heirs, administrators and executors.

4.12 Attorney: The Chargor hereby irrevocably nominates, constitutes and appoints the Lessor and each of its officers holding office from time to time as the true and lawful attorney of the Chargor with effect from and after the occurrence of and during the continuance of a Lease Event of Default that has not been waived or cured, with power of substitution in the name of the Chargor to, after the occurrence of and during the continuance of a Lease Event of Default that has not been waived or cured do any and all such acts and things or execute and deliver all such agreements, documents and instruments as the Lessor reasonably considers necessary or desirable to carry out the provisions and purposes of this Debenture or to exercise any of its rights and remedies hereunder and the Chargor hereby ratifies and agrees to ratify all reasonable acts of any such attorney taken or done in accordance with this Section 4.12. Without in any way limiting the generality of the foregoing, the Lessor shall have the right following the occurrence of and during the continuance of a Lease Event of Default that has not been waived or cured to execute for and in the name of the Chargor all financing statements, financing change statements, conveyances, transfers, assignments, consents and other instruments as may be required for such purposes. This power of attorney shall not be revoked or terminated by any act or thing other than the discharge of this Debenture in accordance with Section 4.2.

4.13 Acknowledgement by Chargor: The Chargor acknowledges receipt of a copy of this Debenture, the Lease Agreement and the other Basic Documents and hereby expressly waives the right to receive a copy of any financing statement or a copy of the statement confirming the registration of any financing statement that may be registered in connection with the Security Interests.

4.14 Waiver of Default: The Lessor may by written notice to the Chargor waive any default of the Chargor hereunder on such terms and conditions as the Lessor may determine, but no such waiver shall be taken to affect any subsequent default or the rights resulting therefrom.

4.15 Applicable Laws: This Debenture will be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein (without prejudice to or limitation of any other rights or remedies available to the Lessor under the laws of any jurisdiction where property or assets of the Chargor may be found).

4.16 Attornment: The Chargor irrevocably submits to the non-exclusive jurisdiction of the courts of the Province of Ontario and irrevocably agrees that, at the Lessor’s discretion, any claims, actions or proceedings in respect of this Debenture will be heard and determined in such courts. The Chargor hereby waives, to the fullest extent it may effectively do so, the defence of an inconvenient forum to the maintenance of any such action or proceeding. The foregoing is without prejudice to the rights of the Lessor to, in its discretion, bring claims, actions or proceedings in respect of this Debenture before any other court of competent jurisdiction. The Chargor hereby irrevocably consents to the service of any and all process in such action or proceeding by the delivery of such process to the Chargor at its address provided in accordance with Section 4.3.

4.17 *Land Registration Reform Act*: The implied covenants deemed to be included in a charge under Subsection 7(1) of the *Land Registration Reform Act* (Ontario) are hereby excluded by the terms of this Debenture.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF the Chargor has duly executed this Debenture as of the date first written above.

BAY POWER CORP., as Chargor

By: 
Name: Todd Shortt
Title: President and Chief Executive Officer

By: _____
Name:
Title:

We have authority to bind the above.

SCHEDULE A
NORTH BAY PROJECT SITE

The properties legally described as:

PIN 49127-0021(LT)

PCL 18734 SEC WF; PT LT 21 CON 2 WIDDIFIELD PT 7 & 8, 36R9382 T/W PT 1, 36R9384 AS IN LT332823, PT 1, 36R9381 AS IN LT332824, PT 2, 36R9381 AS IN LT332826, PT 2, 36R9384 AS IN LT332902, PT 3 & 9, 36R9381 AS IN LT332885, PT 7 & 8, 36R9381 AS IN LT333337, PT 4-6, 36R9381 AS IN LT339664, PT 2, 36R9382 & PT 1, 2, 3 & 5, 36R10374 AS IN LT366707, PT 1-3, 36R10375 AS IN LT366710; T/W LT366708 & LT366709; NORTH BAY; DISTRICT OF NIPISSING

THIS IS **EXHIBIT “K”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,
THIS 31st DAY OF JULY, 2023.



Michael Noel

Commissioner for Taking Affidavits

DEMAND DEBENTURE

PRINCIPAL SUM: \$60,000,000

DATE: April 7, 2022

ARTICLE 1

PROMISE TO PAY

1.1 Promise to Pay: KAP POWER CORP. (the “**Chargor**”), for value received, hereby acknowledges itself indebted and covenants and promises to pay to or to the order of MACQUARIE EQUIPMENT FINANCE LTD. (the “**Lessor**”), at the address set forth in Section 4.3 or at such other place as the Lessor may designate by notice in writing to the Chargor, ON DEMAND, the aggregate principal amount of SIXTY MILLION DOLLARS (\$60,000,000) and interest thereon, from and including the date hereof (or from and including the last interest payment date to which interest shall have been paid) to and including the date of payment, at a rate of twenty-five per cent (25%) per annum, calculated and compounded monthly on the first day of each month, as well after as before demand and as well after as before default or judgment with interest on overdue interest at the same rate.

This Debenture, *inter alia*, secures payment to the Lessor of all present and future indebtedness, liabilities and obligations of any and every kind, nature and description (whether direct or indirect, joint or several, absolute or contingent, matured or unmatured) of the Chargor to the Lessor under, in connection with or with respect to the Participation Agreement, the Lease Agreement, the Guarantee or any other Basic Document, and any unpaid balance thereof (collectively, the “**Secured Obligations**”).

1.2 Interpretation: In this Debenture, unless there is something in the subject matter or context that is inconsistent therewith, all capitalized terms used herein which are not otherwise defined herein shall have the meanings ascribed thereto in the Participation Agreement or the Lease Agreement, as applicable. In addition, the following terms shall have the following meanings:

“**Account**” has the meaning set out in Section 3.9 hereof.

“**Act**” has the meaning set out in Section 2.1(b) hereof.

“**Charged Premises**” has the meaning set out in Section 2.1 hereof.

“**Chargor**” has the meaning set out in Section 1.1 hereof.

“**Contract**” has the meaning set out in Section 3.9 hereof.

“**Easements**” means all easements, rights-of-way, licenses, privileges and any other rights in the nature of easements necessary for the development, maintenance or operation of the Kapuskasing Project Site and the gas powered power plant and any datacenter installed at the Kapuskasing Project Site.

“**Kapuskasing Project Site**” means those lands and premises described in Schedule A hereto, together with the respective Easements and privileges appurtenant or appertaining thereto.

“**Lease Agreement**” means the lease agreement dated as of the date hereof between the Lessor, as lessor, and the Lessee, as lessee.

“**Leases**” means a lease, license, occupancy or tenancy agreement, land use permit or license to occupy Crown lands or binding agreement to lease, license or occupy in respect of any real property necessary for the development, maintenance or operation of the Projects.

“**Lessor**” has the meaning set out in Section 1.1 hereof.

“**Participation Agreement**” means the participation agreement dated as of the date hereof among the Lessee, as lessee, and the Lessor, as lessor.

“**Person**” or “**person**” means any natural person, corporation, limited liability company, partnership, firm, association, Government Body or any other entity whether acting in an individual, fiduciary or other capacity.

“**Real Property**” has the meaning set out in Section 2.1(a) hereof.

“**Revenues**” has the meaning set out in Section 2.1(b)(vi) hereof.

“**Secured Obligations**” has the meaning set out in Section 1.1 hereof.

“**Security Interests**” has the meaning set out in Section 2.1 hereof.

ARTICLE 2

SECURITY

2.1 **Security:** As security for the due and timely payment of the Secured Obligations, but subject to this Section 2.1, Section **Error! Reference source not found.** hereof and the Permitted Liens, the Chargor:

- (a) grants, conveys, mortgages, charges, pledges, assigns and creates a security interest in (and provided that where the interest of the Chargor in the Kapuskasing Project Site is by way of leasehold, such mortgage and charge is by way of sublease) as and by way of a fixed and specific mortgage, charge, pledge, assignment and security interest to and in favour of the Lessor, all of its right, title, estate and interest (whether freehold or leasehold), present and future, now owned or hereafter acquired, in and to all of its undertaking, property, assets, rights, benefits and privileges, both real and personal, moveable and immovable of whatsoever nature and kind, including without limitation, the following:

- (i) all lands, premises, Easements, and portions of the Kapuskasing Project Site (whether freehold or leasehold) in which the Chargor has any legal or beneficial right, title, interest, claim, privilege, benefit or entitlement, including, without limitation, (x) all rights, leases, subleases, licences, easements, rights-of-way, profits a prendre and interests in real property with respect to the Kapuskasing Project Site (and all renewals, extensions and amendments or substitutions thereof) and all other facilities relating to or required for use in connection with the Kapuskasing Project Site to the extent of any interest therein, and (y) such of the Kapuskasing Project Site may be specifically described in any one or more supplements to this Debenture;
- (ii) all buildings, erections, structures and improvements, underground facilities, power, fuel and water supply, storage, waste disposal, roads and other transportation facilities presently situated on or under the Kapuskasing Project Site or which may at any time hereafter be constructed or brought or placed on or under the Kapuskasing Project Site or used in connection with the Kapuskasing Project Site;
- (iii) all fixed machinery, plant, equipment, apparatus and fittings and other fixtures located on or at the Kapuskasing Project Site; and
- (iv) all interests in any of the foregoing and all benefits and rights to be derived by the Chargor in respect thereof,

(all of the property and rights therein set out in paragraph 2.1(a) being collectively, the “**Real Property**”);

- (b) grants, conveys, mortgages, charges, pledges, assigns and creates a security interest in, as and by way of a fixed and specific mortgage, charge, pledge, assignment and security interest to and in favour of the Lessor, all of its right, title, estate and interest, present and future, in and to any and all personal property in which a security interest can be taken, reserved, created or granted whether under the *Personal Property Security Act* (Ontario) (the “**Act**”), any similar personal property security legislation in any jurisdiction in which any of the Charged Premises is located or otherwise under any statute or law or in equity and which is now or at any time hereafter owned by the Chargor or in which the Chargor now has or at any time hereafter acquires any interest of any nature whatsoever, including, without in any way limiting the generality of the foregoing, the interest of the Chargor in:
 - (i) all materials, supplies, machinery, equipment, fixtures, inventory, vehicles, furniture, tools, accessories and appliances now or hereafter owned or acquired by or on behalf of the Chargor and every interest therein which the Chargor now has or hereafter acquires, wheresoever situate;
 - (ii) all present and future accounts (including, without limitation, cash collateral accounts), accounts receivable, money (including, without limitation, all

money in any bank accounts), intangibles, claims, contract rights, demands, chattel papers, instruments, documents, warehouse receipts, bills of lading, notes and choses in action, together with any and all security therefor, including, without limiting the generality of the foregoing, all present and future mortgages receivable, debentures, bonds, promissory notes, bills of exchange, judgments and book debts, now due or hereafter to become due to or owned by the Chargor, together with all securities, documents, computer disks, tapes, software or records now or hereafter owned by the Chargor and representing or evidencing the said debts, accounts, accounts receivable, claims, contract rights, demands and choses in action and all other rights and benefits in respect thereof;

- (iii) all rights, agreements, licenses, permits, consents, policies, approvals, development agreements, building contracts, performance bonds, purchase orders, plans, patents, trademarks, trade names, copyrights and other industrial and intellectual property, goodwill, know-how, rights to carry on business and specifications presently owned and hereafter acquired by the Chargor in respect of or in any way relating to the development or construction of the Real Property or any part thereof, including, without limitation, all Leases and Easements relating to the Real Property and the Project and all Authorizations;
- (iv) all present and future computer hardware, software, programs and electronically stored data, and all rights, agreements, licences, permits and consents in respect of or in any way relating to such computer hardware, software and programs including, without limitation, all paper cards, magnetic tapes, discs, diskettes, drums or magnetic bubbles and whether permanently installed in hardware or crystallized in firmware, and all codes, passwords and security devices in respect thereof;
- (v) all shares, stocks, warrants, bonds, debentures, debenture stock, partnership interests, joint venture interests or other securities investments now or hereafter owned by the Chargor;
- (vi) all rents, revenues, income, insurance proceeds, expropriation proceeds, other proceeds and other monies to which the Chargor may from time to time be entitled from all sources which pertain to or are derived from the Real Property or any part thereof including, without limitation, all income and proceeds (whether in cash or on credit) received or receivable by or on behalf of the Chargor in respect of the use, occupancy or enjoyment of the Real Property or any part thereof or for the sale of goods or the provision of services on, at or from the Real Property or from judgments, settlements or other resolutions of disputes relating to the ownership, use, construction, development, operation, maintenance or management of the Real Property (collectively, “**Revenues**”); and

(vii) the benefit of any guarantees or indemnities relating to all or part of the property referred to in paragraph 2.1(b)(vi),

and with respect to paragraphs 2.1(b)(i) to (vii) inclusive, in, to and under all amendments, extensions, renewals, replacements and substitutions of any of the foregoing, all increases, additions and accessions thereto and all rights, remedies, powers, Easements, privileges and claims of the Chargor thereunder (whether arising pursuant thereto or available to the Chargor at law or in equity) including, without limitation, the right of the Chargor to enforce the foregoing and the obligations of the other parties thereto and to give or withhold any and all consents, requests, directions, approvals, extensions and/or waivers thereunder;

(c) assigns, transfers and sets over unto and in favour of the Lessor, as and by way of a fixed and specific assignment, all of its right, title, estate and interest, present and future, in and to:

(i) any agreements relating to the Real Property (including, without limitation, those relating to construction or development on, or operation of, the Real Property and all Leases and Easements relating to the Real Property) or the business, undertaking and operations of the Chargor; and

(ii) all amendments, extensions, renewals, replacements and substitutions of any of the property referred to in paragraph 2.1(c)(i) and all benefits, rights, remedies, privileges, claims, powers and advantages of the Chargor to be derived therefrom or thereunder (whether arising pursuant thereto or available to the Chargor at law or in equity) and all covenants, obligations and agreements of the other parties thereto including, without limitation, the right of the Chargor to enforce any of the foregoing and the obligations of the other parties thereto and to give or withhold any and all consents, requests, directions, approvals, extensions and/or waivers thereunder;

(d) assigns, transfers and sets over unto and in favour of the Lessor, as and by way of a general assignment, all of its right, title, estate and interest present and future, in and to:

(i) any and all existing and future Leases, Easements, any agreements relating to the Real Property (including, without limitation, those relating to construction or development on, or operation of, the Real Property) or the business, undertaking and operations of the Chargor and all existing and future leases, sub-leases, easements, sub-easements, rights of way, licenses or concessions whereby any Person is given the right by the Chargor to use or occupy the whole or any part or parts of the Real Property, and all extensions, amendments, restatements, renewals, supplements, replacements and substitutions thereof or therefor which may hereafter be effected or entered into, and all covenants, obligations and agreements of other parties thereunder or in any agreement collateral thereto, including without limitation, the benefit of any right, option or obligation of any

Person to acquire any of the Leases, Easements, or an interest therein, to renew or extend any Leases or Easements, to acquire rights in other lands and premises in connection with the Project, and any other collateral advantage or benefit to be derived from the Leases, Easements, or any of them;

- (ii) all rents and other moneys now due and payable to the Chargor or hereafter to become due and payable to the Chargor under the Leases, Easements, and each guarantee of or indemnity in respect of the obligations of the tenants thereunder with full power to demand, sue for recovery, receive and give receipts for all such rents and other moneys and otherwise to enforce the rights of the Chargor thereto in the name of the Chargor;
 - (iii) all present and future intangibles arising exclusively from or out of the Real Property or any part or parts thereof and the property and assets referred to in subsections 2.1(b) and (c) above including, without limiting the generality of the foregoing, all of its rights, title and interest in all present and future book debts, accounts and other accounts receivable, contract rights and choses in action;
 - (iv) any and all existing or future agreements, contracts, licences, permits, plans and specifications, bonds, letters of credit, letters of guarantee or other documents or instruments relating to the Real Property or any part or parts thereof and all extensions, amendments, renewals or substitutions thereof or therefor which may hereafter be effected or entered into and all benefit, power and advantage of the Chargor to be derived therefrom;
 - (v) any and all existing or future agreements of purchase and sale, options to purchase and mortgage, loan or other financing commitments relating to the Real Property or any part or parts thereof and all proceeds and other moneys now due and payable or hereafter to become due and payable thereunder and all benefit, power and advantage of the Chargor to be derived therefrom; and
 - (vi) the proceeds of any and all existing or future insurance policies pertaining to the Real Property or the property and assets referred to in subsections 2.1(b) and (c) and paragraphs 2.1(d)(i) to (v) inclusive and all proceeds of expropriation or similar taking of the Real Property or any part or parts thereof and all benefit, power and advantage of the Chargor to be derived therefrom provided that all such proceeds shall be held and applied in accordance with the Participation Agreement and the Lease Agreement;
- (e) grants, conveys, mortgages, charges, pledges, assigns and creates a security interest in, as and by way of a fixed and specific mortgage, charge, pledge, assignment and security interest to and in favour of the Lessor, all of its right, title, estate and interest, present and future, in and to all personal property in any form (including money) derived, directly or indirectly, from any dealing with the property referred

to in subsections 2.1(a) to (d) inclusive, or proceeds therefrom or that indemnifies or compensates for all or part of such property or proceeds therefrom that is destroyed and damaged; and

- (f) grants, conveys, mortgages, charges, pledges and assigns as and by way of a floating charge to and in favour of the Lessor all of the undertaking, property, assets, rights, entitlements, benefits and privileges, both real and personal, moveable and immovable, of every nature and kind, now or at any time and from time to time hereafter existing and owned by the Chargor (except such property and assets as are validly and effectively subject to any fixed and specific mortgage and charge or assignment, transfer or security interest created hereby) and which in each case is used in relation to or situated on, and which relates to the Real Property;

provided that the said grants, conveyances, mortgages, charges, pledges, transfers, assignments and security interests created pursuant to this Section 2.1 (collectively the “**Security Interests**”) shall not: (i) extend or apply to any personal property which is “consumer goods”, as such term is defined in the Act; or (ii) extend to the last day of the term of any lease, easement or any agreement therefor now held or hereafter acquired by the Chargor, but should such Security Interests become enforceable the Chargor shall thereafter stand possessed of such last day and shall hold it in trust for the Lessor for the purpose of this Debenture and assign and dispose thereof as the Lessor shall, for such purpose, direct. Upon any sale of such leasehold interest, easement or any part thereof, the Lessor, for the purpose of vesting the aforesaid one day residue of such term or renewal thereof in any purchaser or purchasers thereof, shall be entitled by deed or writing to appoint such purchaser or purchasers or any other person or persons as new trustee or trustees of the aforesaid residue of any such term or renewal thereof in the place of the Chargor and to vest the same accordingly in the new trustee or trustees so appointed free and discharged from any obligation respecting the same.

All the undertaking, property and assets mortgaged and charged pursuant to Subsection 2.1(a) and all of the undertaking, property and assets granted, assigned, transferred, mortgaged and charged pursuant to Subsections 2.1(b), (e) and (f) hereof is collectively referred to as the “**mortgaged property**”; all the undertaking, property and assets assigned, transferred and set over pursuant to Subsections 2.1(c) and (d) is collectively referred to as the “**assigned property**”; and the mortgaged property and assigned property is collectively referred to as the “**Charged Premises**”. Wherever used herein in relation to the rights and remedies of the Lessor the terms “**Real Property**”, “**mortgaged property**”, “**assigned property**” and “**Charged Premises**” shall, where the context permits, mean the whole or any part or parts thereof.

TO HAVE AND TO HOLD the Charged Premises and all rights hereby conferred unto the Lessor, its successors and assigns, for the uses and purposes and with the powers and authorities and subject to the terms and conditions set forth herein and in the Participation Agreement and the Lease Agreement.

2.2 Delivery of Instruments, Securities, Etc.: The Chargor shall, upon reasonable request from the Lessor, following the occurrence of and during the continuance of a Lease Event of Default that has not been waived or cured, forthwith deliver to the Lessor to be held by the Lessor hereunder all instruments, securities, letters of credit, advices of credit and negotiable documents

of title in its possession or control which pertain to or form part of the Charged Premises, and shall, where appropriate, duly endorse the same for transfer in blank or as the Lessor may in writing direct and shall make all commercially reasonable efforts to deliver forthwith to the Lessor any and all consents or other instruments or documents necessary to comply with any restrictions on the transfer thereof in order to transfer the same to the Lessor.

2.3 Covenant of the Chargor re Registrations: So long as any of the Secured Obligations shall remain unpaid, the Chargor covenants and agrees with the Lessor that the Chargor will, from time to time at the reasonable request of the Lessor, promptly effect all registrations, filings, recordings and all renewals thereof and all re-registrations, re-filings and re-recordings of or in respect of this Debenture and the Security Interests created hereby in such offices of public record and at such times as may be necessary or of advantage in perfecting, maintaining and protecting the validity, effectiveness and priority hereof and of the Security Interests created hereby; provided that the Lessor may effect all such registrations, filings, recordings, renewals, re-registrations, re-filings and re-recordings from time to time in its sole discretion at the expense of the Chargor.

ARTICLE 3

RIGHTS AND REMEDIES

3.1 Remedies Upon Default: On or after the occurrence and during the continuance of a Lease Event of Default that has not been waived or cured, in accordance with the provisions of the Participation Agreement or the Lease Agreement, as applicable, the Lessor may do any one or more of the following:

- (a) by written notice to the Chargor, declare the Secured Obligations to be immediately due and payable without the necessity of presentment for payment, or notice of non-payment and of protest (all of which are hereby expressly waived by the Chargor);
- (b) proceed to exercise any and all rights under this Debenture, the Participation Agreement, the Lease Agreement, any other Basic Document and any other document or instrument executed pursuant to this Debenture or any other rights otherwise available to it whether under this Debenture, the Participation Agreement, the Lease Agreement, any other Basic Document or otherwise, including enforcement of this Debenture;
- (c) take any action or proceeding authorized or permitted by this Debenture, the Participation Agreement, the Lease Agreement, any other Basic Document or by law or equity, and file or cause to be filed on its behalf such proofs of claim and other documents as may be necessary or desirable to have its claims lodged in any bankruptcy, winding-up or other judicial proceeding relative to the Chargor;
- (d) take proceedings in any court of competent jurisdiction for sale or foreclosure of all or any part of the Charged Premises;
- (e) immediately enter upon and take possession of, disable or remove all of the Charged Premises or any part or parts thereof with power, among other things, to

exclude the Chargor, to preserve and maintain the Charged Premises and make additions and replacements thereto, to receive rents, income and profits of all kinds and pay therefrom all reasonable expenses of maintaining, completing, repairing, preserving and protecting and operating the Charged Premises and all charges, payment of which may be necessary to preserve or protect the Charged Premises, and enjoy and exercise all powers necessary to the performance of all functions made necessary or advisable by possession, including, without limitation, power to advance its own moneys at the rate of interest provided for in the Lease Agreement, the Participation Agreement or any other Basic Document and enter into contracts and undertake obligations for the foregoing purposes upon the security hereof;

- (f) whether or not the Lessor has taken possession of the Charged Premises or any of it, sell, lease or otherwise dispose thereof, either as a whole or in separate parcels, at public auction, by public tender or by private sale, with only such notice as may be required by law, either for cash or upon credit, at such time and upon such terms and conditions as the Lessor may determine (including a term that a reasonable commission shall be payable to the Lessor or any related corporation in respect thereof) and enter into, rescind or vary any contract for the sale, lease or other disposition of any of the Charged Premises and sell, lease or dispose thereof and the Lessor may execute and deliver to any purchaser of the Charged Premises or any part thereof good and sufficient deeds and documents for the same;
- (g) require the Chargor, at the Chargor's expense, to assemble the Charged Premises at a place or places reasonably designated by notice in writing given by the Lessor to the Chargor, and the Chargor agrees to so assemble the Charged Premises;
- (h) require the Chargor, by notice in writing given by the Lessor to the Chargor, to disclose to the Lessor the location or locations of the Charged Premises and the Chargor agrees to make such disclosure when so required by the Lessor;
- (i) carry on all or any part of the business or businesses of the Chargor relating to the Real Property and, to the exclusion of all others including the Chargor, enter upon, occupy and, subject to any requirements of law and subject to the Leases, Easements or other agreements then in place, use all or any of the Charged Premises, premises, buildings, plant, undertaking, assets and other property comprising the Charged Premises for such time and in such manner as the Lessor sees fit, free of charge and, except to the extent required by law, the Lessor shall not be liable to the Chargor for any act or omission (other than for gross negligence or wilful misconduct) in so doing or for any rent, charges, depreciation or damages or other amounts incurred in connection therewith or resulting therefrom;
- (j) borrow money for the purpose of carrying on the business of the Chargor relating to the Charged Premises or for the maintenance, preservation or protection of the Charged Premises and mortgage, charge, pledge or grant a security interest in the Charged Premises, whether or not in priority to the Security Interests to secure repayment of any money so borrowed;

- (k) send or employ inspectors or agents to inspect, audit and report upon the value, state and condition of the Charged Premises;
- (l) pay any encumbrance, lien, claim or charge that validly exists or has been threatened against any of the Charged Premises and any amounts determined to be validly existing shall, when so paid, together with any costs, charges and expenses incurred by the Lessor (including, without limitation, legal fees and disbursements on a substantial indemnity basis), be added to the Secured Obligations and shall bear interest at the rate of interest provided for in the Lease Agreement;
- (m) take proceedings in any court of competent jurisdiction to enforce payment by the Chargor of the Secured Obligations or any deficiency remaining upon application of proceeds of realization which are actually received by the Lessor;
- (n) exercise or pursue any other remedy or proceeding authorized or permitted hereby or by the Act or any similar personal property security legislation or by any other legislation in any jurisdiction in which any of the Charged Premises is located or otherwise permitted by law or equity; and
- (o) with or without entry into possession of the Charged Premises, or any part thereof, appoint a receiver (which term shall include a receiver and manager) of the Charged Premises or any part thereof and of the rents and profits thereof pursuant to and in accordance with the provisions of the Lease Agreement, the Participation Agreement and this Debenture and with or without security for the performance of the receiver's obligations and from time to time remove any receiver and appoint another in its stead. Upon the appointment of any such receiver or receivers from time to time, subject to Applicable Laws, the following provisions shall apply:
 - (i) every such receiver shall be the irrevocable agent of the Chargor for all purposes with respect to the Charged Premises including, without limitation, for the collection of all Revenues owing or earned in respect of the Real Property or any part thereof;
 - (ii) every such receiver may, in the discretion of the Lessor, be vested with all or any of the powers and discretion of the Lessor under this Debenture, the Participation Agreement and the Lease Agreement, including, without limitation, the power to carry on all or any part of the business of the Chargor relating to the Real Property and to sell, lease or otherwise dispose of the Charged Premises, either as a whole or in separate parcels, at public auction, by public tender or by private sale, with only such notice as may be required by Applicable Laws, either for cash or on credit, at such time and upon such terms and conditions as the receiver may determine (including a term that a reasonable commission shall be payable to the receiver, or any related corporation in respect thereof) and enter into, rescind or vary any contract for the sale, lease or other disposition of any of the Charged Premises and sell, lease or dispose thereof again without being answerable for any loss occasioned thereby (other than for its gross

negligence and wilful misconduct) and the receiver may execute and deliver to any purchaser of the Charged Premises or any part thereof good and sufficient deeds and documents for the same and such receiver shall also have the power to take proceedings in any court of competent jurisdiction for sale or foreclosure of all or any part of the Charged Premises;

- (iii) the Lessor may from time to time fix the reasonable remuneration of every such receiver and every such receiver shall be entitled to deduct the same out of the income from the Charged Premises or the proceeds of disposition of the Charged Premises;
- (iv) the appointment of every such receiver by the Lessor shall not, to the extent permitted by law, incur or create any liability on the part of the Lessor to the receiver in any respect and such appointment or anything which may be done by any such receiver or the removal of any such receiver or the termination of any such receivership shall not have the effect of constituting the Lessor a mortgagee in possession in respect of the Real Property or any part thereof;
- (v) subject to the provisions of the Leases and Easements, every such receiver shall, from time to time, have the power to lease or otherwise deal with any portion of the Real Property which may become vacant or available for lease on such terms and conditions as such receiver may deem advisable and shall have full power to complete any unfinished construction upon the Real Property (such power of the receiver to include, without limitation, the power to borrow funds in the name of and on the credit of the Chargor for such purposes, which borrowings may be secured by the Charged Premises, or any part thereof, and which security shall have such priority as the receiver deems appropriate);
- (vi) subject to the provisions of the Leases and Easements, every such receiver shall have full power to fully manage, develop, operate, lease, deal with agreements and the Leases and Easements, construct, complete, repair, renovate or alter the Real Property or the Project or any part thereof on behalf of the Chargor and to take all such actions as are required in the exercise of such powers including, without limitation, entering into, amending and terminating such contracts and other agreements relating to the Charged Premises as are necessary or advisable, in the opinion of the receiver, and the entering into, renewal, amendment, supplement or termination of any agreements and the Leases and Easements as the receiver may deem appropriate in its sole and absolute discretion; the aforementioned power shall include the power to borrow money in the name of and on the credit of the Chargor for all such purposes (which borrowings may be secured by the Charged Premises, or any part thereof, and which security shall have such priority as the receiver deems appropriate);

(vii) no such receiver shall be liable to the Chargor to account for monies other than monies actually received by or in respect of the Charged Premises or any part thereof and out of such monies so received, every such receiver shall, subject to the further direction of the Lessor, in the following order pay:

(A) his reasonable remuneration aforesaid;

(B) all payments made or incurred by him in connection with the management, operation, construction, completion, repair or alteration of the Charged Premises or any part thereof in accordance with the provisions thereof,

(C) all payments of interest, principal and other money which may, from time to time, be or become charged upon the Charged Premises in priority to this Debenture, the Participation Agreement or the Lease Agreement and all taxes, insurance premiums and every other proper expenditure made or incurred by him in respect of the Charged Premises or any part thereof and in payment of all interest, fees and other similar amounts due or falling due hereunder and the balance to be applied upon the Secured Obligations; and

(D) at the discretion of the receiver, interest, principal and other monies which may from time to time constitute an encumbrance on the Charged Premises subsequent or subordinate to this Debenture, the Participation Agreement or the Lease Agreement;

and every receiver may in its discretion retain reasonable reserves to pay accruing amounts and anticipated payments in connection with any of the foregoing; and any surplus remaining in the hands of every such receiver after payments made as aforesaid shall be accountable to the Chargor and upon termination of the receivership such receiver shall pay such surplus to the Chargor or pay it into court, as the receiver may elect;

(viii) the Lessor may at any time and from time to time terminate any such receivership by notice in writing to the Chargor and to any such receiver; and

(ix) the receiver may carry out all actions and do all things that the Lessor may do under this Debenture, the Participation Agreement and the Lease Agreement as if it were the Lessor (it being agreed that such powers are not in any way limited by the foregoing provisions of this Subsection 3.1(o)).

3.2 Sale of Charged Premises: The Chargor agrees that any sale referred to in Section 3.1 may be either a sale of all or any portion of the Charged Premises and may be by way of public auction, public tender, private contract or otherwise without notice, advertisement or any other formality, except as required by law, all of which the Chargor waives to the extent permitted by law. To the extent not prohibited by law, any such sale may be made with or without any special condition as to the upset price, reserve bid, title or evidence of title or other matter and from time to time as the

Lessor, acting reasonably, thinks fit with power to vary or rescind any such sale or buy in at any public sale and resell. The Lessor may sell the Charged Premises for a consideration payable by instalments either with or without taking security for the payment of such instalments and may make and deliver to any purchaser thereof good and sufficient deeds, assurances and conveyances of the Charged Premises and give receipts for the purchase money, and any such sale shall be a perpetual bar, both at law and in equity, against the Chargor and all those claiming an interest in the Charged Premises by, from, through or under the Chargor.

3.3 References to the Lessor Include Receiver: For the purposes of Sections 3.2, 3.4, 3.7, 3.8, 3.10 and 3.11, a reference to the Lessor shall, where the context permits, include any receiver or receiver and manager or other agent on behalf of the Lessor appointed in accordance herewith.

3.4 Chargor's Rights: Notwithstanding anything to the contrary contained in this Debenture but subject to the terms of the Basic Documents, until the Security Interests shall become and remain enforceable, the Chargor shall be entitled to deal with the Charged Premises and enforce, use and enjoy all of the benefits, advantages and powers thereunder as if this Debenture had not been made. Upon the Security Interests becoming and remaining enforceable, the Lessor may, but shall not be obligated to, exercise all rights, powers, authority and discretions of the Chargor in respect of the Charged Premises in its place and stead.

3.5 Judgment: Neither the taking of any judgment nor the exercise of any power of seizure or sale shall operate to extinguish the liabilities of the Chargor to make payment of the principal hereby secured or interest thereon or other moneys owing hereunder nor shall such operate as a merger of any covenant or affect the right of the Lessor to interest at the rate hereinbefore specified and any judgment shall bear interest at such rate.

3.6 Interest: If any amount payable to the Lessor under this Debenture is not paid when due, the Chargor will pay to the Lessor, immediately on demand, interest on such amount from the date due until paid, at an annual rate equal to the rate of interest provided for in the Lease Agreement. All amounts payable by the Chargor to the Lessor under this Debenture, and all interest on all such amounts will form part of the Secured Obligations and will be secured by the Security Interests.

3.7 Charge as Security:

(1) It is expressly acknowledged and agreed that nothing herein contained shall obligate the Lessor to assume or perform any obligation of the Chargor to any third party in respect of or arising out of any of the Charged Premises. The Lessor may, however, only after the occurrence of and during the continuance of a Lease Event of Default that has not been waived or cured, at its option, assume or perform any such obligations as the Lessor considers necessary or desirable to obtain the benefit of the Charged Premises free of any set-off, deduction or abatement and any money expended by the Lessor in this regard shall form part of and shall be deemed to form part of the Secured Obligations and bear interest at the rate equal to the rate of interest plus the default rate (if any) provided for in the Lease Agreement.

(2) The exercise by the Lessor of its rights under this Debenture or the assumption after the occurrence of and during the continuance of a Lease Event of Default that has not been waived or cured, of certain obligations of the Chargor as referred to in Subsection 3.7(1) shall not

constitute or have the effect of making the Lessor a mortgagee in possession. Care, control and management of the Charged Premises shall remain and shall be deemed to be with the Chargor in the absence of clear and unequivocal action by the Lessor depriving the Chargor of such care, control and management and the assumption thereof by the Lessor.

3.8 Limitations on Lessor's Liability: Except as otherwise provided by law or this Debenture, the Lessor will not be liable to the Chargor or any other Person for any failure or delay in exercising any of the rights of the Lessor under this Debenture (including any failure to take possession of, collect, sell, lease or otherwise dispose of any Charged Premises, or to preserve rights against prior parties). Neither the Lessor, nor any receiver or agent of the Lessor is required to take, or will have any liability for any failure to take or delay in taking, any steps necessary or advisable to preserve rights against other Persons under any Charged Premises in its possession. Neither the Lessor nor any receiver or agent will be liable for any, and the Chargor will bear the full risk of all, loss or damage to any and all of the Charged Premises (including any Charged Premises in the possession of the Lessor or any receiver or agent) caused for any reason other than if such loss or damage is due to the gross negligence or wilful misconduct of the Lessor or any receiver appointed by the Lessor.

3.9 Chargor Remains Liable under Accounts and Contracts: Notwithstanding any provision of this Debenture, the Chargor will remain liable under each of the agreements, contracts, Leases, Easements, material agreements, and other documents comprising the Charged Premises (each a "**Contract**") to pay and satisfy all indebtedness, liabilities and other monetary obligations and to observe and perform all the conditions and obligations which are to be paid, satisfied, observed and performed by the Chargor thereunder, all in accordance with the terms of each such Contract. The Lessor will have no obligation or liability under any account or monetary obligation (an "**Account**") (or any Contract giving rise thereto) or Contract by reason of or arising out of this Debenture or the receipt by the Lessor of any payment relating to such Account or Contract pursuant hereto, and in particular (but without limitation), the Lessor will not be obligated in any manner to perform any of the obligations of the Chargor under or pursuant to any Account (or any Contract giving rise thereto) or under or pursuant to any Contract, to make any payment, to make any inquiry as to the nature or the sufficiency of any payment received by it or as to the sufficiency of any performance by any party under any Account (or any Contract giving rise thereto) or under any Contract, to present or file any claim, to take any action to enforce any performance or to collect the payment of any amounts which may have been assigned to it or to which it may be entitled at any time.

3.10 Dealings by Lessor: The Lessor will not be obliged to exhaust its recourse against the Chargor or any other Person or against any other security it may hold in respect of the Secured Obligations before realizing upon or otherwise dealing with the Charged Premises in such manner as the Lessor may consider desirable. The Lessor may grant extensions of time and other indulgences, take and give up security, accept compositions, grant releases and discharges and otherwise deal with the Chargor and any other Person following the occurrence of and during the continuance of a Lease Event of Default that has not been waived or cured, and with any or all of the Charged Premises, and with other security and sureties, as the Lessor may see fit, all without prejudice to the Secured Obligations or to the rights and remedies of the Lessor under this Debenture, the Participation Agreement or the Lease Agreement. The powers conferred on the

Lessor under this Debenture are solely to protect the interests of the Lessor in the Charged Premises and will not impose any duty upon the Lessor to exercise any such powers.

3.11 Possession of Charged Premises: Where any Charged Premises is in the possession of the Lessor or any receiver or agent:

- (a) the Lessor shall only have the duty of care with respect to such Charged Premises as would a reasonable and prudent owner, including the duty to use reasonable care in the custody and preservation thereof, provided that the Lessor need not take any steps of any nature to defend or preserve the rights of the Chargor therein against the claims or demands of others or to preserve rights therein against prior parties;
- (b) the Lessor may, at any time following the occurrence of and during the continuance of a Lease Event of Default that has not been waived or cured, grant or otherwise create a security interest in such Charged Premises upon any terms provided that such terms do not impair the Chargor's right to redeem such Charged Premises; and
- (c) the Lessor may, at any time following the occurrence of and during the continuance of a Lease Event of Default that has not been waived or cured, use such Charged Premises in any manner and to such extent as it deems necessary or desirable.

3.12 After Acquired Property: The Chargor covenants and agrees that, if and to the extent that any of its respective rights, titles, estates and interests in any of the Charged Premises is not acquired until after delivery of this Debenture, this Debenture shall nonetheless apply thereto and the security interest of the Lessor hereby created shall attach to such Charged Premises at the same time as the Chargor acquires rights therein, without the necessity of any further mortgage, charge, pledge, assignment or assurance and thereafter such Charged Premises shall be subject to the security interests created hereby in accordance with the provisions of Section 2.1 hereof.

3.13 Attachment: The Chargor hereby acknowledges and agrees that value has been given for the granting of the Security Interests and that there is no agreement between the Chargor and the Lessor, express or implied, to postpone the attachment of the Security Interests except in respect of after-acquired property forming part of the Charged Premises, with respect to which the Security Interests shall attach at the same time as the Chargor acquires rights therein or thereto.

3.14 No Greater Amount: Neither the Lessor nor any subsequent holder of this Debenture may, at any time, claim any greater amount in respect of the principal amount of this Debenture than the aggregate amount of the Secured Obligations outstanding at that time. Payment to the Lessor of interest for any period in respect of the Secured Obligations in accordance with the Basic Documents is deemed to be payment in satisfaction of the interest payment for the same period under this Debenture.

3.15 Application of Proceeds: All monies collected by the Lessor upon the enforcement of the Lessor's rights and remedies under this Debenture, including any sale or other disposition of this Debenture or all or any portion of the Charged Premises, together with all monies received by the Lessor under this Debenture, will be applied as provided in the Lease Agreement and the Participation Agreement.

ARTICLE 4

GENERAL PROVISIONS

4.1 Remedies Cumulative and Waivers: For greater certainty, it is expressly understood and agreed that the rights and remedies of the Lessor hereunder or under any other document or instrument executed pursuant to this Debenture are cumulative and are in addition to and not in substitution for any rights or remedies provided by law or by equity; and any single or partial exercise by the Lessor of any right or remedy for a default or breach of any term, covenant, condition or agreement contained in this Debenture or other document or instrument executed pursuant to this Debenture, the Participation Agreement, the Lease Agreement or any other Basic Document shall not be deemed to be a waiver of or to alter, affect or prejudice any other right or remedy or other rights or remedies to which the Lessor may be lawfully entitled for such default or breach. Any waiver by the Lessor of the strict observance, performance or compliance with any term, covenant, condition or agreement herein contained and any indulgence granted either expressly or by course of conduct by the Lessor shall be effective only in the specific instance and for the purpose for which it was given and shall be deemed not to be a waiver of any rights and remedies of the Lessor under this Debenture or other document or instrument executed pursuant to this Debenture as a result of any other default or breach hereunder or thereunder.

4.2 Termination: The Lessor covenants and agrees with the Chargor that, upon the Secured Obligations being performed, satisfied and extinguished, this Debenture shall be and become fully ended and terminated and all right, title, interest and benefit of the Chargor in, to, under or in respect of the Charged Premises, assigned by it to, or held by it in trust for, the Lessor hereunder shall automatically revert to the Chargor or its successors or assigns, and all covenants and agreements of the Chargor hereunder shall be at an end and the Lessor, promptly upon the request and at the expense of the Chargor, shall execute such instruments, discharges or re-assignments, return such instruments, certificates and other documents in its possession relating to the Charged Premises and give such notification or assurances as the Chargor may properly require to fully release, discharge and cancel this Debenture in the circumstances.

4.3 Notice: Any demand, notice, consent or other communication to be made or given hereunder shall be given in accordance with the terms of the Participation Agreement.

4.4 Further Assurances: Each party shall, at its own expense, promptly execute and deliver to the other upon request all such other and further documents, agreements, certificates and other instruments in compliance with or accomplishment of their covenants and agreements hereunder or under any document to be delivered pursuant hereto or otherwise necessary to make any recording, file any notice or obtain any consent, all as may be reasonably necessary and appropriate in connection herewith.

4.5 Continuing Security: This Debenture and the rights and remedies it creates are a continuing agreement and security and shall bind the parties until discharge of this Debenture as provided in Section 4.2 hereof. No payment by the Chargor of the whole or any part of any Secured Obligations shall reduce the amount secured hereby unless specifically appropriated to and noted on this Debenture by the Lessor.

4.6 No Marshalling: This Debenture shall be in addition to and not in substitution for any other security which the Lessor may now or hereafter hold in respect of the Secured Obligations and the Lessor shall be under no obligation to marshal in favour of the Chargor, any guarantor, debtor or other lender or holder of security, any monies or other assets which the Lessor may be entitled to receive or upon which the Lessor may have a claim.

4.7 Paramourncy: This Debenture has been entered into pursuant to the provisions of the Participation Agreement and the Lease Agreement and is subject to all of the terms and conditions thereof and, if there is any conflict or inconsistency between the provisions of this Debenture and the provisions of the Participation Agreement and the Lease Agreement, the rights and obligations of the parties will be governed by the provisions of the Participation Agreement and the Lease Agreement, as applicable. Without limiting the generality of the foregoing, by accepting delivery of this Debenture, the Lessor acknowledges and agrees that the sum comprising the principal amount referred to herein and the rate of interest charged and payable thereon and all interest accruing or any other amounts payable and secured hereunder shall be calculated and payable in accordance with the provisions of the Lease Agreement and that this Debenture is issued subject to the terms of the Participation Agreement, the Lease Agreement, the Guarantee and the other Basic Documents as collateral security for the obligations thereunder. This Debenture together with the Participation Agreement, the Lease Agreement and the other Basic Documents cancels and supersedes any prior understandings and agreements between such parties with respect thereto. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory, between the Lessor and the Chargor with respect to the subject matter hereof except as expressly set forth herein and in the Participation Agreement, the Lease Agreement and the other Basic Documents.

4.8 Amendment of Agreement: No supplement, modification, amendment, waiver or termination of this Debenture shall be binding unless executed in writing by all parties hereto. No waiver of any provision of this Debenture shall be deemed or shall constitute a waiver of any other provision of this Debenture (whether or not similar) nor shall any waiver constitute a continuing waiver unless otherwise so expressed or provided.

4.9 Invalidity of Provisions: In case any one or more of the provisions contained in this Debenture should be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby and shall continue in full force and effect, and the parties hereto shall enter into good faith negotiations to replace the invalid, illegal or unenforceable provision. If any provision of this Debenture shall be invalid, illegal or unenforceable in any respect in any jurisdiction, it shall not affect the validity, legality or enforceability of such provision in any other jurisdiction or the validity, legality or enforceability of any other provision of this Debenture.

4.10 Time: Time shall be of the essence in this Debenture.

4.11 Successors and Assigns: This Debenture shall enure to the benefit of, and be binding on, the Chargor and its successors and permitted assigns, and shall enure to the benefit of, and be binding on, the Lessor and its successors and permitted assigns. The Chargor may not assign this Debenture, or any of its rights or obligations under this Debenture. The Lessor may assign this Agreement and any of its rights and obligations hereunder to any Person that replaces it in its

capacity as such in accordance with and subject to the terms and conditions applicable to such assignment as set out in the Participation Agreement. If the Chargor or the Lessor is an individual, then the term “Chargor” or “Lessor”, as applicable, shall also include his or her heirs, administrators and executors.

4.12 Attorney: The Chargor hereby irrevocably nominates, constitutes and appoints the Lessor and each of its officers holding office from time to time as the true and lawful attorney of the Chargor with effect from and after the occurrence of and during the continuance of a Lease Event of Default that has not been waived or cured, with power of substitution in the name of the Chargor to, after the occurrence of and during the continuance of a Lease Event of Default that has not been waived or cured do any and all such acts and things or execute and deliver all such agreements, documents and instruments as the Lessor reasonably considers necessary or desirable to carry out the provisions and purposes of this Debenture or to exercise any of its rights and remedies hereunder and the Chargor hereby ratifies and agrees to ratify all reasonable acts of any such attorney taken or done in accordance with this Section 4.12. Without in any way limiting the generality of the foregoing, the Lessor shall have the right following the occurrence of and during the continuance of a Lease Event of Default that has not been waived or cured to execute for and in the name of the Chargor all financing statements, financing change statements, conveyances, transfers, assignments, consents and other instruments as may be required for such purposes. This power of attorney shall not be revoked or terminated by any act or thing other than the discharge of this Debenture in accordance with Section 4.2.

4.13 Acknowledgement by Chargor: The Chargor acknowledges receipt of a copy of this Debenture, the Lease Agreement and the other Basic Documents and hereby expressly waives the right to receive a copy of any financing statement or a copy of the statement confirming the registration of any financing statement that may be registered in connection with the Security Interests.

4.14 Waiver of Default: The Lessor may by written notice to the Chargor waive any default of the Chargor hereunder on such terms and conditions as the Lessor may determine, but no such waiver shall be taken to affect any subsequent default or the rights resulting therefrom.

4.15 Applicable Laws: This Debenture will be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein (without prejudice to or limitation of any other rights or remedies available to the Lessor under the laws of any jurisdiction where property or assets of the Chargor may be found).


4.16 Attornment: The Chargor irrevocably submits to the non-exclusive jurisdiction of the courts of the Province of Ontario and irrevocably agrees that, at the Lessor’s discretion, any claims, actions or proceedings in respect of this Debenture will be heard and determined in such courts. The Chargor hereby waives, to the fullest extent it may effectively do so, the defence of an inconvenient forum to the maintenance of any such action or proceeding. The foregoing is without prejudice to the rights of the Lessor to, in its discretion, bring claims, actions or proceedings in respect of this Debenture before any other court of competent jurisdiction. The Chargor hereby irrevocably consents to the service of any and all process in such action or proceeding by the delivery of such process to the Chargor at its address provided in accordance with Section 4.3.

4.17 *Land Registration Reform Act*: The implied covenants deemed to be included in a charge under Subsection 7(1) of the *Land Registration Reform Act* (Ontario) are hereby excluded by the terms of this Debenture.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF the Chargor has duly executed this Debenture as of the date first written above.

KAP POWER CORP., as Chargor

By: 
Name: Todd Shortt
Title: President and Chief Executive Officer

By: _____
Name:
Title:

We have authority to bind the above.

SCHEDULE A
KAPUSKASING PROJECT SITE

The properties legally described as:

PIN 65095-0051(LT)

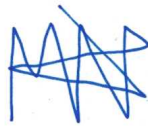
PCL 12700 SEC CC; PT LT 24 CON 11 O'BRIEN PT 2, 6R6749 T/W PT 3, CR548 AS IN C478024; TOWN OF KAPUSKASING

PIN 65095-0052(LT)

PCL 12927 SEC CC; PT LT 23 CON 10 O'BRIEN PT 1, 6R5800 T/W PARTS 1 & 2, 6R6731 AS IN C452347 T/W PT 3, 6R6731 AS IN C451853 T/W PARTS 4 & 5, 6R6731 AS

IN C451851 T/W PARTS 3 TO 7, 6R6749 AS IN C453701 T/W PT 3, CR548 AS IN C478024; TOWN OF KAPUSKASING

THIS IS **EXHIBIT “L”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,
THIS 31st DAY OF JULY, 2023.



Michael Noel

Commissioner for Taking Affidavits

DEMAND DEBENTURE

PRINCIPAL SUM: \$60,000,000

DATE: February 24, 2023

ARTICLE 1

PROMISE TO PAY

1.1 Promise to Pay: KINGSTON COGEN GP INC. (the “**Chargor**”), for value received, hereby acknowledges itself indebted and covenants and promises to pay to or to the order of MACQUARIE EQUIPMENT FINANCE LTD. (the “**Lessor**”), at the address set forth in Section 4.3 or at such other place as the Lessor may designate by notice in writing to the Chargor, ON DEMAND, the aggregate principal amount of SIXTY MILLION DOLLARS (\$60,000,000) and interest thereon, from and including the date hereof (or from and including the last interest payment date to which interest shall have been paid) to and including the date of payment, at a rate of twenty-five per cent (25%) per annum, calculated and compounded monthly on the first day of each month, as well after as before demand and as well after as before default or judgment with interest on overdue interest at the same rate.

This Debenture, *inter alia*, secures payment to the Lessor of all present and future indebtedness, liabilities and obligations of any and every kind, nature and description (whether direct or indirect, joint or several, absolute or contingent, matured or unmatured) of the Chargor to the Lessor under, in connection with or with respect to the Participation Agreement, the Lease Agreement, the Guarantee or any other Basic Document, and any unpaid balance thereof (collectively, the “**Secured Obligations**”).

1.2 Interpretation: In this Debenture, unless there is something in the subject matter or context that is inconsistent therewith, all capitalized terms used herein which are not otherwise defined herein shall have the meanings ascribed thereto in the Participation Agreement or the Lease Agreement, as applicable. In addition, the following terms shall have the following meanings:

“**Account**” has the meaning set out in Section 3.9 hereof.

“**Act**” has the meaning set out in Section 2.1(b) hereof.

“**Charged Premises**” has the meaning set out in Section 2.1 hereof.

“**Chargor**” has the meaning set out in Section 1.1 hereof.

“**Contract**” has the meaning set out in Section 3.9 hereof.

“**Easements**” means all easements, rights-of-way, licenses, privileges and any other rights in the nature of easements necessary for the development, maintenance or operation of the Kingston Project Site and the gas powered power plant and any datacenter installed at the Kingston Project Site.

“**Kingston Project Site**” means those lands and premises described in Schedule A hereto, together with the respective Easements and privileges appurtenant or appertaining thereto.

“**Lease Agreement**” means the amended and restated lease agreement dated as of the date hereof between the Lessor, as lessor, and the Lessee, as lessee.

“**Leases**” means a lease, license, occupancy or tenancy agreement, land use permit or license to occupy Crown lands or binding agreement to lease, license or occupy in respect of any real property necessary for the development, maintenance or operation of the Projects.

“**Lessor**” has the meaning set out in Section 1.1 hereof.

“**Participation Agreement**” means the amended and restated participation agreement dated as of the date hereof among the Lessee, as lessee, and the Lessor, as lessor.

“**Person**” or “**person**” means any natural person, corporation, limited liability company, partnership, firm, association, Government Body or any other entity whether acting in an individual, fiduciary or other capacity.

“**Real Property**” has the meaning set out in Section 2.1(a) hereof.

“**Revenues**” has the meaning set out in Section 2.1(b)(vi) hereof.

“**Secured Obligations**” has the meaning set out in Section 1.1 hereof.

“**Security Interests**” has the meaning set out in Section 2.1 hereof.

ARTICLE 2

SECURITY

2.1 **Security**: As security for the due and timely payment of the Secured Obligations, but subject to this Section 2.1, Section 2.2 hereof and the Permitted Liens, the Chargor:

- (a) grants, conveys, mortgages, charges, pledges, assigns and creates a security interest in (and provided that where the interest of the Chargor in the Kingston Project Site is by way of leasehold, such mortgage and charge is by way of sublease) as and by way of a fixed and specific mortgage, charge, pledge, assignment and security interest to and in favour of the Lessor, all of its right, title, estate and interest (whether freehold or leasehold), present and future, now owned or hereafter acquired, in and to all of its undertaking, property, assets, rights, benefits and privileges, both real and personal, moveable and immovable of whatsoever nature and kind, including without limitation, the following:

- (i) all lands, premises, Easements, and portions of the Kingston Project Site (whether freehold or leasehold) in which the Chargor has any legal or beneficial right, title, interest, claim, privilege, benefit or entitlement, including, without limitation, (x) all rights, leases, subleases, licences, easements, rights-of-way, profits a prendre and interests in real property with respect to the Kingston Project Site (and all renewals, extensions and amendments or substitutions thereof) and all other facilities relating to or required for use in connection with the Kingston Project Site to the extent of any interest therein, and (y) such of the Kingston Project Site may be specifically described in any one or more supplements to this Debenture;
- (ii) all buildings, erections, structures and improvements, underground facilities, power, fuel and water supply, storage, waste disposal, roads and other transportation facilities presently situated on or under the Kingston Project Site or which may at any time hereafter be constructed or brought or placed on or under the Kingston Project Site or used in connection with the Kingston Project Site;
- (iii) all fixed machinery, plant, equipment, apparatus and fittings and other fixtures located on or at the Kingston Project Site; and
- (iv) all interests in any of the foregoing and all benefits and rights to be derived by the Chargor in respect thereof,

(all of the property and rights therein set out in paragraph 2.1(a) being collectively, the “**Real Property**”);

- (b) grants, conveys, mortgages, charges, pledges, assigns and creates a security interest in, as and by way of a fixed and specific mortgage, charge, pledge, assignment and security interest to and in favour of the Lessor, all of its right, title, estate and interest, present and future, in and to any and all personal property in which a security interest can be taken, reserved, created or granted whether under the *Personal Property Security Act* (Ontario) (the “**Act**”), any similar personal property security legislation in any jurisdiction in which any of the Charged Premises is located or otherwise under any statute or law or in equity and which is now or at any time hereafter owned by the Chargor or in which the Chargor now has or at any time hereafter acquires any interest of any nature whatsoever, including, without in any way limiting the generality of the foregoing, the interest of the Chargor in:
 - (i) all materials, supplies, machinery, equipment, fixtures, inventory, vehicles, furniture, tools, accessories and appliances now or hereafter owned or acquired by or on behalf of the Chargor and every interest therein which the Chargor now has or hereafter acquires, wheresoever situate;
 - (ii) all present and future accounts (including, without limitation, cash collateral accounts), accounts receivable, money (including, without limitation, all money in any bank accounts), intangibles, claims, contract rights, demands,

chattel papers, instruments, documents, warehouse receipts, bills of lading, notes and choses in action, together with any and all security therefor, including, without limiting the generality of the foregoing, all present and future mortgages receivable, debentures, bonds, promissory notes, bills of exchange, judgments and book debts, now due or hereafter to become due to or owned by the Chargor, together with all securities, documents, computer disks, tapes, software or records now or hereafter owned by the Chargor and representing or evidencing the said debts, accounts, accounts receivable, claims, contract rights, demands and choses in action and all other rights and benefits in respect thereof;

- (iii) all rights, agreements, licenses, permits, consents, policies, approvals, development agreements, building contracts, performance bonds, purchase orders, plans, patents, trademarks, trade names, copyrights and other industrial and intellectual property, goodwill, know-how, rights to carry on business and specifications presently owned and hereafter acquired by the Chargor in respect of or in any way relating to the development or construction of the Real Property or any part thereof, including, without limitation, all Leases and Easements relating to the Real Property and the Project and all Authorizations;
- (iv) all present and future computer hardware, software, programs and electronically stored data, and all rights, agreements, licences, permits and consents in respect of or in any way relating to such computer hardware, software and programs including, without limitation, all paper cards, magnetic tapes, discs, diskettes, drums or magnetic bubbles and whether permanently installed in hardware or crystallized in firmware, and all codes, passwords and security devices in respect thereof;
- (v) all shares, stocks, warrants, bonds, debentures, debenture stock, partnership interests, joint venture interests or other securities investments now or hereafter owned by the Chargor;
- (vi) all rents, revenues, income, insurance proceeds, expropriation proceeds, other proceeds and other monies to which the Chargor may from time to time be entitled from all sources which pertain to or are derived from the Real Property or any part thereof including, without limitation, all income and proceeds (whether in cash or on credit) received or receivable by or on behalf of the Chargor in respect of the use, occupancy or enjoyment of the Real Property or any part thereof or for the sale of goods or the provision of services on, at or from the Real Property or from judgments, settlements or other resolutions of disputes relating to the ownership, use, construction, development, operation, maintenance or management of the Real Property (collectively, “**Revenues**”); and
- (vii) the benefit of any guarantees or indemnities relating to all or part of the property referred to in paragraph 2.1(b)(vi),

and with respect to paragraphs 2.1(b)(i) to (vii) inclusive, in, to and under all amendments, extensions, renewals, replacements and substitutions of any of the foregoing, all increases, additions and accessions thereto and all rights, remedies, powers, Easements, privileges and claims of the Chargor thereunder (whether arising pursuant thereto or available to the Chargor at law or in equity) including, without limitation, the right of the Chargor to enforce the foregoing and the obligations of the other parties thereto and to give or withhold any and all consents, requests, directions, approvals, extensions and/or waivers thereunder;

- (c) assigns, transfers and sets over unto and in favour of the Lessor, as and by way of a fixed and specific assignment, all of its right, title, estate and interest, present and future, in and to:
 - (i) any agreements relating to the Real Property (including, without limitation, those relating to construction or development on, or operation of, the Real Property and all Leases and Easements relating to the Real Property) or the business, undertaking and operations of the Chargor; and
 - (ii) all amendments, extensions, renewals, replacements and substitutions of any of the property referred to in paragraph 2.1(c)(i) and all benefits, rights, remedies, privileges, claims, powers and advantages of the Chargor to be derived therefrom or thereunder (whether arising pursuant thereto or available to the Chargor at law or in equity) and all covenants, obligations and agreements of the other parties thereto including, without limitation, the right of the Chargor to enforce any of the foregoing and the obligations of the other parties thereto and to give or withhold any and all consents, requests, directions, approvals, extensions and/or waivers thereunder;

- (d) assigns, transfers and sets over unto and in favour of the Lessor, as and by way of a general assignment, all of its right, title, estate and interest present and future, in and to:
 - (i) any and all existing and future Leases, Easements, any agreements relating to the Real Property (including, without limitation, those relating to construction or development on, or operation of, the Real Property) or the business, undertaking and operations of the Chargor and all existing and future leases, sub-leases, easements, sub-easements, rights of way, licenses or concessions whereby any Person is given the right by the Chargor to use or occupy the whole or any part or parts of the Real Property, and all extensions, amendments, restatements, renewals, supplements, replacements and substitutions thereof or therefor which may hereafter be effected or entered into, and all covenants, obligations and agreements of other parties thereunder or in any agreement collateral thereto, including without limitation, the benefit of any right, option or obligation of any Person to acquire any of the Leases, Easements, or an interest therein, to renew or extend any Leases or Easements, to acquire rights in other lands and premises in connection with the Project, and any other collateral

advantage or benefit to be derived from the Leases, Easements, or any of them;

- (ii) all rents and other moneys now due and payable to the Chargor or hereafter to become due and payable to the Chargor under the Leases, Easements, and each guarantee of or indemnity in respect of the obligations of the tenants thereunder with full power to demand, sue for recovery, receive and give receipts for all such rents and other moneys and otherwise to enforce the rights of the Chargor thereto in the name of the Chargor;
 - (iii) all present and future intangibles arising exclusively from or out of the Real Property or any part or parts thereof and the property and assets referred to in subsections 2.1(b) and (c) above including, without limiting the generality of the foregoing, all of its rights, title and interest in all present and future book debts, accounts and other accounts receivable, contract rights and choses in action;
 - (iv) any and all existing or future agreements, contracts, licences, permits, plans and specifications, bonds, letters of credit, letters of guarantee or other documents or instruments relating to the Real Property or any part or parts thereof and all extensions, amendments, renewals or substitutions thereof or therefor which may hereafter be effected or entered into and all benefit, power and advantage of the Chargor to be derived therefrom;
 - (v) any and all existing or future agreements of purchase and sale, options to purchase and mortgage, loan or other financing commitments relating to the Real Property or any part or parts thereof and all proceeds and other moneys now due and payable or hereafter to become due and payable thereunder and all benefit, power and advantage of the Chargor to be derived therefrom; and
 - (vi) the proceeds of any and all existing or future insurance policies pertaining to the Real Property or the property and assets referred to in subsections 2.1(b) and (c) and paragraphs 2.1(d)(i) to (v) inclusive and all proceeds of expropriation or similar taking of the Real Property or any part or parts thereof and all benefit, power and advantage of the Chargor to be derived therefrom provided that all such proceeds shall be held and applied in accordance with the Participation Agreement and the Lease Agreement;
- (e) grants, conveys, mortgages, charges, pledges, assigns and creates a security interest in, as and by way of a fixed and specific mortgage, charge, pledge, assignment and security interest to and in favour of the Lessor, all of its right, title, estate and interest, present and future, in and to all personal property in any form (including money) derived, directly or indirectly, from any dealing with the property referred to in subsections 2.1(a) to (d) inclusive, or proceeds therefrom or that indemnifies or compensates for all or part of such property or proceeds therefrom that is destroyed and damaged; and

- (f) grants, conveys, mortgages, charges, pledges and assigns as and by way of a floating charge to and in favour of the Lessor all of the undertaking, property, assets, rights, entitlements, benefits and privileges, both real and personal, moveable and immovable, of every nature and kind, now or at any time and from time to time hereafter existing and owned by the Chargor (except such property and assets as are validly and effectively subject to any fixed and specific mortgage and charge or assignment, transfer or security interest created hereby) and which in each case is used in relation to or situated on, and which relates to the Real Property;

provided that the said grants, conveyances, mortgages, charges, pledges, transfers, assignments and security interests created pursuant to this Section 2.1 (collectively the “**Security Interests**”) shall not: (i) extend or apply to any personal property which is “consumer goods”, as such term is defined in the Act; or (ii) extend to the last day of the term of any lease, easement or any agreement therefor now held or hereafter acquired by the Chargor, but should such Security Interests become enforceable the Chargor shall thereafter stand possessed of such last day and shall hold it in trust for the Lessor for the purpose of this Debenture and assign and dispose thereof as the Lessor shall, for such purpose, direct. Upon any sale of such leasehold interest, easement or any part thereof, the Lessor, for the purpose of vesting the aforesaid one day residue of such term or renewal thereof in any purchaser or purchasers thereof, shall be entitled by deed or writing to appoint such purchaser or purchasers or any other person or persons as new trustee or trustees of the aforesaid residue of any such term or renewal thereof in the place of the Chargor and to vest the same accordingly in the new trustee or trustees so appointed free and discharged from any obligation respecting the same.

All the undertaking, property and assets mortgaged and charged pursuant to Subsection 2.1(a) and all of the undertaking, property and assets granted, assigned, transferred, mortgaged and charged pursuant to Subsections 2.1(b), (e) and (f) hereof is collectively referred to as the “**mortgaged property**”; all the undertaking, property and assets assigned, transferred and set over pursuant to Subsections 2.1(c) and (d) is collectively referred to as the “**assigned property**”; and the mortgaged property and assigned property is collectively referred to as the “**Charged Premises**”. Wherever used herein in relation to the rights and remedies of the Lessor the terms “**Real Property**”, “**mortgaged property**”, “**assigned property**” and “**Charged Premises**” shall, where the context permits, mean the whole or any part or parts thereof.

TO HAVE AND TO HOLD the Charged Premises and all rights hereby conferred unto the Lessor, its successors and assigns, for the uses and purposes and with the powers and authorities and subject to the terms and conditions set forth herein and in the Participation Agreement and the Lease Agreement.

2.2 Delivery of Instruments, Securities, Etc.: The Chargor shall, upon reasonable request from the Lessor, following the occurrence of and during the continuance of a Lease Event of Default that has not been waived or cured, forthwith deliver to the Lessor to be held by the Lessor hereunder all instruments, securities, letters of credit, advices of credit and negotiable documents of title in its possession or control which pertain to or form part of the Charged Premises, and shall, where appropriate, duly endorse the same for transfer in blank or as the Lessor may in writing direct and shall make all commercially reasonable efforts to deliver forthwith to the Lessor any

and all consents or other instruments or documents necessary to comply with any restrictions on the transfer thereof in order to transfer the same to the Lessor.

2.3 Covenant of the Chargor re Registrations: So long as any of the Secured Obligations shall remain unpaid, the Chargor covenants and agrees with the Lessor that the Chargor will, from time to time at the reasonable request of the Lessor, promptly effect all registrations, filings, recordings and all renewals thereof and all re-registrations, re-filings and re-recordings of or in respect of this Debenture and the Security Interests created hereby in such offices of public record and at such times as may be necessary or of advantage in perfecting, maintaining and protecting the validity, effectiveness and priority hereof and of the Security Interests created hereby; provided that the Lessor may effect all such registrations, filings, recordings, renewals, re-registrations, re-filings and re-recordings from time to time in its sole discretion at the expense of the Chargor.

ARTICLE 3

RIGHTS AND REMEDIES

3.1 Remedies Upon Default: On or after the occurrence and during the continuance of a Lease Event of Default that has not been waived or cured (and for greater clarity, whether or not the Lease Agreement has been rescinded or terminated), in accordance with the provisions of the Participation Agreement or the Lease Agreement, as applicable, the Lessor may do any one or more of the following:

- (a) by written notice to the Chargor, declare the Secured Obligations to be immediately due and payable without the necessity of presentment for payment, or notice of nonpayment and of protest (all of which are hereby expressly waived by the Chargor);
- (b) proceed to exercise any and all rights under this Debenture, the Participation Agreement, the Lease Agreement, any other Basic Document and any other document or instrument executed pursuant to this Debenture or any other rights otherwise available to it whether under this Debenture, the Participation Agreement, the Lease Agreement, any other Basic Document or otherwise, including enforcement of this Debenture;
- (c) take any action or proceeding authorized or permitted by this Debenture, the Participation Agreement, the Lease Agreement, any other Basic Document or by law or equity, and file or cause to be filed on its behalf such proofs of claim and other documents as may be necessary or desirable to have its claims lodged in any bankruptcy, winding-up or other judicial proceeding relative to the Chargor;
- (d) take proceedings in any court of competent jurisdiction for sale or foreclosure of all or any part of the Charged Premises;
- (e) immediately enter upon and take possession of, disable or remove all of the Charged Premises or any part or parts thereof with power, among other things, to exclude the Chargor, to preserve and maintain the Charged Premises and make

additions and replacements thereto, to receive rents, income and profits of all kinds and pay therefrom all reasonable expenses of maintaining, completing, repairing, preserving and protecting and operating the Charged Premises and all charges, payment of which may be necessary to preserve or protect the Charged Premises, and enjoy and exercise all powers necessary to the performance of all functions made necessary or advisable by possession, including, without limitation, power to advance its own moneys at the rate of interest provided for in the Lease Agreement, the Participation Agreement or any other Basic Document and enter into contracts and undertake obligations for the foregoing purposes upon the security hereof;

- (f) whether or not the Lessor has taken possession of the Charged Premises or any of it, sell, lease or otherwise dispose thereof, either as a whole or in separate parcels, at public auction, by public tender or by private sale, with only such notice as may be required by law, either for cash or upon credit, at such time and upon such terms and conditions as the Lessor may determine (including a term that a reasonable commission shall be payable to the Lessor or any related corporation in respect thereof) and enter into, rescind or vary any contract for the sale, lease or other disposition of any of the Charged Premises and sell, lease or dispose thereof and the Lessor may execute and deliver to any purchaser of the Charged Premises or any part thereof good and sufficient deeds and documents for the same;
- (g) require the Chargor, at the Chargor's expense, to assemble the Charged Premises at a place or places reasonably designated by notice in writing given by the Lessor to the Chargor, and the Chargor agrees to so assemble the Charged Premises;
- (h) require the Chargor, by notice in writing given by the Lessor to the Chargor, to disclose to the Lessor the location or locations of the Charged Premises and the Chargor agrees to make such disclosure when so required by the Lessor;
- (i) carry on all or any part of the business or businesses of the Chargor relating to the Real Property and, to the exclusion of all others including the Chargor, enter upon, occupy and, subject to any requirements of law and subject to the Leases, Easements or other agreements then in place, use all or any of the Charged Premises, premises, buildings, plant, undertaking, assets and other property comprising the Charged Premises for such time and in such manner as the Lessor sees fit, free of charge and, except to the extent required by law, the Lessor shall not be liable to the Chargor for any act or omission (other than for gross negligence or wilful misconduct) in so doing or for any rent, charges, depreciation or damages or other amounts incurred in connection therewith or resulting therefrom;
- (j) borrow money for the purpose of carrying on the business of the Chargor relating to the Charged Premises or for the maintenance, preservation or protection of the Charged Premises and mortgage, charge, pledge or grant a security interest in the Charged Premises, whether or not in priority to the Security Interests to secure repayment of any money so borrowed;

- (k) send or employ inspectors or agents to inspect, audit and report upon the value, state and condition of the Charged Premises;
- (l) pay any encumbrance, lien, claim or charge that validly exists or has been threatened against any of the Charged Premises and any amounts determined to be validly existing shall, when so paid, together with any costs, charges and expenses incurred by the Lessor (including, without limitation, legal fees and disbursements on a substantial indemnity basis), be added to the Secured Obligations and shall bear interest at the rate of interest provided for in the Lease Agreement;
- (m) take proceedings in any court of competent jurisdiction to enforce payment by the Chargor of the Secured Obligations or any deficiency remaining upon application of proceeds of realization which are actually received by the Lessor;
- (n) exercise or pursue any other remedy or proceeding authorized or permitted hereby or by the Act or any similar personal property security legislation or by any other legislation in any jurisdiction in which any of the Charged Premises is located or otherwise permitted by law or equity; and
- (o) with or without entry into possession of the Charged Premises, or any part thereof, appoint a receiver (which term shall include a receiver and manager) of the Charged Premises or any part thereof and of the rents and profits thereof pursuant to and in accordance with the provisions of the Lease Agreement, the Participation Agreement and this Debenture and with or without security for the performance of the receiver's obligations and from time to time remove any receiver and appoint another in its stead. Upon the appointment of any such receiver or receivers from time to time, subject to Applicable Laws, the following provisions shall apply:
 - (i) every such receiver shall be the irrevocable agent of the Chargor for all purposes with respect to the Charged Premises including, without limitation, for the collection of all Revenues owing or earned in respect of the Real Property or any part thereof;
 - (ii) every such receiver may, in the discretion of the Lessor, be vested with all or any of the powers and discretion of the Lessor under this Debenture, the Participation Agreement and the Lease Agreement, including, without limitation, the power to carry on all or any part of the business of the Chargor relating to the Real Property and to sell, lease or otherwise dispose of the Charged Premises, either as a whole or in separate parcels, at public auction, by public tender or by private sale, with only such notice as may be required by Applicable Laws, either for cash or on credit, at such time and upon such terms and conditions as the receiver may determine (including a term that a reasonable commission shall be payable to the receiver, or any related corporation in respect thereof) and enter into, rescind or vary any contract for the sale, lease or other disposition of any of the Charged Premises and sell, lease or dispose thereof again without being answerable for any loss occasioned thereby (other than for its gross

negligence and wilful misconduct) and the receiver may execute and deliver to any purchaser of the Charged Premises or any part thereof good and sufficient deeds and documents for the same and such receiver shall also have the power to take proceedings in any court of competent jurisdiction for sale or foreclosure of all or any part of the Charged Premises;

- (iii) the Lessor may from time to time fix the reasonable remuneration of every such receiver and every such receiver shall be entitled to deduct the same out of the income from the Charged Premises or the proceeds of disposition of the Charged Premises;
- (iv) the appointment of every such receiver by the Lessor shall not, to the extent permitted by law, incur or create any liability on the part of the Lessor to the receiver in any respect and such appointment or anything which may be done by any such receiver or the removal of any such receiver or the termination of any such receivership shall not have the effect of constituting the Lessor a mortgagee in possession in respect of the Real Property or any part thereof;
- (v) subject to the provisions of the Leases and Easements, every such receiver shall, from time to time, have the power to lease or otherwise deal with any portion of the Real Property which may become vacant or available for lease on such terms and conditions as such receiver may deem advisable and shall have full power to complete any unfinished construction upon the Real Property (such power of the receiver to include, without limitation, the power to borrow funds in the name of and on the credit of the Chargor for such purposes, which borrowings may be secured by the Charged Premises, or any part thereof, and which security shall have such priority as the receiver deems appropriate);
- (vi) subject to the provisions of the Leases and Easements, every such receiver shall have full power to fully manage, develop, operate, lease, deal with agreements and the Leases and Easements, construct, complete, repair, renovate or alter the Real Property or the Project or any part thereof on behalf of the Chargor and to take all such actions as are required in the exercise of such powers including, without limitation, entering into, amending and terminating such contracts and other agreements relating to the Charged Premises as are necessary or advisable, in the opinion of the receiver, and the entering into, renewal, amendment, supplement or termination of any agreements and the Leases and Easements as the receiver may deem appropriate in its sole and absolute discretion; the aforementioned power shall include the power to borrow money in the name of and on the credit of the Chargor for all such purposes (which borrowings may be secured by the Charged Premises, or any part thereof, and which security shall have such priority as the receiver deems appropriate);

(vii) no such receiver shall be liable to the Chargor to account for monies other than monies actually received by or in respect of the Charged Premises or any part thereof and out of such monies so received, every such receiver shall, subject to the further direction of the Lessor, in the following order pay:

(A) his reasonable remuneration aforesaid;

(B) all payments made or incurred by him in connection with the management, operation, construction, completion, repair or alteration of the Charged Premises or any part thereof in accordance with the provisions thereof,

(C) all payments of interest, principal and other money which may, from time to time, be or become charged upon the Charged Premises in priority to this Debenture, the Participation Agreement or the Lease Agreement and all taxes, insurance premiums and every other proper expenditure made or incurred by him in respect of the Charged Premises or any part thereof and in payment of all interest, fees and other similar amounts due or falling due hereunder and the balance to be applied upon the Secured Obligations; and

(D) at the discretion of the receiver, interest, principal and other monies which may from time to time constitute an encumbrance on the Charged Premises subsequent or subordinate to this Debenture, the Participation Agreement or the Lease Agreement;

and every receiver may in its discretion retain reasonable reserves to pay accruing amounts and anticipated payments in connection with any of the foregoing; and any surplus remaining in the hands of every such receiver after payments made as aforesaid shall be accountable to the Chargor and upon termination of the receivership such receiver shall pay such surplus to the Chargor or pay it into court, as the receiver may elect;

(viii) the Lessor may at any time and from time to time terminate any such receivership by notice in writing to the Chargor and to any such receiver; and

(ix) the receiver may carry out all actions and do all things that the Lessor may do under this Debenture, the Participation Agreement and the Lease Agreement as if it were the Lessor (it being agreed that such powers are not in any way limited by the foregoing provisions of this Subsection 3.1(o)).

3.2 Sale of Charged Premises: The Chargor agrees that any sale referred to in Section 3.1 may be either a sale of all or any portion of the Charged Premises and may be by way of public auction, public tender, private contract or otherwise without notice, advertisement or any other formality, except as required by law, all of which the Chargor waives to the extent permitted by law. To the extent not prohibited by law, any such sale may be made with or without any special condition as to the upset price, reserve bid, title or evidence of title or other matter and from time to time as the

Lessor, acting reasonably, thinks fit with power to vary or rescind any such sale or buy in at any public sale and resell. The Lessor may sell the Charged Premises for a consideration payable by instalments either with or without taking security for the payment of such instalments and may make and deliver to any purchaser thereof good and sufficient deeds, assurances and conveyances of the Charged Premises and give receipts for the purchase money, and any such sale shall be a perpetual bar, both at law and in equity, against the Chargor and all those claiming an interest in the Charged Premises by, from, through or under the Chargor.

3.3 References to the Lessor Include Receiver: For the purposes of Sections 3.2, 3.4, 3.7, 3.8, 3.10 and 3.11, a reference to the Lessor shall, where the context permits, include any receiver or receiver and manager or other agent on behalf of the Lessor appointed in accordance herewith.

3.4 Chargor's Rights: Notwithstanding anything to the contrary contained in this Debenture but subject to the terms of the Basic Documents, until the Security Interests shall become and remain enforceable, the Chargor shall be entitled to deal with the Charged Premises and enforce, use and enjoy all of the benefits, advantages and powers thereunder as if this Debenture had not been made. Upon the Security Interests becoming and remaining enforceable, the Lessor may, but shall not be obligated to, exercise all rights, powers, authority and discretions of the Chargor in respect of the Charged Premises in its place and stead.

3.5 Judgment: Neither the taking of any judgment nor the exercise of any power of seizure or sale shall operate to extinguish the liabilities of the Chargor to make payment of the principal hereby secured or interest thereon or other moneys owing hereunder nor shall such operate as a merger of any covenant or affect the right of the Lessor to interest at the rate hereinbefore specified and any judgment shall bear interest at such rate.

3.6 Interest: If any amount payable to the Lessor under this Debenture is not paid when due, the Chargor will pay to the Lessor, immediately on demand, interest on such amount from the date due until paid, at an annual rate equal to the rate of interest provided for in the Lease Agreement. All amounts payable by the Chargor to the Lessor under this Debenture, and all interest on all such amounts will form part of the Secured Obligations and will be secured by the Security Interests.

3.7 Charge as Security:

(1) It is expressly acknowledged and agreed that nothing herein contained shall obligate the Lessor to assume or perform any obligation of the Chargor to any third party in respect of or arising out of any of the Charged Premises. The Lessor may, however, only after the occurrence of and during the continuance of a Lease Event of Default that has not been waived or cured, at its option, assume or perform any such obligations as the Lessor considers necessary or desirable to obtain the benefit of the Charged Premises free of any set-off, deduction or abatement and any money expended by the Lessor in this regard shall form part of and shall be deemed to form part of the Secured Obligations and bear interest at the rate equal to the rate of interest plus the default rate (if any) provided for in the Lease Agreement.

(2) The exercise by the Lessor of its rights under this Debenture or the assumption after the occurrence of and during the continuance of a Lease Event of Default that has not been waived or cured, of certain obligations of the Chargor as referred to in Subsection 3.7(1) shall not

constitute or have the effect of making the Lessor a mortgagee in possession. Care, control and management of the Charged Premises shall remain and shall be deemed to be with the Chargor in the absence of clear and unequivocal action by the Lessor depriving the Chargor of such care, control and management and the assumption thereof by the Lessor.

3.8 Limitations on Lessor's Liability: Except as otherwise provided by law or this Debenture, the Lessor will not be liable to the Chargor or any other Person for any failure or delay in exercising any of the rights of the Lessor under this Debenture (including any failure to take possession of, collect, sell, lease or otherwise dispose of any Charged Premises, or to preserve rights against prior parties). Neither the Lessor, nor any receiver or agent of the Lessor is required to take, or will have any liability for any failure to take or delay in taking, any steps necessary or advisable to preserve rights against other Persons under any Charged Premises in its possession. Neither the Lessor nor any receiver or agent will be liable for any, and the Chargor will bear the full risk of all, loss or damage to any and all of the Charged Premises (including any Charged Premises in the possession of the Lessor or any receiver or agent) caused for any reason other than if such loss or damage is due to the gross negligence or wilful misconduct of the Lessor or any receiver appointed by the Lessor.

3.9 Chargor Remains Liable under Accounts and Contracts: Notwithstanding any provision of this Debenture, the Chargor will remain liable under each of the agreements, contracts, Leases, Easements, material agreements, and other documents comprising the Charged Premises (each a "**Contract**") to pay and satisfy all indebtedness, liabilities and other monetary obligations and to observe and perform all the conditions and obligations which are to be paid, satisfied, observed and performed by the Chargor thereunder, all in accordance with the terms of each such Contract. The Lessor will have no obligation or liability under any account or monetary obligation (an "**Account**") (or any Contract giving rise thereto) or Contract by reason of or arising out of this Debenture or the receipt by the Lessor of any payment relating to such Account or Contract pursuant hereto, and in particular (but without limitation), the Lessor will not be obligated in any manner to perform any of the obligations of the Chargor under or pursuant to any Account (or any Contract giving rise thereto) or under or pursuant to any Contract, to make any payment, to make any inquiry as to the nature or the sufficiency of any payment received by it or as to the sufficiency of any performance by any party under any Account (or any Contract giving rise thereto) or under any Contract, to present or file any claim, to take any action to enforce any performance or to collect the payment of any amounts which may have been assigned to it or to which it may be entitled at any time.

3.10 Dealings by Lessor: The Lessor will not be obliged to exhaust its recourse against the Chargor or any other Person or against any other security it may hold in respect of the Secured Obligations before realizing upon or otherwise dealing with the Charged Premises in such manner as the Lessor may consider desirable. The Lessor may grant extensions of time and other indulgences, take and give up security, accept compositions, grant releases and discharges and otherwise deal with the Chargor and any other Person following the occurrence of and during the continuance of a Lease Event of Default that has not been waived or cured, and with any or all of the Charged Premises, and with other security and sureties, as the Lessor may see fit, all without prejudice to the Secured Obligations or to the rights and remedies of the Lessor under this Debenture, the Participation Agreement or the Lease Agreement. The powers conferred on the

Lessor under this Debenture are solely to protect the interests of the Lessor in the Charged Premises and will not impose any duty upon the Lessor to exercise any such powers.

3.11 Possession of Charged Premises: Where any Charged Premises is in the possession of the Lessor or any receiver or agent:

- (a) the Lessor shall only have the duty of care with respect to such Charged Premises as would a reasonable and prudent owner, including the duty to use reasonable care in the custody and preservation thereof, provided that the Lessor need not take any steps of any nature to defend or preserve the rights of the Chargor therein against the claims or demands of others or to preserve rights therein against prior parties;
- (b) the Lessor may, at any time following the occurrence of and during the continuance of a Lease Event of Default that has not been waived or cured, grant or otherwise create a security interest in such Charged Premises upon any terms provided that such terms do not impair the Chargor's right to redeem such Charged Premises; and
- (c) the Lessor may, at any time following the occurrence of and during the continuance of a Lease Event of Default that has not been waived or cured, use such Charged Premises in any manner and to such extent as it deems necessary or desirable.

3.12 After Acquired Property: The Chargor covenants and agrees that, if and to the extent that any of its respective rights, titles, estates and interests in any of the Charged Premises is not acquired until after delivery of this Debenture, this Debenture shall nonetheless apply thereto and the security interest of the Lessor hereby created shall attach to such Charged Premises at the same time as the Chargor acquires rights therein, without the necessity of any further mortgage, charge, pledge, assignment or assurance and thereafter such Charged Premises shall be subject to the security interests created hereby in accordance with the provisions of Section 2.1 hereof.

3.13 Attachment: The Chargor hereby acknowledges and agrees that value has been given for the granting of the Security Interests and that there is no agreement between the Chargor and the Lessor, express or implied, to postpone the attachment of the Security Interests except in respect of after-acquired property forming part of the Charged Premises, with respect to which the Security Interests shall attach at the same time as the Chargor acquires rights therein or thereto.

3.14 No Greater Amount: Neither the Lessor nor any subsequent holder of this Debenture may, at any time, claim any greater amount in respect of the principal amount of this Debenture than the aggregate amount of the Secured Obligations outstanding at that time. Payment to the Lessor of interest for any period in respect of the Secured Obligations in accordance with the Basic Documents is deemed to be payment in satisfaction of the interest payment for the same period under this Debenture.

3.15 Application of Proceeds: All monies collected by the Lessor upon the enforcement of the Lessor's rights and remedies under this Debenture, including any sale or other disposition of this Debenture or all or any portion of the Charged Premises, together with all monies received by the Lessor under this Debenture, will be applied as provided in the Lease Agreement and the Participation Agreement.

ARTICLE 4

GENERAL PROVISIONS

4.1 **Remedies Cumulative and Waivers:** For greater certainty, it is expressly understood and agreed that the rights and remedies of the Lessor hereunder or under any other document or instrument executed pursuant to this Debenture are cumulative and are in addition to and not in substitution for any rights or remedies provided by law or by equity; and any single or partial exercise by the Lessor of any right or remedy for a default or breach of any term, covenant, condition or agreement contained in this Debenture or other document or instrument executed pursuant to this Debenture, the Participation Agreement, the Lease Agreement or any other Basic Document shall not be deemed to be a waiver of or to alter, affect or prejudice any other right or remedy or other rights or remedies to which the Lessor may be lawfully entitled for such default or breach. Any waiver by the Lessor of the strict observance, performance or compliance with any term, covenant, condition or agreement herein contained and any indulgence granted either expressly or by course of conduct by the Lessor shall be effective only in the specific instance and for the purpose for which it was given and shall be deemed not to be a waiver of any rights and remedies of the Lessor under this Debenture or other document or instrument executed pursuant to this Debenture as a result of any other default or breach hereunder or thereunder.

4.2 **Termination:** The Lessor covenants and agrees with the Chargor that, upon the Secured Obligations being performed, satisfied and extinguished, this Debenture shall be and become fully ended and terminated and all right, title, interest and benefit of the Chargor in, to, under or in respect of the Charged Premises, assigned by it to, or held by it in trust for, the Lessor hereunder shall automatically revert to the Chargor or its successors or assigns, and all covenants and agreements of the Chargor hereunder shall be at an end and the Lessor, promptly upon the request and at the expense of the Chargor, shall execute such instruments, discharges or re-assignments, return such instruments, certificates and other documents in its possession relating to the Charged Premises and give such notification or assurances as the Chargor may properly require to fully release, discharge and cancel this Debenture in the circumstances.

4.3 **Notice:** Any demand, notice, consent or other communication to be made or given hereunder shall be given in accordance with the terms of the Participation Agreement.

4.4 **Further Assurances:** Each party shall, at its own expense, promptly execute and deliver to the other upon request all such other and further documents, agreements, certificates and other instruments in compliance with or accomplishment of their covenants and agreements hereunder or under any document to be delivered pursuant hereto or otherwise necessary to make any recording, file any notice or obtain any consent, all as may be reasonably necessary and appropriate in connection herewith.

4.5 **Continuing Security:** This Debenture and the rights and remedies it creates are a continuing agreement and security and shall bind the parties until discharge of this Debenture as provided in Section 4.2 hereof. No payment by the Chargor of the whole or any part of any Secured Obligations shall reduce the amount secured hereby unless specifically appropriated to and noted on this Debenture by the Lessor.

4.6 No Marshalling: This Debenture shall be in addition to and not in substitution for any other security which the Lessor may now or hereafter hold in respect of the Secured Obligations and the Lessor shall be under no obligation to marshal in favour of the Chargor, any guarantor, debtor or other lender or holder of security, any monies or other assets which the Lessor may be entitled to receive or upon which the Lessor may have a claim.

4.7 Paramountcy: This Debenture has been entered into pursuant to the provisions of the Participation Agreement and the Lease Agreement and is subject to all of the terms and conditions thereof and, if there is any conflict or inconsistency between the provisions of this Debenture and the provisions of the Participation Agreement and the Lease Agreement, the rights and obligations of the parties will be governed by the provisions of the Participation Agreement and the Lease Agreement, as applicable. Without limiting the generality of the foregoing, by accepting delivery of this Debenture, the Lessor acknowledges and agrees that the sum comprising the principal amount referred to herein and the rate of interest charged and payable thereon and all interest accruing or any other amounts payable and secured hereunder shall be calculated and payable in accordance with the provisions of the Lease Agreement and that this Debenture is issued subject to the terms of the Participation Agreement, the Lease Agreement, the Guarantee and the other Basic Documents as collateral security for the obligations thereunder. This Debenture together with the Participation Agreement, the Lease Agreement and the other Basic Documents cancels and supersedes any prior understandings and agreements between such parties with respect thereto. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory, between the Lessor and the Chargor with respect to the subject matter hereof except as expressly set forth herein and in the Participation Agreement, the Lease Agreement and the other Basic Documents.

4.8 Amendment of Agreement: No supplement, modification, amendment, waiver or termination of this Debenture shall be binding unless executed in writing by all parties hereto. No waiver of any provision of this Debenture shall be deemed or shall constitute a waiver of any other provision of this Debenture (whether or not similar) nor shall any waiver constitute a continuing waiver unless otherwise so expressed or provided.

4.9 Invalidity of Provisions: In case any one or more of the provisions contained in this Debenture should be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby and shall continue in full force and effect, and the parties hereto shall enter into good faith negotiations to replace the invalid, illegal or unenforceable provision. If any provision of this Debenture shall be invalid, illegal or unenforceable in any respect in any jurisdiction, it shall not affect the validity, legality or enforceability of such provision in any other jurisdiction or the validity, legality or enforceability of any other provision of this Debenture.

4.10 Time: Time shall be of the essence in this Debenture.

4.11 Successors and Assigns: This Debenture shall enure to the benefit of, and be binding on, the Chargor and its successors and permitted assigns, and shall enure to the benefit of, and be binding on, the Lessor and its successors and permitted assigns. The Chargor may not assign this Debenture, or any of its rights or obligations under this Debenture. The Lessor may assign this Agreement and any of its rights and obligations hereunder to any Person that replaces it in its

capacity as such in accordance with and subject to the terms and conditions applicable to such assignment as set out in the Participation Agreement. If the Chargor or the Lessor is an individual, then the term “Chargor” or “Lessor”, as applicable, shall also include his or her heirs, administrators and executors.

4.12 Attorney: The Chargor hereby irrevocably nominates, constitutes and appoints the Lessor and each of its officers holding office from time to time as the true and lawful attorney of the Chargor with effect from and after the occurrence of and during the continuance of a Lease Event of Default that has not been waived or cured, with power of substitution in the name of the Chargor to, after the occurrence of and during the continuance of a Lease Event of Default that has not been waived or cured do any and all such acts and things or execute and deliver all such agreements, documents and instruments as the Lessor reasonably considers necessary or desirable to carry out the provisions and purposes of this Debenture or to exercise any of its rights and remedies hereunder and the Chargor hereby ratifies and agrees to ratify all reasonable acts of any such attorney taken or done in accordance with this Section 4.12. Without in any way limiting the generality of the foregoing, the Lessor shall have the right following the occurrence of and during the continuance of a Lease Event of Default that has not been waived or cured to execute for and in the name of the Chargor all financing statements, financing change statements, conveyances, transfers, assignments, consents and other instruments as may be required for such purposes. This power of attorney shall not be revoked or terminated by any act or thing other than the discharge of this Debenture in accordance with Section 4.2.

4.13 Acknowledgement by Chargor: The Chargor acknowledges receipt of a copy of this Debenture, the Lease Agreement and the other Basic Documents and hereby expressly waives the right to receive a copy of any financing statement or a copy of the statement confirming the registration of any financing statement that may be registered in connection with the Security Interests.

4.14 Waiver of Default: The Lessor may by written notice to the Chargor waive any default of the Chargor hereunder on such terms and conditions as the Lessor may determine, but no such waiver shall be taken to affect any subsequent default or the rights resulting therefrom.

4.15 Applicable Laws: This Debenture will be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein (without prejudice to or limitation of any other rights or remedies available to the Lessor under the laws of any jurisdiction where property or assets of the Chargor may be found).

4.16 Attornment: The Chargor irrevocably submits to the non-exclusive jurisdiction of the courts of the Province of Ontario and irrevocably agrees that, at the Lessor’s discretion, any claims, actions or proceedings in respect of this Debenture will be heard and determined in such courts. The Chargor hereby waives, to the fullest extent it may effectively do so, the defence of an inconvenient forum to the maintenance of any such action or proceeding. The foregoing is without prejudice to the rights of the Lessor to, in its discretion, bring claims, actions or proceedings in respect of this Debenture before any other court of competent jurisdiction. The Chargor hereby irrevocably consents to the service of any and all process in such action or proceeding by the delivery of such process to the Chargor at its address provided in accordance with Section 4.3.

4.17 *Land Registration Reform Act*: The implied covenants deemed to be included in a charge under Subsection 7(1) of the *Land Registration Reform Act* (Ontario) are hereby excluded by the terms of this Debenture.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF the Chargor has duly executed this Debenture as of the date first written above.

KINGSTON COGEN GP INC. , as Chargor

By: 

Name: Todd Shortt
Title: President and CEO

By: 

Name: Shelley Goertz
Title: Secretary and CFO

We have authority to bind the above.

SCHEDULE A
KINGSTON PROJECT SITE

The properties legally described as:

Fee Simple/Owned Lands:

1. **PIN 45132-0375(LT) (Registered Owner: Kingston CoGen GP Inc.)**
PT LT 23 CON 1 ERNESTOWN PT 1 29R6737,; TOGETHER WITH AN EASEMENT AS IN LA69824; TOGETHER WITH AN EASEMENT AS IN LA208637; TOGETHER WITH AN EASEMENT AS IN LA208644; TOGETHER WITH AN EASEMENT AS IN LA210426; TOGETHER WITH AN EASEMENT AS IN LA210734; TOGETHER WITH AN EASEMENT AS IN LA210736; TOGETHER WITH AN EASEMENT AS IN LA210738; TOGETHER WITH AN EASEMENT OVER PTS 1 - 49 29R9849 UNTIL 2025/12/31 AS IN LX37160; TOGETHER WITH AN EASEMENT OVER PTS 1,3,4 29R6966 UNTIL 2025/12/31 AS IN LX37161; TOGETHER WITH AN EASEMENT OVER PTS 1 - 50 29R9850 UNTIL 2025/12/31 AS IN LX37162; TOGETHER WITH AN EASEMENT OVER PTS 1 - 11 29R9845 UNTIL 2030/12/31 AS IN LX37163; TOGETHER WITH AN EASEMENT OVER PTS 1 - 71 29R9851 UNTIL 2025/12/31 AS IN LX37164; TOGETHER WITH AN EASEMENT OVER PTS 1 - 14 29R9846 UNTIL 2025/12/31 AS IN LX37165; TOGETHER WITH AN EASEMENT OVER PTS 1 - 16 29R9847 AS IN LX37166; TOGETHER WITH AN EASEMENT OVER PTS 1 - 7 29R6860, PTS 1 & 2 29R7373, PTS 1 - 13 29R7650 AS IN LX37167; LOYALIST TOWNSHIP

Leasehold Lands:

1. **PIN 45132-0377(LT)(Leasehold PIN – Registered Owner: Kingston CoGen GP Inc.)**
PT LT 24 CON BROKEN FRONT ERNESTOWN, PTS 1 TO 12 29R9843; T/W LA69824;; TOGETHER WITH AN EASEMENT OVER PTS 1 - 49 29R9849 UNTIL 2025/12/31 AS IN LX37160; TOGETHER WITH AN EASEMENT OVER PTS 1,3,4 29R6966 UNTIL 2025/12/31 AS IN LX37161; TOGETHER WITH AN EASEMENT OVER PTS 1 - 50 29R9850 UNTIL 2025/12/31 AS IN LX37162; TOGETHER WITH AN EASEMENT OVER PTS 1 - 11 29R9845 UNTIL 2030/12/31 AS IN LX37163; TOGETHER WITH AN EASEMENT OVER PTS 1 – 4 29R9844 AS IN LX37168; TOGETHER WITH AN EASEMENT OVER PTS 1 - 12 29R9843 AS IN LX37169; SUBJECT TO AN EASEMENT OVER PTS 1 - 12 29R9843 IN FAVOUR OF LA285539 (PARCELS 1,2,3); EXCEPT PTS 1 - 12 29R9843 & LA285539 (PARCEL 4) AS IN LX37170; LOYALIST TOWNSHIP
 - a. Pursuant to Instrument No. LX36982 registered September 28, 2011 being a Notice of Lease over PART OF LOT 24, BROKEN FRONT CONCESSION ERNESTOWN, DESIGNATED AS PARTS 1 TO 12, PLAN 29R9843; LOYALIST TOWNSHIP, COUNTY OF LENNOX AND ADDINGTON registered against Fee Simple PIN 45132-0378(LT)

Sublease Interest:

1. **PIN 45132-0362(LT) (Registered Owner: Invista (Canada) Company**
LOC. CL14116, BEING PT OF THE BED OF LAKE ONTARIO IN FRONT OF LT 24,
BROKEN FRONT CON. ERNESTOWN, PT 1 29R9227; LOYALIST
 - a. Pursuant to Instrument No.LX37609 registered on October 26, 2011 being an Application General (Sublease).

Easement Interests:

1. **Part of PIN 45132-0379(LT) – (Registered Owner: Invista (Canada) Company**
 - a. Instrument No. LX37160 registered October 4, 2011 being a Fire Water Line over PARTS OF LOTS 23, 24 AND 25, CONCESSION 1 ERNESTOWN; PART OF LOT 24, BROKEN FRONT CONCESSION ERNESTOWN; PART OF THE ROAD ALLOWANCE BETWEEN SAID CONCESSION 1 AND THE BROKEN FRONT CONCESSION (CLOSED BY BY-LAW 322-1966 REGISTERED AS LA45719) ERNESTOWN, DESIGNATED AS PARTS 1 TO 49, PLAN 29R9849; LOYALIST TOWNSHIP, COUNTY OF LENNOX AND ADDINGTON
 - b. Instrument No. LX37161 registered October 4, 2011 being the Process Waste Water Easement over PARTS OF LOTS 23 AND 24, CONCESSION 1 ERNESTOWN; PART OF LOT 24, BROKEN FRONT CONCESSION ERNESTOWN; PART OF THE ROAD ALLOWANCE BETWEEN SAID CONCESSION 1 AND THE BROKEN FRONT CONCESSION (CLOSED BY BY- LAW 322-1966 REGISTERED AS LA45719) ERNESTOWN, DESIGNATED AS PARTS 1, 3 AND 4, PLAN 29R6966, AND PARTS 1 TO 26, PLAN 29R9848; LOYALIST TOWNSHIP, COUNTY OF LENNOX AND ADDINGTON
 - c. Instrument No. LX37162 registered October 4, 2011 being an Additional Transmission Line Easement over PARTS OF LOTS 23 AND 24, CONCESSION 1 ERNESTOWN; PART OF LOT 24, BROKEN FRONT CONCESSION ERNESTOWN; PART OF THE ROAD ALLOWANCE BETWEEN SAID CONCESSION 1 AND THE BROKEN FRONT CONCESSION (CLOSED BY BY-LAW 322-1966 REGISTERED AS LA45719) ERNESTOWN, LOYALIST TOWNSHIP, COUNTY OF LENNOX AND ADDINGTON DESIGNATED AS:
Firstly: PARTS 1 TO 17, PLAN 29R9850 [115kv electricity transmissions lines]
Secondly: PARTS 17 TO 26, 39 TO 45, AND 47 TO 50, PLAN 29R9850 [13.8kv electricity transmissions lines]
Thirdly: PARTS 26 TO 38, AND 46 TO 50, PLAN 29R9850 [electrical and/or telemetry lines]
 - d. Instrument No. LX37163 registered October 4, 2011 being a Corridor Easement over PARTS OF LOTS 23 AND 24, CONCESSION 1 ERNESTOWN; PART OF LOT 24, BROKEN FRONT CONCESSION ERNESTOWN; PART OF THE ROAD ALLOWANCE BETWEEN SAID CONCESSION 1 AND THE BROKEN FRONT CONCESSION (CLOSED BY BY- LAW 322-1966 REGISTERED AS LA45719)

ERNESTOWN, DESIGNATED AS PARTS 1 TO 11, PLAN 29R9845; LOYALIST TOWNSHIP, COUNTY OF LENNOX AND ADDINGTON

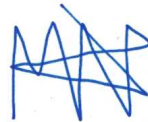
- e. Instrument No. LX37164 registered October 4, 2011 being a Maintenance Easement over PARTS OF LOTS 23, 24 AND 25, CONCESSION 1 ERNESTOWN; PART OF LOT 25, BROKEN FRONT CONCESSION ERNESTOWN; PART OF THE ROAD ALLOWANCE BETWEEN SAID CONCESSION 1 AND THE BROKEN FRONT CONCESSION (CLOSED BY BY-LAW 322-1966 REGISTERED AS LA45719) ERNESTOWN, DESIGNATED AS PARTS 1 TO 71, PLAN 29R9851; LOYALIST TOWNSHIP, COUNTY OF LENNOX AND ADDINGTON
- f. Instrument No. LX37165 registered October 4, 2011 being a Stormwater Line Easement over PARTS OF LOTS 23 AND 24, CONCESSION 1 ERNESTOWN, DESIGNATED AS PARTS 1 TO 14, PLAN 29R9846; LOYALIST TOWNSHIP, COUNTY OF LENNOX AND ADDINGTON
- g. Instrument No. LX37166 registered October 4, 2011 being the Taylor-Kidd Utilities Easement over PARTS OF LOTS 23 AND 24, CONCESSION 1 ERNESTOWN, DESIGNATED AS PARTS 1 TO 16, PLAN 29R9847; LOYALIST TOWNSHIP, COUNTY OF LENNOX AND ADDINGTON
- h. Instrument No. LX37167 registered October 4, 2011 being a Transmission Line Easement over PARTS OF LOTS 23, 24 AND 25, CONCESSION 1 ERNESTOWN, LOYALIST TOWNSHIP, COUNTY OF LENNOX AND ADDINGTON, DESIGNATED AS:
Firstly: PARTS 1, 3, 4, 5 AND 6, PLAN 29R6860, AND PART 2, PLAN 29R7373 [Main Easement]
Secondly: PARTS 2 AND 7, PLAN 29R6860, PART 1, PLAN 29R7373 [Air Easement]
Thirdly: PARTS 1 TO 13, PLAN 29R7650 [Back-up Power]
- i. Instrument No. LX37168 registered October 4, 2011 being the Pump House Road Access Easement over PART OF LOT 24, CONCESSION 1 ERNESTOWN; PARTS OF LOTS 23 AND 24, BROKEN FRONT CONCESSION ERNESTOWN; PART OF THE ROAD ALLOWANCE BETWEEN SAID CONCESSION 1 AND THE BROKEN FRONT CONCESSION (CLOSED BY BY-LAW 322-1966 REGISTERED AS LA45719) ERNESTOWN, DESIGNATED AS PARTS 1 TO 4, PLAN 29R9844; LOYALIST TOWNSHIP, COUNTY OF LENNOX AND ADDINGTON

2. Part of PIN 45132-0373(LT) (Registered Owner – Invista (Canada) Company)

- a. Instrument No. LX37169 registered October 4, 2011 being the Intake-Outfall Easement over PART OF LOT 24, BROKEN FRONT CONCESSION ERNESTOWN, DESIGNATED AS PARTS 23 AND 24, PLAN 29R6889; LOYALIST TOWNSHIP, COUNTY OF LENNOX AND ADDINGTON

THIS IS **EXHIBIT “M”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,

THIS 31st DAY OF JULY, 2023.



Michael Noel

Commissioner for Taking Affidavits

- NOT TO BE REGISTERED -

DEMAND DEBENTURE

PRINCIPAL SUM: \$60,000,000

DATE: February 24, 2023

WHEREAS:

- A. KINGSTON COGEN GP INC. is the registered owner of the Kingston Project Site.
- B. KINGSTON COGEN GP INC. is holding the Kingston Project Site in its capacity as general partner and bare trustee and agent for and on behalf of KINGSTON COGEN LIMITED PARTNERSHIP (the “**Beneficial Owner**”), which is the sole beneficial owner of the Kingston Project Site.
- C. KINGSTON COGEN GP INC., in its capacity as registered owner of the legal title interest of the Charged Premises, has delivered to the Lessor a debenture in the original principal amount of \$60,000,000 CAD Dollars to be registered against title to the Charged Premises.

ARTICLE 1

PROMISE TO PAY

1.1 Promise to Pay: KINGSTON COGEN GP INC. in its own capacity and in its capacity as general partner of the Beneficial Owner, a limited partnership formed pursuant to the laws of Ontario (collectively, the “**Chargor**”), for value received, hereby acknowledges itself indebted and covenants and promises to pay to or to the order of MACQUARIE EQUIPMENT FINANCE LTD. (the “**Lessor**”), at the address set forth in Section 4.3 or at such other place as the Lessor may designate by notice in writing to the Chargor, ON DEMAND, the aggregate principal amount of SIXTY MILLION DOLLARS (\$60,000,000) and interest thereon, from and including the date hereof (or from and including the last interest payment date to which interest shall have been paid) to and including the date of payment, at a rate of twenty-five per cent (25%) per annum, calculated and compounded monthly on the first day of each month, as well after as before demand and as well after as before default or judgment with interest on overdue interest at the same rate.

This Debenture, *inter alia*, secures payment to the Lessor of all present and future indebtedness, liabilities and obligations of any and every kind, nature and description (whether direct or indirect, joint or several, absolute or contingent, matured or unmatured) of the Chargor to the Lessor under, in connection with or with respect to the Participation Agreement, the Lease Agreement, the Guarantee or any other Basic Document, and any unpaid balance thereof (collectively, the “**Secured Obligations**”).

1.2 Interpretation: In this Debenture, unless there is something in the subject matter or context that is inconsistent therewith, all capitalized terms used herein which are not otherwise defined herein shall have the meanings ascribed thereto in the Participation Agreement or the Lease Agreement, as applicable. In addition, the following terms shall have the following meanings:

“**Account**” has the meaning set out in Section 3.9 hereof.

“**Act**” has the meaning set out in Section 2.1(b) hereof.

“**Charged Premises**” has the meaning set out in Section 2.1 hereof.

“**Chargor**” has the meaning set out in Section 1.1 hereof.

“**Contract**” has the meaning set out in Section 3.9 hereof.

“**Easements**” means all easements, rights-of-way, licenses, privileges and any other rights in the nature of easements necessary for the development, maintenance or operation of the Kingston Project Site and the gas powered power plant and any datacenter installed at the Kingston Project Site.

“**Kingston Project Site**” means those lands and premises described in Schedule A hereto, together with the respective Easements and privileges appurtenant or appertaining thereto.

“**Lease Agreement**” means the amended and restated lease agreement dated as of the date hereof between the Lessor, as lessor, and the Lessee, as lessee.

“**Leases**” means a lease, license, occupancy or tenancy agreement, land use permit or license to occupy Crown lands or binding agreement to lease, license or occupy in respect of any real property necessary for the development, maintenance or operation of the Projects.

“**Lessor**” has the meaning set out in Section 1.1 hereof.

“**Participation Agreement**” means the amended and restated participation agreement dated as of the date hereof among the Lessee, as lessee, and the Lessor, as lessor.

“**Person**” or “**person**” means any natural person, corporation, limited liability company, partnership, firm, association, Government Body or any other entity whether acting in an individual, fiduciary or other capacity.

“**Real Property**” has the meaning set out in Section 2.1(a) hereof.

“**Revenues**” has the meaning set out in Section 2.1(b)(vi) hereof.

“**Secured Obligations**” has the meaning set out in Section 1.1 hereof.

“**Security Interests**” has the meaning set out in Section 2.1 hereof.

ARTICLE 2

SECURITY

2.1 Security: As security for the due and timely payment of the Secured Obligations, but subject to this Section 2.1, Section 2.2 hereof and the Permitted Liens, the Chargor:

- (a) grants, conveys, mortgages, charges, pledges, assigns and creates a security interest in (and provided that where the interest of the Chargor in the Kingston Project Site is by way of leasehold, such mortgage and charge is by way of sublease) as and by way of a fixed and specific mortgage, charge, pledge, assignment and security interest to and in favour of the Lessor, all of its right, title, estate and interest (whether freehold or leasehold), present and future, now owned or hereafter acquired, in and to all of its undertaking, property, assets, rights, benefits and privileges, both real and personal, moveable and immoveable of whatsoever nature and kind, including without limitation, the following:
 - (i) all lands, premises, Easements, and portions of the Kingston Project Site (whether freehold or leasehold) in which the Chargor has any legal or beneficial right, title, interest, claim, privilege, benefit or entitlement, including, without limitation, (x) all rights, leases, subleases, licences, easements, rights-of-way, profits a prendre and interests in real property with respect to the Kingston Project Site (and all renewals, extensions and amendments or substitutions thereof) and all other facilities relating to or required for use in connection with the Kingston Project Site to the extent of any interest therein, and (y) such of the Kingston Project Site may be specifically described in any one or more supplements to this Debenture;
 - (ii) all buildings, erections, structures and improvements, underground facilities, power, fuel and water supply, storage, waste disposal, roads and other transportation facilities presently situated on or under the Kingston Project Site or which may at any time hereafter be constructed or brought or placed on or under the Kingston Project Site or used in connection with the Kingston Project Site;
 - (iii) all fixed machinery, plant, equipment, apparatus and fittings and other fixtures located on or at the Kingston Project Site; and
 - (iv) all interests in any of the foregoing and all benefits and rights to be derived by the Chargor in respect thereof,

(all of the property and rights therein set out in paragraph 2.1(a) being collectively, the “**Real Property**”);

- (b) grants, conveys, mortgages, charges, pledges, assigns and creates a security interest in, as and by way of a fixed and specific mortgage, charge, pledge, assignment and security interest to and in favour of the Lessor, all of its right, title, estate and interest, present and future, in and to any and all personal property in which a

security interest can be taken, reserved, created or granted whether under the *Personal Property Security Act* (Ontario) (the “Act”), any similar personal property security legislation in any jurisdiction in which any of the Charged Premises is located or otherwise under any statute or law or in equity and which is now or at any time hereafter owned by the Chargor or in which the Chargor now has or at any time hereafter acquires any interest of any nature whatsoever, including, without in any way limiting the generality of the foregoing, the interest of the Chargor in:

- (i) all materials, supplies, machinery, equipment, fixtures, inventory, vehicles, furniture, tools, accessories and appliances now or hereafter owned or acquired by or on behalf of the Chargor and every interest therein which the Chargor now has or hereafter acquires, wheresoever situate;
- (ii) all present and future accounts (including, without limitation, cash collateral accounts), accounts receivable, money (including, without limitation, all money in any bank accounts), intangibles, claims, contract rights, demands, chattel papers, instruments, documents, warehouse receipts, bills of lading, notes and choses in action, together with any and all security therefor, including, without limiting the generality of the foregoing, all present and future mortgages receivable, debentures, bonds, promissory notes, bills of exchange, judgments and book debts, now due or hereafter to become due to or owned by the Chargor, together with all securities, documents, computer disks, tapes, software or records now or hereafter owned by the Chargor and representing or evidencing the said debts, accounts, accounts receivable, claims, contract rights, demands and choses in action and all other rights and benefits in respect thereof;
- (iii) all rights, agreements, licenses, permits, consents, policies, approvals, development agreements, building contracts, performance bonds, purchase orders, plans, patents, trademarks, trade names, copyrights and other industrial and intellectual property, goodwill, know-how, rights to carry on business and specifications presently owned and hereafter acquired by the Chargor in respect of or in any way relating to the development or construction of the Real Property or any part thereof, including, without limitation, all Leases and Easements relating to the Real Property and the Project and all Authorizations;
- (iv) all present and future computer hardware, software, programs and electronically stored data, and all rights, agreements, licences, permits and consents in respect of or in any way relating to such computer hardware, software and programs including, without limitation, all paper cards, magnetic tapes, discs, diskettes, drums or magnetic bubbles and whether permanently installed in hardware or crystallized in firmware, and all codes, passwords and security devices in respect thereof;

- (v) all shares, stocks, warrants, bonds, debentures, debenture stock, partnership interests, joint venture interests or other securities investments now or hereafter owned by the Chargor;
- (vi) all rents, revenues, income, insurance proceeds, expropriation proceeds, other proceeds and other monies to which the Chargor may from time to time be entitled from all sources which pertain to or are derived from the Real Property or any part thereof including, without limitation, all income and proceeds (whether in cash or on credit) received or receivable by or on behalf of the Chargor in respect of the use, occupancy or enjoyment of the Real Property or any part thereof or for the sale of goods or the provision of services on, at or from the Real Property or from judgments, settlements or other resolutions of disputes relating to the ownership, use, construction, development, operation, maintenance or management of the Real Property (collectively, “**Revenues**”); and
- (vii) the benefit of any guarantees or indemnities relating to all or part of the property referred to in paragraph 2.1(b)(vi),

and with respect to paragraphs 2.1(b)(i) to (vii) inclusive, in, to and under all amendments, extensions, renewals, replacements and substitutions of any of the foregoing, all increases, additions and accessions thereto and all rights, remedies, powers, Easements, privileges and claims of the Chargor thereunder (whether arising pursuant thereto or available to the Chargor at law or in equity) including, without limitation, the right of the Chargor to enforce the foregoing and the obligations of the other parties thereto and to give or withhold any and all consents, requests, directions, approvals, extensions and/or waivers thereunder;

- (c) assigns, transfers and sets over unto and in favour of the Lessor, as and by way of a fixed and specific assignment, all of its right, title, estate and interest, present and future, in and to:
 - (i) any agreements relating to the Real Property (including, without limitation, those relating to construction or development on, or operation of, the Real Property and all Leases and Easements relating to the Real Property) or the business, undertaking and operations of the Chargor; and
 - (ii) all amendments, extensions, renewals, replacements and substitutions of any of the property referred to in paragraph 2.1(c)(i) and all benefits, rights, remedies, privileges, claims, powers and advantages of the Chargor to be derived therefrom or thereunder (whether arising pursuant thereto or available to the Chargor at law or in equity) and all covenants, obligations and agreements of the other parties thereto including, without limitation, the right of the Chargor to enforce any of the foregoing and the obligations of the other parties thereto and to give or withhold any and all consents, requests, directions, approvals, extensions and/or waivers thereunder;

- (d) assigns, transfers and sets over unto and in favour of the Lessor, as and by way of a general assignment, all of its right, title, estate and interest present and future, in and to:
- (i) any and all existing and future Leases, Easements, any agreements relating to the Real Property (including, without limitation, those relating to construction or development on, or operation of, the Real Property) or the business, undertaking and operations of the Chargor and all existing and future leases, sub-leases, easements, sub-easements, rights of way, licenses or concessions whereby any Person is given the right by the Chargor to use or occupy the whole or any part or parts of the Real Property, and all extensions, amendments, restatements, renewals, supplements, replacements and substitutions thereof or therefor which may hereafter be effected or entered into, and all covenants, obligations and agreements of other parties thereunder or in any agreement collateral thereto, including without limitation, the benefit of any right, option or obligation of any Person to acquire any of the Leases, Easements, or an interest therein, to renew or extend any Leases or Easements, to acquire rights in other lands and premises in connection with the Project, and any other collateral advantage or benefit to be derived from the Leases, Easements, or any of them;
 - (ii) all rents and other moneys now due and payable to the Chargor or hereafter to become due and payable to the Chargor under the Leases, Easements, and each guarantee of or indemnity in respect of the obligations of the tenants thereunder with full power to demand, sue for recovery, receive and give receipts for all such rents and other moneys and otherwise to enforce the rights of the Chargor thereto in the name of the Chargor;
 - (iii) all present and future intangibles arising exclusively from or out of the Real Property or any part or parts thereof and the property and assets referred to in subsections 2.1(b) and (c) above including, without limiting the generality of the foregoing, all of its rights, title and interest in all present and future book debts, accounts and other accounts receivable, contract rights and choses in action;
 - (iv) any and all existing or future agreements, contracts, licences, permits, plans and specifications, bonds, letters of credit, letters of guarantee or other documents or instruments relating to the Real Property or any part or parts thereof and all extensions, amendments, renewals or substitutions thereof or therefor which may hereafter be effected or entered into and all benefit, power and advantage of the Chargor to be derived therefrom;
 - (v) any and all existing or future agreements of purchase and sale, options to purchase and mortgage, loan or other financing commitments relating to the Real Property or any part or parts thereof and all proceeds and other moneys now due and payable or hereafter to become due and payable thereunder

and all benefit, power and advantage of the Chargor to be derived therefrom;
and

- (vi) the proceeds of any and all existing or future insurance policies pertaining to the Real Property or the property and assets referred to in subsections 2.1(b) and (c) and paragraphs 2.1(d)(i) to (v) inclusive and all proceeds of expropriation or similar taking of the Real Property or any part or parts thereof and all benefit, power and advantage of the Chargor to be derived therefrom provided that all such proceeds shall be held and applied in accordance with the Participation Agreement and the Lease Agreement;
- (e) grants, conveys, mortgages, charges, pledges, assigns and creates a security interest in, as and by way of a fixed and specific mortgage, charge, pledge, assignment and security interest to and in favour of the Lessor, all of its right, title, estate and interest, present and future, in and to all personal property in any form (including money) derived, directly or indirectly, from any dealing with the property referred to in subsections 2.1(a) to (d) inclusive, or proceeds therefrom or that indemnifies or compensates for all or part of such property or proceeds therefrom that is destroyed and damaged; and
- (f) grants, conveys, mortgages, charges, pledges and assigns as and by way of a floating charge to and in favour of the Lessor all of the undertaking, property, assets, rights, entitlements, benefits and privileges, both real and personal, moveable and immovable, of every nature and kind, now or at any time and from time to time hereafter existing and owned by the Chargor (except such property and assets as are validly and effectively subject to any fixed and specific mortgage and charge or assignment, transfer or security interest created hereby) and which in each case is used in relation to or situated on, and which relates to the Real Property;

provided that the said grants, conveyances, mortgages, charges, pledges, transfers, assignments and security interests created pursuant to this Section 2.1 (collectively the “**Security Interests**”) shall not: (i) extend or apply to any personal property which is “consumer goods”, as such term is defined in the Act; or (ii) extend to the last day of the term of any lease, easement or any agreement therefor now held or hereafter acquired by the Chargor, but should such Security Interests become enforceable the Chargor shall thereafter stand possessed of such last day and shall hold it in trust for the Lessor for the purpose of this Debenture and assign and dispose thereof as the Lessor shall, for such purpose, direct. Upon any sale of such leasehold interest, easement or any part thereof, the Lessor, for the purpose of vesting the aforesaid one day residue of such term or renewal thereof in any purchaser or purchasers thereof, shall be entitled by deed or writing to appoint such purchaser or purchasers or any other person or persons as new trustee or trustees of the aforesaid residue of any such term or renewal thereof in the place of the Chargor and to vest the same accordingly in the new trustee or trustees so appointed free and discharged from any obligation respecting the same.

All the undertaking, property and assets mortgaged and charged pursuant to Subsection 2.1(a) and all of the undertaking, property and assets granted, assigned, transferred, mortgaged and charged pursuant to Subsections 2.1(b), (e) and (f) hereof is collectively referred to as the

“**mortgaged property**”; all the undertaking, property and assets assigned, transferred and set over pursuant to Subsections 2.1(c) and (d) is collectively referred to as the “**assigned property**”; and the mortgaged property and assigned property is collectively referred to as the “**Charged Premises**”. Wherever used herein in relation to the rights and remedies of the Lessor the terms “**Real Property**”, “**mortgaged property**”, “**assigned property**” and “**Charged Premises**” shall, where the context permits, mean the whole or any part or parts thereof.

TO HAVE AND TO HOLD the Charged Premises and all rights hereby conferred unto the Lessor, its successors and assigns, for the uses and purposes and with the powers and authorities and subject to the terms and conditions set forth herein and in the Participation Agreement and the Lease Agreement.

2.2 Delivery of Instruments, Securities, Etc.: The Chargor shall, upon reasonable request from the Lessor, following the occurrence of and during the continuance of a Lease Event of Default that has not been waived or cured, forthwith deliver to the Lessor to be held by the Lessor hereunder all instruments, securities, letters of credit, advices of credit and negotiable documents of title in its possession or control which pertain to or form part of the Charged Premises, and shall, where appropriate, duly endorse the same for transfer in blank or as the Lessor may in writing direct and shall make all commercially reasonable efforts to deliver forthwith to the Lessor any and all consents or other instruments or documents necessary to comply with any restrictions on the transfer thereof in order to transfer the same to the Lessor.

2.3 Covenant of the Chargor re Registrations: So long as any of the Secured Obligations shall remain unpaid, the Chargor covenants and agrees with the Lessor that the Chargor will, from time to time at the reasonable request of the Lessor, promptly effect all registrations, filings, recordings and all renewals thereof and all re-registrations, re-filings and re-recordings of or in respect of this Debenture and the Security Interests created hereby in such offices of public record and at such times as may be necessary or of advantage in perfecting, maintaining and protecting the validity, effectiveness and priority hereof and of the Security Interests created hereby; provided that the Lessor may effect all such registrations, filings, recordings, renewals, re-registrations, re-filings and re-recordings from time to time in its sole discretion at the expense of the Chargor.

ARTICLE 3

RIGHTS AND REMEDIES

3.1 Remedies Upon Default: On or after the occurrence and during the continuance of a Lease Event of Default that has not been waived or cured (and for greater clarity, whether or not the Lease Agreement has been rescinded or terminated), in accordance with the provisions of the Participation Agreement or the Lease Agreement, as applicable, the Lessor may do any one or more of the following:

- (a) by written notice to the Chargor, declare the Secured Obligations to be immediately due and payable without the necessity of presentment for payment, or notice of nonpayment and of protest (all of which are hereby expressly waived by the Chargor);

- (b) proceed to exercise any and all rights under this Debenture, the Participation Agreement, the Lease Agreement, any other Basic Document and any other document or instrument executed pursuant to this Debenture or any other rights otherwise available to it whether under this Debenture, the Participation Agreement, the Lease Agreement, any other Basic Document or otherwise, including enforcement of this Debenture;
- (c) take any action or proceeding authorized or permitted by this Debenture, the Participation Agreement, the Lease Agreement, any other Basic Document or by law or equity, and file or cause to be filed on its behalf such proofs of claim and other documents as may be necessary or desirable to have its claims lodged in any bankruptcy, winding-up or other judicial proceeding relative to the Chargor;
- (d) take proceedings in any court of competent jurisdiction for sale or foreclosure of all or any part of the Charged Premises;
- (e) immediately enter upon and take possession of, disable or remove all of the Charged Premises or any part or parts thereof with power, among other things, to exclude the Chargor, to preserve and maintain the Charged Premises and make additions and replacements thereto, to receive rents, income and profits of all kinds and pay therefrom all reasonable expenses of maintaining, completing, repairing, preserving and protecting and operating the Charged Premises and all charges, payment of which may be necessary to preserve or protect the Charged Premises, and enjoy and exercise all powers necessary to the performance of all functions made necessary or advisable by possession, including, without limitation, power to advance its own moneys at the rate of interest provided for in the Lease Agreement, the Participation Agreement or any other Basic Document and enter into contracts and undertake obligations for the foregoing purposes upon the security hereof;
- (f) whether or not the Lessor has taken possession of the Charged Premises or any of it, sell, lease or otherwise dispose thereof, either as a whole or in separate parcels, at public auction, by public tender or by private sale, with only such notice as may be required by law, either for cash or upon credit, at such time and upon such terms and conditions as the Lessor may determine (including a term that a reasonable commission shall be payable to the Lessor or any related corporation in respect thereof) and enter into, rescind or vary any contract for the sale, lease or other disposition of any of the Charged Premises and sell, lease or dispose thereof and the Lessor may execute and deliver to any purchaser of the Charged Premises or any part thereof good and sufficient deeds and documents for the same;
- (g) require the Chargor, at the Chargor's expense, to assemble the Charged Premises at a place or places reasonably designated by notice in writing given by the Lessor to the Chargor, and the Chargor agrees to so assemble the Charged Premises;
- (h) require the Chargor, by notice in writing given by the Lessor to the Chargor, to disclose to the Lessor the location or locations of the Charged Premises and the Chargor agrees to make such disclosure when so required by the Lessor;

- (i) carry on all or any part of the business or businesses of the Chargor relating to the Real Property and, to the exclusion of all others including the Chargor, enter upon, occupy and, subject to any requirements of law and subject to the Leases, Easements or other agreements then in place, use all or any of the Charged Premises, premises, buildings, plant, undertaking, assets and other property comprising the Charged Premises for such time and in such manner as the Lessor sees fit, free of charge and, except to the extent required by law, the Lessor shall not be liable to the Chargor for any act or omission (other than for gross negligence or wilful misconduct) in so doing or for any rent, charges, depreciation or damages or other amounts incurred in connection therewith or resulting therefrom;
- (j) borrow money for the purpose of carrying on the business of the Chargor relating to the Charged Premises or for the maintenance, preservation or protection of the Charged Premises and mortgage, charge, pledge or grant a security interest in the Charged Premises, whether or not in priority to the Security Interests to secure repayment of any money so borrowed;
- (k) send or employ inspectors or agents to inspect, audit and report upon the value, state and condition of the Charged Premises;
- (l) pay any encumbrance, lien, claim or charge that validly exists or has been threatened against any of the Charged Premises and any amounts determined to be validly existing shall, when so paid, together with any costs, charges and expenses incurred by the Lessor (including, without limitation, legal fees and disbursements on a substantial indemnity basis), be added to the Secured Obligations and shall bear interest at the rate of interest provided for in the Lease Agreement;
- (m) take proceedings in any court of competent jurisdiction to enforce payment by the Chargor of the Secured Obligations or any deficiency remaining upon application of proceeds of realization which are actually received by the Lessor;
- (n) exercise or pursue any other remedy or proceeding authorized or permitted hereby or by the Act or any similar personal property security legislation or by any other legislation in any jurisdiction in which any of the Charged Premises is located or otherwise permitted by law or equity; and
- (o) with or without entry into possession of the Charged Premises, or any part thereof, appoint a receiver (which term shall include a receiver and manager) of the Charged Premises or any part thereof and of the rents and profits thereof pursuant to and in accordance with the provisions of the Lease Agreement, the Participation Agreement and this Debenture and with or without security for the performance of the receiver's obligations and from time to time remove any receiver and appoint another in its stead. Upon the appointment of any such receiver or receivers from time to time, subject to Applicable Laws, the following provisions shall apply:
 - (i) every such receiver shall be the irrevocable agent of the Chargor for all purposes with respect to the Charged Premises including, without

limitation, for the collection of all Revenues owing or earned in respect of the Real Property or any part thereof;

- (ii) every such receiver may, in the discretion of the Lessor, be vested with all or any of the powers and discretion of the Lessor under this Debenture, the Participation Agreement and the Lease Agreement, including, without limitation, the power to carry on all or any part of the business of the Chargor relating to the Real Property and to sell, lease or otherwise dispose of the Charged Premises, either as a whole or in separate parcels, at public auction, by public tender or by private sale, with only such notice as may be required by Applicable Laws, either for cash or on credit, at such time and upon such terms and conditions as the receiver may determine (including a term that a reasonable commission shall be payable to the receiver, or any related corporation in respect thereof) and enter into, rescind or vary any contract for the sale, lease or other disposition of any of the Charged Premises and sell, lease or dispose thereof again without being answerable for any loss occasioned thereby (other than for its gross negligence and wilful misconduct) and the receiver may execute and deliver to any purchaser of the Charged Premises or any part thereof good and sufficient deeds and documents for the same and such receiver shall also have the power to take proceedings in any court of competent jurisdiction for sale or foreclosure of all or any part of the Charged Premises;
- (iii) the Lessor may from time to time fix the reasonable remuneration of every such receiver and every such receiver shall be entitled to deduct the same out of the income from the Charged Premises or the proceeds of disposition of the Charged Premises;
- (iv) the appointment of every such receiver by the Lessor shall not, to the extent permitted by law, incur or create any liability on the part of the Lessor to the receiver in any respect and such appointment or anything which may be done by any such receiver or the removal of any such receiver or the termination of any such receivership shall not have the effect of constituting the Lessor a mortgagee in possession in respect of the Real Property or any part thereof;
- (v) subject to the provisions of the Leases and Easements, every such receiver shall, from time to time, have the power to lease or otherwise deal with any portion of the Real Property which may become vacant or available for lease on such terms and conditions as such receiver may deem advisable and shall have full power to complete any unfinished construction upon the Real Property (such power of the receiver to include, without limitation, the power to borrow funds in the name of and on the credit of the Chargor for such purposes, which borrowings may be secured by the Charged Premises, or any part thereof, and which security shall have such priority as the receiver deems appropriate);

- (vi) subject to the provisions of the Leases and Easements, every such receiver shall have full power to fully manage, develop, operate, lease, deal with agreements and the Leases and Easements, construct, complete, repair, renovate or alter the Real Property or the Project or any part thereof on behalf of the Chargor and to take all such actions as are required in the exercise of such powers including, without limitation, entering into, amending and terminating such contracts and other agreements relating to the Charged Premises as are necessary or advisable, in the opinion of the receiver, and the entering into, renewal, amendment, supplement or termination of any agreements and the Leases and Easements as the receiver may deem appropriate in its sole and absolute discretion; the aforementioned power shall include the power to borrow money in the name of and on the credit of the Chargor for all such purposes (which borrowings may be secured by the Charged Premises, or any part thereof, and which security shall have such priority as the receiver deems appropriate);

- (vii) no such receiver shall be liable to the Chargor to account for monies other than monies actually received by or in respect of the Charged Premises or any part thereof and out of such monies so received, every such receiver shall, subject to the further direction of the Lessor, in the following order pay:
 - (A) his reasonable remuneration aforesaid;

 - (B) all payments made or incurred by him in connection with the management, operation, construction, completion, repair or alteration of the Charged Premises or any part thereof in accordance with the provisions thereof,

 - (C) all payments of interest, principal and other money which may, from time to time, be or become charged upon the Charged Premises in priority to this Debenture, the Participation Agreement or the Lease Agreement and all taxes, insurance premiums and every other proper expenditure made or incurred by him in respect of the Charged Premises or any part thereof and in payment of all interest, fees and other similar amounts due or falling due hereunder and the balance to be applied upon the Secured Obligations; and

 - (D) at the discretion of the receiver, interest, principal and other monies which may from time to time constitute an encumbrance on the Charged Premises subsequent or subordinate to this Debenture, the Participation Agreement or the Lease Agreement;

and every receiver may in its discretion retain reasonable reserves to pay accruing amounts and anticipated payments in connection with any of the foregoing; and any surplus remaining in the hands of every such receiver after payments made as aforesaid shall be accountable to the Chargor and

upon termination of the receivership such receiver shall pay such surplus to the Chargor or pay it into court, as the receiver may elect;

- (viii) the Lessor may at any time and from time to time terminate any such receivership by notice in writing to the Chargor and to any such receiver; and
- (ix) the receiver may carry out all actions and do all things that the Lessor may do under this Debenture, the Participation Agreement and the Lease Agreement as if it were the Lessor (it being agreed that such powers are not in any way limited by the foregoing provisions of this Subsection 3.1(o)).

3.2 Sale of Charged Premises: The Chargor agrees that any sale referred to in Section 3.1 may be either a sale of all or any portion of the Charged Premises and may be by way of public auction, public tender, private contract or otherwise without notice, advertisement or any other formality, except as required by law, all of which the Chargor waives to the extent permitted by law. To the extent not prohibited by law, any such sale may be made with or without any special condition as to the upset price, reserve bid, title or evidence of title or other matter and from time to time as the Lessor, acting reasonably, thinks fit with power to vary or rescind any such sale or buy in at any public sale and resell. The Lessor may sell the Charged Premises for a consideration payable by instalments either with or without taking security for the payment of such instalments and may make and deliver to any purchaser thereof good and sufficient deeds, assurances and conveyances of the Charged Premises and give receipts for the purchase money, and any such sale shall be a perpetual bar, both at law and in equity, against the Chargor and all those claiming an interest in the Charged Premises by, from, through or under the Chargor.

3.3 References to the Lessor Include Receiver: For the purposes of Sections 3.2, 3.4, 3.7, 3.8, 3.10 and 3.11, a reference to the Lessor shall, where the context permits, include any receiver or receiver and manager or other agent on behalf of the Lessor appointed in accordance herewith.

3.4 Chargor's Rights: Notwithstanding anything to the contrary contained in this Debenture but subject to the terms of the Basic Documents, until the Security Interests shall become and remain enforceable, the Chargor shall be entitled to deal with the Charged Premises and enforce, use and enjoy all of the benefits, advantages and powers thereunder as if this Debenture had not been made. Upon the Security Interests becoming and remaining enforceable, the Lessor may, but shall not be obligated to, exercise all rights, powers, authority and discretions of the Chargor in respect of the Charged Premises in its place and stead.

3.5 Judgment: Neither the taking of any judgment nor the exercise of any power of seizure or sale shall operate to extinguish the liabilities of the Chargor to make payment of the principal hereby secured or interest thereon or other moneys owing hereunder nor shall such operate as a merger of any covenant or affect the right of the Lessor to interest at the rate hereinbefore specified and any judgment shall bear interest at such rate.

3.6 Interest: If any amount payable to the Lessor under this Debenture is not paid when due, the Chargor will pay to the Lessor, immediately on demand, interest on such amount from the date due until paid, at an annual rate equal to the rate of interest provided for in the Lease Agreement.

All amounts payable by the Chargor to the Lessor under this Debenture, and all interest on all such amounts will form part of the Secured Obligations and will be secured by the Security Interests.

3.7 Charge as Security:

(1) It is expressly acknowledged and agreed that nothing herein contained shall obligate the Lessor to assume or perform any obligation of the Chargor to any third party in respect of or arising out of any of the Charged Premises. The Lessor may, however, only after the occurrence of and during the continuance of a Lease Event of Default that has not been waived or cured, at its option, assume or perform any such obligations as the Lessor considers necessary or desirable to obtain the benefit of the Charged Premises free of any set-off, deduction or abatement and any money expended by the Lessor in this regard shall form part of and shall be deemed to form part of the Secured Obligations and bear interest at the rate equal to the rate of interest plus the default rate (if any) provided for in the Lease Agreement.

(2) The exercise by the Lessor of its rights under this Debenture or the assumption after the occurrence of and during the continuance of a Lease Event of Default that has not been waived or cured, of certain obligations of the Chargor as referred to in Subsection 3.7(1) shall not constitute or have the effect of making the Lessor a mortgagee in possession. Care, control and management of the Charged Premises shall remain and shall be deemed to be with the Chargor in the absence of clear and unequivocal action by the Lessor depriving the Chargor of such care, control and management and the assumption thereof by the Lessor.

3.8 Limitations on Lessor's Liability: Except as otherwise provided by law or this Debenture, the Lessor will not be liable to the Chargor or any other Person for any failure or delay in exercising any of the rights of the Lessor under this Debenture (including any failure to take possession of, collect, sell, lease or otherwise dispose of any Charged Premises, or to preserve rights against prior parties). Neither the Lessor, nor any receiver or agent of the Lessor is required to take, or will have any liability for any failure to take or delay in taking, any steps necessary or advisable to preserve rights against other Persons under any Charged Premises in its possession. Neither the Lessor nor any receiver or agent will be liable for any, and the Chargor will bear the full risk of all, loss or damage to any and all of the Charged Premises (including any Charged Premises in the possession of the Lessor or any receiver or agent) caused for any reason other than if such loss or damage is due to the gross negligence or wilful misconduct of the Lessor or any receiver appointed by the Lessor.

3.9 Chargor Remains Liable under Accounts and Contracts: Notwithstanding any provision of this Debenture, the Chargor will remain liable under each of the agreements, contracts, Leases, Easements, material agreements, and other documents comprising the Charged Premises (each a "**Contract**") to pay and satisfy all indebtedness, liabilities and other monetary obligations and to observe and perform all the conditions and obligations which are to be paid, satisfied, observed and performed by the Chargor thereunder, all in accordance with the terms of each such Contract. The Lessor will have no obligation or liability under any account or monetary obligation (an "**Account**") (or any Contract giving rise thereto) or Contract by reason of or arising out of this Debenture or the receipt by the Lessor of any payment relating to such Account or Contract pursuant hereto, and in particular (but without limitation), the Lessor will not be obligated in any manner to perform any of the obligations of the Chargor under or pursuant to any Account (or any

Contract giving rise thereto) or under or pursuant to any Contract, to make any payment, to make any inquiry as to the nature or the sufficiency of any payment received by it or as to the sufficiency of any performance by any party under any Account (or any Contract giving rise thereto) or under any Contract, to present or file any claim, to take any action to enforce any performance or to collect the payment of any amounts which may have been assigned to it or to which it may be entitled at any time.

3.10 Dealings by Lessor: The Lessor will not be obliged to exhaust its recourse against the Chargor or any other Person or against any other security it may hold in respect of the Secured Obligations before realizing upon or otherwise dealing with the Charged Premises in such manner as the Lessor may consider desirable. The Lessor may grant extensions of time and other indulgences, take and give up security, accept compositions, grant releases and discharges and otherwise deal with the Chargor and any other Person following the occurrence of and during the continuance of a Lease Event of Default that has not been waived or cured, and with any or all of the Charged Premises, and with other security and sureties, as the Lessor may see fit, all without prejudice to the Secured Obligations or to the rights and remedies of the Lessor under this Debenture, the Participation Agreement or the Lease Agreement. The powers conferred on the Lessor under this Debenture are solely to protect the interests of the Lessor in the Charged Premises and will not impose any duty upon the Lessor to exercise any such powers.

3.11 Possession of Charged Premises: Where any Charged Premises is in the possession of the Lessor or any receiver or agent:

- (a) the Lessor shall only have the duty of care with respect to such Charged Premises as would a reasonable and prudent owner, including the duty to use reasonable care in the custody and preservation thereof, provided that the Lessor need not take any steps of any nature to defend or preserve the rights of the Chargor therein against the claims or demands of others or to preserve rights therein against prior parties;
- (b) the Lessor may, at any time following the occurrence of and during the continuance of a Lease Event of Default that has not been waived or cured, grant or otherwise create a security interest in such Charged Premises upon any terms provided that such terms do not impair the Chargor's right to redeem such Charged Premises; and
- (c) the Lessor may, at any time following the occurrence of and during the continuance of a Lease Event of Default that has not been waived or cured, use such Charged Premises in any manner and to such extent as it deems necessary or desirable.

3.12 After Acquired Property: The Chargor covenants and agrees that, if and to the extent that any of its respective rights, titles, estates and interests in any of the Charged Premises is not acquired until after delivery of this Debenture, this Debenture shall nonetheless apply thereto and the security interest of the Lessor hereby created shall attach to such Charged Premises at the same time as the Chargor acquires rights therein, without the necessity of any further mortgage, charge, pledge, assignment or assurance and thereafter such Charged Premises shall be subject to the security interests created hereby in accordance with the provisions of Section 2.1 hereof.

3.13 Attachment: The Chargor hereby acknowledges and agrees that value has been given for the granting of the Security Interests and that there is no agreement between the Chargor and the Lessor, express or implied, to postpone the attachment of the Security Interests except in respect of after-acquired property forming part of the Charged Premises, with respect to which the Security Interests shall attach at the same time as the Chargor acquires rights therein or thereto.

3.14 No Greater Amount: Neither the Lessor nor any subsequent holder of this Debenture may, at any time, claim any greater amount in respect of the principal amount of this Debenture than the aggregate amount of the Secured Obligations outstanding at that time. Payment to the Lessor of interest for any period in respect of the Secured Obligations in accordance with the Basic Documents is deemed to be payment in satisfaction of the interest payment for the same period under this Debenture.

3.15 Application of Proceeds: All monies collected by the Lessor upon the enforcement of the Lessor's rights and remedies under this Debenture, including any sale or other disposition of this Debenture or all or any portion of the Charged Premises, together with all monies received by the Lessor under this Debenture, will be applied as provided in the Lease Agreement and the Participation Agreement.

ARTICLE 4

GENERAL PROVISIONS

4.1 Remedies Cumulative and Waivers: For greater certainty, it is expressly understood and agreed that the rights and remedies of the Lessor hereunder or under any other document or instrument executed pursuant to this Debenture are cumulative and are in addition to and not in substitution for any rights or remedies provided by law or by equity; and any single or partial exercise by the Lessor of any right or remedy for a default or breach of any term, covenant, condition or agreement contained in this Debenture or other document or instrument executed pursuant to this Debenture, the Participation Agreement, the Lease Agreement or any other Basic Document shall not be deemed to be a waiver of or to alter, affect or prejudice any other right or remedy or other rights or remedies to which the Lessor may be lawfully entitled for such default or breach. Any waiver by the Lessor of the strict observance, performance or compliance with any term, covenant, condition or agreement herein contained and any indulgence granted either expressly or by course of conduct by the Lessor shall be effective only in the specific instance and for the purpose for which it was given and shall be deemed not to be a waiver of any rights and remedies of the Lessor under this Debenture or other document or instrument executed pursuant to this Debenture as a result of any other default or breach hereunder or thereunder.

4.2 Termination: The Lessor covenants and agrees with the Chargor that, upon the Secured Obligations being performed, satisfied and extinguished, this Debenture shall be and become fully ended and terminated and all right, title, interest and benefit of the Chargor in, to, under or in respect of the Charged Premises, assigned by it to, or held by it in trust for, the Lessor hereunder shall automatically revert to the Chargor or its successors or assigns, and all covenants and agreements of the Chargor hereunder shall be at an end and the Lessor, promptly upon the request and at the expense of the Chargor, shall execute such instruments, discharges or re-assignments,

return such instruments, certificates and other documents in its possession relating to the Charged Premises and give such notification or assurances as the Chargor may properly require to fully release, discharge and cancel this Debenture in the circumstances.

4.3 Notice: Any demand, notice, consent or other communication to be made or given hereunder shall be given in accordance with the terms of the Participation Agreement.

4.4 Further Assurances: Each party shall, at its own expense, promptly execute and deliver to the other upon request all such other and further documents, agreements, certificates and other instruments in compliance with or accomplishment of their covenants and agreements hereunder or under any document to be delivered pursuant hereto or otherwise necessary to make any recording, file any notice or obtain any consent, all as may be reasonably necessary and appropriate in connection herewith.

4.5 Continuing Security: This Debenture and the rights and remedies it creates are a continuing agreement and security and shall bind the parties until discharge of this Debenture as provided in Section 4.2 hereof. No payment by the Chargor of the whole or any part of any Secured Obligations shall reduce the amount secured hereby unless specifically appropriated to and noted on this Debenture by the Lessor.

4.6 No Marshalling: This Debenture shall be in addition to and not in substitution for any other security which the Lessor may now or hereafter hold in respect of the Secured Obligations and the Lessor shall be under no obligation to marshal in favour of the Chargor, any guarantor, debtor or other lender or holder of security, any monies or other assets which the Lessor may be entitled to receive or upon which the Lessor may have a claim.

4.7 Paramouncy: This Debenture has been entered into pursuant to the provisions of the Participation Agreement and the Lease Agreement and is subject to all of the terms and conditions thereof and, if there is any conflict or inconsistency between the provisions of this Debenture and the provisions of the Participation Agreement and the Lease Agreement, the rights and obligations of the parties will be governed by the provisions of the Participation Agreement and the Lease Agreement, as applicable. Without limiting the generality of the foregoing, by accepting delivery of this Debenture, the Lessor acknowledges and agrees that the sum comprising the principal amount referred to herein and the rate of interest charged and payable thereon and all interest accruing or any other amounts payable and secured hereunder shall be calculated and payable in accordance with the provisions of the Lease Agreement and that this Debenture is issued subject to the terms of the Participation Agreement, the Lease Agreement, the Guarantee and the other Basic Documents as collateral security for the obligations thereunder. This Debenture together with the Participation Agreement, the Lease Agreement and the other Basic Documents cancels and supersedes any prior understandings and agreements between such parties with respect thereto. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory, between the Lessor and the Chargor with respect to the subject matter hereof except as expressly set forth herein and in the Participation Agreement, the Lease Agreement and the other Basic Documents.

4.8 Amendment of Agreement: No supplement, modification, amendment, waiver or termination of this Debenture shall be binding unless executed in writing by all parties hereto. No

waiver of any provision of this Debenture shall be deemed or shall constitute a waiver of any other provision of this Debenture (whether or not similar) nor shall any waiver constitute a continuing waiver unless otherwise so expressed or provided.

4.9 Invalidity of Provisions: In case any one or more of the provisions contained in this Debenture should be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby and shall continue in full force and effect, and the parties hereto shall enter into good faith negotiations to replace the invalid, illegal or unenforceable provision. If any provision of this Debenture shall be invalid, illegal or unenforceable in any respect in any jurisdiction, it shall not affect the validity, legality or enforceability of such provision in any other jurisdiction or the validity, legality or enforceability of any other provision of this Debenture.

4.10 Time: Time shall be of the essence in this Debenture.

4.11 Successors and Assigns: This Debenture shall enure to the benefit of, and be binding on, the Chargor and its successors and permitted assigns, and shall enure to the benefit of, and be binding on, the Lessor and its successors and permitted assigns. The Chargor may not assign this Debenture, or any of its rights or obligations under this Debenture. The Lessor may assign this Agreement and any of its rights and obligations hereunder to any Person that replaces it in its capacity as such in accordance with and subject to the terms and conditions applicable to such assignment as set out in the Participation Agreement. If the Chargor or the Lessor is an individual, then the term "Chargor" or "Lessor", as applicable, shall also include his or her heirs, administrators and executors.

4.12 Attorney: The Chargor hereby irrevocably nominates, constitutes and appoints the Lessor and each of its officers holding office from time to time as the true and lawful attorney of the Chargor with effect from and after the occurrence of and during the continuance of a Lease Event of Default that has not been waived or cured, with power of substitution in the name of the Chargor to, after the occurrence of and during the continuance of a Lease Event of Default that has not been waived or cured do any and all such acts and things or execute and deliver all such agreements, documents and instruments as the Lessor reasonably considers necessary or desirable to carry out the provisions and purposes of this Debenture or to exercise any of its rights and remedies hereunder and the Chargor hereby ratifies and agrees to ratify all reasonable acts of any such attorney taken or done in accordance with this Section 4.12. Without in any way limiting the generality of the foregoing, the Lessor shall have the right following the occurrence of and during the continuance of a Lease Event of Default that has not been waived or cured to execute for and in the name of the Chargor all financing statements, financing change statements, conveyances, transfers, assignments, consents and other instruments as may be required for such purposes. This power of attorney shall not be revoked or terminated by any act or thing other than the discharge of this Debenture in accordance with Section 4.2.

4.13 Acknowledgement by Chargor: The Chargor acknowledges receipt of a copy of this Debenture, the Lease Agreement and the other Basic Documents and hereby expressly waives the right to receive a copy of any financing statement or a copy of the statement confirming the registration of any financing statement that may be registered in connection with the Security Interests.

4.14 Waiver of Default: The Lessor may by written notice to the Chargor waive any default of the Chargor hereunder on such terms and conditions as the Lessor may determine, but no such waiver shall be taken to affect any subsequent default or the rights resulting therefrom.

4.15 Applicable Laws: This Debenture will be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein (without prejudice to or limitation of any other rights or remedies available to the Lessor under the laws of any jurisdiction where property or assets of the Chargor may be found).


4.16 Attornment: The Chargor irrevocably submits to the non-exclusive jurisdiction of the courts of the Province of Ontario and irrevocably agrees that, at the Lessor's discretion, any claims, actions or proceedings in respect of this Debenture will be heard and determined in such courts. The Chargor hereby waives, to the fullest extent it may effectively do so, the defence of an inconvenient forum to the maintenance of any such action or proceeding. The foregoing is without prejudice to the rights of the Lessor to, in its discretion, bring claims, actions or proceedings in respect of this Debenture before any other court of competent jurisdiction. The Chargor hereby irrevocably consents to the service of any and all process in such action or proceeding by the delivery of such process to the Chargor at its address provided in accordance with Section 4.3.

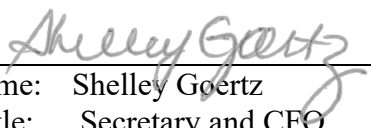
4.17 Land Registration Reform Act: The implied covenants deemed to be included in a charge under Subsection 7(1) of the *Land Registration Reform Act* (Ontario) are hereby excluded by the terms of this Debenture.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF the Chargor has duly executed this Debenture as of the date first written above.

KINGSTON COGEN GP INC., in its own capacity and in its capacity as general partner of **KINGSTON COGEN LIMITED PARTNERSHIP**, as Chargor

By: 
Name: Todd Shortt
Title: President and CEO

By: 
Name: Shelley Goertz
Title: Secretary and CFO

We have authority to bind the above.

SCHEDULE A
KINGSTON PROJECT SITE

The properties legally described as:

Fee Simple/Owned Lands:

1. **PIN 45132-0375(LT) (Registered Owner: Kingston CoGen GP Inc.)**

PT LT 23 CON 1 ERNESTOWN PT 1 29R6737,; TOGETHER WITH AN EASEMENT AS IN LA69824; TOGETHER WITH AN EASEMENT AS IN LA208637; TOGETHER WITH AN EASEMENT AS IN LA208644; TOGETHER WITH AN EASEMENT AS IN LA210426; TOGETHER WITH AN EASEMENT AS IN LA210734; TOGETHER WITH AN EASEMENT AS IN LA210736; TOGETHER WITH AN EASEMENT AS IN LA210738; TOGETHER WITH AN EASEMENT OVER PTS 1 - 49 29R9849 UNTIL 2025/12/31 AS IN LX37160; TOGETHER WITH AN EASEMENT OVER PTS 1,3,4 29R6966 UNTIL 2025/12/31 AS IN LX37161; TOGETHER WITH AN EASEMENT OVER PTS 1 - 50 29R9850 UNTIL 2025/12/31 AS IN LX37162; TOGETHER WITH AN EASEMENT OVER PTS 1 - 11 29R9845 UNTIL 2030/12/31 AS IN LX37163; TOGETHER WITH AN EASEMENT OVER PTS 1 - 71 29R9851 UNTIL 2025/12/31 AS IN LX37164; TOGETHER WITH AN EASEMENT OVER PTS 1 - 14 29R9846 UNTIL 2025/12/31 AS IN LX37165; TOGETHER WITH AN EASEMENT OVER PTS 1 - 16 29R9847 AS IN LX37166; TOGETHER WITH AN EASEMENT OVER PTS 1 - 7 29R6860, PTS 1 & 2 29R7373, PTS 1 - 13 29R7650 AS IN LX37167; LOYALIST TOWNSHIP

Leasehold Lands:

1. **PIN 45132-0377(LT)(Leasehold PIN – Registered Owner: Kingston CoGen GP Inc.)**

PT LT 24 CON BROKEN FRONT ERNESTOWN, PTS 1 TO 12 29R9843; T/W LA69824;; TOGETHER WITH AN EASEMENT OVER PTS 1 - 49 29R9849 UNTIL 2025/12/31 AS IN LX37160; TOGETHER WITH AN EASEMENT OVER PTS 1,3,4 29R6966 UNTIL 2025/12/31 AS IN LX37161; TOGETHER WITH AN EASEMENT OVER PTS 1 - 50 29R9850 UNTIL 2025/12/31 AS IN LX37162; TOGETHER WITH AN EASEMENT OVER PTS 1 - 11 29R9845 UNTIL 2030/12/31 AS IN LX37163; TOGETHER WITH AN EASEMENT OVER PTS 1 – 4 29R9844 AS IN LX37168; TOGETHER WITH AN EASEMENT OVER PTS 1 - 12 29R9843 AS IN LX37169; SUBJECT TO AN EASEMENT OVER PTS 1 - 12 29R9843 IN FAVOUR OF LA285539 (PARCELS 1,2,3); EXCEPT PTS 1 - 12 29R9843 & LA285539 (PARCEL 4) AS IN LX37170; LOYALIST TOWNSHIP

- a. Pursuant to Instrument No. LX36982 registered September 28, 2011 being a Notice of Lease over PART OF LOT 24, BROKEN FRONT CONCESSION ERNESTOWN, DESIGNATED AS PARTS 1 TO 12, PLAN 29R9843; LOYALIST TOWNSHIP, COUNTY OF LENNOX AND ADDINGTON registered against Fee Simple PIN 45132-0378(LT)

Sublease Interest:

1. **PIN 45132-0362(LT) (Registered Owner: Invista (Canada) Company**
LOC. CL14116, BEING PT OF THE BED OF LAKE ONTARIO IN FRONT OF LT 24,
BROKEN FRONT CON. ERNESTOWN, PT 1 29R9227; LOYALIST
 - a. Pursuant to Instrument No.LX37609 registered on October 26, 2011 being an Application General (Sublease).

Easement Interests:

1. **Part of PIN 45132-0379(LT) – (Registered Owner: Invista (Canada) Company**
 - a. Instrument No. LX37160 registered October 4, 2011 being a Fire Water Line over PARTS OF LOTS 23, 24 AND 25, CONCESSION 1 ERNESTOWN; PART OF LOT 24, BROKEN FRONT CONCESSION ERNESTOWN; PART OF THE ROAD ALLOWANCE BETWEEN SAID CONCESSION 1 AND THE BROKEN FRONT CONCESSION (CLOSED BY BY-LAW 322-1966 REGISTERED AS LA45719) ERNESTOWN, DESIGNATED AS PARTS 1 TO 49, PLAN 29R9849; LOYALIST TOWNSHIP, COUNTY OF LENNOX AND ADDINGTON
 - b. Instrument No. LX37161 registered October 4, 2011 being the Process Waste Water Easement over PARTS OF LOTS 23 AND 24, CONCESSION 1 ERNESTOWN; PART OF LOT 24, BROKEN FRONT CONCESSION ERNESTOWN; PART OF THE ROAD ALLOWANCE BETWEEN SAID CONCESSION 1 AND THE BROKEN FRONT CONCESSION (CLOSED BY BY- LAW 322-1966 REGISTERED AS LA45719) ERNESTOWN, DESIGNATED AS PARTS 1, 3 AND 4, PLAN 29R6966, AND PARTS 1 TO 26, PLAN 29R9848; LOYALIST TOWNSHIP, COUNTY OF LENNOX AND ADDINGTON
 - c. Instrument No. LX37162 registered October 4, 2011 being an Additional Transmission Line Easement over PARTS OF LOTS 23 AND 24, CONCESSION 1 ERNESTOWN; PART OF LOT 24, BROKEN FRONT CONCESSION ERNESTOWN; PART OF THE ROAD ALLOWANCE BETWEEN SAID CONCESSION 1 AND THE BROKEN FRONT CONCESSION (CLOSED BY BY-LAW 322-1966 REGISTERED AS LA45719) ERNESTOWN, LOYALIST TOWNSHIP, COUNTY OF LENNOX AND ADDINGTON DESIGNATED AS:
Firstly: PARTS 1 TO 17, PLAN 29R9850 [115kv electricity transmissions lines]
Secondly: PARTS 17 TO 26, 39 TO 45, AND 47 TO 50, PLAN 29R9850 [13.8kv electricity transmissions lines]
Thirdly: PARTS 26 TO 38, AND 46 TO 50, PLAN 29R9850 [electrical and/or telemetry lines]
 - d. Instrument No. LX37163 registered October 4, 2011 being a Corridor Easement over PARTS OF LOTS 23 AND 24, CONCESSION 1 ERNESTOWN; PART OF LOT 24, BROKEN FRONT CONCESSION ERNESTOWN; PART OF THE ROAD ALLOWANCE BETWEEN SAID CONCESSION 1 AND THE BROKEN FRONT CONCESSION (CLOSED BY BY- LAW 322-1966 REGISTERED AS LA45719)

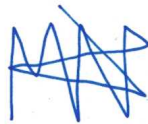
ERNESTOWN, DESIGNATED AS PARTS 1 TO 11, PLAN 29R9845; LOYALIST TOWNSHIP, COUNTY OF LENNOX AND ADDINGTON

- e. Instrument No. LX37164 registered October 4, 2011 being a Maintenance Easement over PARTS OF LOTS 23, 24 AND 25, CONCESSION 1 ERNESTOWN; PART OF LOT 25, BROKEN FRONT CONCESSION ERNESTOWN; PART OF THE ROAD ALLOWANCE BETWEEN SAID CONCESSION 1 AND THE BROKEN FRONT CONCESSION (CLOSED BY BY-LAW 322-1966 REGISTERED AS LA45719) ERNESTOWN, DESIGNATED AS PARTS 1 TO 71, PLAN 29R9851; LOYALIST TOWNSHIP, COUNTY OF LENNOX AND ADDINGTON
- f. Instrument No. LX37165 registered October 4, 2011 being a Stormwater Line Easement over PARTS OF LOTS 23 AND 24, CONCESSION 1 ERNESTOWN, DESIGNATED AS PARTS 1 TO 14, PLAN 29R9846; LOYALIST TOWNSHIP, COUNTY OF LENNOX AND ADDINGTON
- g. Instrument No. LX37166 registered October 4, 2011 being the Taylor-Kidd Utilities Easement over PARTS OF LOTS 23 AND 24, CONCESSION 1 ERNESTOWN, DESIGNATED AS PARTS 1 TO 16, PLAN 29R9847; LOYALIST TOWNSHIP, COUNTY OF LENNOX AND ADDINGTON
- h. Instrument No. LX37167 registered October 4, 2011 being a Transmission Line Easement over PARTS OF LOTS 23, 24 AND 25, CONCESSION 1 ERNESTOWN, LOYALIST TOWNSHIP, COUNTY OF LENNOX AND ADDINGTON, DESIGNATED AS:
Firstly: PARTS 1, 3, 4, 5 AND 6, PLAN 29R6860, AND PART 2, PLAN 29R7373 [Main Easement]
Secondly: PARTS 2 AND 7, PLAN 29R6860, PART 1, PLAN 29R7373 [Air Easement]
Thirdly: PARTS 1 TO 13, PLAN 29R7650 [Back-up Power]
- i. Instrument No. LX37168 registered October 4, 2011 being the Pump House Road Access Easement over PART OF LOT 24, CONCESSION 1 ERNESTOWN; PARTS OF LOTS 23 AND 24, BROKEN FRONT CONCESSION ERNESTOWN; PART OF THE ROAD ALLOWANCE BETWEEN SAID CONCESSION 1 AND THE BROKEN FRONT CONCESSION (CLOSED BY BY-LAW 322-1966 REGISTERED AS LA45719) ERNESTOWN, DESIGNATED AS PARTS 1 TO 4, PLAN 29R9844; LOYALIST TOWNSHIP, COUNTY OF LENNOX AND ADDINGTON

2. Part of PIN 45132-0373(LT) (Registered Owner – Invista (Canada) Company)

- a. Instrument No. LX37169 registered October 4, 2011 being the Intake-Outfall Easement over PART OF LOT 24, BROKEN FRONT CONCESSION ERNESTOWN, DESIGNATED AS PARTS 23 AND 24, PLAN 29R6889; LOYALIST TOWNSHIP, COUNTY OF LENNOX AND ADDINGTON

THIS IS **EXHIBIT “N”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,
THIS 31st DAY OF JULY, 2023.



Michael Noel
Commissioner for Taking Affidavits

GENERAL SECURITY AGREEMENT

This General Security Agreement is made as of April 7, 2022.

TO: MACQUARIE EQUIPMENT FINANCE LTD., as lessor

FROM: IROQUOIS FALLS POWER CORP., as Debtor (the “**Debtor**”)

RECITALS:

A The Debtor, as lessee, each of Validus Power Corp., Bay Power Corp. and Kap Power Corp. (collectively with the Debtor, the “**Guarantors**”) and Macquarie Equipment Finance Ltd., as lessor (the “**Lessor**”), are party to a participation agreement dated as of the date hereof (as may be amended, supplemented, restated or replaced from time to time, the “**Participation Agreement**”) pursuant to which, among other things, (i) the Lessor is agreeing to purchase the Leased Property from the Debtor, and (ii) the Debtor is agreeing to lease the Leased Property from the Lessor.

B. Concurrently with the execution and delivery of the Participation Agreement: (i) the Lessor and the Debtor are entering into a lease agreement dated as of the date hereof between the Lessor, as lessor, and the Debtor, as lessee (as may be amended, supplemented, restated or replaced from time to time, the “**Lease**”) under which the Lessor agrees to lease to the Debtor, and the Debtor agrees to lease from the Lessor, the Leased Property; and (ii) the Debtor and the other Guarantors are entering into the guarantee dated as of the date hereof (the “**Guarantee**”) to guarantee the payment and performance of all obligations of the Debtor and each other Guarantor in connection with the Participation Agreement, the Lease and the other Basic Documents.

C. Pursuant to the Participation Agreement and the Lease, the Debtor is required to secure the payment and performance of the Secured Liabilities and, accordingly, the Debtor has agreed to grant to the Lessor the Security Interests with respect to the Collateral in accordance with the terms of this Agreement.

For good and valuable consideration, the receipt and adequacy of which are acknowledged by the Debtor, the Debtor agrees with and in favour of the Lessor as follows:

1. **Definitions.** In this Agreement capitalized terms used but not otherwise defined in this Agreement shall have the meanings given to them in the Participation Agreement or the Lease, as applicable, and the following terms have the following meanings:

“**Accessions**”, “**Account**”, “**Chattel Paper**”, “**Certificated Security**”, “**Consumer Goods**”, “**Document of Title**”, “**Equipment**”, “**Futures Account**”, “**Futures Contract**”, “**Futures Intermediary**”, “**Goods**”, “**Instrument**”, “**Intangible**”, “**Inventory**”, “**Investment Property**”, “**Money**”, “**Proceeds**”, “**Securities Account**”, “**Securities Intermediary**”, “**Security**”, “**Security Certificate**”, “**Security Entitlement**”, and “**Uncertificated Security**” have the meanings given to them in the PPSA.

“**Agreement**” means this agreement, including the Schedules and recitals to this agreement, as it or they may be amended, supplemented, restated or replaced from time to time, and the expressions

“hereof”, “herein”, “hereto”, “hereunder”, “hereby” and similar expressions refer to this Agreement and not to any particular section or other portion of this Agreement.

“**Books and Records**” means all books, records, files, papers, disks, documents and other repositories of data recording in any form or medium, evidencing or relating to the Personal Property of the Debtor which are at any time owned by the Debtor or to which the Debtor (or any Person on the Debtor’s behalf) has access.

“**Collateral**” means all of the present and future:

- (a) undertaking;
- (b) Personal Property (including any Personal Property that may be described in any Schedule to this Agreement or any schedules, documents or listings that the Debtor may from time to time provide to the Lessor in connection with this Agreement); and
- (c) real property (including any real property that may be described in any Schedule to this Agreement or any schedules, documents or listings that the Debtor may from time to time provide to the Lessor in connection with this Agreement and including all fixtures, improvements, buildings and other structures placed, installed or erected from time to time on any such real property),

of the Debtor, including Books and Records, Contracts, Intellectual Property Rights and Permits, and including all such property in which the Debtor now or in the future has any right, title or interest whatsoever, whether owned, leased, licensed, possessed or otherwise held by the Debtor, and all Proceeds of any of the foregoing, wherever located.

“**Contracts**” means all contracts and agreements to which the Debtor is at any time a party or pursuant to which the Debtor has at any time acquired rights, and includes (i) all rights of the Debtor to receive money due and to become due to it in connection with a contract or agreement, (ii) all rights of the Debtor to damages arising out of, or for breach or default with respect to, a contract or agreement, and (iii) all rights of the Debtor to perform and exercise all remedies in connection with a contract or agreement.

“**Control**” means, with respect to a particular Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ability to exercise voting power, by contract or otherwise. “**Controlled**” has the corresponding meaning.

“**Event of Acceleration**” has the meaning set out in Section 3 hereof.

“**Guarantee**” has the meaning given to that term in the recitals hereto.

“**Intellectual Property Rights**” means all industrial and intellectual property rights of the Debtor or in which the Debtor has any right, title or interest, including copyrights, patents, inventions (whether or not patented), trade-marks, get-up and trade dress, industrial designs, integrated circuit topographies, plant breeders’ rights, know how and trade secrets, registrations and applications for

registration for any such industrial and intellectual property rights, and all Contracts related to any such industrial and intellectual property rights.

“**Issuer**” has the meaning given to that term in the STA.

“**Lease**” has the meaning set out in the recitals hereto.

“**Lessor**” has the meaning set out in the recitals hereto.

“**Organizational Documents**” means, with respect to any Person, such Person’s articles or other charter documents, by-laws, unanimous shareholder agreement, partnership agreement or trust agreement, as applicable, and any and all other similar agreements, documents and instruments relative to such Person.

“**Participation Agreement**” has the meaning given to that term in the recitals hereto.

“**Personal Property**” means personal property and includes Accounts, Chattel Paper, Documents of Title, Equipment, Goods, Instruments, Intangibles, Inventory, Investment Property and Money.

“**Pledged Certificated Securities**” means any and all Collateral that is a Certificated Security.

“**Pledged Futures Intermediary’s Jurisdiction**” means, with respect to any Pledged Futures Intermediary, its jurisdiction as determined under section 7.1(4) of the PPSA.

“**Pledged Issuer**” means, at any time, any Person which is an Issuer of, or with respect to, any Pledged Shares at such time.

“**Pledged Issuer’s Jurisdiction**” means, with respect to any Pledged Issuer, its jurisdiction as determined under section 44 of the STA.

“**Pledged Securities**” means any and all Collateral that is a Security.

“**Pledged Securities Intermediary’s Jurisdiction**” means, with respect to any Securities Intermediary, its jurisdiction as determined under section 45(2) of the STA.

“**Pledged Security Certificates**” means any and all Security Certificates representing the Pledged Certificated Securities.

“**Pledged Security Entitlements**” means any and all Collateral that is a Security Entitlement.

“**Pledged Shares**” means all Pledged Securities and Pledged Security Entitlements.

“**PPSA**” means the *Personal Property Security Act* of the Province referred to in the “Governing Law” section of this Agreement, as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation.

“**Receiver**” means a receiver, a manager or a receiver and manager.

“Release Date” means the date on which all the Secured Liabilities have been indefeasibly paid and discharged in full and the Lessor has no further obligations to the Debtor under any Basic Document pursuant to which further Secured Liabilities might arise.

“Secured Liabilities” means all present and future indebtedness, liabilities and obligations of any and every kind, nature and description (whether direct or indirect, joint or several, absolute or contingent, matured or unmatured) of the Debtor to the Lessor under, in connection with or with respect to the Participation Agreement, the Lease, the Guarantee or any other Basic Document, and any unpaid balance thereof.

“Security Interests” means the Liens created by the Debtor in favour of the Lessor under this Agreement.

“STA” means the *Securities Transfer Act* of the Province referred to in the “Governing Law” section of this Agreement, as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation.

2. **Grant of Security Interests.** As general and continuing collateral security for the due payment and performance of the Secured Liabilities, the Debtor pledges, mortgages, charges and assigns (by way of security) to the Lessor, and grants to the Lessor, a security interest in, the Collateral.

3. **Limitations on Grant of Security Interests.** If the grant of the Security Interests with respect to any Contract, Intellectual Property Right or Permit under Section 2 would result in the termination or breach of such Contract, Intellectual Property Right or Permit or is otherwise prohibited or ineffective (whether by the terms thereof or under Applicable Law), then such Contract, Intellectual Property Right or Permit shall not be subject to the Security Interests but shall be held in trust by the Debtor for the benefit of the Lessor and, on the exercise by the Lessor of any of its rights or remedies under this Agreement following a Lease Event of Default and acceleration of the Secured Liabilities pursuant to and as permitted by Section 13 of the Lease, (collectively, an **“Event of Acceleration”**) shall be assigned by the Debtor as directed by the Lessor; provided that: (a) the Security Interests shall attach to such Contract, Intellectual Property Right or Permit, or applicable portion thereof, immediately at such time as the condition causing such termination or breach is remedied, and (b) if a term in a Contract that prohibits or restricts the grant of the Security Interests in the whole of an Account or Chattel Paper forming part of the Collateral is unenforceable against the Lessor under Applicable Law, then the exclusion from the Security Interests set out above shall not apply to such Account or Chattel Paper. In addition, the Security Interests do not attach to Consumer Goods or extend to the last day of the term of any lease or agreement for lease of real property. Such last day shall be held by the Debtor in trust for the Lessor and, on the exercise by the Lessor of any of its rights or remedies under this Agreement following an Event of Acceleration, shall be assigned by the Debtor as directed by the Lessor. For greater certainty, no Intellectual Property Right in any trade-mark, get-up or trade dress is presently assigned to the Lessor by sole virtue of the grant of the Security Interests contained in Section 2.

4. **Security Interests Absolute.** The Security Interests granted hereby and all rights of the Lessor hereunder and all obligations of the Debtor hereunder are unconditional and absolute and independent and separate from any other security for the Secured Liabilities, whether executed by the Debtor or any other Person.

5. **Attachment; No Obligation to Advance.** The Debtor confirms that value has been given by the Lessor to the Debtor, that the Debtor has rights in the Collateral existing at the date of this Agreement and that the Debtor and the Lessor have not agreed to postpone the time for attachment of the Security Interests to any of the Collateral. The Security Interests shall have effect and be deemed to be effective whether or not the Secured Liabilities or any part thereof are owing or in existence before or after or upon the date of this Agreement. Neither the execution and delivery of this Agreement nor the provision of any financial accommodation by the Lessor shall oblige the Lessor to make any financial accommodation or further financial accommodation available to the Debtor or any other Person.

6. **Representations and Warranties.** The Debtor represents and warrants to the Lessor that:

- (a) as of the date hereof, all of the information set out in Schedule A is accurate and complete;
- (b) this Agreement constitutes a legal, valid and binding obligation of the Debtor, enforceable against it in accordance with its terms (except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization or similar laws affecting creditors' rights generally and by principles of equity);
- (c) the entering into of this Agreement and the performance by the Debtor of its obligations hereunder does not and will not contravene, breach or result in any default under the Organizational Documents of the Debtor or any requirement of Applicable Law or result in the creation of any Lien (other than the Security Interests granted herein);
- (d) no authorization, consent or approval of, or filing with or notice to, any Person or Government Body is required in connection with the execution and delivery of this Agreement by the Debtor or the performance of this Agreement by the Debtor;
- (e) there is no court, administrative, regulatory or similar action (whether civil, quasi-criminal, or criminal), arbitration or other dispute settlement procedure, investigation or enquiry by any Government Body, or any similar matter or action against or involving the Debtor, whether in progress or threatened, which, if determined adversely to the Debtor, would have a Material Adverse Effect;
- (f) the Debtor does not have or use a French form of name or a combined English and French form of name;
- (g) the Pledged Securities have been duly authorized and validly issued and are fully paid and non-assessable;
- (h) there are no outstanding warrants, options or other rights to purchase, or other agreements outstanding with respect to, or property that is now or

hereafter convertible into, or that requires the issuance or sale of, any Pledged Shares;

- (i) the Debtor is the registered and beneficial owner of the Pledged Securities;
- (j) there are no restrictions on the voting rights associated with, or upon the transfer of, any of the Pledged Securities other than as set out in the Organizational Documents or required by Applicable Law;
- (k) all necessary approvals and consents have been obtained in order to permit the Debtor to subject the interest of the Debtor in the Collateral to the Security Interest created by this Agreement and to permit the transfer of the Pledged Securities and any other property forming part of the Collateral from time to time to the Lessor or its nominee or any other Person in the event of realization in accordance with the provisions of Section 11 hereof;
- (l) the Pledged Securities are the sole property of the Debtor free from any liens, charges, security interests, encumbrances or any rights of others other than Permitted Liens;
- (m) all of the Pledged Securities are Certificated Securities and are "securities" for the purposes of the STA;
- (n) this Agreement creates a valid first perfected security interest in the Pledged Securities subject to any Permitted Liens;
- (o) the Debtor does not own or have any interest in any Securities Accounts, Security Entitlements, Futures Contracts or Uncertificated Securities; and
- (p) there is no existing agreement, option, right or privilege capable of becoming an agreement or option pursuant to which the Debtor could be required to sell or otherwise dispose of any of the Pledged Shares other than as set out in the Basic Documents.

7. **Survival of Representations and Warranties**. All representations and warranties made by the Debtor in this Agreement (a) are material, (b) shall be considered to have been relied on by the Lessor, and (c) shall survive the execution and delivery of this Agreement or any investigation made at any time by or on behalf of the Lessor and any disposition or payment of the Secured Liabilities until the Release Date.

8. **Covenants**. The Debtor covenants and agrees with the Lessor that:

- (a) **Marking of Collateral**. The Debtor shall keep and maintain accurate and complete records of the Collateral, including a record of all payments received and all credits granted with respect to the Accounts and Contracts. At the written request of the Lessor, the Debtor shall mark any Collateral specified by the Lessor to evidence the existence of the Security Interests.

- (b) Maintenance of Registrations. The Debtor shall maintain in good standing all registrations and applications with respect to the Intellectual Property Rights except to the extent that any failure to do so could not reasonably be expected to result in a Material Adverse Effect.
- (c) Further Identification of Collateral. The Debtor shall promptly furnish to the Lessor such statements and schedules further identifying and describing the Collateral, and such other reports in connection with the Collateral, as the Lessor may from time to time reasonably request, including an updated list of “serial number” goods owned by the Debtor and classified as Equipment.
- (d) Agreements re Intellectual Property Rights. Promptly upon request from time to time by the Lessor, the Debtor shall authorize, execute and deliver any and all agreements, instruments, documents and papers that the Lessor may request to evidence the Security Interests in any Intellectual Property Rights and, where applicable, the goodwill of the business of the Debtor connected with the use of, and symbolized by, any such Intellectual Property Rights.
- (e) Instruments; Documents of Title; Chattel Paper. Promptly upon request from time to time by the Lessor, the Debtor shall deliver to the Lessor, endorsed and/or accompanied by such instruments of assignment and transfer in such form and substance as the Lessor may reasonably request, any and all Instruments, Documents of Title and Chattel Paper included in or relating to the Collateral as the Lessor may specify in its request.
- (f) Pledged Certificated Securities. The Debtor shall deliver to the Lessor any and all Pledged Security Certificates and other materials as may be required from time to time to provide the Lessor with control over all Pledged Certificated Securities in the manner provided under section 23 of the STA. At the request of the Lessor, the Debtor shall cause all Pledged Security Certificates to be registered in the name of the Lessor or its nominee.
- (g) Partnerships, Limited Liability Companies. The Debtor shall ensure that the terms of any interest in a partnership or limited liability company that is Collateral shall expressly provide that such interest is a “security” for the purposes of the STA.
- (h) Transfer Restrictions. If the Organizational Documents of any Pledged Issuer restrict the transfer of the Securities of such Pledged Issuer, then the Debtor shall deliver to the Lessor a certified copy of a resolution of the directors, shareholders, unitholders or partners of such Pledged Issuer, as applicable, consenting to the transfer(s) contemplated by this Agreement, including any prospective transfer of the Collateral by the Lessor upon a realization on the Security Interests.

- (i) Liens. The Debtor shall preserve, protect and defend in all material respects the Collateral, including, if appropriate (in the reasonable judgement of the Debtor), prosecution of suits to enforce any right of the Debtor and enforcement of any claims with respect thereto and, except as otherwise provided herein, keep the Collateral free and clear of all Liens other than as specifically permitted by the Participation Agreement, the Lease or any other Basic Document.
- (j) Disposition; Transfer. The Debtor shall not sell or dispose of, transfer, relinquish, or agree to pledge, encumber, mortgage, charge or otherwise deal with any of its interest in the Collateral other than as specifically permitted by the Participation Agreement or any other Basic Document.
- (k) Certificated Securities. The Debtor shall not permit any issuance of additional Securities in the capital of the Pledged Issuers unless all such additional Securities are Certificated Securities, are permitted by the Participation Agreement or any other Basic Document and are forthwith delivered to the Lessor.
- (l) Notices. The Debtor shall advise the Lessor promptly, in reasonable detail, of any:
 - (i) change to a Pledged Securities Intermediary's Jurisdiction, Pledged Issuer's Jurisdiction or Pledged Future Intermediary's Jurisdiction;
 - (ii) change in the location of the jurisdiction of formation, chief executive office, or domicile of the Debtor;
 - (iii) change in the name of the Debtor;
 - (iv) merger, consolidation or amalgamation of the Debtor with any other Person;
 - (v) additional jurisdiction in which the Debtor carries on business or has tangible Personal Property;
 - (vi) additional jurisdiction in which material account debtors of the Debtor are located;
 - (vii) acquisition of any right, title or interest in real property by the Debtor;
 - (viii) acquisition of any Intellectual Property Rights which are the subject of a registration or application with any governmental intellectual property or other governing body or registry, or which are material to the Debtor's business;
 - (ix) acquisition of any Instrument, Document of Title or Chattel Paper;
 - (x) creation or acquisition of any Subsidiary of the Debtor; or

- (xi) Liens (other than Permitted Liens) on, or claim asserted against, any of the Collateral.

The Debtor shall not effect or permit any of the changes referred to in this section above unless all filings have been made and all other actions taken (to the extent, for greater certainty, such filings and actions may be taken prior to such changes) that are required in order for the Lessor to continue at all times following such change to have a valid and perfected first priority Security Interest with respect to all of the Collateral.

- (m) Certificated Securities. The Debtor shall not acquire any Securities unless all such additional Securities are Certificated Securities and are forthwith delivered to the Lessor, together with all other materials as may be required from time to time to provide the Lessor with control over all Pledged Certificated Securities in the manner provided under section 23 of the STA.
- (n) Security Entitlements, Securities Accounts, Future Contracts, Uncertificated Securities. The Debtor shall not acquire any Security Entitlement, Securities Account, Futures Contract or Uncertificated Security without, prior to acquiring such property, delivering to the Lessor all agreements, instruments, documents and other material required, and doing all acts necessary, to ensure that the Lessor has and will continue to have a valid and perfected first priority Security Interest on such property.

9. **Voting Rights**. Unless an Event of Acceleration has occurred and is continuing, the Debtor shall be entitled to exercise all voting power from time to time exercisable with respect to the Pledged Shares and give consents, waivers and ratifications with respect thereto; provided, however, that no vote shall be cast or consent, waiver or ratification given or action taken which would be, or would have a reasonably likelihood of being, prejudicial to the interests of the Lessor or which would have the effect of reducing the value of the Collateral as security for the Secured Liabilities or imposing any restriction on the transferability of any of the Collateral. Unless an Event of Acceleration has occurred and is continuing, the Lessor shall, from time to time at the request and expense of the Debtor, execute or cause to be executed, with respect to all Pledged Securities that are registered in the name of the Lessor or its nominee, valid proxies appointing the Debtor as its (or its nominee's) proxy to attend, vote and act for and on behalf of the Lessor or such nominee, as the case may be, at any and all meetings of the applicable Pledged Issuer's shareholders, unitholders or debt holders, all Pledged Securities that are registered in the name of the Lessor or such nominee, as the case may be, and to execute and deliver, consent to or approve or disapprove of or withhold consent to any resolutions in writing of shareholders, unitholders or debt holders of the applicable Pledged Issuer for and on behalf of the Lessor or such nominee, as the case may be. Immediately upon the occurrence and during the continuance of any Event of Acceleration, all such rights of the Debtor to vote and give consents, waivers and ratifications shall cease and the Lessor or its nominee shall be entitled to exercise all such voting rights and to give all such consents, waivers and ratifications.

10. **Dividends; Interest**. Unless an Event of Acceleration has occurred and is continuing, the Debtor shall be entitled to receive any and all cash dividends, interest, principal payments and other forms of cash distribution on the Pledged Shares which it is otherwise entitled to receive, but

any and all stock and/or liquidating dividends, distributions of property, returns of capital or other distributions made on or with respect to the Pledged Shares, whether resulting from a subdivision, combination or reclassification of the outstanding capital stock of any Pledged Issuer or received in exchange for the Pledged Shares or any part thereof or as a result of any amalgamation, merger, consolidation, acquisition or other exchange of property to which any Pledged Issuer may be a party or otherwise, and any and all cash and other property received in exchange for any Pledged Shares shall be and become part of the Collateral subject to the Security Interests and, if received by the Debtor, shall forthwith be delivered to the Lessor or its nominee (accompanied, if appropriate, by proper instruments of assignment and/or stock powers of attorney executed by the Debtor in accordance with the Lessor's instructions) to be held subject to the terms of this Agreement; and if any of the Pledged Security Certificates have been registered in the name of the Lessor or its nominee, the Lessor shall execute and deliver (or cause to be executed and delivered) to the Debtor all such dividend orders and other instruments as the Debtor may request for the purpose of enabling the Debtor to receive the dividends, distributions or other payments which the Debtor is authorized to receive and retain pursuant to this Section. If an Event of Acceleration has occurred and is continuing, all rights of the Debtor pursuant to this Section shall cease and the Lessor shall have the sole and exclusive right and authority to receive and retain the cash dividends, interest, principal payments and other forms of cash distribution which the Debtor would otherwise be authorized to retain pursuant to this Section. Any money and other property paid over to or received by the Lessor pursuant to the provisions of this Section shall be retained by the Lessor as additional Collateral hereunder and be applied in accordance with the provisions of this Agreement.

11. **Rights on Event of Acceleration.** If an Event of Acceleration has occurred and is continuing, then and in every such case all of the Secured Liabilities shall, at the option of the Lessor, become immediately due and payable and the Security Interests shall become enforceable and the Lessor, in addition to any rights now or hereafter existing under Applicable Law may, personally or by agent, at such time or times as the Lessor in its discretion may determine, do any one or more of the following:

- (a) **Rights under PPSA, etc.** Exercise all of the rights and remedies granted to secured parties under the PPSA and any other applicable statute, or otherwise available to the Lessor by contract, at law or in equity.
- (b) **Demand Possession.** Demand possession of any or all of the Collateral, in which event the Debtor shall, at the expense of the Debtor, immediately cause the Collateral designated by the Lessor to be assembled and made available and/or delivered to the Lessor at any place designated by the Lessor.
- (c) **Take Possession.** Enter on any premises where any Collateral is located and take possession of, disable or remove such Collateral.
- (d) **Deal with Collateral.** Hold, store and keep idle, or operate, lease or otherwise use or permit the use of, any or all of the Collateral for such time and on such terms as the Lessor may determine, and demand, collect and retain all earnings and other sums due or to become due from any Person with respect to any of the Collateral.

- (e) Carry on Business. Carry on, or concur in the carrying on of, any or all of the business or undertaking of the Debtor and enter on, occupy and use (without charge by the Debtor) any of the premises, buildings, plant and undertaking of, or occupied or used by, the Debtor.
- (f) Enforce Collateral. Seize, collect, receive, enforce or otherwise deal with any Collateral in such manner, on such terms and conditions and at such times as the Lessor deems advisable.
- (g) Dispose of Collateral. Realize on any or all of the Collateral and sell, lease, assign, give options to purchase, or otherwise dispose of and deliver any or all of the Collateral (or contract to do any of the above), in one or more parcels at any public or private sale, at any exchange, broker's board or office of the Lessor or elsewhere, with or without advertising or other formality, except as required by Applicable Law, on such terms and conditions as the Lessor may deem advisable and at such prices as it may deem best, for cash or on credit or for future delivery.
- (h) Court-Approved Disposition of Collateral. Obtain from any court of competent jurisdiction an order for the sale or foreclosure of any or all of the Collateral.
- (i) Purchase by Lessor. At any public sale, and to the extent permitted by Applicable Law on any private sale, bid for and purchase any or all of the Collateral offered for sale and, upon compliance with the terms of such sale, hold, retain, sell or otherwise dispose of such Collateral without any further accountability to the Debtor or any other Person with respect to such holding, retention, sale or other disposition, except as required by Applicable Law. In any such sale to the Lessor, the Lessor may, for the purpose of making payment for all or any part of the Collateral so purchased, use any claim for any or all of the Secured Liabilities then due and payable to it as a credit against the purchase price.
- (j) Collect Accounts. Notify (whether in its own name or in the name of the Debtor) the account debtors under any Accounts of the Debtor of the assignment of such Accounts to the Lessor and direct such account debtors to make payment of all amounts due or to become due to the Debtor with respect to such Accounts directly to the Lessor and, upon such notification and at the expense of the Debtor, enforce collection of any such Accounts, and adjust, settle or compromise the amount or payment of such Accounts, in such manner and to such extent as the Lessor deems appropriate in the circumstances.
- (k) Transfer of Collateral. Transfer any Collateral that is Pledged Shares into the name of the Lessor or its nominee.
- (l) Voting. Vote any or all of the Pledged Shares (whether or not transferred to the Lessor or its nominee) and give or withhold all consents, waivers and

ratifications with respect thereto and otherwise act with respect thereto as though it were the outright owner thereof.

- (m) Exercise Other Rights. Exercise any and all rights, privileges, entitlements and options pertaining to any Collateral that is Pledged Shares as if the Lessor were the absolute owner of such Pledged Shares.
- (n) Dealing with Contracts and Permits. Deal with any and all Contracts and Permits to the same extent as the Debtor might (including the enforcement, realization, sale, assignment, transfer and requirement for continued performance), all on such terms and conditions and at such time or times as may seem advisable to the Lessor.
- (o) Payment of Liabilities. Pay any liability secured by any Lien against any Collateral. The Debtor shall immediately on demand reimburse the Lessor for all such payments and, until paid, any such reimbursement obligation shall form part of the Secured Liabilities and shall be secured by the Security Interests.
- (p) Borrow and Grant Liens. Borrow money for the maintenance, preservation or protection of any Collateral or for carrying on any of the business or undertaking of the Debtor and grant Liens on any Collateral (in priority to the Security Interests or otherwise) as security for the money so borrowed. The Debtor shall immediately on demand reimburse the Lessor for all such borrowings and, until paid, any such reimbursement obligations shall form part of the Secured Liabilities and shall be secured by the Security Interests.
- (q) Appoint Receiver. Appoint by instrument in writing one or more Receivers of the Debtor or any or all of the Collateral with such rights, powers and authority (including any or all of the rights, powers and authority of the Lessor under this Agreement) as may be provided for in the instrument of appointment or any supplemental instrument, and remove and replace any such Receiver from time to time. To the extent permitted by Applicable Law, any Receiver appointed by the Lessor shall (for purposes relating to responsibility for the Receiver's acts or omissions) be considered to be the agent of the Debtor and not of the Lessor.
- (r) Court-Appointed Receiver. Obtain from any court of competent jurisdiction an order for the appointment of a Receiver of the Debtor or of any or all of the Collateral.
- (s) Consultants. Require the Debtor to engage a consultant of the Lessor's choice, or engage a consultant on its own behalf, such consultant to receive the full cooperation and support of the Debtor and its agents and employees, including unrestricted access to the premises of the Debtor and the Books and Records; all reasonable fees and expenses of such consultant shall be for the account of the Debtor and the Debtor hereby authorizes any such

consultant to report directly to the Lessor and to disclose to the Lessor any and all information obtained in the course of such consultant's employment.

Where no rights shall be exercised other than following the giving of notice by the Lessor to the Debtor, which notice has not been rescinded, the Lessor may exercise any or all of the foregoing rights and remedies without demand of performance or other demand, presentment, protest, advertisement or notice of any kind (except as required by Applicable Law) to or on the Debtor or any other Person, and the Debtor hereby waives each such demand, presentment, protest, advertisement and notice to the extent permitted by Applicable Law. None of the above rights or remedies shall be exclusive of or dependent on or merge in any other right or remedy, and one or more of such rights and remedies may be exercised independently or in combination from time to time. The Debtor acknowledges and agrees that any action taken by the Lessor hereunder following the occurrence and during the continuance of an Event of Acceleration shall not be rendered invalid or ineffective as a result of the curing of the Lease Event of Default on which such action was based.

12. **Realization Standards.** To the extent that Applicable Law imposes duties on the Lessor to exercise remedies in a commercially reasonable manner and without prejudice to the ability of the Lessor to dispose of the Collateral in any such manner, the Debtor acknowledges and agrees that it is not commercially unreasonable for the Lessor to (or not to) (a) incur expenses reasonably deemed necessary by the Lessor to prepare the Collateral for disposition or otherwise to complete raw material or work in process into finished goods or other finished products for disposition, (b) fail to obtain third party consents for access to the Collateral to be disposed of, (c) fail to exercise collection remedies against account debtors or other Persons obligated on the Collateral or to remove Liens against the Collateral, (d) exercise collection remedies against account debtors and other Persons obligated on the Collateral directly or through the use of collection agencies and other collection specialists, (e) dispose of Collateral by way of public auction, public tender or private contract, with or without advertising and without any other formality, (f) contact other Persons, whether or not in the same business of the Debtor, for expressions of interest in acquiring all or any portion of the Collateral, (g) hire one or more professional auctioneers to assist in the disposition of the Collateral, whether or not the Collateral is of a specialized nature or an upset or reserve bid or price is established, (h) dispose of the Collateral by utilizing internet sites that provide for the auction of assets of the types included in the Collateral or that have the reasonable capacity of doing so, or that match buyers and sellers of assets, (i) dispose of assets in wholesale rather than retail markets, (j) disclaim disposition warranties, such as title, possession or quiet enjoyment, (k) purchase insurance or credit enhancements to insure the Lessor against risks of loss, collection or disposition of the Collateral or to provide to the Lessor a guaranteed return from the collection or disposition of the Collateral, (l) to the extent deemed necessary by the Lessor, obtain the services of other brokers, investment bankers, consultants and other professionals to assist the Lessor in the collection or disposition of any of the Collateral, (m) dispose of Collateral in whole or in part, (n) dispose of Collateral to a customer of the Lessor, and (o) establish an upset or reserve bid price with respect to Collateral.

13. **Grant of Licence.** For the purpose of enabling the Lessor to exercise its rights and remedies under this Agreement when the Lessor is entitled to exercise such rights and remedies, and for no other purpose, the Debtor grants to the Lessor an irrevocable, non-exclusive licence (exercisable without payment of royalty or other compensation to the Debtor) to use, assign or sublicense any or all of the Intellectual Property Rights, including in such licence reasonable access

to all media in which any of the licensed items may be recorded or stored and to all computer programs used for the compilation or printout of the same. For any trade-marks, get-up and trade dress and other business indicia, such licence includes an obligation on the part of the Lessor to maintain the standards of quality maintained by the Debtor or, in the case of trade-marks, get-up and trade dress or other business indicia licensed to the Debtor, the standards of quality imposed upon the Debtor by the relevant licence. For copyright works, such licence shall include the benefit of any waivers of moral rights and similar rights. The licence granted under this Section shall expire on the Release Date.

14. **Securities Laws.** The Lessor is authorized, in connection with any offer or sale of any Pledged Shares, to comply with any limitation or restriction as it may be advised by counsel is necessary to comply with Applicable Law, including compliance with procedures that may restrict the number of prospective bidders and purchasers, requiring that prospective bidders and purchasers have certain qualifications, and restricting prospective bidders and purchasers to Persons who will represent and agree that they are purchasing for their own account or investment and not with a view to the distribution or resale of such Securities. In addition to and without limiting Section 12, the Debtor further agrees that compliance with any such limitation or restriction shall not result in a sale being considered or deemed not to have been made in a commercially reasonable manner, and the Lessor shall not be liable or accountable to the Debtor for any discount allowed by reason of the fact that such Pledged Shares are sold in compliance with any such limitation or restriction. If the Lessor chooses to exercise its right to sell any or all Pledged Shares, upon written request, the Debtor shall cause each applicable Pledged Issuer to furnish to the Lessor all such information as the Lessor may request in order to determine the number of shares and other instruments included in the Collateral which may be sold by the Lessor in exempt transactions under any Applicable Laws governing securities, and the rules and regulations of any applicable securities regulatory body thereunder, as the same are from time to time in effect.

15. **Application of Proceeds.** All Proceeds of Collateral received by the Lessor or a Receiver may be applied to discharge or satisfy any expenses (including the Receiver's remuneration and other expenses of enforcing the Lessor's rights under this Agreement), Liens on the Collateral in favour of Persons other than the Lessor, borrowings, taxes and other outgoings affecting the Collateral or which are considered advisable by the Lessor or the Receiver to protect, preserve, repair, process, maintain or enhance the Collateral or prepare it for sale, lease or other disposition, or to keep in good standing any Liens on the Collateral ranking in priority to any of the Security Interests, or to sell, lease or otherwise dispose of the Collateral. The balance of such Proceeds may, at the sole discretion of the Lessor, be held as collateral security for the Secured Liabilities or be applied to such of the Secured Liabilities (whether or not the same are due and payable) in such manner and at such times as the Lessor considers appropriate and thereafter shall be accounted for as required by Applicable Law.

16. **Continuing Liability of Debtor.** The Debtor shall remain liable for any Secured Liabilities that are outstanding following realization of all or any part of the Collateral and the application of the Proceeds thereof.

17. **Lessor's Appointment as Attorney-in-Fact.** Effective upon the occurrence and during the continuance of an Event of Acceleration, the Debtor constitutes and appoints the Lessor and any officer or agent of the Lessor, with full power of substitution, as the Debtor's true and lawful

attorney-in-fact with full power and authority in the place of the Debtor and in the name of the Debtor or, in its own name, from time to time in the Lessor's discretion, to take any and all appropriate action and to execute any and all documents and instruments as, in the opinion of such attorney, may be necessary or desirable to accomplish the purposes of this Agreement. Without limiting the effect of this Section, the Debtor grants the Lessor an irrevocable proxy to vote the Pledged Shares and to exercise all other rights, powers, privileges and remedies to which a holder thereof would be entitled (including giving or withholding written consents of shareholders, calling special meetings of shareholders and voting at such meetings), which proxy shall be effective, automatically and without the necessity of any action (including any transfer of any Pledged Shares on the books and records of a Pledged Issuer or Pledged Securities Intermediary, as applicable), upon the occurrence of an Event of Acceleration. These powers are coupled with an interest and are irrevocable until the Release Date. Nothing in this Section affects the right of the Lessor as secured party or any other Person on the Lessor's behalf, to sign and file or deliver (as applicable) all such financing statements, financing change statements, notices, verification statements and other documents relating to the Collateral and this Agreement as the Lessor or such other Person considers appropriate. The Debtor hereby ratifies and confirms, and agrees to ratify and confirm, whatever lawful acts the Lessor or any of the Lessor's sub-agents, nominees or attorneys do or purport to do in exercise of the power of attorney granted to the Lessor pursuant to this Section.

18. **Performance by Lessor of Debtor's Obligations.** If the Debtor fails to perform or comply with any of the obligations of the Debtor under this Agreement, the Lessor may, but need not, perform or otherwise cause the performance or compliance of such obligation, provided that such performance or compliance shall not constitute a waiver, remedy or satisfaction of such failure. The expenses of the Lessor incurred in connection with any such performance or compliance shall be payable by the Debtor to the Lessor immediately on demand, and until paid, any such expenses shall form part of the Secured Liabilities and shall be secured by the Security Interests.

19. **Interest.** If any amount payable by the Debtor to the Lessor under this Agreement is not paid when due, the Debtor shall pay to the Lessor, immediately on demand, interest on such amount from the date due until paid at the Late Rate (as defined in the Lease). All amounts payable by the Debtor to the Lessor under this Agreement, and all interest on all such amounts shall form part of the Secured Liabilities and shall be secured by the Security Interests.

20. **Severability.** Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be severed from the balance of this Agreement, all without affecting the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

21. **Rights of Lessor; Limitations on Lessor's Obligations.**

- (a) **Limitations on Liability of the Lessor.** The Lessor shall not be liable to the Debtor or any other Person for any failure or delay in exercising any of the rights of the Debtor under this Agreement (including any failure to take possession of, collect, sell, lease or otherwise dispose of any Collateral, or to preserve rights against prior parties). Neither the Lessor, a Receiver nor any agent thereof is required to take, or shall have any liability for any

failure to take or delay in taking, any steps necessary or advisable to preserve rights against other Persons under any Collateral in its possession. Neither the Lessor, any Receiver nor any agent thereof shall be liable for any, and the Debtor shall bear the full risk of all, loss or damage to any and all of the Collateral (including any Collateral in the possession of the Lessor, any Receiver, or any agent thereof) caused for any reason other than the gross negligence or wilful misconduct of the Lessor, such Receiver or such agent thereof.

- (b) Debtor Remains Liable under Accounts and Contracts. Notwithstanding any provision of this Agreement, the Debtor shall remain liable under each of the documents giving rise to the Accounts of the Debtor and under each of the Contracts to observe and perform all the conditions and obligations to be observed and performed by the Debtor thereunder, all in accordance with the terms of each such document and Contract. The Lessor shall not have any obligation or liability under any Account of the Debtor (or any document giving rise thereto) or Contract by reason of or arising out of this Agreement or the receipt by the Lessor of any payment relating to such Account or Contract pursuant hereto, and in particular (but without limitation), the Lessor shall not be obligated in any manner to perform any of the obligations of the Debtor under or pursuant to any Account (or any document giving rise thereto) or under or pursuant to any Contract to make any payment, to make any inquiry as to the nature or the sufficiency of any payment received by it or as to the sufficiency of any performance by any party under any Account (or any document giving rise thereto) or under any Contract, to present or file any claim, to take any action to enforce any performance or to collect the payment of any amounts which may have been assigned to it or to which it may be entitled at any time.
- (c) Analysis of Accounts. Following the occurrence of an Event of Acceleration that is continuing or a Lease Default, at any time and from time to time, the Lessor shall have the right to analyze and verify the Accounts of the Debtor in any manner and through any medium that it reasonably considers advisable, and the Debtor shall furnish all such assistance and information as the Lessor may require in connection therewith. Following the occurrence of an Event of Acceleration that is continuing or a Lease Default, at any time and from time to time, the Lessor may in its own name or in the name of others (including the Debtor) communicate with account debtors on the Accounts of the Debtor and parties to the Contracts to verify with them to its satisfaction the existence, status, amount and terms of any Account or any Contract. Following the occurrence of an Event of Acceleration that is continuing or a Lease Default, at any time and from time to time, upon the Lessor's reasonable request and at the expense of the Debtor, the Debtor shall furnish to the Lessor reports showing reconciliations, aging and test verifications of, and trial balances for, its Accounts.

- (d) Use of Agents. The Lessor may perform any of its rights or duties under this Agreement by or through agents and is entitled to retain counsel and to act in reliance on the advice of such counsel concerning all matters pertaining to its rights and duties under this Agreement.

22. **Dealings by Lessor.** The Lessor shall not be obliged to exhaust its recourse against the Debtor or any other Person or against any other security it may hold with respect to the Secured Liabilities or any part thereof before realizing upon or otherwise dealing with the Collateral in such manner as the Lessor may consider desirable. The Lessor may grant extensions of time and other indulgences, take and give up security, accept compositions, grant releases and discharges and otherwise deal with the Debtor and any other Person, and with any or all of the Collateral, and with other security and sureties, as it may see fit, all without prejudice to the Secured Liabilities or to the rights and remedies of the Lessor under this Agreement. The powers conferred on the Lessor under this Agreement are solely to protect the interests of the Lessor in the Collateral and shall not impose any duty upon the Lessor to exercise any such powers.

23. **Communication.** Any notice or other communication required or permitted to be given under this Agreement will be given in accordance with the terms of the Participation Agreement.

24. **Release of Information.** The Debtor authorizes the Lessor to provide a copy of this Agreement and such other information as may be requested of it (i) to the extent necessary to enforce its rights, remedies and entitlements under this Agreement, (ii) to any assignee or prospective assignee of all or any part of the Secured Liabilities, and (iii) as required by Applicable Law.

25. **Expenses; Indemnity; Waiver.**

- (a) The Debtor shall pay all reasonable out-of-pocket expenses incurred by the Lessor, including the reasonable fees, charges and disbursements of any counsel for the Lessor and all applicable taxes, in connection with the assessment, enforcement or protection of their rights in connection with this Agreement, including its rights under this Section, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations with respect to the Secured Liabilities.
- (b) The Debtor hereby agrees to indemnify the Lessor, from and against any and all liabilities, obligations, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever which may be imposed on, incurred by, or asserted against the Lessor in any way relating to or arising out of this Agreement or any other Basic Document or any action taken or admitted by the Lessor under or in respect of this Agreement; provided that the Debtor shall not be liable for any portion of such liabilities, obligations, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from the Lessor's gross negligence or wilful misconduct. Without limiting the generality of the foregoing, the Debtor agrees to reimburse the Lessor promptly upon demand in the proportion specified in the Participation Agreement in respect of any out of pocket expenses (including counsel fees) incurred by

the Lessor in connection with the preservation of any rights of the Lessor or the Debtor under, or the enforcement of, or legal advice in respect of the rights or responsibilities under, this Agreement or any other Basic Document.

- (c) The Debtor shall not assert, and hereby waives (to the fullest extent permitted by Applicable Law), (i) any claim against the Lessor (or any director, officer or employee thereof), on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, and (ii) all of the rights, benefits and protections given by any present or future statute that imposes limitations on the rights, powers or remedies of a secured party or on the methods of, or procedures for, realization of security, including any "seize or sue" or "anti-deficiency" statute or any similar provision of any other statute.
- (d) All amounts due under this Section shall be payable to the Lessor not later than three Business Days after written demand therefor.
- (e) The indemnifications set out in this Section shall survive the Release Date and the release or extinguishment of the Security Interests.

26. **Release of Debtor.** Upon the written request of the Debtor given at any time on or after the Release Date, the Lessor shall, at the expense of the Debtor, release the Debtor and the Collateral from the Security Interests and such release shall serve to terminate any licence granted in this Agreement. Upon such release, and at the request and expense of the Debtor, the Lessor shall execute and deliver to the Debtor such releases and discharges as the Debtor may reasonably request and return all Pledged Securities delivered to the Lessor pursuant to this Agreement.

27. **Additional Security.** This Agreement is in addition to, and not in substitution of, any and all other security previously or concurrently delivered by the Debtor or any other Person to the Lessor, all of which other security shall remain in full force and effect.

28. **Alteration or Waiver.** None of the terms or provisions of this Agreement may be waived, amended, supplemented or otherwise modified except by a written instrument executed by the Debtor and the Lessor. The Lessor shall not, by any act or delay, be deemed to have waived any right or remedy hereunder or to have acquiesced in any Lease Event of Default or in any breach of any of the terms and conditions hereof. No failure to exercise, nor any delay in exercising, on the part of the Lessor, any right, power or privilege hereunder shall operate as a waiver thereof. No single or partial exercise of any right, power or privilege hereunder shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege. A waiver by the Lessor of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy which the Lessor would otherwise have on any future occasion. Neither the taking of any judgment nor the exercise of any power of seizure or sale shall extinguish the liability of the Debtor to pay the Secured Liabilities, nor shall the same operate as a merger of any covenant contained in this Agreement or of any other liability, nor shall the acceptance of any payment or other security constitute or create any novation.

29. **Amalgamation.** If the Debtor is a corporation or other body corporate, the Debtor acknowledges that if it amalgamates or merges with any other corporation or corporations, or other bodies corporate, then (i) the Collateral and the Security Interests shall extend to and include all the property and assets of the amalgamated corporation or other body corporate and to any property or assets of the amalgamated corporation or other body corporate thereafter owned or acquired, (ii) the term “Debtor”, where used in this Agreement, shall extend to and include the amalgamated corporation or other body corporate, and (iii) the term “Secured Liabilities”, where used in this Agreement, shall extend to and include the Secured Liabilities of the amalgamated corporation or other body corporate.

30. **Governing Law; Attornment.** This Agreement shall be governed by and construed in accordance with the Laws of the Province of Ontario and the federal Laws of Canada applicable therein. Without prejudice to the ability of the Lessor to enforce this Agreement in any other proper jurisdiction, the Debtor irrevocably submits and attorns to the non-exclusive jurisdiction of the courts of such province. To the extent permitted by Applicable Law, the Debtor irrevocably waives any objection (including any claim of *forum non conveniens*) that it may now or hereafter have to the venue of any legal proceeding arising out of or relating to this Agreement in the courts of such Province.

31. **Interpretation.** The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. The word “or” is disjunctive; the word “and” is conjunctive. The word “shall” is mandatory; the word “may” is permissive. Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set out herein), (b) any reference herein to any statute or any section thereof shall, unless otherwise expressly stated, be deemed to be a reference to such statute or section as amended, restated or re-enacted from time to time, (c) any reference herein to any Person shall be construed to include such Person’s successors and permitted assigns, (d) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, and (e) all references herein to Sections and Schedules shall be construed to refer to Sections and Schedules to this Agreement. Section headings are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement. Any reference in this Agreement to a Permitted Lien is not intended to subordinate or postpone, and shall not be interpreted as subordinating or postponing, or as any agreement to subordinate or postpone, any Security Interest to any Permitted Lien.

32. **Paramourty.** In the event of any conflict or inconsistency between the provisions of this Agreement and the provisions of the Participation Agreement or the Lease then, notwithstanding anything contained in this Agreement, the provisions contained in the Participation Agreement or the Lease, as applicable, shall prevail to the extent of such conflict or inconsistency and the provisions of this Agreement shall be deemed to be amended to the extent necessary to eliminate such conflict or inconsistency, it being understood that the purpose of this Agreement is to add to, and not detract from, the rights granted to the Lessor under the Participation Agreement or the

Lease, as applicable. If any act or omission of the Debtor is expressly permitted under the Participation Agreement or the Lease but is expressly prohibited under this Agreement, such act or omission shall be permitted. If any act or omission is expressly prohibited under this Agreement, but the Participation Agreement and the Lease do not expressly permit such act or omission, or if any act is expressly required to be performed under this Agreement but the Participation Agreement and the Lease do not expressly relieve the Debtor from such performance, such circumstance shall not constitute a conflict between the applicable provisions of this Agreement and the provisions of the Participation Agreement or the Lease.

33. **Successors and Assigns.** This Agreement shall enure to the benefit of, and be binding on, the Debtor and its successors and permitted assigns, and shall enure to the benefit of, and be binding on, the Lessor and its successors and permitted assigns. The Debtor may not assign this Agreement, or any of its rights or obligations under this Agreement. The Lessor may assign this Agreement and any of its rights and obligations hereunder to any Person that replaces it in its capacity as such in accordance with and subject to the terms and conditions applicable to such assignment as set out in the Participation Agreement. If the Debtor or the Lessor is an individual, then the term “Debtor” or “Lessor”, as applicable, shall also include his or her heirs, administrators and executors.

34. **Acknowledgment of Receipt/Waiver.** The Debtor acknowledges receipt of an executed copy of this Agreement and, to the extent permitted by Applicable Law, waives the right to receive a copy of any financing statement or financing change statement registered in connection with this Agreement or any verification statement issued with respect to any such financing statement or financing change statement.

35. **Electronic Signature.** Delivery of an executed signature page to this Agreement by the Debtor by facsimile or other electronic form of transmission shall be as effective as delivery by the Debtor of a manually executed copy of this Agreement by the Debtor.

36. **Counterparts.** This Agreement may be executed and delivered in any number of counterparts, each of which when so executed and delivered shall constitute an original, but all of which when taken together shall constitute one and the same document.

[signature page follows]

IN WITNESS WHEREOF the undersigned has caused this Agreement to be duly executed as of the date first written above.

IROQUOIS FALLS POWER CORP., as
Debtor

By: 
Name: Todd Shortt
Title: President and Chief Executive Officer

By: _____
Name:
Title:

SCHEDULE A

DEBTOR INFORMATION

Full legal name:

Iroquois Falls Power Corp.

Prior names:

504507 New Brunswick Limited

Predecessor companies:

None

Jurisdiction of incorporation or organization:

Ontario

Address of chief executive office:

2300-100 Wellington Street West, Toronto ON M5J 2R2

Addresses of all places where business is carried on or tangible Personal Property is kept:

2300-100 Wellington Street West, Toronto ON M5J 2R2

1 Northwest Industrial Road, Iroquois Falls, Ontario. P0K 1E0.

Jurisdictions in which all material account debtors are located:

Ontario

Addresses of all owned real property:

1 Northwest Industrial Road, Iroquois Falls, Ontario. P0K 1E0.

Instruments, Documents of Title and Chattel Paper of the Debtor:

Nil.

Pledged Certificated Securities:

Nil.

Registered trade-marks and applications for trademark registrations:

Nil.

Patents and patent applications:

Nil.

Copyright registrations and applications for copyright registrations:

Nil.

Industrial designs/registered designs and applications for registered designs:

Nil.

THIS IS **EXHIBIT “O”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,
THIS 31st DAY OF JULY, 2023.



Michael Noel
Commissioner for Taking Affidavits

GENERAL SECURITY AGREEMENT

This General Security Agreement is made as of April 7, 2022.

TO: MACQUARIE EQUIPMENT FINANCE LTD., as lessor

FROM: BAY POWER CORP., as Debtor (the “**Debtor**”)

RECITALS:

A Iroquois Falls Power Corp., as lessee (the “**Lessee**”), each of the Debtor, Validus Power Corp. and Kap Power Corp. (collectively with the Lessee, the “**Guarantors**”) and Macquarie Equipment Finance Ltd., as lessor (the “**Lessor**”), are party to a participation agreement dated as of the date hereof (as may be amended, supplemented, restated or replaced from time to time, the “**Participation Agreement**”) pursuant to which, among other things, (i) the Lessor is agreeing to purchase the Leased Property from the Lessee, and (ii) the Lessee is agreeing to lease the Leased Property from the Lessor.

B. Concurrently with the execution and delivery of the Participation Agreement: (i) the Lessor and the Lessee are entering into a lease agreement dated as of the date hereof between the Lessor, as lessor, and the Lessee, as lessee (as may be amended, supplemented, restated or replaced from time to time, the “**Lease**”) under which the Lessor agrees to lease to the Lessee, and the Lessee agrees to lease from the Lessor, the Leased Property; and (ii) the Debtor and the other Guarantors are entering into the guarantee dated as of the date hereof (the “**Guarantee**”) to guarantee the payment and performance of all obligations of the Lessee and each other Guarantor in connection with the Participation Agreement, the Lease and the other Basic Documents.

C. Pursuant to the Participation Agreement and the Lease, the Debtor is required to secure the payment and performance of the Secured Liabilities and, accordingly, the Debtor has agreed to grant to the Lessor the Security Interests with respect to the Collateral in accordance with the terms of this Agreement.

For good and valuable consideration, the receipt and adequacy of which are acknowledged by the Debtor, the Debtor agrees with and in favour of the Lessor as follows:

1. **Definitions.** In this Agreement capitalized terms used but not otherwise defined in this Agreement shall have the meanings given to them in the Participation Agreement or the Lease, as applicable, and the following terms have the following meanings:

“**Accessions**”, “**Account**”, “**Chattel Paper**”, “**Certificated Security**”, “**Consumer Goods**”, “**Document of Title**”, “**Equipment**”, “**Futures Account**”, “**Futures Contract**”, “**Futures Intermediary**”, “**Goods**”, “**Instrument**”, “**Intangible**”, “**Inventory**”, “**Investment Property**”, “**Money**”, “**Proceeds**”, “**Securities Account**”, “**Securities Intermediary**”, “**Security**”, “**Security Certificate**”, “**Security Entitlement**”, and “**Uncertificated Security**” have the meanings given to them in the PPSA.

“**Agreement**” means this agreement, including the Schedules and recitals to this agreement, as it or they may be amended, supplemented, restated or replaced from time to time, and the expressions

“hereof”, “herein”, “hereto”, “hereunder”, “hereby” and similar expressions refer to this Agreement and not to any particular section or other portion of this Agreement.

“**Books and Records**” means all books, records, files, papers, disks, documents and other repositories of data recording in any form or medium, evidencing or relating to the Personal Property of the Debtor which are at any time owned by the Debtor or to which the Debtor (or any Person on the Debtor’s behalf) has access.

“**Collateral**” means all of the present and future:

- (a) undertaking;
- (b) Personal Property (including any Personal Property that may be described in any Schedule to this Agreement or any schedules, documents or listings that the Debtor may from time to time provide to the Lessor in connection with this Agreement); and
- (c) real property (including any real property that may be described in any Schedule to this Agreement or any schedules, documents or listings that the Debtor may from time to time provide to the Lessor in connection with this Agreement and including all fixtures, improvements, buildings and other structures placed, installed or erected from time to time on any such real property),

of the Debtor, including Books and Records, Contracts, Intellectual Property Rights and Permits, and including all such property in which the Debtor now or in the future has any right, title or interest whatsoever, whether owned, leased, licensed, possessed or otherwise held by the Debtor, and all Proceeds of any of the foregoing, wherever located.

“**Contracts**” means all contracts and agreements to which the Debtor is at any time a party or pursuant to which the Debtor has at any time acquired rights, and includes (i) all rights of the Debtor to receive money due and to become due to it in connection with a contract or agreement, (ii) all rights of the Debtor to damages arising out of, or for breach or default with respect to, a contract or agreement, and (iii) all rights of the Debtor to perform and exercise all remedies in connection with a contract or agreement.

“**Control**” means, with respect to a particular Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ability to exercise voting power, by contract or otherwise. “**Controlled**” has the corresponding meaning.

“**Event of Acceleration**” has the meaning set out in Section 3 hereof.

“**Guarantee**” has the meaning given to that term in the recitals hereto.

“**Intellectual Property Rights**” means all industrial and intellectual property rights of the Debtor or in which the Debtor has any right, title or interest, including copyrights, patents, inventions (whether or not patented), trade-marks, get-up and trade dress, industrial designs, integrated circuit topographies, plant breeders’ rights, know how and trade secrets, registrations and applications for

registration for any such industrial and intellectual property rights, and all Contracts related to any such industrial and intellectual property rights.

“**Issuer**” has the meaning given to that term in the STA.

“**Lease**” has the meaning set out in the recitals hereto.

“**Lessor**” has the meaning set out in the recitals hereto.

“**Organizational Documents**” means, with respect to any Person, such Person’s articles or other charter documents, by-laws, unanimous shareholder agreement, partnership agreement or trust agreement, as applicable, and any and all other similar agreements, documents and instruments relative to such Person.

“**Participation Agreement**” has the meaning given to that term in the recitals hereto.

“**Personal Property**” means personal property and includes Accounts, Chattel Paper, Documents of Title, Equipment, Goods, Instruments, Intangibles, Inventory, Investment Property and Money.

“**Pledged Certificated Securities**” means any and all Collateral that is a Certificated Security.

“**Pledged Futures Intermediary’s Jurisdiction**” means, with respect to any Pledged Futures Intermediary, its jurisdiction as determined under section 7.1(4) of the PPSA.

“**Pledged Issuer**” means, at any time, any Person which is an Issuer of, or with respect to, any Pledged Shares at such time.

“**Pledged Issuer’s Jurisdiction**” means, with respect to any Pledged Issuer, its jurisdiction as determined under section 44 of the STA.

“**Pledged Securities**” means any and all Collateral that is a Security.

“**Pledged Securities Intermediary’s Jurisdiction**” means, with respect to any Securities Intermediary, its jurisdiction as determined under section 45(2) of the STA.

“**Pledged Security Certificates**” means any and all Security Certificates representing the Pledged Certificated Securities.

“**Pledged Security Entitlements**” means any and all Collateral that is a Security Entitlement.

“**Pledged Shares**” means all Pledged Securities and Pledged Security Entitlements.

“**PPSA**” means the *Personal Property Security Act* of the Province referred to in the “Governing Law” section of this Agreement, as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation.

“**Receiver**” means a receiver, a manager or a receiver and manager.

“Release Date” means the date on which all the Secured Liabilities have been indefeasibly paid and discharged in full and the Lessor has no further obligations to the Lessee under any Basic Document pursuant to which further Secured Liabilities might arise.

“Secured Liabilities” means all present and future indebtedness, liabilities and obligations of any and every kind, nature and description (whether direct or indirect, joint or several, absolute or contingent, matured or unmatured) of the Debtor to the Lessor under, in connection with or with respect to the Participation Agreement, the Lease, the Guarantee or any other Basic Document, and any unpaid balance thereof.

“Security Interests” means the Liens created by the Debtor in favour of the Lessor under this Agreement.

“STA” means the *Securities Transfer Act* of the Province referred to in the “Governing Law” section of this Agreement, as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation.

2. **Grant of Security Interests.** As general and continuing collateral security for the due payment and performance of the Secured Liabilities, the Debtor pledges, mortgages, charges and assigns (by way of security) to the Lessor, and grants to the Lessor, a security interest in, the Collateral.

3. **Limitations on Grant of Security Interests.** If the grant of the Security Interests with respect to any Contract, Intellectual Property Right or Permit under Section 2 would result in the termination or breach of such Contract, Intellectual Property Right or Permit or is otherwise prohibited or ineffective (whether by the terms thereof or under Applicable Law), then such Contract, Intellectual Property Right or Permit shall not be subject to the Security Interests but shall be held in trust by the Debtor for the benefit of the Lessor and, on the exercise by the Lessor of any of its rights or remedies under this Agreement following a Lease Event of Default and acceleration of the Secured Liabilities pursuant to and as permitted by Section 13 of the Lease, (collectively, an **“Event of Acceleration”**) shall be assigned by the Debtor as directed by the Lessor; provided that: (a) the Security Interests shall attach to such Contract, Intellectual Property Right or Permit, or applicable portion thereof, immediately at such time as the condition causing such termination or breach is remedied, and (b) if a term in a Contract that prohibits or restricts the grant of the Security Interests in the whole of an Account or Chattel Paper forming part of the Collateral is unenforceable against the Lessor under Applicable Law, then the exclusion from the Security Interests set out above shall not apply to such Account or Chattel Paper. In addition, the Security Interests do not attach to Consumer Goods or extend to the last day of the term of any lease or agreement for lease of real property. Such last day shall be held by the Debtor in trust for the Lessor and, on the exercise by the Lessor of any of its rights or remedies under this Agreement following an Event of Acceleration, shall be assigned by the Debtor as directed by the Lessor. For greater certainty, no Intellectual Property Right in any trade-mark, get-up or trade dress is presently assigned to the Lessor by sole virtue of the grant of the Security Interests contained in Section 2.

4. **Security Interests Absolute.** The Security Interests granted hereby and all rights of the Lessor hereunder and all obligations of the Debtor hereunder are unconditional and absolute and independent and separate from any other security for the Secured Liabilities, whether executed by the Debtor or any other Person.

5. **Attachment; No Obligation to Advance.** The Debtor confirms that value has been given by the Lessor to the Debtor, that the Debtor has rights in the Collateral existing at the date of this Agreement and that the Debtor and the Lessor have not agreed to postpone the time for attachment of the Security Interests to any of the Collateral. The Security Interests shall have effect and be deemed to be effective whether or not the Secured Liabilities or any part thereof are owing or in existence before or after or upon the date of this Agreement. Neither the execution and delivery of this Agreement nor the provision of any financial accommodation by the Lessor shall oblige the Lessor to make any financial accommodation or further financial accommodation available to the Debtor or any other Person.

6. **Representations and Warranties.** The Debtor represents and warrants to the Lessor that:

- (a) as of the date hereof, all of the information set out in Schedule A is accurate and complete;
- (b) this Agreement constitutes a legal, valid and binding obligation of the Debtor, enforceable against it in accordance with its terms (except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization or similar laws affecting creditors' rights generally and by principles of equity);
- (c) the entering into of this Agreement and the performance by the Debtor of its obligations hereunder does not and will not contravene, breach or result in any default under the Organizational Documents of the Debtor or any requirement of Applicable Law or result in the creation of any Lien (other than the Security Interests granted herein);
- (d) no authorization, consent or approval of, or filing with or notice to, any Person or Government Body is required in connection with the execution and delivery of this Agreement by the Debtor or the performance of this Agreement by the Debtor;
- (e) there is no court, administrative, regulatory or similar action (whether civil, quasi-criminal, or criminal), arbitration or other dispute settlement procedure, investigation or enquiry by any Government Body, or any similar matter or action against or involving the Debtor, whether in progress or threatened, which, if determined adversely to the Debtor, would have a Material Adverse Effect;
- (f) the Debtor does not have or use a French form of name or a combined English and French form of name;
- (g) the Pledged Securities have been duly authorized and validly issued and are fully paid and non-assessable;
- (h) there are no outstanding warrants, options or other rights to purchase, or other agreements outstanding with respect to, or property that is now or

hereafter convertible into, or that requires the issuance or sale of, any Pledged Shares;

- (i) the Debtor is the registered and beneficial owner of the Pledged Securities;
- (j) there are no restrictions on the voting rights associated with, or upon the transfer of, any of the Pledged Securities other than as set out in the Organizational Documents or required by Applicable Law;
- (k) all necessary approvals and consents have been obtained in order to permit the Debtor to subject the interest of the Debtor in the Collateral to the Security Interest created by this Agreement and to permit the transfer of the Pledged Securities and any other property forming part of the Collateral from time to time to the Lessor or its nominee or any other Person in the event of realization in accordance with the provisions of Section 11 hereof;
- (l) the Pledged Securities are the sole property of the Debtor free from any liens, charges, security interests, encumbrances or any rights of others other than Permitted Liens;
- (m) all of the Pledged Securities are Certificated Securities and are "securities" for the purposes of the STA;
- (n) this Agreement creates a valid first perfected security interest in the Pledged Securities subject to any Permitted Liens;
- (o) the Debtor does not own or have any interest in any Securities Accounts, Security Entitlements, Futures Contracts or Uncertificated Securities; and
- (p) there is no existing agreement, option, right or privilege capable of becoming an agreement or option pursuant to which the Debtor could be required to sell or otherwise dispose of any of the Pledged Shares other than as set out in the Basic Documents.

7. **Survival of Representations and Warranties**. All representations and warranties made by the Debtor in this Agreement (a) are material, (b) shall be considered to have been relied on by the Lessor, and (c) shall survive the execution and delivery of this Agreement or any investigation made at any time by or on behalf of the Lessor and any disposition or payment of the Secured Liabilities until the Release Date.

8. **Covenants**. The Debtor covenants and agrees with the Lessor that:

- (a) **Marking of Collateral**. The Debtor shall keep and maintain accurate and complete records of the Collateral, including a record of all payments received and all credits granted with respect to the Accounts and Contracts. At the written request of the Lessor, the Debtor shall mark any Collateral specified by the Lessor to evidence the existence of the Security Interests.

- (b) Maintenance of Registrations. The Debtor shall maintain in good standing all registrations and applications with respect to the Intellectual Property Rights except to the extent that any failure to do so could not reasonably be expected to result in a Material Adverse Effect.
- (c) Further Identification of Collateral. The Debtor shall promptly furnish to the Lessor such statements and schedules further identifying and describing the Collateral, and such other reports in connection with the Collateral, as the Lessor may from time to time reasonably request, including an updated list of “serial number” goods owned by the Debtor and classified as Equipment.
- (d) Agreements re Intellectual Property Rights. Promptly upon request from time to time by the Lessor, the Debtor shall authorize, execute and deliver any and all agreements, instruments, documents and papers that the Lessor may request to evidence the Security Interests in any Intellectual Property Rights and, where applicable, the goodwill of the business of the Debtor connected with the use of, and symbolized by, any such Intellectual Property Rights.
- (e) Instruments; Documents of Title; Chattel Paper. Promptly upon request from time to time by the Lessor, the Debtor shall deliver to the Lessor, endorsed and/or accompanied by such instruments of assignment and transfer in such form and substance as the Lessor may reasonably request, any and all Instruments, Documents of Title and Chattel Paper included in or relating to the Collateral as the Lessor may specify in its request.
- (f) Pledged Certificated Securities. The Debtor shall deliver to the Lessor any and all Pledged Security Certificates and other materials as may be required from time to time to provide the Lessor with control over all Pledged Certificated Securities in the manner provided under section 23 of the STA. At the request of the Lessor, the Debtor shall cause all Pledged Security Certificates to be registered in the name of the Lessor or its nominee.
- (g) Partnerships, Limited Liability Companies. The Debtor shall ensure that the terms of any interest in a partnership or limited liability company that is Collateral shall expressly provide that such interest is a “security” for the purposes of the STA.
- (h) Transfer Restrictions. If the Organizational Documents of any Pledged Issuer restrict the transfer of the Securities of such Pledged Issuer, then the Debtor shall deliver to the Lessor a certified copy of a resolution of the directors, shareholders, unitholders or partners of such Pledged Issuer, as applicable, consenting to the transfer(s) contemplated by this Agreement, including any prospective transfer of the Collateral by the Lessor upon a realization on the Security Interests.

- (i) Liens. The Debtor shall preserve, protect and defend in all material respects the Collateral, including, if appropriate (in the reasonable judgement of the Debtor), prosecution of suits to enforce any right of the Debtor and enforcement of any claims with respect thereto and, except as otherwise provided herein, keep the Collateral free and clear of all Liens other than as specifically permitted by the Participation Agreement, the Lease or any other Basic Document.
- (j) Disposition; Transfer. The Debtor shall not sell or dispose of, transfer, relinquish, or agree to pledge, encumber, mortgage, charge or otherwise deal with any of its interest in the Collateral other than as specifically permitted by the Participation Agreement or any other Basic Document.
- (k) Certificated Securities. The Debtor shall not permit any issuance of additional Securities in the capital of the Pledged Issuers unless all such additional Securities are Certificated Securities, are permitted by the Participation Agreement or any other Basic Document and are forthwith delivered to the Lessor.
- (l) Notices. The Debtor shall advise the Lessor promptly, in reasonable detail, of any:
 - (i) change to a Pledged Securities Intermediary's Jurisdiction, Pledged Issuer's Jurisdiction or Pledged Future Intermediary's Jurisdiction;
 - (ii) change in the location of the jurisdiction of formation, chief executive office, or domicile of the Debtor;
 - (iii) change in the name of the Debtor;
 - (iv) merger, consolidation or amalgamation of the Debtor with any other Person;
 - (v) additional jurisdiction in which the Debtor carries on business or has tangible Personal Property;
 - (vi) additional jurisdiction in which material account debtors of the Debtor are located;
 - (vii) acquisition of any right, title or interest in real property by the Debtor;
 - (viii) acquisition of any Intellectual Property Rights which are the subject of a registration or application with any governmental intellectual property or other governing body or registry, or which are material to the Debtor's business;
 - (ix) acquisition of any Instrument, Document of Title or Chattel Paper;
 - (x) creation or acquisition of any Subsidiary of the Debtor; or

- (xi) Liens (other than Permitted Liens) on, or claim asserted against, any of the Collateral.

The Debtor shall not effect or permit any of the changes referred to in this section above unless all filings have been made and all other actions taken (to the extent, for greater certainty, such filings and actions may be taken prior to such changes) that are required in order for the Lessor to continue at all times following such change to have a valid and perfected first priority Security Interest with respect to all of the Collateral.

- (m) Certificated Securities. The Debtor shall not acquire any Securities unless all such additional Securities are Certificated Securities and are forthwith delivered to the Lessor, together with all other materials as may be required from time to time to provide the Lessor with control over all Pledged Certificated Securities in the manner provided under section 23 of the STA.
- (n) Security Entitlements, Securities Accounts, Future Contracts, Uncertificated Securities. The Debtor shall not acquire any Security Entitlement, Securities Account, Futures Contract or Uncertificated Security without, prior to acquiring such property, delivering to the Lessor all agreements, instruments, documents and other material required, and doing all acts necessary, to ensure that the Lessor has and will continue to have a valid and perfected first priority Security Interest on such property.

9. **Voting Rights**. Unless an Event of Acceleration has occurred and is continuing, the Debtor shall be entitled to exercise all voting power from time to time exercisable with respect to the Pledged Shares and give consents, waivers and ratifications with respect thereto; provided, however, that no vote shall be cast or consent, waiver or ratification given or action taken which would be, or would have a reasonably likelihood of being, prejudicial to the interests of the Lessor or which would have the effect of reducing the value of the Collateral as security for the Secured Liabilities or imposing any restriction on the transferability of any of the Collateral. Unless an Event of Acceleration has occurred and is continuing, the Lessor shall, from time to time at the request and expense of the Debtor, execute or cause to be executed, with respect to all Pledged Securities that are registered in the name of the Lessor or its nominee, valid proxies appointing the Debtor as its (or its nominee's) proxy to attend, vote and act for and on behalf of the Lessor or such nominee, as the case may be, at any and all meetings of the applicable Pledged Issuer's shareholders, unitholders or debt holders, all Pledged Securities that are registered in the name of the Lessor or such nominee, as the case may be, and to execute and deliver, consent to or approve or disapprove of or withhold consent to any resolutions in writing of shareholders, unitholders or debt holders of the applicable Pledged Issuer for and on behalf of the Lessor or such nominee, as the case may be. Immediately upon the occurrence and during the continuance of any Event of Acceleration, all such rights of the Debtor to vote and give consents, waivers and ratifications shall cease and the Lessor or its nominee shall be entitled to exercise all such voting rights and to give all such consents, waivers and ratifications.

10. **Dividends; Interest**. Unless an Event of Acceleration has occurred and is continuing, the Debtor shall be entitled to receive any and all cash dividends, interest, principal payments and other forms of cash distribution on the Pledged Shares which it is otherwise entitled to receive, but

any and all stock and/or liquidating dividends, distributions of property, returns of capital or other distributions made on or with respect to the Pledged Shares, whether resulting from a subdivision, combination or reclassification of the outstanding capital stock of any Pledged Issuer or received in exchange for the Pledged Shares or any part thereof or as a result of any amalgamation, merger, consolidation, acquisition or other exchange of property to which any Pledged Issuer may be a party or otherwise, and any and all cash and other property received in exchange for any Pledged Shares shall be and become part of the Collateral subject to the Security Interests and, if received by the Debtor, shall forthwith be delivered to the Lessor or its nominee (accompanied, if appropriate, by proper instruments of assignment and/or stock powers of attorney executed by the Debtor in accordance with the Lessor's instructions) to be held subject to the terms of this Agreement; and if any of the Pledged Security Certificates have been registered in the name of the Lessor or its nominee, the Lessor shall execute and deliver (or cause to be executed and delivered) to the Debtor all such dividend orders and other instruments as the Debtor may request for the purpose of enabling the Debtor to receive the dividends, distributions or other payments which the Debtor is authorized to receive and retain pursuant to this Section. If an Event of Acceleration has occurred and is continuing, all rights of the Debtor pursuant to this Section shall cease and the Lessor shall have the sole and exclusive right and authority to receive and retain the cash dividends, interest, principal payments and other forms of cash distribution which the Debtor would otherwise be authorized to retain pursuant to this Section. Any money and other property paid over to or received by the Lessor pursuant to the provisions of this Section shall be retained by the Lessor as additional Collateral hereunder and be applied in accordance with the provisions of this Agreement.

11. **Rights on Event of Acceleration.** If an Event of Acceleration has occurred and is continuing, then and in every such case all of the Secured Liabilities shall, at the option of the Lessor, become immediately due and payable and the Security Interests shall become enforceable and the Lessor, in addition to any rights now or hereafter existing under Applicable Law may, personally or by agent, at such time or times as the Lessor in its discretion may determine, do any one or more of the following:

- (a) **Rights under PPSA, etc.** Exercise all of the rights and remedies granted to secured parties under the PPSA and any other applicable statute, or otherwise available to the Lessor by contract, at law or in equity.
- (b) **Demand Possession.** Demand possession of any or all of the Collateral, in which event the Debtor shall, at the expense of the Debtor, immediately cause the Collateral designated by the Lessor to be assembled and made available and/or delivered to the Lessor at any place designated by the Lessor.
- (c) **Take Possession.** Enter on any premises where any Collateral is located and take possession of, disable or remove such Collateral.
- (d) **Deal with Collateral.** Hold, store and keep idle, or operate, lease or otherwise use or permit the use of, any or all of the Collateral for such time and on such terms as the Lessor may determine, and demand, collect and retain all earnings and other sums due or to become due from any Person with respect to any of the Collateral.

- (e) Carry on Business. Carry on, or concur in the carrying on of, any or all of the business or undertaking of the Debtor and enter on, occupy and use (without charge by the Debtor) any of the premises, buildings, plant and undertaking of, or occupied or used by, the Debtor.
- (f) Enforce Collateral. Seize, collect, receive, enforce or otherwise deal with any Collateral in such manner, on such terms and conditions and at such times as the Lessor deems advisable.
- (g) Dispose of Collateral. Realize on any or all of the Collateral and sell, lease, assign, give options to purchase, or otherwise dispose of and deliver any or all of the Collateral (or contract to do any of the above), in one or more parcels at any public or private sale, at any exchange, broker's board or office of the Lessor or elsewhere, with or without advertising or other formality, except as required by Applicable Law, on such terms and conditions as the Lessor may deem advisable and at such prices as it may deem best, for cash or on credit or for future delivery.
- (h) Court-Approved Disposition of Collateral. Obtain from any court of competent jurisdiction an order for the sale or foreclosure of any or all of the Collateral.
- (i) Purchase by Lessor. At any public sale, and to the extent permitted by Applicable Law on any private sale, bid for and purchase any or all of the Collateral offered for sale and, upon compliance with the terms of such sale, hold, retain, sell or otherwise dispose of such Collateral without any further accountability to the Debtor or any other Person with respect to such holding, retention, sale or other disposition, except as required by Applicable Law. In any such sale to the Lessor, the Lessor may, for the purpose of making payment for all or any part of the Collateral so purchased, use any claim for any or all of the Secured Liabilities then due and payable to it as a credit against the purchase price.
- (j) Collect Accounts. Notify (whether in its own name or in the name of the Debtor) the account debtors under any Accounts of the Debtor of the assignment of such Accounts to the Lessor and direct such account debtors to make payment of all amounts due or to become due to the Debtor with respect to such Accounts directly to the Lessor and, upon such notification and at the expense of the Debtor, enforce collection of any such Accounts, and adjust, settle or compromise the amount or payment of such Accounts, in such manner and to such extent as the Lessor deems appropriate in the circumstances.
- (k) Transfer of Collateral. Transfer any Collateral that is Pledged Shares into the name of the Lessor or its nominee.
- (l) Voting. Vote any or all of the Pledged Shares (whether or not transferred to the Lessor or its nominee) and give or withhold all consents, waivers and

ratifications with respect thereto and otherwise act with respect thereto as though it were the outright owner thereof.

- (m) Exercise Other Rights. Exercise any and all rights, privileges, entitlements and options pertaining to any Collateral that is Pledged Shares as if the Lessor were the absolute owner of such Pledged Shares.
- (n) Dealing with Contracts and Permits. Deal with any and all Contracts and Permits to the same extent as the Debtor might (including the enforcement, realization, sale, assignment, transfer and requirement for continued performance), all on such terms and conditions and at such time or times as may seem advisable to the Lessor.
- (o) Payment of Liabilities. Pay any liability secured by any Lien against any Collateral. The Debtor shall immediately on demand reimburse the Lessor for all such payments and, until paid, any such reimbursement obligation shall form part of the Secured Liabilities and shall be secured by the Security Interests.
- (p) Borrow and Grant Liens. Borrow money for the maintenance, preservation or protection of any Collateral or for carrying on any of the business or undertaking of the Debtor and grant Liens on any Collateral (in priority to the Security Interests or otherwise) as security for the money so borrowed. The Debtor shall immediately on demand reimburse the Lessor for all such borrowings and, until paid, any such reimbursement obligations shall form part of the Secured Liabilities and shall be secured by the Security Interests.
- (q) Appoint Receiver. Appoint by instrument in writing one or more Receivers of the Debtor or any or all of the Collateral with such rights, powers and authority (including any or all of the rights, powers and authority of the Lessor under this Agreement) as may be provided for in the instrument of appointment or any supplemental instrument, and remove and replace any such Receiver from time to time. To the extent permitted by Applicable Law, any Receiver appointed by the Lessor shall (for purposes relating to responsibility for the Receiver's acts or omissions) be considered to be the agent of the Debtor and not of the Lessor.
- (r) Court-Appointed Receiver. Obtain from any court of competent jurisdiction an order for the appointment of a Receiver of the Debtor or of any or all of the Collateral.
- (s) Consultants. Require the Debtor to engage a consultant of the Lessor's choice, or engage a consultant on its own behalf, such consultant to receive the full cooperation and support of the Debtor and its agents and employees, including unrestricted access to the premises of the Debtor and the Books and Records; all reasonable fees and expenses of such consultant shall be for the account of the Debtor and the Debtor hereby authorizes any such

consultant to report directly to the Lessor and to disclose to the Lessor any and all information obtained in the course of such consultant's employment.

Where no rights shall be exercised other than following the giving of notice by the Lessor to the Debtor, which notice has not been rescinded, the Lessor may exercise any or all of the foregoing rights and remedies without demand of performance or other demand, presentment, protest, advertisement or notice of any kind (except as required by Applicable Law) to or on the Debtor or any other Person, and the Debtor hereby waives each such demand, presentment, protest, advertisement and notice to the extent permitted by Applicable Law. None of the above rights or remedies shall be exclusive of or dependent on or merge in any other right or remedy, and one or more of such rights and remedies may be exercised independently or in combination from time to time. The Debtor acknowledges and agrees that any action taken by the Lessor hereunder following the occurrence and during the continuance of an Event of Acceleration shall not be rendered invalid or ineffective as a result of the curing of the Lease Event of Default on which such action was based.

12. **Realization Standards.** To the extent that Applicable Law imposes duties on the Lessor to exercise remedies in a commercially reasonable manner and without prejudice to the ability of the Lessor to dispose of the Collateral in any such manner, the Debtor acknowledges and agrees that it is not commercially unreasonable for the Lessor to (or not to) (a) incur expenses reasonably deemed necessary by the Lessor to prepare the Collateral for disposition or otherwise to complete raw material or work in process into finished goods or other finished products for disposition, (b) fail to obtain third party consents for access to the Collateral to be disposed of, (c) fail to exercise collection remedies against account debtors or other Persons obligated on the Collateral or to remove Liens against the Collateral, (d) exercise collection remedies against account debtors and other Persons obligated on the Collateral directly or through the use of collection agencies and other collection specialists, (e) dispose of Collateral by way of public auction, public tender or private contract, with or without advertising and without any other formality, (f) contact other Persons, whether or not in the same business of the Debtor, for expressions of interest in acquiring all or any portion of the Collateral, (g) hire one or more professional auctioneers to assist in the disposition of the Collateral, whether or not the Collateral is of a specialized nature or an upset or reserve bid or price is established, (h) dispose of the Collateral by utilizing internet sites that provide for the auction of assets of the types included in the Collateral or that have the reasonable capacity of doing so, or that match buyers and sellers of assets, (i) dispose of assets in wholesale rather than retail markets, (j) disclaim disposition warranties, such as title, possession or quiet enjoyment, (k) purchase insurance or credit enhancements to insure the Lessor against risks of loss, collection or disposition of the Collateral or to provide to the Lessor a guaranteed return from the collection or disposition of the Collateral, (l) to the extent deemed necessary by the Lessor, obtain the services of other brokers, investment bankers, consultants and other professionals to assist the Lessor in the collection or disposition of any of the Collateral, (m) dispose of Collateral in whole or in part, (n) dispose of Collateral to a customer of the Lessor, and (o) establish an upset or reserve bid price with respect to Collateral.

13. **Grant of Licence.** For the purpose of enabling the Lessor to exercise its rights and remedies under this Agreement when the Lessor is entitled to exercise such rights and remedies, and for no other purpose, the Debtor grants to the Lessor an irrevocable, non-exclusive licence (exercisable without payment of royalty or other compensation to the Debtor) to use, assign or sublicense any or all of the Intellectual Property Rights, including in such licence reasonable access

to all media in which any of the licensed items may be recorded or stored and to all computer programs used for the compilation or printout of the same. For any trade-marks, get-up and trade dress and other business indicia, such licence includes an obligation on the part of the Lessor to maintain the standards of quality maintained by the Debtor or, in the case of trade-marks, get-up and trade dress or other business indicia licensed to the Debtor, the standards of quality imposed upon the Debtor by the relevant licence. For copyright works, such licence shall include the benefit of any waivers of moral rights and similar rights. The licence granted under this Section shall expire on the Release Date.

14. **Securities Laws.** The Lessor is authorized, in connection with any offer or sale of any Pledged Shares, to comply with any limitation or restriction as it may be advised by counsel is necessary to comply with Applicable Law, including compliance with procedures that may restrict the number of prospective bidders and purchasers, requiring that prospective bidders and purchasers have certain qualifications, and restricting prospective bidders and purchasers to Persons who will represent and agree that they are purchasing for their own account or investment and not with a view to the distribution or resale of such Securities. In addition to and without limiting Section 12, the Debtor further agrees that compliance with any such limitation or restriction shall not result in a sale being considered or deemed not to have been made in a commercially reasonable manner, and the Lessor shall not be liable or accountable to the Debtor for any discount allowed by reason of the fact that such Pledged Shares are sold in compliance with any such limitation or restriction. If the Lessor chooses to exercise its right to sell any or all Pledged Shares, upon written request, the Debtor shall cause each applicable Pledged Issuer to furnish to the Lessor all such information as the Lessor may request in order to determine the number of shares and other instruments included in the Collateral which may be sold by the Lessor in exempt transactions under any Applicable Laws governing securities, and the rules and regulations of any applicable securities regulatory body thereunder, as the same are from time to time in effect.

15. **Application of Proceeds.** All Proceeds of Collateral received by the Lessor or a Receiver may be applied to discharge or satisfy any expenses (including the Receiver's remuneration and other expenses of enforcing the Lessor's rights under this Agreement), Liens on the Collateral in favour of Persons other than the Lessor, borrowings, taxes and other outgoings affecting the Collateral or which are considered advisable by the Lessor or the Receiver to protect, preserve, repair, process, maintain or enhance the Collateral or prepare it for sale, lease or other disposition, or to keep in good standing any Liens on the Collateral ranking in priority to any of the Security Interests, or to sell, lease or otherwise dispose of the Collateral. The balance of such Proceeds may, at the sole discretion of the Lessor, be held as collateral security for the Secured Liabilities or be applied to such of the Secured Liabilities (whether or not the same are due and payable) in such manner and at such times as the Lessor considers appropriate and thereafter shall be accounted for as required by Applicable Law.

16. **Continuing Liability of Debtor.** The Debtor shall remain liable for any Secured Liabilities that are outstanding following realization of all or any part of the Collateral and the application of the Proceeds thereof.

17. **Lessor's Appointment as Attorney-in-Fact.** Effective upon the occurrence and during the continuance of an Event of Acceleration, the Debtor constitutes and appoints the Lessor and any officer or agent of the Lessor, with full power of substitution, as the Debtor's true and lawful

attorney-in-fact with full power and authority in the place of the Debtor and in the name of the Debtor or, in its own name, from time to time in the Lessor's discretion, to take any and all appropriate action and to execute any and all documents and instruments as, in the opinion of such attorney, may be necessary or desirable to accomplish the purposes of this Agreement. Without limiting the effect of this Section, the Debtor grants the Lessor an irrevocable proxy to vote the Pledged Shares and to exercise all other rights, powers, privileges and remedies to which a holder thereof would be entitled (including giving or withholding written consents of shareholders, calling special meetings of shareholders and voting at such meetings), which proxy shall be effective, automatically and without the necessity of any action (including any transfer of any Pledged Shares on the books and records of a Pledged Issuer or Pledged Securities Intermediary, as applicable), upon the occurrence of an Event of Acceleration. These powers are coupled with an interest and are irrevocable until the Release Date. Nothing in this Section affects the right of the Lessor as secured party or any other Person on the Lessor's behalf, to sign and file or deliver (as applicable) all such financing statements, financing change statements, notices, verification statements and other documents relating to the Collateral and this Agreement as the Lessor or such other Person considers appropriate. The Debtor hereby ratifies and confirms, and agrees to ratify and confirm, whatever lawful acts the Lessor or any of the Lessor's sub-agents, nominees or attorneys do or purport to do in exercise of the power of attorney granted to the Lessor pursuant to this Section.

18. **Performance by Lessor of Debtor's Obligations.** If the Debtor fails to perform or comply with any of the obligations of the Debtor under this Agreement, the Lessor may, but need not, perform or otherwise cause the performance or compliance of such obligation, provided that such performance or compliance shall not constitute a waiver, remedy or satisfaction of such failure. The expenses of the Lessor incurred in connection with any such performance or compliance shall be payable by the Debtor to the Lessor immediately on demand, and until paid, any such expenses shall form part of the Secured Liabilities and shall be secured by the Security Interests.

19. **Interest.** If any amount payable by the Debtor to the Lessor under this Agreement is not paid when due, the Debtor shall pay to the Lessor, immediately on demand, interest on such amount from the date due until paid at the Late Rate (as defined in the Lease). All amounts payable by the Debtor to the Lessor under this Agreement, and all interest on all such amounts shall form part of the Secured Liabilities and shall be secured by the Security Interests.

20. **Severability.** Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be severed from the balance of this Agreement, all without affecting the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

21. **Rights of Lessor; Limitations on Lessor's Obligations.**

- (a) **Limitations on Liability of the Lessor.** The Lessor shall not be liable to the Debtor or any other Person for any failure or delay in exercising any of the rights of the Debtor under this Agreement (including any failure to take possession of, collect, sell, lease or otherwise dispose of any Collateral, or to preserve rights against prior parties). Neither the Lessor, a Receiver nor any agent thereof is required to take, or shall have any liability for any

failure to take or delay in taking, any steps necessary or advisable to preserve rights against other Persons under any Collateral in its possession. Neither the Lessor, any Receiver nor any agent thereof shall be liable for any, and the Debtor shall bear the full risk of all, loss or damage to any and all of the Collateral (including any Collateral in the possession of the Lessor, any Receiver, or any agent thereof) caused for any reason other than the gross negligence or wilful misconduct of the Lessor, such Receiver or such agent thereof.

- (b) Debtor Remains Liable under Accounts and Contracts. Notwithstanding any provision of this Agreement, the Debtor shall remain liable under each of the documents giving rise to the Accounts of the Debtor and under each of the Contracts to observe and perform all the conditions and obligations to be observed and performed by the Debtor thereunder, all in accordance with the terms of each such document and Contract. The Lessor shall not have any obligation or liability under any Account of the Debtor (or any document giving rise thereto) or Contract by reason of or arising out of this Agreement or the receipt by the Lessor of any payment relating to such Account or Contract pursuant hereto, and in particular (but without limitation), the Lessor shall not be obligated in any manner to perform any of the obligations of the Debtor under or pursuant to any Account (or any document giving rise thereto) or under or pursuant to any Contract to make any payment, to make any inquiry as to the nature or the sufficiency of any payment received by it or as to the sufficiency of any performance by any party under any Account (or any document giving rise thereto) or under any Contract, to present or file any claim, to take any action to enforce any performance or to collect the payment of any amounts which may have been assigned to it or to which it may be entitled at any time.
- (c) Analysis of Accounts. Following the occurrence of an Event of Acceleration that is continuing or a Lease Default, at any time and from time to time, the Lessor shall have the right to analyze and verify the Accounts of the Debtor in any manner and through any medium that it reasonably considers advisable, and the Debtor shall furnish all such assistance and information as the Lessor may require in connection therewith. Following the occurrence of an Event of Acceleration that is continuing or a Lease Default, at any time and from time to time, the Lessor may in its own name or in the name of others (including the Debtor) communicate with account debtors on the Accounts of the Debtor and parties to the Contracts to verify with them to its satisfaction the existence, status, amount and terms of any Account or any Contract. Following the occurrence of an Event of Acceleration that is continuing or a Lease Default, at any time and from time to time, upon the Lessor's reasonable request and at the expense of the Debtor, the Debtor shall furnish to the Lessor reports showing reconciliations, aging and test verifications of, and trial balances for, its Accounts.

- (d) Use of Agents. The Lessor may perform any of its rights or duties under this Agreement by or through agents and is entitled to retain counsel and to act in reliance on the advice of such counsel concerning all matters pertaining to its rights and duties under this Agreement.

22. **Dealings by Lessor.** The Lessor shall not be obliged to exhaust its recourse against the Debtor or any other Person or against any other security it may hold with respect to the Secured Liabilities or any part thereof before realizing upon or otherwise dealing with the Collateral in such manner as the Lessor may consider desirable. The Lessor may grant extensions of time and other indulgences, take and give up security, accept compositions, grant releases and discharges and otherwise deal with the Debtor and any other Person, and with any or all of the Collateral, and with other security and sureties, as it may see fit, all without prejudice to the Secured Liabilities or to the rights and remedies of the Lessor under this Agreement. The powers conferred on the Lessor under this Agreement are solely to protect the interests of the Lessor in the Collateral and shall not impose any duty upon the Lessor to exercise any such powers.

23. **Communication.** Any notice or other communication required or permitted to be given under this Agreement will be given in accordance with the terms of the Participation Agreement.

24. **Release of Information.** The Debtor authorizes the Lessor to provide a copy of this Agreement and such other information as may be requested of it (i) to the extent necessary to enforce its rights, remedies and entitlements under this Agreement, (ii) to any assignee or prospective assignee of all or any part of the Secured Liabilities, and (iii) as required by Applicable Law.

25. **Expenses; Indemnity; Waiver.**

- (a) The Debtor shall pay all reasonable out-of-pocket expenses incurred by the Lessor, including the reasonable fees, charges and disbursements of any counsel for the Lessor and all applicable taxes, in connection with the assessment, enforcement or protection of their rights in connection with this Agreement, including its rights under this Section, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations with respect to the Secured Liabilities.
- (b) The Debtor hereby agrees to indemnify the Lessor, from and against any and all liabilities, obligations, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever which may be imposed on, incurred by, or asserted against the Lessor in any way relating to or arising out of this Agreement or any other Basic Document or any action taken or admitted by the Lessor under or in respect of this Agreement; provided that the Debtor shall not be liable for any portion of such liabilities, obligations, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from the Lessor's gross negligence or wilful misconduct. Without limiting the generality of the foregoing, the Debtor agrees to reimburse the Lessor promptly upon demand in the proportion specified in the Participation Agreement in respect of any out of pocket expenses (including counsel fees) incurred by

the Lessor in connection with the preservation of any rights of the Lessor or the Debtor under, or the enforcement of, or legal advice in respect of the rights or responsibilities under, this Agreement or any other Basic Document.

- (c) The Debtor shall not assert, and hereby waives (to the fullest extent permitted by Applicable Law), (i) any claim against the Lessor (or any director, officer or employee thereof), on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, and (ii) all of the rights, benefits and protections given by any present or future statute that imposes limitations on the rights, powers or remedies of a secured party or on the methods of, or procedures for, realization of security, including any “seize or sue” or “anti-deficiency” statute or any similar provision of any other statute.
- (d) All amounts due under this Section shall be payable to the Lessor not later than three Business Days after written demand therefor.
- (e) The indemnifications set out in this Section shall survive the Release Date and the release or extinguishment of the Security Interests.

26. **Release of Debtor.** Upon the written request of the Debtor given at any time on or after the Release Date, the Lessor shall, at the expense of the Debtor, release the Debtor and the Collateral from the Security Interests and such release shall serve to terminate any licence granted in this Agreement. Upon such release, and at the request and expense of the Debtor, the Lessor shall execute and deliver to the Debtor such releases and discharges as the Debtor may reasonably request and return all Pledged Securities delivered to the Lessor pursuant to this Agreement.

27. **Additional Security.** This Agreement is in addition to, and not in substitution of, any and all other security previously or concurrently delivered by the Debtor or any other Person to the Lessor, all of which other security shall remain in full force and effect.

28. **Alteration or Waiver.** None of the terms or provisions of this Agreement may be waived, amended, supplemented or otherwise modified except by a written instrument executed by the Debtor and the Lessor. The Lessor shall not, by any act or delay, be deemed to have waived any right or remedy hereunder or to have acquiesced in any Lease Event of Default or in any breach of any of the terms and conditions hereof. No failure to exercise, nor any delay in exercising, on the part of the Lessor, any right, power or privilege hereunder shall operate as a waiver thereof. No single or partial exercise of any right, power or privilege hereunder shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege. A waiver by the Lessor of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy which the Lessor would otherwise have on any future occasion. Neither the taking of any judgment nor the exercise of any power of seizure or sale shall extinguish the liability of the Debtor to pay the Secured Liabilities, nor shall the same operate as a merger of any covenant contained in this Agreement or of any other liability, nor shall the acceptance of any payment or other security constitute or create any novation.

29. **Amalgamation.** If the Debtor is a corporation or other body corporate, the Debtor acknowledges that if it amalgamates or merges with any other corporation or corporations, or other bodies corporate, then (i) the Collateral and the Security Interests shall extend to and include all the property and assets of the amalgamated corporation or other body corporate and to any property or assets of the amalgamated corporation or other body corporate thereafter owned or acquired, (ii) the term “Debtor”, where used in this Agreement, shall extend to and include the amalgamated corporation or other body corporate, and (iii) the term “Secured Liabilities”, where used in this Agreement, shall extend to and include the Secured Liabilities of the amalgamated corporation or other body corporate.

30. **Governing Law; Attornment.** This Agreement shall be governed by and construed in accordance with the Laws of the Province of Ontario and the federal Laws of Canada applicable therein. Without prejudice to the ability of the Lessor to enforce this Agreement in any other proper jurisdiction, the Debtor irrevocably submits and attorns to the non-exclusive jurisdiction of the courts of such province. To the extent permitted by Applicable Law, the Debtor irrevocably waives any objection (including any claim of *forum non conveniens*) that it may now or hereafter have to the venue of any legal proceeding arising out of or relating to this Agreement in the courts of such Province.

31. **Interpretation.** The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. The word “or” is disjunctive; the word “and” is conjunctive. The word “shall” is mandatory; the word “may” is permissive. Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set out herein), (b) any reference herein to any statute or any section thereof shall, unless otherwise expressly stated, be deemed to be a reference to such statute or section as amended, restated or re-enacted from time to time, (c) any reference herein to any Person shall be construed to include such Person’s successors and permitted assigns, (d) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, and (e) all references herein to Sections and Schedules shall be construed to refer to Sections and Schedules to this Agreement. Section headings are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement. Any reference in this Agreement to a Permitted Lien is not intended to subordinate or postpone, and shall not be interpreted as subordinating or postponing, or as any agreement to subordinate or postpone, any Security Interest to any Permitted Lien.

32. **Paramourty.** In the event of any conflict or inconsistency between the provisions of this Agreement and the provisions of the Participation Agreement or the Lease then, notwithstanding anything contained in this Agreement, the provisions contained in the Participation Agreement or the Lease, as applicable, shall prevail to the extent of such conflict or inconsistency and the provisions of this Agreement shall be deemed to be amended to the extent necessary to eliminate such conflict or inconsistency, it being understood that the purpose of this Agreement is to add to, and not detract from, the rights granted to the Lessor under the Participation Agreement or the

Lease, as applicable. If any act or omission of the Debtor is expressly permitted under the Participation Agreement or the Lease but is expressly prohibited under this Agreement, such act or omission shall be permitted. If any act or omission is expressly prohibited under this Agreement, but the Participation Agreement and the Lease do not expressly permit such act or omission, or if any act is expressly required to be performed under this Agreement but the Participation Agreement and the Lease do not expressly relieve the Debtor from such performance, such circumstance shall not constitute a conflict between the applicable provisions of this Agreement and the provisions of the Participation Agreement or the Lease.

33. **Successors and Assigns.** This Agreement shall enure to the benefit of, and be binding on, the Debtor and its successors and permitted assigns, and shall enure to the benefit of, and be binding on, the Lessor and its successors and permitted assigns. The Debtor may not assign this Agreement, or any of its rights or obligations under this Agreement. The Lessor may assign this Agreement and any of its rights and obligations hereunder to any Person that replaces it in its capacity as such in accordance with and subject to the terms and conditions applicable to such assignment as set out in the Participation Agreement. If the Debtor or the Lessor is an individual, then the term “Debtor” or “Lessor”, as applicable, shall also include his or her heirs, administrators and executors.

34. **Acknowledgment of Receipt/Waiver.** The Debtor acknowledges receipt of an executed copy of this Agreement and, to the extent permitted by Applicable Law, waives the right to receive a copy of any financing statement or financing change statement registered in connection with this Agreement or any verification statement issued with respect to any such financing statement or financing change statement.


35. **Electronic Signature.** Delivery of an executed signature page to this Agreement by the Debtor by facsimile or other electronic form of transmission shall be as effective as delivery by the Debtor of a manually executed copy of this Agreement by the Debtor.

36. **Counterparts.** This Agreement may be executed and delivered in any number of counterparts, each of which when so executed and delivered shall constitute an original, but all of which when taken together shall constitute one and the same document.

[signature page follows]

IN WITNESS WHEREOF the undersigned has caused this Agreement to be duly executed as of the date first written above.

BAY POWER CORP., as Debtor

By: 
Name: Todd Shortt
Title: President and Chief Executive Officer

By: _____
Name:
Title:

SCHEDULE A
DEBTOR INFORMATION

Full legal name:

Bay Power Corp.

Prior names:

None

Predecessor companies:

None

Jurisdiction of incorporation or organization:

Ontario

Address of chief executive office:

2300-100 Wellington Street West, Toronto ON M5J 2R2

Addresses of all places where business is carried on or tangible Personal Property is kept:

2300-100 Wellington Street West, Toronto ON M5J 2R2

4001 Highway 11 North, North Bay, Ontario. P1B 8G3

Jurisdictions in which all material account debtors are located:

Ontario

Addresses of all owned real property:

4001 Highway 11 North, North Bay, Ontario. P1B 8G3

Instruments, Documents of Title and Chattel Paper of the Debtor:

Nil.

Pledged Certificated Securities:

Nil.

Registered trade-marks and applications for trademark registrations:

Nil.

Patents and patent applications:

Nil.


Copyright registrations and applications for copyright registrations:

Nil.

Industrial designs/registered designs and applications for registered designs:

Nil.

THIS IS **EXHIBIT “P”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,
THIS 31st DAY OF JULY, 2023.



Michael Noel
Commissioner for Taking Affidavits

GENERAL SECURITY AGREEMENT

This General Security Agreement is made as of April 7, 2022.

TO: MACQUARIE EQUIPMENT FINANCE LTD., as lessor

FROM: KAP POWER CORP., as Debtor (the “**Debtor**”)

RECITALS:

A Iroquois Falls Power Corp., as lessee (the “**Lessee**”), each of the Debtor, Validus Power Corp. and Bay Power Corp. (collectively with the Lessee, the “**Guarantors**”) and Macquarie Equipment Finance Ltd., as lessor (the “**Lessor**”), are party to a participation agreement dated as of the date hereof (as may be amended, supplemented, restated or replaced from time to time, the “**Participation Agreement**”) pursuant to which, among other things, (i) the Lessor is agreeing to purchase the Leased Property from the Lessee, and (ii) the Lessee is agreeing to lease the Leased Property from the Lessor.

B. Concurrently with the execution and delivery of the Participation Agreement: (i) the Lessor and the Lessee are entering into a lease agreement dated as of the date hereof between the Lessor, as lessor, and the Lessee, as lessee (as may be amended, supplemented, restated or replaced from time to time, the “**Lease**”) under which the Lessor agrees to lease to the Lessee, and the Lessee agrees to lease from the Lessor, the Leased Property; and (ii) the Debtor and the other Guarantors are entering into the guarantee dated as of the date hereof (the “**Guarantee**”) to guarantee the payment and performance of all obligations of the Lessee and each other Guarantor in connection with the Participation Agreement, the Lease and the other Basic Documents.

C. Pursuant to the Participation Agreement and the Lease, the Debtor is required to secure the payment and performance of the Secured Liabilities and, accordingly, the Debtor has agreed to grant to the Lessor the Security Interests with respect to the Collateral in accordance with the terms of this Agreement.

For good and valuable consideration, the receipt and adequacy of which are acknowledged by the Debtor, the Debtor agrees with and in favour of the Lessor as follows:

1. **Definitions.** In this Agreement capitalized terms used but not otherwise defined in this Agreement shall have the meanings given to them in the Participation Agreement or the Lease, as applicable, and the following terms have the following meanings:

“**Accessions**”, “**Account**”, “**Chattel Paper**”, “**Certificated Security**”, “**Consumer Goods**”, “**Document of Title**”, “**Equipment**”, “**Futures Account**”, “**Futures Contract**”, “**Futures Intermediary**”, “**Goods**”, “**Instrument**”, “**Intangible**”, “**Inventory**”, “**Investment Property**”, “**Money**”, “**Proceeds**”, “**Securities Account**”, “**Securities Intermediary**”, “**Security**”, “**Security Certificate**”, “**Security Entitlement**”, and “**Uncertificated Security**” have the meanings given to them in the PPSA.

“**Agreement**” means this agreement, including the Schedules and recitals to this agreement, as it or they may be amended, supplemented, restated or replaced from time to time, and the expressions

“hereof”, “herein”, “hereto”, “hereunder”, “hereby” and similar expressions refer to this Agreement and not to any particular section or other portion of this Agreement.

“**Books and Records**” means all books, records, files, papers, disks, documents and other repositories of data recording in any form or medium, evidencing or relating to the Personal Property of the Debtor which are at any time owned by the Debtor or to which the Debtor (or any Person on the Debtor’s behalf) has access.

“**Collateral**” means all of the present and future:

- (a) undertaking;
- (b) Personal Property (including any Personal Property that may be described in any Schedule to this Agreement or any schedules, documents or listings that the Debtor may from time to time provide to the Lessor in connection with this Agreement); and
- (c) real property (including any real property that may be described in any Schedule to this Agreement or any schedules, documents or listings that the Debtor may from time to time provide to the Lessor in connection with this Agreement and including all fixtures, improvements, buildings and other structures placed, installed or erected from time to time on any such real property),

of the Debtor, including Books and Records, Contracts, Intellectual Property Rights and Permits, and including all such property in which the Debtor now or in the future has any right, title or interest whatsoever, whether owned, leased, licensed, possessed or otherwise held by the Debtor, and all Proceeds of any of the foregoing, wherever located.

“**Contracts**” means all contracts and agreements to which the Debtor is at any time a party or pursuant to which the Debtor has at any time acquired rights, and includes (i) all rights of the Debtor to receive money due and to become due to it in connection with a contract or agreement, (ii) all rights of the Debtor to damages arising out of, or for breach or default with respect to, a contract or agreement, and (iii) all rights of the Debtor to perform and exercise all remedies in connection with a contract or agreement.

“**Control**” means, with respect to a particular Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ability to exercise voting power, by contract or otherwise. “**Controlled**” has the corresponding meaning.

“**Event of Acceleration**” has the meaning set out in Section 3 hereof.

“**Guarantee**” has the meaning given to that term in the recitals hereto.

“**Intellectual Property Rights**” means all industrial and intellectual property rights of the Debtor or in which the Debtor has any right, title or interest, including copyrights, patents, inventions (whether or not patented), trade-marks, get-up and trade dress, industrial designs, integrated circuit topographies, plant breeders’ rights, know how and trade secrets, registrations and applications for

registration for any such industrial and intellectual property rights, and all Contracts related to any such industrial and intellectual property rights.

“**Issuer**” has the meaning given to that term in the STA.

“**Lease**” has the meaning set out in the recitals hereto.

“**Lessor**” has the meaning set out in the recitals hereto.

“**Organizational Documents**” means, with respect to any Person, such Person’s articles or other charter documents, by-laws, unanimous shareholder agreement, partnership agreement or trust agreement, as applicable, and any and all other similar agreements, documents and instruments relative to such Person.

“**Participation Agreement**” has the meaning given to that term in the recitals hereto.

“**Personal Property**” means personal property and includes Accounts, Chattel Paper, Documents of Title, Equipment, Goods, Instruments, Intangibles, Inventory, Investment Property and Money.

“**Pledged Certificated Securities**” means any and all Collateral that is a Certificated Security.

“**Pledged Futures Intermediary’s Jurisdiction**” means, with respect to any Pledged Futures Intermediary, its jurisdiction as determined under section 7.1(4) of the PPSA.

“**Pledged Issuer**” means, at any time, any Person which is an Issuer of, or with respect to, any Pledged Shares at such time.

“**Pledged Issuer’s Jurisdiction**” means, with respect to any Pledged Issuer, its jurisdiction as determined under section 44 of the STA.

“**Pledged Securities**” means any and all Collateral that is a Security.

“**Pledged Securities Intermediary’s Jurisdiction**” means, with respect to any Securities Intermediary, its jurisdiction as determined under section 45(2) of the STA.

“**Pledged Security Certificates**” means any and all Security Certificates representing the Pledged Certificated Securities.

“**Pledged Security Entitlements**” means any and all Collateral that is a Security Entitlement.

“**Pledged Shares**” means all Pledged Securities and Pledged Security Entitlements.

“**PPSA**” means the *Personal Property Security Act* of the Province referred to in the “Governing Law” section of this Agreement, as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation.

“**Receiver**” means a receiver, a manager or a receiver and manager.

“**Release Date**” means the date on which all the Secured Liabilities have been indefeasibly paid and discharged in full and the Lessor has no further obligations to the Lessee under any Basic Document pursuant to which further Secured Liabilities might arise.

“**Secured Liabilities**” means all present and future indebtedness, liabilities and obligations of any and every kind, nature and description (whether direct or indirect, joint or several, absolute or contingent, matured or unmatured) of the Debtor to the Lessor under, in connection with or with respect to the Participation Agreement, the Lease, the Guarantee or any other Basic Document, and any unpaid balance thereof.

“**Security Interests**” means the Liens created by the Debtor in favour of the Lessor under this Agreement.

“**STA**” means the *Securities Transfer Act* of the Province referred to in the “Governing Law” section of this Agreement, as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation.

2. **Grant of Security Interests.** As general and continuing collateral security for the due payment and performance of the Secured Liabilities, the Debtor pledges, mortgages, charges and assigns (by way of security) to the Lessor, and grants to the Lessor, a security interest in, the Collateral.

3. **Limitations on Grant of Security Interests.** If the grant of the Security Interests with respect to any Contract, Intellectual Property Right or Permit under Section 2 would result in the termination or breach of such Contract, Intellectual Property Right or Permit or is otherwise prohibited or ineffective (whether by the terms thereof or under Applicable Law), then such Contract, Intellectual Property Right or Permit shall not be subject to the Security Interests but shall be held in trust by the Debtor for the benefit of the Lessor and, on the exercise by the Lessor of any of its rights or remedies under this Agreement following a Lease Event of Default and acceleration of the Secured Liabilities pursuant to and as permitted by Section 13 of the Lease, (collectively, an “**Event of Acceleration**”) shall be assigned by the Debtor as directed by the Lessor; provided that: (a) the Security Interests shall attach to such Contract, Intellectual Property Right or Permit, or applicable portion thereof, immediately at such time as the condition causing such termination or breach is remedied, and (b) if a term in a Contract that prohibits or restricts the grant of the Security Interests in the whole of an Account or Chattel Paper forming part of the Collateral is unenforceable against the Lessor under Applicable Law, then the exclusion from the Security Interests set out above shall not apply to such Account or Chattel Paper. In addition, the Security Interests do not attach to Consumer Goods or extend to the last day of the term of any lease or agreement for lease of real property. Such last day shall be held by the Debtor in trust for the Lessor and, on the exercise by the Lessor of any of its rights or remedies under this Agreement following an Event of Acceleration, shall be assigned by the Debtor as directed by the Lessor. For greater certainty, no Intellectual Property Right in any trade-mark, get-up or trade dress is presently assigned to the Lessor by sole virtue of the grant of the Security Interests contained in Section 2.

4. **Security Interests Absolute.** The Security Interests granted hereby and all rights of the Lessor hereunder and all obligations of the Debtor hereunder are unconditional and absolute and independent and separate from any other security for the Secured Liabilities, whether executed by the Debtor or any other Person.

5. **Attachment; No Obligation to Advance.** The Debtor confirms that value has been given by the Lessor to the Debtor, that the Debtor has rights in the Collateral existing at the date of this Agreement and that the Debtor and the Lessor have not agreed to postpone the time for attachment of the Security Interests to any of the Collateral. The Security Interests shall have effect and be deemed to be effective whether or not the Secured Liabilities or any part thereof are owing or in existence before or after or upon the date of this Agreement. Neither the execution and delivery of this Agreement nor the provision of any financial accommodation by the Lessor shall oblige the Lessor to make any financial accommodation or further financial accommodation available to the Debtor or any other Person.

6. **Representations and Warranties.** The Debtor represents and warrants to the Lessor that:

- (a) as of the date hereof, all of the information set out in Schedule A is accurate and complete;
- (b) this Agreement constitutes a legal, valid and binding obligation of the Debtor, enforceable against it in accordance with its terms (except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization or similar laws affecting creditors' rights generally and by principles of equity);
- (c) the entering into of this Agreement and the performance by the Debtor of its obligations hereunder does not and will not contravene, breach or result in any default under the Organizational Documents of the Debtor or any requirement of Applicable Law or result in the creation of any Lien (other than the Security Interests granted herein);
- (d) no authorization, consent or approval of, or filing with or notice to, any Person or Government Body is required in connection with the execution and delivery of this Agreement by the Debtor or the performance of this Agreement by the Debtor;
- (e) there is no court, administrative, regulatory or similar action (whether civil, quasi-criminal, or criminal), arbitration or other dispute settlement procedure, investigation or enquiry by any Government Body, or any similar matter or action against or involving the Debtor, whether in progress or threatened, which, if determined adversely to the Debtor, would have a Material Adverse Effect;
- (f) the Debtor does not have or use a French form of name or a combined English and French form of name;
- (g) the Pledged Securities have been duly authorized and validly issued and are fully paid and non-assessable;
- (h) there are no outstanding warrants, options or other rights to purchase, or other agreements outstanding with respect to, or property that is now or

hereafter convertible into, or that requires the issuance or sale of, any Pledged Shares;

- (i) the Debtor is the registered and beneficial owner of the Pledged Securities;
- (j) there are no restrictions on the voting rights associated with, or upon the transfer of, any of the Pledged Securities other than as set out in the Organizational Documents or required by Applicable Law;
- (k) all necessary approvals and consents have been obtained in order to permit the Debtor to subject the interest of the Debtor in the Collateral to the Security Interest created by this Agreement and to permit the transfer of the Pledged Securities and any other property forming part of the Collateral from time to time to the Lessor or its nominee or any other Person in the event of realization in accordance with the provisions of Section 11 hereof;
- (l) the Pledged Securities are the sole property of the Debtor free from any liens, charges, security interests, encumbrances or any rights of others other than Permitted Liens;
- (m) all of the Pledged Securities are Certificated Securities and are "securities" for the purposes of the STA;
- (n) this Agreement creates a valid first perfected security interest in the Pledged Securities subject to any Permitted Liens;
- (o) the Debtor does not own or have any interest in any Securities Accounts, Security Entitlements, Futures Contracts or Uncertificated Securities; and
- (p) there is no existing agreement, option, right or privilege capable of becoming an agreement or option pursuant to which the Debtor could be required to sell or otherwise dispose of any of the Pledged Shares other than as set out in the Basic Documents.

7. **Survival of Representations and Warranties**. All representations and warranties made by the Debtor in this Agreement (a) are material, (b) shall be considered to have been relied on by the Lessor, and (c) shall survive the execution and delivery of this Agreement or any investigation made at any time by or on behalf of the Lessor and any disposition or payment of the Secured Liabilities until the Release Date.

8. **Covenants**. The Debtor covenants and agrees with the Lessor that:

- (a) **Marking of Collateral**. The Debtor shall keep and maintain accurate and complete records of the Collateral, including a record of all payments received and all credits granted with respect to the Accounts and Contracts. At the written request of the Lessor, the Debtor shall mark any Collateral specified by the Lessor to evidence the existence of the Security Interests.

- (b) Maintenance of Registrations. The Debtor shall maintain in good standing all registrations and applications with respect to the Intellectual Property Rights except to the extent that any failure to do so could not reasonably be expected to result in a Material Adverse Effect.
- (c) Further Identification of Collateral. The Debtor shall promptly furnish to the Lessor such statements and schedules further identifying and describing the Collateral, and such other reports in connection with the Collateral, as the Lessor may from time to time reasonably request, including an updated list of “serial number” goods owned by the Debtor and classified as Equipment.
- (d) Agreements re Intellectual Property Rights. Promptly upon request from time to time by the Lessor, the Debtor shall authorize, execute and deliver any and all agreements, instruments, documents and papers that the Lessor may request to evidence the Security Interests in any Intellectual Property Rights and, where applicable, the goodwill of the business of the Debtor connected with the use of, and symbolized by, any such Intellectual Property Rights.
- (e) Instruments; Documents of Title; Chattel Paper. Promptly upon request from time to time by the Lessor, the Debtor shall deliver to the Lessor, endorsed and/or accompanied by such instruments of assignment and transfer in such form and substance as the Lessor may reasonably request, any and all Instruments, Documents of Title and Chattel Paper included in or relating to the Collateral as the Lessor may specify in its request.
- (f) Pledged Certificated Securities. The Debtor shall deliver to the Lessor any and all Pledged Security Certificates and other materials as may be required from time to time to provide the Lessor with control over all Pledged Certificated Securities in the manner provided under section 23 of the STA. At the request of the Lessor, the Debtor shall cause all Pledged Security Certificates to be registered in the name of the Lessor or its nominee.
- (g) Partnerships, Limited Liability Companies. The Debtor shall ensure that the terms of any interest in a partnership or limited liability company that is Collateral shall expressly provide that such interest is a “security” for the purposes of the STA.
- (h) Transfer Restrictions. If the Organizational Documents of any Pledged Issuer restrict the transfer of the Securities of such Pledged Issuer, then the Debtor shall deliver to the Lessor a certified copy of a resolution of the directors, shareholders, unitholders or partners of such Pledged Issuer, as applicable, consenting to the transfer(s) contemplated by this Agreement, including any prospective transfer of the Collateral by the Lessor upon a realization on the Security Interests.

- (i) Liens. The Debtor shall preserve, protect and defend in all material respects the Collateral, including, if appropriate (in the reasonable judgement of the Debtor), prosecution of suits to enforce any right of the Debtor and enforcement of any claims with respect thereto and, except as otherwise provided herein, keep the Collateral free and clear of all Liens other than as specifically permitted by the Participation Agreement, the Lease or any other Basic Document.
- (j) Disposition; Transfer. The Debtor shall not sell or dispose of, transfer, relinquish, or agree to pledge, encumber, mortgage, charge or otherwise deal with any of its interest in the Collateral other than as specifically permitted by the Participation Agreement or any other Basic Document.
- (k) Certificated Securities. The Debtor shall not permit any issuance of additional Securities in the capital of the Pledged Issuers unless all such additional Securities are Certificated Securities, are permitted by the Participation Agreement or any other Basic Document and are forthwith delivered to the Lessor.
- (l) Notices. The Debtor shall advise the Lessor promptly, in reasonable detail, of any:
 - (i) change to a Pledged Securities Intermediary's Jurisdiction, Pledged Issuer's Jurisdiction or Pledged Future Intermediary's Jurisdiction;
 - (ii) change in the location of the jurisdiction of formation, chief executive office, or domicile of the Debtor;
 - (iii) change in the name of the Debtor;
 - (iv) merger, consolidation or amalgamation of the Debtor with any other Person;
 - (v) additional jurisdiction in which the Debtor carries on business or has tangible Personal Property;
 - (vi) additional jurisdiction in which material account debtors of the Debtor are located;
 - (vii) acquisition of any right, title or interest in real property by the Debtor;
 - (viii) acquisition of any Intellectual Property Rights which are the subject of a registration or application with any governmental intellectual property or other governing body or registry, or which are material to the Debtor's business;
 - (ix) acquisition of any Instrument, Document of Title or Chattel Paper;
 - (x) creation or acquisition of any Subsidiary of the Debtor; or

- (xi) Liens (other than Permitted Liens) on, or claim asserted against, any of the Collateral.

The Debtor shall not effect or permit any of the changes referred to in this section above unless all filings have been made and all other actions taken (to the extent, for greater certainty, such filings and actions may be taken prior to such changes) that are required in order for the Lessor to continue at all times following such change to have a valid and perfected first priority Security Interest with respect to all of the Collateral.

- (m) Certificated Securities. The Debtor shall not acquire any Securities unless all such additional Securities are Certificated Securities and are forthwith delivered to the Lessor, together with all other materials as may be required from time to time to provide the Lessor with control over all Pledged Certificated Securities in the manner provided under section 23 of the STA.
- (n) Security Entitlements, Securities Accounts, Future Contracts, Uncertificated Securities. The Debtor shall not acquire any Security Entitlement, Securities Account, Futures Contract or Uncertificated Security without, prior to acquiring such property, delivering to the Lessor all agreements, instruments, documents and other material required, and doing all acts necessary, to ensure that the Lessor has and will continue to have a valid and perfected first priority Security Interest on such property.

9. **Voting Rights**. Unless an Event of Acceleration has occurred and is continuing, the Debtor shall be entitled to exercise all voting power from time to time exercisable with respect to the Pledged Shares and give consents, waivers and ratifications with respect thereto; provided, however, that no vote shall be cast or consent, waiver or ratification given or action taken which would be, or would have a reasonably likelihood of being, prejudicial to the interests of the Lessor or which would have the effect of reducing the value of the Collateral as security for the Secured Liabilities or imposing any restriction on the transferability of any of the Collateral. Unless an Event of Acceleration has occurred and is continuing, the Lessor shall, from time to time at the request and expense of the Debtor, execute or cause to be executed, with respect to all Pledged Securities that are registered in the name of the Lessor or its nominee, valid proxies appointing the Debtor as its (or its nominee's) proxy to attend, vote and act for and on behalf of the Lessor or such nominee, as the case may be, at any and all meetings of the applicable Pledged Issuer's shareholders, unitholders or debt holders, all Pledged Securities that are registered in the name of the Lessor or such nominee, as the case may be, and to execute and deliver, consent to or approve or disapprove of or withhold consent to any resolutions in writing of shareholders, unitholders or debt holders of the applicable Pledged Issuer for and on behalf of the Lessor or such nominee, as the case may be. Immediately upon the occurrence and during the continuance of any Event of Acceleration, all such rights of the Debtor to vote and give consents, waivers and ratifications shall cease and the Lessor or its nominee shall be entitled to exercise all such voting rights and to give all such consents, waivers and ratifications.

10. **Dividends; Interest**. Unless an Event of Acceleration has occurred and is continuing, the Debtor shall be entitled to receive any and all cash dividends, interest, principal payments and other forms of cash distribution on the Pledged Shares which it is otherwise entitled to receive, but

any and all stock and/or liquidating dividends, distributions of property, returns of capital or other distributions made on or with respect to the Pledged Shares, whether resulting from a subdivision, combination or reclassification of the outstanding capital stock of any Pledged Issuer or received in exchange for the Pledged Shares or any part thereof or as a result of any amalgamation, merger, consolidation, acquisition or other exchange of property to which any Pledged Issuer may be a party or otherwise, and any and all cash and other property received in exchange for any Pledged Shares shall be and become part of the Collateral subject to the Security Interests and, if received by the Debtor, shall forthwith be delivered to the Lessor or its nominee (accompanied, if appropriate, by proper instruments of assignment and/or stock powers of attorney executed by the Debtor in accordance with the Lessor's instructions) to be held subject to the terms of this Agreement; and if any of the Pledged Security Certificates have been registered in the name of the Lessor or its nominee, the Lessor shall execute and deliver (or cause to be executed and delivered) to the Debtor all such dividend orders and other instruments as the Debtor may request for the purpose of enabling the Debtor to receive the dividends, distributions or other payments which the Debtor is authorized to receive and retain pursuant to this Section. If an Event of Acceleration has occurred and is continuing, all rights of the Debtor pursuant to this Section shall cease and the Lessor shall have the sole and exclusive right and authority to receive and retain the cash dividends, interest, principal payments and other forms of cash distribution which the Debtor would otherwise be authorized to retain pursuant to this Section. Any money and other property paid over to or received by the Lessor pursuant to the provisions of this Section shall be retained by the Lessor as additional Collateral hereunder and be applied in accordance with the provisions of this Agreement.

11. **Rights on Event of Acceleration.** If an Event of Acceleration has occurred and is continuing, then and in every such case all of the Secured Liabilities shall, at the option of the Lessor, become immediately due and payable and the Security Interests shall become enforceable and the Lessor, in addition to any rights now or hereafter existing under Applicable Law may, personally or by agent, at such time or times as the Lessor in its discretion may determine, do any one or more of the following:

- (a) **Rights under PPSA, etc.** Exercise all of the rights and remedies granted to secured parties under the PPSA and any other applicable statute, or otherwise available to the Lessor by contract, at law or in equity.
- (b) **Demand Possession.** Demand possession of any or all of the Collateral, in which event the Debtor shall, at the expense of the Debtor, immediately cause the Collateral designated by the Lessor to be assembled and made available and/or delivered to the Lessor at any place designated by the Lessor.
- (c) **Take Possession.** Enter on any premises where any Collateral is located and take possession of, disable or remove such Collateral.
- (d) **Deal with Collateral.** Hold, store and keep idle, or operate, lease or otherwise use or permit the use of, any or all of the Collateral for such time and on such terms as the Lessor may determine, and demand, collect and retain all earnings and other sums due or to become due from any Person with respect to any of the Collateral.

- (e) Carry on Business. Carry on, or concur in the carrying on of, any or all of the business or undertaking of the Debtor and enter on, occupy and use (without charge by the Debtor) any of the premises, buildings, plant and undertaking of, or occupied or used by, the Debtor.
- (f) Enforce Collateral. Seize, collect, receive, enforce or otherwise deal with any Collateral in such manner, on such terms and conditions and at such times as the Lessor deems advisable.
- (g) Dispose of Collateral. Realize on any or all of the Collateral and sell, lease, assign, give options to purchase, or otherwise dispose of and deliver any or all of the Collateral (or contract to do any of the above), in one or more parcels at any public or private sale, at any exchange, broker's board or office of the Lessor or elsewhere, with or without advertising or other formality, except as required by Applicable Law, on such terms and conditions as the Lessor may deem advisable and at such prices as it may deem best, for cash or on credit or for future delivery.
- (h) Court-Approved Disposition of Collateral. Obtain from any court of competent jurisdiction an order for the sale or foreclosure of any or all of the Collateral.
- (i) Purchase by Lessor. At any public sale, and to the extent permitted by Applicable Law on any private sale, bid for and purchase any or all of the Collateral offered for sale and, upon compliance with the terms of such sale, hold, retain, sell or otherwise dispose of such Collateral without any further accountability to the Debtor or any other Person with respect to such holding, retention, sale or other disposition, except as required by Applicable Law. In any such sale to the Lessor, the Lessor may, for the purpose of making payment for all or any part of the Collateral so purchased, use any claim for any or all of the Secured Liabilities then due and payable to it as a credit against the purchase price.
- (j) Collect Accounts. Notify (whether in its own name or in the name of the Debtor) the account debtors under any Accounts of the Debtor of the assignment of such Accounts to the Lessor and direct such account debtors to make payment of all amounts due or to become due to the Debtor with respect to such Accounts directly to the Lessor and, upon such notification and at the expense of the Debtor, enforce collection of any such Accounts, and adjust, settle or compromise the amount or payment of such Accounts, in such manner and to such extent as the Lessor deems appropriate in the circumstances.
- (k) Transfer of Collateral. Transfer any Collateral that is Pledged Shares into the name of the Lessor or its nominee.
- (l) Voting. Vote any or all of the Pledged Shares (whether or not transferred to the Lessor or its nominee) and give or withhold all consents, waivers and

ratifications with respect thereto and otherwise act with respect thereto as though it were the outright owner thereof.

- (m) Exercise Other Rights. Exercise any and all rights, privileges, entitlements and options pertaining to any Collateral that is Pledged Shares as if the Lessor were the absolute owner of such Pledged Shares.
- (n) Dealing with Contracts and Permits. Deal with any and all Contracts and Permits to the same extent as the Debtor might (including the enforcement, realization, sale, assignment, transfer and requirement for continued performance), all on such terms and conditions and at such time or times as may seem advisable to the Lessor.
- (o) Payment of Liabilities. Pay any liability secured by any Lien against any Collateral. The Debtor shall immediately on demand reimburse the Lessor for all such payments and, until paid, any such reimbursement obligation shall form part of the Secured Liabilities and shall be secured by the Security Interests.
- (p) Borrow and Grant Liens. Borrow money for the maintenance, preservation or protection of any Collateral or for carrying on any of the business or undertaking of the Debtor and grant Liens on any Collateral (in priority to the Security Interests or otherwise) as security for the money so borrowed. The Debtor shall immediately on demand reimburse the Lessor for all such borrowings and, until paid, any such reimbursement obligations shall form part of the Secured Liabilities and shall be secured by the Security Interests.
- (q) Appoint Receiver. Appoint by instrument in writing one or more Receivers of the Debtor or any or all of the Collateral with such rights, powers and authority (including any or all of the rights, powers and authority of the Lessor under this Agreement) as may be provided for in the instrument of appointment or any supplemental instrument, and remove and replace any such Receiver from time to time. To the extent permitted by Applicable Law, any Receiver appointed by the Lessor shall (for purposes relating to responsibility for the Receiver's acts or omissions) be considered to be the agent of the Debtor and not of the Lessor.
- (r) Court-Appointed Receiver. Obtain from any court of competent jurisdiction an order for the appointment of a Receiver of the Debtor or of any or all of the Collateral.
- (s) Consultants. Require the Debtor to engage a consultant of the Lessor's choice, or engage a consultant on its own behalf, such consultant to receive the full cooperation and support of the Debtor and its agents and employees, including unrestricted access to the premises of the Debtor and the Books and Records; all reasonable fees and expenses of such consultant shall be for the account of the Debtor and the Debtor hereby authorizes any such

consultant to report directly to the Lessor and to disclose to the Lessor any and all information obtained in the course of such consultant's employment.

Where no rights shall be exercised other than following the giving of notice by the Lessor to the Debtor, which notice has not been rescinded, the Lessor may exercise any or all of the foregoing rights and remedies without demand of performance or other demand, presentment, protest, advertisement or notice of any kind (except as required by Applicable Law) to or on the Debtor or any other Person, and the Debtor hereby waives each such demand, presentment, protest, advertisement and notice to the extent permitted by Applicable Law. None of the above rights or remedies shall be exclusive of or dependent on or merge in any other right or remedy, and one or more of such rights and remedies may be exercised independently or in combination from time to time. The Debtor acknowledges and agrees that any action taken by the Lessor hereunder following the occurrence and during the continuance of an Event of Acceleration shall not be rendered invalid or ineffective as a result of the curing of the Lease Event of Default on which such action was based.

12. **Realization Standards.** To the extent that Applicable Law imposes duties on the Lessor to exercise remedies in a commercially reasonable manner and without prejudice to the ability of the Lessor to dispose of the Collateral in any such manner, the Debtor acknowledges and agrees that it is not commercially unreasonable for the Lessor to (or not to) (a) incur expenses reasonably deemed necessary by the Lessor to prepare the Collateral for disposition or otherwise to complete raw material or work in process into finished goods or other finished products for disposition, (b) fail to obtain third party consents for access to the Collateral to be disposed of, (c) fail to exercise collection remedies against account debtors or other Persons obligated on the Collateral or to remove Liens against the Collateral, (d) exercise collection remedies against account debtors and other Persons obligated on the Collateral directly or through the use of collection agencies and other collection specialists, (e) dispose of Collateral by way of public auction, public tender or private contract, with or without advertising and without any other formality, (f) contact other Persons, whether or not in the same business of the Debtor, for expressions of interest in acquiring all or any portion of the Collateral, (g) hire one or more professional auctioneers to assist in the disposition of the Collateral, whether or not the Collateral is of a specialized nature or an upset or reserve bid or price is established, (h) dispose of the Collateral by utilizing internet sites that provide for the auction of assets of the types included in the Collateral or that have the reasonable capacity of doing so, or that match buyers and sellers of assets, (i) dispose of assets in wholesale rather than retail markets, (j) disclaim disposition warranties, such as title, possession or quiet enjoyment, (k) purchase insurance or credit enhancements to insure the Lessor against risks of loss, collection or disposition of the Collateral or to provide to the Lessor a guaranteed return from the collection or disposition of the Collateral, (l) to the extent deemed necessary by the Lessor, obtain the services of other brokers, investment bankers, consultants and other professionals to assist the Lessor in the collection or disposition of any of the Collateral, (m) dispose of Collateral in whole or in part, (n) dispose of Collateral to a customer of the Lessor, and (o) establish an upset or reserve bid price with respect to Collateral.

13. **Grant of Licence.** For the purpose of enabling the Lessor to exercise its rights and remedies under this Agreement when the Lessor is entitled to exercise such rights and remedies, and for no other purpose, the Debtor grants to the Lessor an irrevocable, non-exclusive licence (exercisable without payment of royalty or other compensation to the Debtor) to use, assign or sublicense any or all of the Intellectual Property Rights, including in such licence reasonable access

to all media in which any of the licensed items may be recorded or stored and to all computer programs used for the compilation or printout of the same. For any trade-marks, get-up and trade dress and other business indicia, such licence includes an obligation on the part of the Lessor to maintain the standards of quality maintained by the Debtor or, in the case of trade-marks, get-up and trade dress or other business indicia licensed to the Debtor, the standards of quality imposed upon the Debtor by the relevant licence. For copyright works, such licence shall include the benefit of any waivers of moral rights and similar rights. The licence granted under this Section shall expire on the Release Date.

14. **Securities Laws.** The Lessor is authorized, in connection with any offer or sale of any Pledged Shares, to comply with any limitation or restriction as it may be advised by counsel is necessary to comply with Applicable Law, including compliance with procedures that may restrict the number of prospective bidders and purchasers, requiring that prospective bidders and purchasers have certain qualifications, and restricting prospective bidders and purchasers to Persons who will represent and agree that they are purchasing for their own account or investment and not with a view to the distribution or resale of such Securities. In addition to and without limiting Section 12, the Debtor further agrees that compliance with any such limitation or restriction shall not result in a sale being considered or deemed not to have been made in a commercially reasonable manner, and the Lessor shall not be liable or accountable to the Debtor for any discount allowed by reason of the fact that such Pledged Shares are sold in compliance with any such limitation or restriction. If the Lessor chooses to exercise its right to sell any or all Pledged Shares, upon written request, the Debtor shall cause each applicable Pledged Issuer to furnish to the Lessor all such information as the Lessor may request in order to determine the number of shares and other instruments included in the Collateral which may be sold by the Lessor in exempt transactions under any Applicable Laws governing securities, and the rules and regulations of any applicable securities regulatory body thereunder, as the same are from time to time in effect.

15. **Application of Proceeds.** All Proceeds of Collateral received by the Lessor or a Receiver may be applied to discharge or satisfy any expenses (including the Receiver's remuneration and other expenses of enforcing the Lessor's rights under this Agreement), Liens on the Collateral in favour of Persons other than the Lessor, borrowings, taxes and other outgoings affecting the Collateral or which are considered advisable by the Lessor or the Receiver to protect, preserve, repair, process, maintain or enhance the Collateral or prepare it for sale, lease or other disposition, or to keep in good standing any Liens on the Collateral ranking in priority to any of the Security Interests, or to sell, lease or otherwise dispose of the Collateral. The balance of such Proceeds may, at the sole discretion of the Lessor, be held as collateral security for the Secured Liabilities or be applied to such of the Secured Liabilities (whether or not the same are due and payable) in such manner and at such times as the Lessor considers appropriate and thereafter shall be accounted for as required by Applicable Law.

16. **Continuing Liability of Debtor.** The Debtor shall remain liable for any Secured Liabilities that are outstanding following realization of all or any part of the Collateral and the application of the Proceeds thereof.

17. **Lessor's Appointment as Attorney-in-Fact.** Effective upon the occurrence and during the continuance of an Event of Acceleration, the Debtor constitutes and appoints the Lessor and any officer or agent of the Lessor, with full power of substitution, as the Debtor's true and lawful

attorney-in-fact with full power and authority in the place of the Debtor and in the name of the Debtor or, in its own name, from time to time in the Lessor's discretion, to take any and all appropriate action and to execute any and all documents and instruments as, in the opinion of such attorney, may be necessary or desirable to accomplish the purposes of this Agreement. Without limiting the effect of this Section, the Debtor grants the Lessor an irrevocable proxy to vote the Pledged Shares and to exercise all other rights, powers, privileges and remedies to which a holder thereof would be entitled (including giving or withholding written consents of shareholders, calling special meetings of shareholders and voting at such meetings), which proxy shall be effective, automatically and without the necessity of any action (including any transfer of any Pledged Shares on the books and records of a Pledged Issuer or Pledged Securities Intermediary, as applicable), upon the occurrence of an Event of Acceleration. These powers are coupled with an interest and are irrevocable until the Release Date. Nothing in this Section affects the right of the Lessor as secured party or any other Person on the Lessor's behalf, to sign and file or deliver (as applicable) all such financing statements, financing change statements, notices, verification statements and other documents relating to the Collateral and this Agreement as the Lessor or such other Person considers appropriate. The Debtor hereby ratifies and confirms, and agrees to ratify and confirm, whatever lawful acts the Lessor or any of the Lessor's sub-agents, nominees or attorneys do or purport to do in exercise of the power of attorney granted to the Lessor pursuant to this Section.

18. **Performance by Lessor of Debtor's Obligations.** If the Debtor fails to perform or comply with any of the obligations of the Debtor under this Agreement, the Lessor may, but need not, perform or otherwise cause the performance or compliance of such obligation, provided that such performance or compliance shall not constitute a waiver, remedy or satisfaction of such failure. The expenses of the Lessor incurred in connection with any such performance or compliance shall be payable by the Debtor to the Lessor immediately on demand, and until paid, any such expenses shall form part of the Secured Liabilities and shall be secured by the Security Interests.

19. **Interest.** If any amount payable by the Debtor to the Lessor under this Agreement is not paid when due, the Debtor shall pay to the Lessor, immediately on demand, interest on such amount from the date due until paid at the Late Rate (as defined in the Lease). All amounts payable by the Debtor to the Lessor under this Agreement, and all interest on all such amounts shall form part of the Secured Liabilities and shall be secured by the Security Interests.

20. **Severability.** Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be severed from the balance of this Agreement, all without affecting the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

21. **Rights of Lessor; Limitations on Lessor's Obligations.**

- (a) **Limitations on Liability of the Lessor.** The Lessor shall not be liable to the Debtor or any other Person for any failure or delay in exercising any of the rights of the Debtor under this Agreement (including any failure to take possession of, collect, sell, lease or otherwise dispose of any Collateral, or to preserve rights against prior parties). Neither the Lessor, a Receiver nor any agent thereof is required to take, or shall have any liability for any

failure to take or delay in taking, any steps necessary or advisable to preserve rights against other Persons under any Collateral in its possession. Neither the Lessor, any Receiver nor any agent thereof shall be liable for any, and the Debtor shall bear the full risk of all, loss or damage to any and all of the Collateral (including any Collateral in the possession of the Lessor, any Receiver, or any agent thereof) caused for any reason other than the gross negligence or wilful misconduct of the Lessor, such Receiver or such agent thereof.

- (b) Debtor Remains Liable under Accounts and Contracts. Notwithstanding any provision of this Agreement, the Debtor shall remain liable under each of the documents giving rise to the Accounts of the Debtor and under each of the Contracts to observe and perform all the conditions and obligations to be observed and performed by the Debtor thereunder, all in accordance with the terms of each such document and Contract. The Lessor shall not have any obligation or liability under any Account of the Debtor (or any document giving rise thereto) or Contract by reason of or arising out of this Agreement or the receipt by the Lessor of any payment relating to such Account or Contract pursuant hereto, and in particular (but without limitation), the Lessor shall not be obligated in any manner to perform any of the obligations of the Debtor under or pursuant to any Account (or any document giving rise thereto) or under or pursuant to any Contract to make any payment, to make any inquiry as to the nature or the sufficiency of any payment received by it or as to the sufficiency of any performance by any party under any Account (or any document giving rise thereto) or under any Contract, to present or file any claim, to take any action to enforce any performance or to collect the payment of any amounts which may have been assigned to it or to which it may be entitled at any time.
- (c) Analysis of Accounts. Following the occurrence of an Event of Acceleration that is continuing or a Lease Default, at any time and from time to time, the Lessor shall have the right to analyze and verify the Accounts of the Debtor in any manner and through any medium that it reasonably considers advisable, and the Debtor shall furnish all such assistance and information as the Lessor may require in connection therewith. Following the occurrence of an Event of Acceleration that is continuing or a Lease Default, at any time and from time to time, the Lessor may in its own name or in the name of others (including the Debtor) communicate with account debtors on the Accounts of the Debtor and parties to the Contracts to verify with them to its satisfaction the existence, status, amount and terms of any Account or any Contract. Following the occurrence of an Event of Acceleration that is continuing or a Lease Default, at any time and from time to time, upon the Lessor's reasonable request and at the expense of the Debtor, the Debtor shall furnish to the Lessor reports showing reconciliations, aging and test verifications of, and trial balances for, its Accounts.

- (d) Use of Agents. The Lessor may perform any of its rights or duties under this Agreement by or through agents and is entitled to retain counsel and to act in reliance on the advice of such counsel concerning all matters pertaining to its rights and duties under this Agreement.

22. Dealings by Lessor. The Lessor shall not be obliged to exhaust its recourse against the Debtor or any other Person or against any other security it may hold with respect to the Secured Liabilities or any part thereof before realizing upon or otherwise dealing with the Collateral in such manner as the Lessor may consider desirable. The Lessor may grant extensions of time and other indulgences, take and give up security, accept compositions, grant releases and discharges and otherwise deal with the Debtor and any other Person, and with any or all of the Collateral, and with other security and sureties, as it may see fit, all without prejudice to the Secured Liabilities or to the rights and remedies of the Lessor under this Agreement. The powers conferred on the Lessor under this Agreement are solely to protect the interests of the Lessor in the Collateral and shall not impose any duty upon the Lessor to exercise any such powers.

23. Communication. Any notice or other communication required or permitted to be given under this Agreement will be given in accordance with the terms of the Participation Agreement.

24. Release of Information. The Debtor authorizes the Lessor to provide a copy of this Agreement and such other information as may be requested of it (i) to the extent necessary to enforce its rights, remedies and entitlements under this Agreement, (ii) to any assignee or prospective assignee of all or any part of the Secured Liabilities, and (iii) as required by Applicable Law.

25. Expenses; Indemnity; Waiver.

- (a) The Debtor shall pay all reasonable out-of-pocket expenses incurred by the Lessor, including the reasonable fees, charges and disbursements of any counsel for the Lessor and all applicable taxes, in connection with the assessment, enforcement or protection of their rights in connection with this Agreement, including its rights under this Section, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations with respect to the Secured Liabilities.
- (b) The Debtor hereby agrees to indemnify the Lessor, from and against any and all liabilities, obligations, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever which may be imposed on, incurred by, or asserted against the Lessor in any way relating to or arising out of this Agreement or any other Basic Document or any action taken or admitted by the Lessor under or in respect of this Agreement; provided that the Debtor shall not be liable for any portion of such liabilities, obligations, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from the Lessor's gross negligence or wilful misconduct. Without limiting the generality of the foregoing, the Debtor agrees to reimburse the Lessor promptly upon demand in the proportion specified in the Participation Agreement in respect of any out of pocket expenses (including counsel fees) incurred by

the Lessor in connection with the preservation of any rights of the Lessor or the Debtor under, or the enforcement of, or legal advice in respect of the rights or responsibilities under, this Agreement or any other Basic Document.

- (c) The Debtor shall not assert, and hereby waives (to the fullest extent permitted by Applicable Law), (i) any claim against the Lessor (or any director, officer or employee thereof), on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, and (ii) all of the rights, benefits and protections given by any present or future statute that imposes limitations on the rights, powers or remedies of a secured party or on the methods of, or procedures for, realization of security, including any “seize or sue” or “anti-deficiency” statute or any similar provision of any other statute.
- (d) All amounts due under this Section shall be payable to the Lessor not later than three Business Days after written demand therefor.
- (e) The indemnifications set out in this Section shall survive the Release Date and the release or extinguishment of the Security Interests.

26. **Release of Debtor.** Upon the written request of the Debtor given at any time on or after the Release Date, the Lessor shall, at the expense of the Debtor, release the Debtor and the Collateral from the Security Interests and such release shall serve to terminate any licence granted in this Agreement. Upon such release, and at the request and expense of the Debtor, the Lessor shall execute and deliver to the Debtor such releases and discharges as the Debtor may reasonably request and return all Pledged Securities delivered to the Lessor pursuant to this Agreement.

27. **Additional Security.** This Agreement is in addition to, and not in substitution of, any and all other security previously or concurrently delivered by the Debtor or any other Person to the Lessor, all of which other security shall remain in full force and effect.

28. **Alteration or Waiver.** None of the terms or provisions of this Agreement may be waived, amended, supplemented or otherwise modified except by a written instrument executed by the Debtor and the Lessor. The Lessor shall not, by any act or delay, be deemed to have waived any right or remedy hereunder or to have acquiesced in any Lease Event of Default or in any breach of any of the terms and conditions hereof. No failure to exercise, nor any delay in exercising, on the part of the Lessor, any right, power or privilege hereunder shall operate as a waiver thereof. No single or partial exercise of any right, power or privilege hereunder shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege. A waiver by the Lessor of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy which the Lessor would otherwise have on any future occasion. Neither the taking of any judgment nor the exercise of any power of seizure or sale shall extinguish the liability of the Debtor to pay the Secured Liabilities, nor shall the same operate as a merger of any covenant contained in this Agreement or of any other liability, nor shall the acceptance of any payment or other security constitute or create any novation.

29. **Amalgamation.** If the Debtor is a corporation or other body corporate, the Debtor acknowledges that if it amalgamates or merges with any other corporation or corporations, or other bodies corporate, then (i) the Collateral and the Security Interests shall extend to and include all the property and assets of the amalgamated corporation or other body corporate and to any property or assets of the amalgamated corporation or other body corporate thereafter owned or acquired, (ii) the term “Debtor”, where used in this Agreement, shall extend to and include the amalgamated corporation or other body corporate, and (iii) the term “Secured Liabilities”, where used in this Agreement, shall extend to and include the Secured Liabilities of the amalgamated corporation or other body corporate.

30. **Governing Law; Attornment.** This Agreement shall be governed by and construed in accordance with the Laws of the Province of Ontario and the federal Laws of Canada applicable therein. Without prejudice to the ability of the Lessor to enforce this Agreement in any other proper jurisdiction, the Debtor irrevocably submits and attorns to the non-exclusive jurisdiction of the courts of such province. To the extent permitted by Applicable Law, the Debtor irrevocably waives any objection (including any claim of *forum non conveniens*) that it may now or hereafter have to the venue of any legal proceeding arising out of or relating to this Agreement in the courts of such Province.

31. **Interpretation.** The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. The word “or” is disjunctive; the word “and” is conjunctive. The word “shall” is mandatory; the word “may” is permissive. Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set out herein), (b) any reference herein to any statute or any section thereof shall, unless otherwise expressly stated, be deemed to be a reference to such statute or section as amended, restated or re-enacted from time to time, (c) any reference herein to any Person shall be construed to include such Person’s successors and permitted assigns, (d) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, and (e) all references herein to Sections and Schedules shall be construed to refer to Sections and Schedules to this Agreement. Section headings are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement. Any reference in this Agreement to a Permitted Lien is not intended to subordinate or postpone, and shall not be interpreted as subordinating or postponing, or as any agreement to subordinate or postpone, any Security Interest to any Permitted Lien.

32. **Paramourty.** In the event of any conflict or inconsistency between the provisions of this Agreement and the provisions of the Participation Agreement or the Lease then, notwithstanding anything contained in this Agreement, the provisions contained in the Participation Agreement or the Lease, as applicable, shall prevail to the extent of such conflict or inconsistency and the provisions of this Agreement shall be deemed to be amended to the extent necessary to eliminate such conflict or inconsistency, it being understood that the purpose of this Agreement is to add to, and not detract from, the rights granted to the Lessor under the Participation Agreement or the

Lease, as applicable. If any act or omission of the Debtor is expressly permitted under the Participation Agreement or the Lease but is expressly prohibited under this Agreement, such act or omission shall be permitted. If any act or omission is expressly prohibited under this Agreement, but the Participation Agreement and the Lease do not expressly permit such act or omission, or if any act is expressly required to be performed under this Agreement but the Participation Agreement and the Lease do not expressly relieve the Debtor from such performance, such circumstance shall not constitute a conflict between the applicable provisions of this Agreement and the provisions of the Participation Agreement or the Lease.

33. **Successors and Assigns.** This Agreement shall enure to the benefit of, and be binding on, the Debtor and its successors and permitted assigns, and shall enure to the benefit of, and be binding on, the Lessor and its successors and permitted assigns. The Debtor may not assign this Agreement, or any of its rights or obligations under this Agreement. The Lessor may assign this Agreement and any of its rights and obligations hereunder to any Person that replaces it in its capacity as such in accordance with and subject to the terms and conditions applicable to such assignment as set out in the Participation Agreement. If the Debtor or the Lessor is an individual, then the term “Debtor” or “Lessor”, as applicable, shall also include his or her heirs, administrators and executors.

34. **Acknowledgment of Receipt/Waiver.** The Debtor acknowledges receipt of an executed copy of this Agreement and, to the extent permitted by Applicable Law, waives the right to receive a copy of any financing statement or financing change statement registered in connection with this Agreement or any verification statement issued with respect to any such financing statement or financing change statement.


35. **Electronic Signature.** Delivery of an executed signature page to this Agreement by the Debtor by facsimile or other electronic form of transmission shall be as effective as delivery by the Debtor of a manually executed copy of this Agreement by the Debtor.

36. **Counterparts.** This Agreement may be executed and delivered in any number of counterparts, each of which when so executed and delivered shall constitute an original, but all of which when taken together shall constitute one and the same document.

[signature page follows]

IN WITNESS WHEREOF the undersigned has caused this Agreement to be duly executed as of the date first written above.

KAP POWER CORP., as Debtor

By: 
Name: Todd Shortt
Title: President and Chief Executive Officer

By: _____
Name:
Title:

SCHEDULE A

DEBTOR INFORMATION

Full legal name:

Kap Power Corp.

Prior names:

None

Predecessor companies:

None

Jurisdiction of incorporation or organization:

Ontario

Address of chief executive office:

2300-100 Wellington Street West, Toronto ON M5J 2R2

Addresses of all places where business is carried on or tangible Personal Property is kept:

2300-100 Wellington Street West, Toronto ON M5J 2R2

47 Gough Road, Kapuskasing, Ontario. P5N 2X7

Jurisdictions in which all material account debtors are located:

Ontario

Addresses of all owned real property:

47 Gough Road, Kapuskasing, Ontario. P5N 2X7

Instruments, Documents of Title and Chattel Paper of the Debtor:

Nil.

Pledged Certificated Securities:

Nil.

Registered trade-marks and applications for trademark registrations:

Nil.

Patents and patent applications:

Nil.

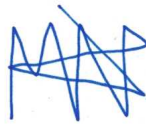
Copyright registrations and applications for copyright registrations:

Nil.

Industrial designs/registered designs and applications for registered designs:

Nil.

THIS IS **EXHIBIT “Q”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,
THIS 31st DAY OF JULY, 2023.



Michael Noel
Commissioner for Taking Affidavits

GENERAL SECURITY AGREEMENT

This General Security Agreement is made as of February 24, 2023.

TO: MACQUARIE EQUIPMENT FINANCE LTD., as lessor

FROM: KINGSTON COGEN GP INC., in its own capacity and in its capacity as general partner of **KINGSTON COGEN LIMITED PARTNERSHIP**, as Debtor (the “**Debtor**”)

RECITALS:

A Iroquois Falls Power Corp., as lessee (the “**Lessee**”), each of the Debtor, Validus Power Corp., Bay Power Corp. and Kap Power Corp. (collectively with the Lessee, the “**Guarantors**”) and Macquarie Equipment Finance Ltd., as lessor (the “**Lessor**”), are party to an amended and restated participation agreement dated as of the date hereof (as may be further amended, supplemented, restated or replaced from time to time, the “**Participation Agreement**”), which amends and restates a participation agreement dated as of April 7, 2022 pursuant to which, among other things, (i) the Lessor agreed to purchase the Leased Property from the Lessee, and (ii) the Lessee agreed to lease the Leased Property from the Lessor.

B. Concurrently with the execution and delivery of the Participation Agreement: (i) the Lessor and the Lessee are entering into an amended and restated lease agreement dated as of the date hereof (as may be further amended, supplemented, restated or replaced from time to time, the “**Lease**”) between the Lessor, as lessor, and the Lessee, as lessee, which amends and restates a lease agreement dated as of April 7, 2022 under which the Lessor agreed to lease to the Lessee, and the Lessee agreed to lease from the Lessor, the Leased Property; and (ii) the Debtor and the other Guarantors are entering into an amended and restated guarantee dated as of the date hereof (the “**Guarantee**”), which amends and restates a guarantee dated as of April 7, 2022, to guarantee (or continue to guarantee, as the case may be) the payment and performance of all obligations of the Lessee and each other Guarantor in connection with the Participation Agreement, the Lease and the other Basic Documents.

C. Pursuant to the Participation Agreement and the Lease, the Debtor is required to secure the payment and performance of the Secured Liabilities and, accordingly, the Debtor has agreed to grant to the Lessor the Security Interests with respect to the Collateral in accordance with the terms of this Agreement.

For good and valuable consideration, the receipt and adequacy of which are acknowledged by the Debtor, the Debtor agrees with and in favour of the Lessor as follows:

1. **Definitions.** In this Agreement capitalized terms used but not otherwise defined in this Agreement shall have the meanings given to them in the Participation Agreement or the Lease, as applicable, and the following terms have the following meanings:

“**Accessions**”, “**Account**”, “**Chattel Paper**”, “**Certificated Security**”, “**Consumer Goods**”, “**Document of Title**”, “**Equipment**”, “**Futures Account**”, “**Futures Contract**”, “**Futures Intermediary**”, “**Goods**”, “**Instrument**”, “**Intangible**”, “**Inventory**”, “**Investment Property**”, “**Money**”, “**Proceeds**”, “**Securities Account**”, “**Securities Intermediary**”, “**Security**”, “**Security**”

Certificate", **Security Entitlement**", and **Uncertificated Security**" have the meanings given to them in the PPSA.

Agreement" means this agreement, including the Schedules and recitals to this agreement, as it or they may be amended, supplemented, restated or replaced from time to time, and the expressions "hereof", "herein", "hereto", "hereunder", "hereby" and similar expressions refer to this Agreement and not to any particular section or other portion of this Agreement.

Books and Records" means all books, records, files, papers, disks, documents and other repositories of data recording in any form or medium, evidencing or relating to the Personal Property of the Debtor which are at any time owned by the Debtor or to which the Debtor (or any Person on the Debtor's behalf) has access.

Collateral" means all of the present and future:

- (a) undertaking;
- (b) Personal Property (including any Personal Property that may be described in any Schedule to this Agreement or any schedules, documents or listings that the Debtor may from time to time provide to the Lessor in connection with this Agreement); and
- (c) real property (including any real property that may be described in any Schedule to this Agreement or any schedules, documents or listings that the Debtor may from time to time provide to the Lessor in connection with this Agreement and including all fixtures, improvements, buildings and other structures placed, installed or erected from time to time on any such real property),

of the Debtor, including Books and Records, Contracts, Intellectual Property Rights and Permits, and including all such property in which the Debtor now or in the future has any right, title or interest whatsoever, whether owned, leased, licensed, possessed or otherwise held by the Debtor, and all Proceeds of any of the foregoing, wherever located.

Contracts" means all contracts and agreements to which the Debtor is at any time a party or pursuant to which the Debtor has at any time acquired rights, and includes (i) all rights of the Debtor to receive money due and to become due to it in connection with a contract or agreement, (ii) all rights of the Debtor to damages arising out of, or for breach or default with respect to, a contract or agreement, and (iii) all rights of the Debtor to perform and exercise all remedies in connection with a contract or agreement.

Control" means, with respect to a particular Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ability to exercise voting power, by contract or otherwise. **Controlled**" has the corresponding meaning.

Event of Acceleration" has the meaning set out in Section 3 hereof.

Guarantee" has the meaning given to that term in the recitals hereto.

“Intellectual Property Rights” means all industrial and intellectual property rights of the Debtor or in which the Debtor has any right, title or interest, including copyrights, patents, inventions (whether or not patented), trade-marks, get-up and trade dress, industrial designs, integrated circuit topographies, plant breeders’ rights, know how and trade secrets, registrations and applications for registration for any such industrial and intellectual property rights, and all Contracts related to any such industrial and intellectual property rights.

“Issuer” has the meaning given to that term in the STA.

“Lease” has the meaning set out in the recitals hereto.

“Lessor” has the meaning set out in the recitals hereto.

“Organizational Documents” means, with respect to any Person, such Person’s articles or other charter documents, by-laws, unanimous shareholder agreement, partnership agreement or trust agreement, as applicable, and any and all other similar agreements, documents and instruments relative to such Person.

“Participation Agreement” has the meaning given to that term in the recitals hereto.

“Personal Property” means personal property and includes Accounts, Chattel Paper, Documents of Title, Equipment, Goods, Instruments, Intangibles, Inventory, Investment Property and Money.

“Pledged Certificated Securities” means any and all Collateral that is a Certificated Security.

“Pledged Futures Intermediary’s Jurisdiction” means, with respect to any Pledged Futures Intermediary, its jurisdiction as determined under section 7.1(4) of the PPSA.

“Pledged Issuer” means, at any time, any Person which is an Issuer of, or with respect to, any Pledged Shares at such time.

“Pledged Issuer’s Jurisdiction” means, with respect to any Pledged Issuer, its jurisdiction as determined under section 44 of the STA.

“Pledged Securities” means any and all Collateral that is a Security.

“Pledged Securities Intermediary’s Jurisdiction” means, with respect to any Securities Intermediary, its jurisdiction as determined under section 45(2) of the STA.

“Pledged Security Certificates” means any and all Security Certificates representing the Pledged Certificated Securities.

“Pledged Security Entitlements” means any and all Collateral that is a Security Entitlement.

“Pledged Shares” means all Pledged Securities and Pledged Security Entitlements.

“PPSA” means the *Personal Property Security Act* of the Province referred to in the “Governing Law” section of this Agreement, as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation.

“**Receiver**” means a receiver, a manager or a receiver and manager.

“**Release Date**” means the date on which all the Secured Liabilities have been indefeasibly paid and discharged in full and the Lessor has no further obligations to the Lessee under any Basic Document pursuant to which further Secured Liabilities might arise.

“**Secured Liabilities**” means all present and future indebtedness, liabilities and obligations of any and every kind, nature and description (whether direct or indirect, joint or several, absolute or contingent, matured or unmatured) of the Debtor to the Lessor under, in connection with or with respect to the Participation Agreement, the Lease, the Guarantee or any other Basic Document, and any unpaid balance thereof.

“**Security Interests**” means the Liens created by the Debtor in favour of the Lessor under this Agreement.

“**STA**” means the *Securities Transfer Act* of the Province referred to in the “Governing Law” section of this Agreement, as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation.

2. **Grant of Security Interests.** As general and continuing collateral security for the due payment and performance of the Secured Liabilities, the Debtor pledges, mortgages, charges and assigns (by way of security) to the Lessor, and grants to the Lessor, a security interest in, the Collateral.

3. **Limitations on Grant of Security Interests.** If the grant of the Security Interests with respect to any Contract, Intellectual Property Right or Permit under Section 2 would result in the termination or breach of such Contract, Intellectual Property Right or Permit or is otherwise prohibited or ineffective (whether by the terms thereof or under Applicable Law), then such Contract, Intellectual Property Right or Permit shall not be subject to the Security Interests but shall be held in trust by the Debtor for the benefit of the Lessor and, on the exercise by the Lessor of any of its rights or remedies under this Agreement following a Lease Event of Default (and for greater clarity, whether or not the Lease has been rescinded or terminated) pursuant to and as permitted by Section 13 of the Lease (an “**Event of Acceleration**”), shall be assigned by the Debtor as directed by the Lessor; provided that: (a) the Security Interests shall attach to such Contract, Intellectual Property Right or Permit, or applicable portion thereof, immediately at such time as the condition causing such termination or breach is remedied, and (b) if a term in a Contract that prohibits or restricts the grant of the Security Interests in the whole of an Account or Chattel Paper forming part of the Collateral is unenforceable against the Lessor under Applicable Law, then the exclusion from the Security Interests set out above shall not apply to such Account or Chattel Paper. In addition, the Security Interests do not attach to Consumer Goods or extend to the last day of the term of any lease or agreement for lease of real property. Such last day shall be held by the Debtor in trust for the Lessor and, on the exercise by the Lessor of any of its rights or remedies under this Agreement following an Event of Acceleration, shall be assigned by the Debtor as directed by the Lessor. For greater certainty, no Intellectual Property Right in any trade-mark, get-up or trade dress is presently assigned to the Lessor by sole virtue of the grant of the Security Interests contained in Section 2.

4. **Security Interests Absolute.** The Security Interests granted hereby and all rights of the Lessor hereunder and all obligations of the Debtor hereunder are unconditional and absolute and independent and separate from any other security for the Secured Liabilities, whether executed by the Debtor or any other Person.

5. **Attachment; No Obligation to Advance.** The Debtor confirms that value has been given by the Lessor to the Debtor, that the Debtor has rights in the Collateral existing at the date of this Agreement and that the Debtor and the Lessor have not agreed to postpone the time for attachment of the Security Interests to any of the Collateral. The Security Interests shall have effect and be deemed to be effective whether or not the Secured Liabilities or any part thereof are owing or in existence before or after or upon the date of this Agreement. Neither the execution and delivery of this Agreement nor the provision of any financial accommodation by the Lessor shall oblige the Lessor to make any financial accommodation or further financial accommodation available to the Debtor or any other Person.

6. **Representations and Warranties.** The Debtor represents and warrants to the Lessor that:

- (a) as of the date hereof, all of the information set out in Schedule A is accurate and complete;
- (b) this Agreement constitutes a legal, valid and binding obligation of the Debtor, enforceable against it in accordance with its terms (except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization or similar laws affecting creditors' rights generally and by principles of equity);
- (c) the entering into of this Agreement and the performance by the Debtor of its obligations hereunder does not and will not contravene, breach or result in any default under the Organizational Documents of the Debtor or any requirement of Applicable Law or result in the creation of any Lien (other than the Security Interests granted herein);
- (d) no authorization, consent or approval of, or filing with or notice to, any Person or Government Body is required in connection with the execution and delivery of this Agreement by the Debtor or the performance of this Agreement by the Debtor;
- (e) there is no court, administrative, regulatory or similar action (whether civil, quasi-criminal, or criminal), arbitration or other dispute settlement procedure, investigation or enquiry by any Government Body, or any similar matter or action against or involving the Debtor, whether in progress or threatened, which, if determined adversely to the Debtor, would have a Material Adverse Effect;
- (f) the Debtor does not have or use a French form of name or a combined English and French form of name;

- (g) the Pledged Securities have been duly authorized and validly issued and are fully paid and non-assessable;
- (h) there are no outstanding warrants, options or other rights to purchase, or other agreements outstanding with respect to, or property that is now or hereafter convertible into, or that requires the issuance or sale of, any Pledged Shares;
- (i) the Debtor is the registered and beneficial owner of the Pledged Securities;
- (j) there are no restrictions on the voting rights associated with, or upon the transfer of, any of the Pledged Securities other than as set out in the Organizational Documents or required by Applicable Law;
- (k) all necessary approvals and consents have been obtained in order to permit the Debtor to subject the interest of the Debtor in the Collateral to the Security Interest created by this Agreement and to permit the transfer of the Pledged Securities and any other property forming part of the Collateral from time to time to the Lessor or its nominee or any other Person in the event of realization in accordance with the provisions of Section 11 hereof;
- (l) the Pledged Securities are the sole property of the Debtor free from any liens, charges, security interests, encumbrances or any rights of others other than Permitted Liens;
- (m) all of the Pledged Securities are Certificated Securities and are “securities” for the purposes of the STA;
- (n) this Agreement creates a valid first perfected security interest in the Pledged Securities subject to any Permitted Liens;
- (o) the Debtor does not own or have any interest in any Securities Accounts, Security Entitlements, Futures Contracts or Uncertificated Securities; and
- (p) there is no existing agreement, option, right or privilege capable of becoming an agreement or option pursuant to which the Debtor could be required to sell or otherwise dispose of any of the Pledged Shares other than as set out in the Basic Documents.

7. **Survival of Representations and Warranties.** All representations and warranties made by the Debtor in this Agreement (a) are material, (b) shall be considered to have been relied on by the Lessor, and (c) shall survive the execution and delivery of this Agreement or any investigation made at any time by or on behalf of the Lessor and any disposition or payment of the Secured Liabilities until the Release Date.

8. **Covenants.** The Debtor covenants and agrees with the Lessor that:

- (a) **Marking of Collateral.** The Debtor shall keep and maintain accurate and complete records of the Collateral, including a record of all payments

received and all credits granted with respect to the Accounts and Contracts. At the written request of the Lessor, the Debtor shall mark any Collateral specified by the Lessor to evidence the existence of the Security Interests.

- (b) Maintenance of Registrations. The Debtor shall maintain in good standing all registrations and applications with respect to the Intellectual Property Rights except to the extent that any failure to do so could not reasonably be expected to result in a Material Adverse Effect.
- (c) Further Identification of Collateral. The Debtor shall promptly furnish to the Lessor such statements and schedules further identifying and describing the Collateral, and such other reports in connection with the Collateral, as the Lessor may from time to time reasonably request, including an updated list of “serial number” goods owned by the Debtor and classified as Equipment.
- (d) Agreements re Intellectual Property Rights. Promptly upon request from time to time by the Lessor, the Debtor shall authorize, execute and deliver any and all agreements, instruments, documents and papers that the Lessor may request to evidence the Security Interests in any Intellectual Property Rights and, where applicable, the goodwill of the business of the Debtor connected with the use of, and symbolized by, any such Intellectual Property Rights.
- (e) Instruments; Documents of Title; Chattel Paper. Promptly upon request from time to time by the Lessor, the Debtor shall deliver to the Lessor, endorsed and/or accompanied by such instruments of assignment and transfer in such form and substance as the Lessor may reasonably request, any and all Instruments, Documents of Title and Chattel Paper included in or relating to the Collateral as the Lessor may specify in its request.
- (f) Pledged Certificated Securities. The Debtor shall deliver to the Lessor any and all Pledged Security Certificates and other materials as may be required from time to time to provide the Lessor with control over all Pledged Certificated Securities in the manner provided under section 23 of the STA. At the request of the Lessor, the Debtor shall cause all Pledged Security Certificates to be registered in the name of the Lessor or its nominee.
- (g) Partnerships, Limited Liability Companies. The Debtor shall ensure that the terms of any interest in a partnership or limited liability company that is Collateral shall expressly provide that such interest is a “security” for the purposes of the STA.
- (h) Transfer Restrictions. If the Organizational Documents of any Pledged Issuer restrict the transfer of the Securities of such Pledged Issuer, then the Debtor shall deliver to the Lessor a certified copy of a resolution of the directors, shareholders, unitholders or partners of such Pledged Issuer, as applicable, consenting to the transfer(s) contemplated by this Agreement,

including any prospective transfer of the Collateral by the Lessor upon a realization on the Security Interests.

- (i) Liens. The Debtor shall preserve, protect and defend in all material respects the Collateral, including, if appropriate (in the reasonable judgement of the Debtor), prosecution of suits to enforce any right of the Debtor and enforcement of any claims with respect thereto and, except as otherwise provided herein, keep the Collateral free and clear of all Liens other than as specifically permitted by the Participation Agreement, the Lease or any other Basic Document.
- (j) Disposition; Transfer. The Debtor shall not sell or dispose of, transfer, relinquish, or agree to pledge, encumber, mortgage, charge or otherwise deal with any of its interest in the Collateral other than as specifically permitted by the Participation Agreement or any other Basic Document.
- (k) Certificated Securities. The Debtor shall not permit any issuance of additional Securities in the capital of the Pledged Issuers unless all such additional Securities are Certificated Securities, are permitted by the Participation Agreement or any other Basic Document and are forthwith delivered to the Lessor.
- (l) Notices. The Debtor shall advise the Lessor promptly, in reasonable detail, of any:
 - (i) change to a Pledged Securities Intermediary's Jurisdiction, Pledged Issuer's Jurisdiction or Pledged Future Intermediary's Jurisdiction;
 - (ii) change in the location of the jurisdiction of formation, chief executive office, or domicile of the Debtor;
 - (iii) change in the name of the Debtor;
 - (iv) merger, consolidation or amalgamation of the Debtor with any other Person;
 - (v) additional jurisdiction in which the Debtor carries on business or has tangible Personal Property;
 - (vi) additional jurisdiction in which material account debtors of the Debtor are located;
 - (vii) acquisition of any right, title or interest in real property by the Debtor;
 - (viii) acquisition of any Intellectual Property Rights which are the subject of a registration or application with any governmental intellectual property or other governing body or registry, or which are material to the Debtor's business;
 - (ix) acquisition of any Instrument, Document of Title or Chattel Paper;

- (x) creation or acquisition of any Subsidiary of the Debtor; or
- (xi) Liens (other than Permitted Liens) on, or claim asserted against, any of the Collateral.

The Debtor shall not effect or permit any of the changes referred to in this section above unless all filings have been made and all other actions taken (to the extent, for greater certainty, such filings and actions may be taken prior to such changes) that are required in order for the Lessor to continue at all times following such change to have a valid and perfected first priority Security Interest with respect to all of the Collateral.

- (m) Certificated Securities. The Debtor shall not acquire any Securities unless all such additional Securities are Certificated Securities and are forthwith delivered to the Lessor, together with all other materials as may be required from time to time to provide the Lessor with control over all Pledged Certificated Securities in the manner provided under section 23 of the STA.
- (n) Security Entitlements, Securities Accounts, Future Contracts, Uncertificated Securities. The Debtor shall not acquire any Security Entitlement, Securities Account, Futures Contract or Uncertificated Security without, prior to acquiring such property, delivering to the Lessor all agreements, instruments, documents and other material required, and doing all acts necessary, to ensure that the Lessor has and will continue to have a valid and perfected first priority Security Interest on such property.

9. **Voting Rights**. Unless an Event of Acceleration has occurred and is continuing, the Debtor shall be entitled to exercise all voting power from time to time exercisable with respect to the Pledged Shares and give consents, waivers and ratifications with respect thereto; provided, however, that no vote shall be cast or consent, waiver or ratification given or action taken which would be, or would have a reasonably likelihood of being, prejudicial to the interests of the Lessor or which would have the effect of reducing the value of the Collateral as security for the Secured Liabilities or imposing any restriction on the transferability of any of the Collateral. Unless an Event of Acceleration has occurred and is continuing, the Lessor shall, from time to time at the request and expense of the Debtor, execute or cause to be executed, with respect to all Pledged Securities that are registered in the name of the Lessor or its nominee, valid proxies appointing the Debtor as its (or its nominee's) proxy to attend, vote and act for and on behalf of the Lessor or such nominee, as the case may be, at any and all meetings of the applicable Pledged Issuer's shareholders, unitholders or debt holders, all Pledged Securities that are registered in the name of the Lessor or such nominee, as the case may be, and to execute and deliver, consent to or approve or disapprove of or withhold consent to any resolutions in writing of shareholders, unitholders or debt holders of the applicable Pledged Issuer for and on behalf of the Lessor or such nominee, as the case may be. Immediately upon the occurrence and during the continuance of any Event of Acceleration, all such rights of the Debtor to vote and give consents, waivers and ratifications shall cease and the Lessor or its nominee shall be entitled to exercise all such voting rights and to give all such consents, waivers and ratifications.

10. **Dividends; Interest.** Unless an Event of Acceleration has occurred and is continuing, the Debtor shall be entitled to receive any and all cash dividends, interest, principal payments and other forms of cash distribution on the Pledged Shares which it is otherwise entitled to receive, but any and all stock and/or liquidating dividends, distributions of property, returns of capital or other distributions made on or with respect to the Pledged Shares, whether resulting from a subdivision, combination or reclassification of the outstanding capital stock of any Pledged Issuer or received in exchange for the Pledged Shares or any part thereof or as a result of any amalgamation, merger, consolidation, acquisition or other exchange of property to which any Pledged Issuer may be a party or otherwise, and any and all cash and other property received in exchange for any Pledged Shares shall be and become part of the Collateral subject to the Security Interests and, if received by the Debtor, shall forthwith be delivered to the Lessor or its nominee (accompanied, if appropriate, by proper instruments of assignment and/or stock powers of attorney executed by the Debtor in accordance with the Lessor's instructions) to be held subject to the terms of this Agreement; and if any of the Pledged Security Certificates have been registered in the name of the Lessor or its nominee, the Lessor shall execute and deliver (or cause to be executed and delivered) to the Debtor all such dividend orders and other instruments as the Debtor may request for the purpose of enabling the Debtor to receive the dividends, distributions or other payments which the Debtor is authorized to receive and retain pursuant to this Section. If an Event of Acceleration has occurred and is continuing, all rights of the Debtor pursuant to this Section shall cease and the Lessor shall have the sole and exclusive right and authority to receive and retain the cash dividends, interest, principal payments and other forms of cash distribution which the Debtor would otherwise be authorized to retain pursuant to this Section. Any money and other property paid over to or received by the Lessor pursuant to the provisions of this Section shall be retained by the Lessor as additional Collateral hereunder and be applied in accordance with the provisions of this Agreement.

11. **Rights on Event of Acceleration.** If an Event of Acceleration has occurred and is continuing, then and in every such case all of the Secured Liabilities shall, at the option of the Lessor, become immediately due and payable and the Security Interests shall become enforceable and the Lessor, in addition to any rights now or hereafter existing under Applicable Law may, personally or by agent, at such time or times as the Lessor in its discretion may determine, do any one or more of the following:

- (a) **Rights under PPSA, etc.** Exercise all of the rights and remedies granted to secured parties under the PPSA and any other applicable statute, or otherwise available to the Lessor by contract, at law or in equity.
- (b) **Demand Possession.** Demand possession of any or all of the Collateral, in which event the Debtor shall, at the expense of the Debtor, immediately cause the Collateral designated by the Lessor to be assembled and made available and/or delivered to the Lessor at any place designated by the Lessor.
- (c) **Take Possession.** Enter on any premises where any Collateral is located and take possession of, disable or remove such Collateral.
- (d) **Deal with Collateral.** Hold, store and keep idle, or operate, lease or otherwise use or permit the use of, any or all of the Collateral for such time

and on such terms as the Lessor may determine, and demand, collect and retain all earnings and other sums due or to become due from any Person with respect to any of the Collateral.

- (e) Carry on Business. Carry on, or concur in the carrying on of, any or all of the business or undertaking of the Debtor and enter on, occupy and use (without charge by the Debtor) any of the premises, buildings, plant and undertaking of, or occupied or used by, the Debtor.
- (f) Enforce Collateral. Seize, collect, receive, enforce or otherwise deal with any Collateral in such manner, on such terms and conditions and at such times as the Lessor deems advisable.
- (g) Dispose of Collateral. Realize on any or all of the Collateral and sell, lease, assign, give options to purchase, or otherwise dispose of and deliver any or all of the Collateral (or contract to do any of the above), in one or more parcels at any public or private sale, at any exchange, broker's board or office of the Lessor or elsewhere, with or without advertising or other formality, except as required by Applicable Law, on such terms and conditions as the Lessor may deem advisable and at such prices as it may deem best, for cash or on credit or for future delivery.
- (h) Court-Approved Disposition of Collateral. Obtain from any court of competent jurisdiction an order for the sale or foreclosure of any or all of the Collateral.
- (i) Purchase by Lessor. At any public sale, and to the extent permitted by Applicable Law on any private sale, bid for and purchase any or all of the Collateral offered for sale and, upon compliance with the terms of such sale, hold, retain, sell or otherwise dispose of such Collateral without any further accountability to the Debtor or any other Person with respect to such holding, retention, sale or other disposition, except as required by Applicable Law. In any such sale to the Lessor, the Lessor may, for the purpose of making payment for all or any part of the Collateral so purchased, use any claim for any or all of the Secured Liabilities then due and payable to it as a credit against the purchase price.
- (j) Collect Accounts. Notify (whether in its own name or in the name of the Debtor) the account debtors under any Accounts of the Debtor of the assignment of such Accounts to the Lessor and direct such account debtors to make payment of all amounts due or to become due to the Debtor with respect to such Accounts directly to the Lessor and, upon such notification and at the expense of the Debtor, enforce collection of any such Accounts, and adjust, settle or compromise the amount or payment of such Accounts, in such manner and to such extent as the Lessor deems appropriate in the circumstances.

- (k) Transfer of Collateral. Transfer any Collateral that is Pledged Shares into the name of the Lessor or its nominee.
- (l) Voting. Vote any or all of the Pledged Shares (whether or not transferred to the Lessor or its nominee) and give or withhold all consents, waivers and ratifications with respect thereto and otherwise act with respect thereto as though it were the outright owner thereof.
- (m) Exercise Other Rights. Exercise any and all rights, privileges, entitlements and options pertaining to any Collateral that is Pledged Shares as if the Lessor were the absolute owner of such Pledged Shares.
- (n) Dealing with Contracts and Permits. Deal with any and all Contracts and Permits to the same extent as the Debtor might (including the enforcement, realization, sale, assignment, transfer and requirement for continued performance), all on such terms and conditions and at such time or times as may seem advisable to the Lessor.
- (o) Payment of Liabilities. Pay any liability secured by any Lien against any Collateral. The Debtor shall immediately on demand reimburse the Lessor for all such payments and, until paid, any such reimbursement obligation shall form part of the Secured Liabilities and shall be secured by the Security Interests.
- (p) Borrow and Grant Liens. Borrow money for the maintenance, preservation or protection of any Collateral or for carrying on any of the business or undertaking of the Debtor and grant Liens on any Collateral (in priority to the Security Interests or otherwise) as security for the money so borrowed. The Debtor shall immediately on demand reimburse the Lessor for all such borrowings and, until paid, any such reimbursement obligations shall form part of the Secured Liabilities and shall be secured by the Security Interests.
- (q) Appoint Receiver. Appoint by instrument in writing one or more Receivers of the Debtor or any or all of the Collateral with such rights, powers and authority (including any or all of the rights, powers and authority of the Lessor under this Agreement) as may be provided for in the instrument of appointment or any supplemental instrument, and remove and replace any such Receiver from time to time. To the extent permitted by Applicable Law, any Receiver appointed by the Lessor shall (for purposes relating to responsibility for the Receiver's acts or omissions) be considered to be the agent of the Debtor and not of the Lessor.
- (r) Court-Appointed Receiver. Obtain from any court of competent jurisdiction an order for the appointment of a Receiver of the Debtor or of any or all of the Collateral.
- (s) Consultants. Require the Debtor to engage a consultant of the Lessor's choice, or engage a consultant on its own behalf, such consultant to receive

the full cooperation and support of the Debtor and its agents and employees, including unrestricted access to the premises of the Debtor and the Books and Records; all reasonable fees and expenses of such consultant shall be for the account of the Debtor and the Debtor hereby authorizes any such consultant to report directly to the Lessor and to disclose to the Lessor any and all information obtained in the course of such consultant's employment.

Where no rights shall be exercised other than following the giving of notice by the Lessor to the Debtor, which notice has not been rescinded, the Lessor may exercise any or all of the foregoing rights and remedies without demand of performance or other demand, presentment, protest, advertisement or notice of any kind (except as required by Applicable Law) to or on the Debtor or any other Person, and the Debtor hereby waives each such demand, presentment, protest, advertisement and notice to the extent permitted by Applicable Law. None of the above rights or remedies shall be exclusive of or dependent on or merge in any other right or remedy, and one or more of such rights and remedies may be exercised independently or in combination from time to time. The Debtor acknowledges and agrees that any action taken by the Lessor hereunder following the occurrence and during the continuance of an Event of Acceleration shall not be rendered invalid or ineffective as a result of the curing of the Lease Event of Default on which such action was based.

12. **Realization Standards.** To the extent that Applicable Law imposes duties on the Lessor to exercise remedies in a commercially reasonable manner and without prejudice to the ability of the Lessor to dispose of the Collateral in any such manner, the Debtor acknowledges and agrees that it is not commercially unreasonable for the Lessor to (or not to) (a) incur expenses reasonably deemed necessary by the Lessor to prepare the Collateral for disposition or otherwise to complete raw material or work in process into finished goods or other finished products for disposition, (b) fail to obtain third party consents for access to the Collateral to be disposed of, (c) fail to exercise collection remedies against account debtors or other Persons obligated on the Collateral or to remove Liens against the Collateral, (d) exercise collection remedies against account debtors and other Persons obligated on the Collateral directly or through the use of collection agencies and other collection specialists, (e) dispose of Collateral by way of public auction, public tender or private contract, with or without advertising and without any other formality, (f) contact other Persons, whether or not in the same business of the Debtor, for expressions of interest in acquiring all or any portion of the Collateral, (g) hire one or more professional auctioneers to assist in the disposition of the Collateral, whether or not the Collateral is of a specialized nature or an upset or reserve bid or price is established, (h) dispose of the Collateral by utilizing internet sites that provide for the auction of assets of the types included in the Collateral or that have the reasonable capacity of doing so, or that match buyers and sellers of assets, (i) dispose of assets in wholesale rather than retail markets, (j) disclaim disposition warranties, such as title, possession or quiet enjoyment, (k) purchase insurance or credit enhancements to insure the Lessor against risks of loss, collection or disposition of the Collateral or to provide to the Lessor a guaranteed return from the collection or disposition of the Collateral, (l) to the extent deemed necessary by the Lessor, obtain the services of other brokers, investment bankers, consultants and other professionals to assist the Lessor in the collection or disposition of any of the Collateral, (m) dispose of Collateral in whole or in part, (n) dispose of Collateral to a customer of the Lessor, and (o) establish an upset or reserve bid price with respect to Collateral.

13. **Grant of Licence.** For the purpose of enabling the Lessor to exercise its rights and remedies under this Agreement when the Lessor is entitled to exercise such rights and remedies, and for no other purpose, the Debtor grants to the Lessor an irrevocable, non-exclusive licence (exercisable without payment of royalty or other compensation to the Debtor) to use, assign or sublicense any or all of the Intellectual Property Rights, including in such licence reasonable access to all media in which any of the licensed items may be recorded or stored and to all computer programs used for the compilation or printout of the same. For any trade-marks, get-up and trade dress and other business indicia, such licence includes an obligation on the part of the Lessor to maintain the standards of quality maintained by the Debtor or, in the case of trade-marks, get-up and trade dress or other business indicia licensed to the Debtor, the standards of quality imposed upon the Debtor by the relevant licence. For copyright works, such licence shall include the benefit of any waivers of moral rights and similar rights. The licence granted under this Section shall expire on the Release Date.

14. **Securities Laws.** The Lessor is authorized, in connection with any offer or sale of any Pledged Shares, to comply with any limitation or restriction as it may be advised by counsel is necessary to comply with Applicable Law, including compliance with procedures that may restrict the number of prospective bidders and purchasers, requiring that prospective bidders and purchasers have certain qualifications, and restricting prospective bidders and purchasers to Persons who will represent and agree that they are purchasing for their own account or investment and not with a view to the distribution or resale of such Securities. In addition to and without limiting Section 12, the Debtor further agrees that compliance with any such limitation or restriction shall not result in a sale being considered or deemed not to have been made in a commercially reasonable manner, and the Lessor shall not be liable or accountable to the Debtor for any discount allowed by reason of the fact that such Pledged Shares are sold in compliance with any such limitation or restriction. If the Lessor chooses to exercise its right to sell any or all Pledged Shares, upon written request, the Debtor shall cause each applicable Pledged Issuer to furnish to the Lessor all such information as the Lessor may request in order to determine the number of shares and other instruments included in the Collateral which may be sold by the Lessor in exempt transactions under any Applicable Laws governing securities, and the rules and regulations of any applicable securities regulatory body thereunder, as the same are from time to time in effect.

15. **Application of Proceeds.** All Proceeds of Collateral received by the Lessor or a Receiver may be applied to discharge or satisfy any expenses (including the Receiver's remuneration and other expenses of enforcing the Lessor's rights under this Agreement), Liens on the Collateral in favour of Persons other than the Lessor, borrowings, taxes and other outgoings affecting the Collateral or which are considered advisable by the Lessor or the Receiver to protect, preserve, repair, process, maintain or enhance the Collateral or prepare it for sale, lease or other disposition, or to keep in good standing any Liens on the Collateral ranking in priority to any of the Security Interests, or to sell, lease or otherwise dispose of the Collateral. The balance of such Proceeds may, at the sole discretion of the Lessor, be held as collateral security for the Secured Liabilities or be applied to such of the Secured Liabilities (whether or not the same are due and payable) in such manner and at such times as the Lessor considers appropriate and thereafter shall be accounted for as required by Applicable Law.

16. **Continuing Liability of Debtor.** The Debtor shall remain liable for any Secured Liabilities that are outstanding following realization of all or any part of the Collateral and the application of the Proceeds thereof.

17. **Lessor's Appointment as Attorney-in-Fact.** Effective upon the occurrence and during the continuance of an Event of Acceleration, the Debtor constitutes and appoints the Lessor and any officer or agent of the Lessor, with full power of substitution, as the Debtor's true and lawful attorney-in-fact with full power and authority in the place of the Debtor and in the name of the Debtor or, in its own name, from time to time in the Lessor's discretion, to take any and all appropriate action and to execute any and all documents and instruments as, in the opinion of such attorney, may be necessary or desirable to accomplish the purposes of this Agreement. Without limiting the effect of this Section, the Debtor grants the Lessor an irrevocable proxy to vote the Pledged Shares and to exercise all other rights, powers, privileges and remedies to which a holder thereof would be entitled (including giving or withholding written consents of shareholders, calling special meetings of shareholders and voting at such meetings), which proxy shall be effective, automatically and without the necessity of any action (including any transfer of any Pledged Shares on the books and records of a Pledged Issuer or Pledged Securities Intermediary, as applicable), upon the occurrence of an Event of Acceleration. These powers are coupled with an interest and are irrevocable until the Release Date. Nothing in this Section affects the right of the Lessor as secured party or any other Person on the Lessor's behalf, to sign and file or deliver (as applicable) all such financing statements, financing change statements, notices, verification statements and other documents relating to the Collateral and this Agreement as the Lessor or such other Person considers appropriate. The Debtor hereby ratifies and confirms, and agrees to ratify and confirm, whatever lawful acts the Lessor or any of the Lessor's sub-agents, nominees or attorneys do or purport to do in exercise of the power of attorney granted to the Lessor pursuant to this Section.

18. **Performance by Lessor of Debtor's Obligations.** If the Debtor fails to perform or comply with any of the obligations of the Debtor under this Agreement, the Lessor may, but need not, perform or otherwise cause the performance or compliance of such obligation, provided that such performance or compliance shall not constitute a waiver, remedy or satisfaction of such failure. The expenses of the Lessor incurred in connection with any such performance or compliance shall be payable by the Debtor to the Lessor immediately on demand, and until paid, any such expenses shall form part of the Secured Liabilities and shall be secured by the Security Interests.

19. **Interest.** If any amount payable by the Debtor to the Lessor under this Agreement is not paid when due, the Debtor shall pay to the Lessor, immediately on demand, interest on such amount from the date due until paid at the Late Rate (as defined in the Lease). All amounts payable by the Debtor to the Lessor under this Agreement, and all interest on all such amounts shall form part of the Secured Liabilities and shall be secured by the Security Interests.

20. **Severability.** Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be severed from the balance of this Agreement, all without affecting the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

21. **Rights of Lessor; Limitations on Lessor's Obligations.**

- (a) Limitations on Liability of the Lessor. The Lessor shall not be liable to the Debtor or any other Person for any failure or delay in exercising any of the rights of the Debtor under this Agreement (including any failure to take possession of, collect, sell, lease or otherwise dispose of any Collateral, or to preserve rights against prior parties). Neither the Lessor, a Receiver nor any agent thereof is required to take, or shall have any liability for any failure to take or delay in taking, any steps necessary or advisable to preserve rights against other Persons under any Collateral in its possession. Neither the Lessor, any Receiver nor any agent thereof shall be liable for any, and the Debtor shall bear the full risk of all, loss or damage to any and all of the Collateral (including any Collateral in the possession of the Lessor, any Receiver, or any agent thereof) caused for any reason other than the gross negligence or wilful misconduct of the Lessor, such Receiver or such agent thereof.
- (b) Debtor Remains Liable under Accounts and Contracts. Notwithstanding any provision of this Agreement, the Debtor shall remain liable under each of the documents giving rise to the Accounts of the Debtor and under each of the Contracts to observe and perform all the conditions and obligations to be observed and performed by the Debtor thereunder, all in accordance with the terms of each such document and Contract. The Lessor shall not have any obligation or liability under any Account of the Debtor (or any document giving rise thereto) or Contract by reason of or arising out of this Agreement or the receipt by the Lessor of any payment relating to such Account or Contract pursuant hereto, and in particular (but without limitation), the Lessor shall not be obligated in any manner to perform any of the obligations of the Debtor under or pursuant to any Account (or any document giving rise thereto) or under or pursuant to any Contract to make any payment, to make any inquiry as to the nature or the sufficiency of any payment received by it or as to the sufficiency of any performance by any party under any Account (or any document giving rise thereto) or under any Contract, to present or file any claim, to take any action to enforce any performance or to collect the payment of any amounts which may have been assigned to it or to which it may be entitled at any time.
- (c) Analysis of Accounts. Following the occurrence of an Event of Acceleration that is continuing or a Lease Default, at any time and from time to time, the Lessor shall have the right to analyze and verify the Accounts of the Debtor in any manner and through any medium that it reasonably considers advisable, and the Debtor shall furnish all such assistance and information as the Lessor may require in connection therewith. Following the occurrence of an Event of Acceleration that is continuing or a Lease Default, at any time and from time to time, the Lessor may in its own name or in the name of others (including the Debtor) communicate with account debtors on the Accounts of the Debtor and parties to the Contracts to verify with them to its satisfaction the existence, status, amount and terms of any Account or any Contract. Following the

occurrence of an Event of Acceleration that is continuing or a Lease Default, at any time and from time to time, upon the Lessor's reasonable request and at the expense of the Debtor, the Debtor shall furnish to the Lessor reports showing reconciliations, aging and test verifications of, and trial balances for, its Accounts.

- (d) Use of Agents. The Lessor may perform any of its rights or duties under this Agreement by or through agents and is entitled to retain counsel and to act in reliance on the advice of such counsel concerning all matters pertaining to its rights and duties under this Agreement.

22. **Dealings by Lessor.** The Lessor shall not be obliged to exhaust its recourse against the Debtor or any other Person or against any other security it may hold with respect to the Secured Liabilities or any part thereof before realizing upon or otherwise dealing with the Collateral in such manner as the Lessor may consider desirable. The Lessor may grant extensions of time and other indulgences, take and give up security, accept compositions, grant releases and discharges and otherwise deal with the Debtor and any other Person, and with any or all of the Collateral, and with other security and sureties, as it may see fit, all without prejudice to the Secured Liabilities or to the rights and remedies of the Lessor under this Agreement. The powers conferred on the Lessor under this Agreement are solely to protect the interests of the Lessor in the Collateral and shall not impose any duty upon the Lessor to exercise any such powers.

23. **Communication.** Any notice or other communication required or permitted to be given under this Agreement will be given in accordance with the terms of the Participation Agreement.

24. **Release of Information.** The Debtor authorizes the Lessor to provide a copy of this Agreement and such other information as may be requested of it (i) to the extent necessary to enforce its rights, remedies and entitlements under this Agreement, (ii) to any assignee or prospective assignee of all or any part of the Secured Liabilities, and (iii) as required by Applicable Law.

25. **Expenses; Indemnity; Waiver.**

- (a) The Debtor shall pay all reasonable out-of-pocket expenses incurred by the Lessor, including the reasonable fees, charges and disbursements of any counsel for the Lessor and all applicable taxes, in connection with the assessment, enforcement or protection of their rights in connection with this Agreement, including its rights under this Section, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations with respect to the Secured Liabilities.
- (b) The Debtor hereby agrees to indemnify the Lessor, from and against any and all liabilities, obligations, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever which may be imposed on, incurred by, or asserted against the Lessor in any way relating to or arising out of this Agreement or any other Basic Document or any action taken or admitted by the Lessor under or in respect of this Agreement; provided that the Debtor shall not be liable for any portion of

such liabilities, obligations, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from the Lessor's gross negligence or wilful misconduct. Without limiting the generality of the foregoing, the Debtor agrees to reimburse the Lessor promptly upon demand in the proportion specified in the Participation Agreement in respect of any out of pocket expenses (including counsel fees) incurred by the Lessor in connection with the preservation of any rights of the Lessor or the Debtor under, or the enforcement of, or legal advice in respect of the rights or responsibilities under, this Agreement or any other Basic Document.

- (c) The Debtor shall not assert, and hereby waives (to the fullest extent permitted by Applicable Law), (i) any claim against the Lessor (or any director, officer or employee thereof), on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, and (ii) all of the rights, benefits and protections given by any present or future statute that imposes limitations on the rights, powers or remedies of a secured party or on the methods of, or procedures for, realization of security, including any "seize or sue" or "anti-deficiency" statute or any similar provision of any other statute.
- (d) All amounts due under this Section shall be payable to the Lessor not later than three Business Days after written demand therefor.
- (e) The indemnifications set out in this Section shall survive the Release Date and the release or extinguishment of the Security Interests.

26. **Release of Debtor.** Upon the written request of the Debtor given at any time on or after the Release Date, the Lessor shall, at the expense of the Debtor, release the Debtor and the Collateral from the Security Interests and such release shall serve to terminate any licence granted in this Agreement. Upon such release, and at the request and expense of the Debtor, the Lessor shall execute and deliver to the Debtor such releases and discharges as the Debtor may reasonably request and return all Pledged Securities delivered to the Lessor pursuant to this Agreement.

27. **Additional Security.** This Agreement is in addition to, and not in substitution of, any and all other security previously or concurrently delivered by the Debtor or any other Person to the Lessor, all of which other security shall remain in full force and effect.

28. **Alteration or Waiver.** None of the terms or provisions of this Agreement may be waived, amended, supplemented or otherwise modified except by a written instrument executed by the Debtor and the Lessor. The Lessor shall not, by any act or delay, be deemed to have waived any right or remedy hereunder or to have acquiesced in any Lease Event of Default or in any breach of any of the terms and conditions hereof. No failure to exercise, nor any delay in exercising, on the part of the Lessor, any right, power or privilege hereunder shall operate as a waiver thereof. No single or partial exercise of any right, power or privilege hereunder shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege. A waiver by the Lessor of any right or remedy hereunder on any one occasion shall not be construed as a bar to any

right or remedy which the Lessor would otherwise have on any future occasion. Neither the taking of any judgment nor the exercise of any power of seizure or sale shall extinguish the liability of the Debtor to pay the Secured Liabilities, nor shall the same operate as a merger of any covenant contained in this Agreement or of any other liability, nor shall the acceptance of any payment or other security constitute or create any novation.

29. **Amalgamation.** If the Debtor is a corporation or other body corporate, the Debtor acknowledges that if it amalgamates or merges with any other corporation or corporations, or other bodies corporate, then (i) the Collateral and the Security Interests shall extend to and include all the property and assets of the amalgamated corporation or other body corporate and to any property or assets of the amalgamated corporation or other body corporate thereafter owned or acquired, (ii) the term “Debtor”, where used in this Agreement, shall extend to and include the amalgamated corporation or other body corporate, and (iii) the term “Secured Liabilities”, where used in this Agreement, shall extend to and include the Secured Liabilities of the amalgamated corporation or other body corporate.

30. **Governing Law; Attornment.** This Agreement shall be governed by and construed in accordance with the Laws of the Province of Ontario and the federal Laws of Canada applicable therein. Without prejudice to the ability of the Lessor to enforce this Agreement in any other proper jurisdiction, the Debtor irrevocably submits and attorns to the non-exclusive jurisdiction of the courts of such province. To the extent permitted by Applicable Law, the Debtor irrevocably waives any objection (including any claim of *forum non conveniens*) that it may now or hereafter have to the venue of any legal proceeding arising out of or relating to this Agreement in the courts of such Province.

31. **Interpretation.** The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. The word “or” is disjunctive; the word “and” is conjunctive. The word “shall” is mandatory; the word “may” is permissive. Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set out herein), (b) any reference herein to any statute or any section thereof shall, unless otherwise expressly stated, be deemed to be a reference to such statute or section as amended, restated or re-enacted from time to time, (c) any reference herein to any Person shall be construed to include such Person’s successors and permitted assigns, (d) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, and (e) all references herein to Sections and Schedules shall be construed to refer to Sections and Schedules to this Agreement. Section headings are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement. Any reference in this Agreement to a Permitted Lien is not intended to subordinate or postpone, and shall not be interpreted as subordinating or postponing, or as any agreement to subordinate or postpone, any Security Interest to any Permitted Lien.

32. **Paramountcy.** In the event of any conflict or inconsistency between the provisions of this Agreement and the provisions of the Participation Agreement or the Lease then, notwithstanding anything contained in this Agreement, the provisions contained in the Participation Agreement or the Lease, as applicable, shall prevail to the extent of such conflict or inconsistency and the provisions of this Agreement shall be deemed to be amended to the extent necessary to eliminate such conflict or inconsistency, it being understood that the purpose of this Agreement is to add to, and not detract from, the rights granted to the Lessor under the Participation Agreement or the Lease, as applicable. If any act or omission of the Debtor is expressly permitted under the Participation Agreement or the Lease but is expressly prohibited under this Agreement, such act or omission shall be permitted. If any act or omission is expressly prohibited under this Agreement, but the Participation Agreement and the Lease do not expressly permit such act or omission, or if any act is expressly required to be performed under this Agreement but the Participation Agreement and the Lease do not expressly relieve the Debtor from such performance, such circumstance shall not constitute a conflict between the applicable provisions of this Agreement and the provisions of the Participation Agreement or the Lease.

33. **Successors and Assigns.** This Agreement shall enure to the benefit of, and be binding on, the Debtor and its successors and permitted assigns, and shall enure to the benefit of, and be binding on, the Lessor and its successors and permitted assigns. The Debtor may not assign this Agreement, or any of its rights or obligations under this Agreement. The Lessor may assign this Agreement and any of its rights and obligations hereunder to any Person that replaces it in its capacity as such in accordance with and subject to the terms and conditions applicable to such assignment as set out in the Participation Agreement. If the Debtor or the Lessor is an individual, then the term “Debtor” or “Lessor”, as applicable, shall also include his or her heirs, administrators and executors.

34. **Acknowledgment of Receipt/Waiver.** The Debtor acknowledges receipt of an executed copy of this Agreement and, to the extent permitted by Applicable Law, waives the right to receive a copy of any financing statement or financing change statement registered in connection with this Agreement or any verification statement issued with respect to any such financing statement or financing change statement.


35. **Electronic Signature.** Delivery of an executed signature page to this Agreement by the Debtor by facsimile or other electronic form of transmission shall be as effective as delivery by the Debtor of a manually executed copy of this Agreement by the Debtor.


36. **Counterparts.** This Agreement may be executed and delivered in any number of counterparts, each of which when so executed and delivered shall constitute an original, but all of which when taken together shall constitute one and the same document.

[signature page follows]

IN WITNESS WHEREOF the undersigned has caused this Agreement to be duly executed as of the date first written above.

KINGSTON COGEN GP INC., in its own capacity and in its capacity as general partner of **KINGSTON COGEN LIMITED PARTNERSHIP**, as Debtor

By: 
Name: Todd Shortt
Title: President and CEO

By: 
Name: Shelley Goertz
Title: Secretary and CFO

SCHEDULE A
DEBTOR INFORMATION

Full legal name:

Kingston CoGen GP Inc.

Kingston CoGen Limited Partnership

Prior names:

NPIF Kingston CoGen Corp.

Predecessor companies:

NPIF Kingston CoGen Corp. and Kingston CoGen Reorg Inc. (amalgamated in 2007)

Jurisdiction of incorporation or organization:

Ontario

Address of chief executive office:

2300-100 Wellington Street West, Toronto ON M5J 2R2

Addresses of all places where business is carried on or tangible Personal Property is kept:

2300-100 Wellington Street West, Toronto ON M5J 2R2

5146 Taylor-Kidd Boulevard, Bath, ON KOH 1G0

Jurisdictions in which all material account debtors are located:

Ontario

Addresses of all owned real property:

5146 Taylor-Kidd Boulevard, Bath, ON KOH 1G0

Instruments, Documents of Title and Chattel Paper of the Debtor:

Nil.

Pledged Certificated Securities:

Owner	Pledged Issuer	Securities Owned	% of issued and outstanding Securities of Pledged Issuer	Security Certificate Numbers	Security Certificate Location
Kingston CoGen GP Inc.	Kingston CoGen Limited Partnership	1 General Partner Unit	100% of General Partner Units	GP-02	Ontario

Registered trade-marks and applications for trademark registrations:

Nil.

Patents and patent applications:

Nil.

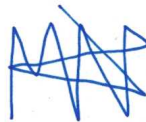
Copyright registrations and applications for copyright registrations:

Nil.

Industrial designs/registered designs and applications for registered designs:

Nil.

THIS IS **EXHIBIT “R”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,
THIS 31st DAY OF JULY, 2023.



Michael Noel
Commissioner for Taking Affidavits

SECURITIES PLEDGE AGREEMENT

This Securities Pledge Agreement is made as of April 7, 2022.

TO: MACQUARIE EQUIPMENT FINANCE LTD., as lessor

FROM: VALIDUS POWER CORP., as Debtor (the “**Debtor**”)

RECITALS:

A. Iroquois Falls Power Corp, as lessee (the “**Lessee**”), each of the Debtor, Bay Power Corp. and Kap Power Corp. (collectively with the Lessee, the “**Guarantors**”) and Macquarie Equipment Finance Ltd., as lessor (the “**Lessor**”), are party to a participation agreement dated as of the date hereof (as may be amended, supplemented, restated or replaced from time to time, the “**Participation Agreement**”) pursuant to which, among other things, (i) the Lessor is agreeing to purchase the Leased Property from the Debtor, and (ii) the Debtor is agreeing to lease the Leased Property from the Lessor.

B. Concurrently with the execution and delivery of the Participation Agreement: (i) the Lessor and the Lessee are entering into a lease agreement dated as of the date hereof between the Lessor, as lessor, and the Lessee, as lessee (as may be amended, supplemented, restated or replaced from time to time, the “**Lease**”) under which the Lessor agrees to lease to the Lessee, and the Lessee agrees to lease from the Lessor, the Leased Property; and (ii) the Debtor, the Lessee and the other Guarantors are entering into the guarantee dated as of the date hereof (the “**Guarantee**”) to guarantee the payment and performance of all obligations of the Lessee and each other Guarantor in connection with the Participation Agreement, the Lease and the other Basic Documents.

C. To secure the payment and performance of the Secured Liabilities, the Debtor has agreed to grant to the Lessor the Security Interests with respect to the Collateral in accordance with the terms of this Agreement.

For good and valuable consideration, the receipt and adequacy of which are acknowledged by the Debtor, the Debtor agrees with and in favour of the Lessor as follows:

1. **Definitions.** In this Agreement capitalized terms used but not otherwise defined in this Agreement shall have the meanings given to them in the Participation Agreement or the Lease, as applicable, and the following terms have the following meanings:

“**Agreement**” means this agreement, including the Schedules and recitals to this agreement, as it or they may be amended, supplemented, restated or replaced from time to time, and the expressions “hereof”, “herein”, “hereto”, “hereunder”, “hereby” and similar expressions refer to this Agreement and not to any particular section or other portion of this Agreement.

“**Certificated Security**”, “**Proceeds**”, “**Securities Account**”, “**Securities Intermediary**” “**Security**”, “**Security Certificate**”, “**Security Entitlement**”, and “**Uncertificated Security**” have the meanings given to them in the PPSA.

“**Collateral**” means:

- (a) the Pledged Property;
- (b) all certificates and instruments evidencing or representing the Pledged Property;
- (c) all interest, dividends and distributions (whether in cash, kind or stock) received or receivable upon or with respect to any of the Pledged Property and all moneys or other property payable or paid on account of any return or repayment of capital with respect to any of the Pledged Property or otherwise distributed with respect thereto or which will in any way be charged to, or payable or paid out of, the capital of any Pledged Issuer on account of any such Pledged Property;
- (d) all other property that may at any time be received or receivable by or otherwise distributed to the Debtor with respect to, or in substitution for, or in exchange or replacement for, any of the foregoing; and
- (e) all Proceeds of any of the foregoing.

“Event of Acceleration” has the meaning set out in Section 8 hereof.

“Guarantee” has the meaning set out in the recitals hereto.

“Issuer” has the meaning given to that term in the STA.

“Lease” has the meaning set out in the recitals hereto.

“Lessor” has the meaning set out in the recitals hereto.

“Organizational Documents” means, with respect to any Person, such Person’s articles or other charter documents, by-laws, unanimous shareholder agreement, partnership agreement or trust agreement, as applicable, and any and all other similar agreements, documents and instruments relative to such Person.

“Pledged Certificated Securities” means any and all Collateral that is a Certificated Security.

“Pledged Issuer” means each of the following:

- (a) the Lessee;
- (b) Bay Power Corp.; and
- (c) Kap Power Corp.

“Pledged Issuer’s Jurisdiction” means, with respect to any Pledged Issuer, its jurisdiction as determined under section 44 of the STA.

“Pledged Property” means all Securities, Security Entitlements and other equity interests issued by or with respect to a Pledged Issuer in which the Debtor now or in the future has any right, title or interest, including all assets, property and undertaking related to such Securities, Security Entitlements and other equity interests.

“**Pledged Securities**” means any and all Collateral that is a Security.

“**Pledged Securities Intermediary’s Jurisdiction**” means, with respect to any Securities Intermediary, its jurisdiction as determined under section 45(2) of the STA.

“**Pledged Security Certificates**” means any and all Security Certificates representing the Pledged Certificated Securities.

“**Pledged Security Entitlements**” means any and all Collateral that is a Security Entitlement.

“**Pledged Shares**” means all Pledged Securities and Pledged Security Entitlements.

“**PPSA**” means the *Personal Property Security Act* of the Province referred to in the “Governing Law” section of this Agreement, as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation.

“**Receiver**” means a receiver, a manager or a receiver and manager.

“**Release Date**” means the date on which all the Secured Liabilities have been indefeasibly paid and discharged in full and the Lessor has no further obligations to the Lessee under any Loan Document pursuant to which further Secured Liabilities might arise.

“**Secured Liabilities**” means all present and future indebtedness, liabilities and obligations of any and every kind, nature and description (whether direct or indirect, joint or several, absolute or contingent, matured or unmatured) of the Debtor to the Lessor under, in connection with or with respect to the Participation Agreement, the Lease, the Guarantee or any other Basic Document, and any unpaid balance thereof.

“**Security Interests**” means the Liens created by the Debtor in favour of the Lessor under this Agreement.

“**STA**” means the *Securities Transfer Act* of the Province referred to in the “Governing Law” section of this Agreement, as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation.

2. **Grant of Security Interests.** As general and continuing collateral security for the due payment and performance of the Secured Liabilities, the Debtor pledges to the Lessor, and grants to the Lessor a security interest in, the Collateral.

3. **Security Interests Absolute.** The Security Interests granted hereby and all rights of the Lessor hereunder and all obligations of the Debtor hereunder are unconditional and absolute and independent and separate from any other security for the Secured Liabilities, whether executed by the Debtor or any other Person.

4. **Attachment; No Obligation to Advance.** The Debtor confirms that value has been given by the Lessor to the Debtor, that the Debtor has rights in the Collateral existing at the date of this Agreement and that the Debtor and the Lessor have not agreed to postpone the time for attachment of the Security Interests to any of the Collateral. The Security Interests shall have effect and be deemed to be effective whether or not the Secured Liabilities or any part thereof are owing or in existence before or after or upon the date of this Agreement. Neither the execution and delivery of

this Agreement nor the provision of any financial accommodation by the Lessor shall oblige the Lessor to make any financial accommodation or further financial accommodation available to the Debtor or any other Person.

5. **Representations and Warranties.** The Debtor represents and warrants to the Lessor that:

- (a) as of the date hereof, all of the information set out in Schedule A is accurate and complete;
- (b) this Agreement constitutes a legal, valid and binding obligation of the Debtor, enforceable against it in accordance with its terms (except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization or similar laws affecting creditors' rights generally and by principles of equity);
- (c) the entering into of this Agreement and the performance by the Debtor of its obligations hereunder does not and will not contravene, breach or result in any default under the Organizational Documents of the Debtor or any requirement of Applicable Law or result in the creation of any Lien (other than the Security Interests granted herein);
- (d) no authorization, consent or approval of, or filing with or notice to, any Person or Government Body is required in connection with the execution and delivery of this Agreement by the Debtor or the performance of this Agreement by the Debtor;
- (e) there is no court, administrative, regulatory or similar action (whether civil, quasi-criminal, or criminal), arbitration or other dispute settlement procedure, investigation or enquiry by any Government Body, or any similar matter or action against or involving the Debtor, whether in progress or threatened, which, if determined adversely to the Debtor, would have a Material Adverse Effect;
- (f) the Debtor does not have or use a French form of name or a combined English and French form of name;
- (g) the Pledged Securities have been duly authorized and validly issued and are fully paid and non-assessable;
- (h) there are no outstanding warrants, options or other rights to purchase, or other agreements outstanding with respect to, or property that is now or hereafter convertible into, or that requires the issuance or sale of, any Pledged Shares;
- (i) the Debtor is the registered and beneficial owner of the Pledged Securities;
- (j) there are no restrictions on the voting rights associated with, or upon the transfer of, any of the Pledged Securities other than as set out in the Organizational Documents or required by Applicable Law;
- (k) all necessary approvals and consents have been obtained in order to permit the Debtor to subject the interest of the Debtor in the Collateral to the Security Interest created by this Agreement and to permit the transfer of the Pledged Securities and any other property forming part of the Collateral from time to time to the Lessor or

its nominee or any other Person in the event of realization in accordance with the provisions of Section 10 hereof;

- (l) the Pledged Securities are the sole property of the Debtor free from any liens, charges, security interests, encumbrances or any rights of others other than Permitted Liens;
- (m) the Pledged Securities are “securities” for the purposes of the STA;
- (n) this Agreement creates a valid first perfected security interest in the Pledged Securities subject to any Permitted Liens;
- (o) there is no existing agreement, option, right or privilege capable of becoming an agreement or option pursuant to which the Debtor could be required to sell or otherwise dispose of any of the Pledged Shares other than as set out in the Basic Documents; and
- (p) the Debtor does not own or have any interest in any Securities Entitlements or Uncertificated Securities in any Pledged Issuer.

6. **Survival of Representations and Warranties.** All representations and warranties made by the Debtor in this Agreement (a) are material, (b) shall be considered to have been relied on by the Lessor, and (c) shall survive the execution and delivery of this Agreement or any investigation made at any time by or on behalf of the Lessor and any disposition or payment of the Secured Liabilities until the Release Date.

7. **Covenants.** The Debtor covenants and agrees with the Lessor that:

- (a) **Pledged Certificated Securities.** The Debtor shall deliver to the Lessor any and all Pledged Security Certificates and other materials as may be required from time to time to provide the Lessor with control over all Pledged Certificated Securities in the manner provided under section 23 of the STA. At the request of the Lessor, the Debtor shall cause all Pledged Security Certificates to be registered in the name of the Lessor or its nominee.
- (b) **Partnerships, Limited Liability Companies.** The Debtor shall ensure that the terms of any interest in a partnership or limited liability company that is Collateral shall expressly provide that such interest is a “security” for the purposes of the STA.
- (c) **Transfer Restrictions.** If the Organizational Documents of any Pledged Issuer restrict the transfer of the Securities of such Pledged Issuer, then the Debtor shall deliver to the Lessor a certified copy of a resolution of the directors, shareholders, unitholders or partners of such Pledged Issuer, as applicable, consenting to the transfer(s) contemplated by this Agreement, including any prospective transfer of the Collateral by the Lessor upon a realization on the Security Interests.
- (d) **Liens.** The Debtor shall preserve, protect and defend in all material respects the Collateral, including, if appropriate (in the reasonable judgement of the Debtor), prosecution of suits to enforce any right of the Debtor and enforcement of any

claims with respect thereto and, except as otherwise provided herein, keep the Collateral free and clear of all Liens other than as specifically permitted by the Participation Agreement, the Lease or any other Basic Document.

- (e) Disposition; Transfer. The Debtor shall not sell or dispose of, transfer, relinquish, or agree to pledge, encumber, mortgage, charge or otherwise deal with any of its interest in the Collateral other than as specifically permitted by the Participation Agreement, the Lease or any other Basic Document.
- (f) Certificated Securities. The Debtor shall not permit any issuance of additional Securities in the capital of the Pledged Issuers unless all such additional Securities are Certificated Securities, are permitted by the Participation Agreement or any other Basic Document and are forthwith delivered to the Lessor.
- (g) Security Entitlement, Uncertificated Securities. The Debtor shall not acquire any Security Entitlement or Uncertificated Security with respect to a Pledged Issuer without, prior to acquiring such property, delivering to the Lessor all agreements, instruments, documents and other material required, and doing all acts necessary, to ensure that the Lessor has and will continue to have a valid and perfected first priority Security Interest on such property.
- (h) Notices. The Debtor shall advise the Lessor promptly, in reasonable detail, of any:
 - (i) acquisition after the date of this Agreement of any right, title or interest in any Pledged Property;
 - (ii) change to a Pledged Securities Intermediary's Jurisdiction or Pledged Issuer's Jurisdiction;
 - (iii) change in the location of the jurisdiction of formation, chief executive office, or domicile of the Debtor;
 - (iv) change in the name of the Debtor;
 - (v) merger, consolidation or amalgamation of the Debtor with any other Person;
 - (vi) Lien (other than Permitted Liens) on, or claim asserted against, any of the Collateral; or
 - (vii) occurrence of any event, claim or occurrence that could reasonably be expected to have a Material Adverse Effect.

The Debtor shall not effect or permit any of the changes referred to in clauses (iii) through (v) above unless all filings have been made and all other actions taken (to the extent, for greater certainty, such filings and actions may be taken prior to such changes) that are required in order for the Lessor to continue at all times following such change to have a valid and perfected first priority Security Interest with respect to all of the Collateral.

8. **Voting Rights.** Unless a Lease Event of Default and acceleration of the Secured Liabilities pursuant to and as permitted by Section 13 of the Lease, (collectively, an “**Event of Acceleration**”) has occurred and is continuing, the Debtor shall be entitled to exercise all voting power from time to time exercisable with respect to the Pledged Shares and give consents, waivers and ratifications with respect thereto; provided, however, that no vote shall be cast or consent, waiver or ratification given or action taken which would be, or would have a reasonably likelihood of being, prejudicial to the interests of the Lessor or which would have the effect of reducing the value of the Collateral as security for the Secured Liabilities or imposing any restriction on the transferability of any of the Collateral. Unless an Event of Acceleration has occurred and is continuing, the Lessor shall, from time to time at the request and expense of the Debtor, execute or cause to be executed, with respect to all Pledged Securities that are registered in the name of the Lessor or its nominee, valid proxies appointing the Debtor as its (or its nominee’s) proxy to attend, vote and act for and on behalf of the Lessor or such nominee, as the case may be, at any and all meetings of the applicable Pledged Issuer’s shareholders, unitholders or debt holders, all Pledged Securities that are registered in the name of the Lessor or such nominee, as the case may be, and to execute and deliver, consent to or approve or disapprove of or withhold consent to any resolutions in writing of shareholders, unitholders or debt holders of the applicable Pledged Issuer for and on behalf of the Lessor or such nominee, as the case may be. Immediately upon the occurrence and during the continuance of any Event of Acceleration, all such rights of the Debtor to vote and give consents, waivers and ratifications shall cease and the Lessor or its nominee shall be entitled to exercise all such voting rights and to give all such consents, waivers and ratifications.

9. **Dividends; Interest.** Unless an Event of Acceleration has occurred and is continuing, the Debtor shall be entitled to receive any and all cash dividends, interest, principal payments and other forms of cash distribution on the Pledged Shares which it is otherwise entitled to receive, but any and all stock and/or liquidating dividends, distributions of property, returns of capital or other distributions made on or with respect to the Pledged Shares, whether resulting from a subdivision, combination or reclassification of the outstanding capital stock of any Pledged Issuer or received in exchange for the Pledged Shares or any part thereof or as a result of any amalgamation, merger, consolidation, acquisition or other exchange of property to which any Pledged Issuer may be a party or otherwise, and any and all cash and other property received in exchange for any Pledged Shares shall be and become part of the Collateral subject to the Security Interests and, if received by the Debtor, shall forthwith be delivered to the Lessor or its nominee (accompanied, if appropriate, by proper instruments of assignment and/or stock powers of attorney executed by the Debtor in accordance with the Lessor’s instructions) to be held subject to the terms of this Agreement; and if any of the Pledged Security Certificates have been registered in the name of the Lessor or its nominee, the Lessor shall execute and deliver (or cause to be executed and delivered) to the Debtor all such dividend orders and other instruments as the Debtor may request for the purpose of enabling the Debtor to receive the dividends, distributions or other payments which the Debtor is authorized to receive and retain pursuant to this Section. If an Event of Acceleration has occurred and is continuing, all rights of the Debtor pursuant to this Section shall cease and the Lessor shall have the sole and exclusive right and authority to receive and retain the cash dividends, interest, principal payments and other forms of cash distribution which the Debtor would otherwise be authorized to retain pursuant to this Section, if any. Any money and other property paid over to or received by the Lessor pursuant to the provisions of this Section shall be retained by the Lessor as additional Collateral hereunder and be applied in accordance with the provisions of this Agreement.

10. **Rights on Event of Acceleration.** If an Event of Acceleration has occurred and is continuing, then and in every such case all of the Secured Liabilities shall, at the option of the Lessor, become immediately due and payable and the Security Interests shall become enforceable and the Lessor, in addition to any rights now or hereafter existing under Applicable Law may, personally or by agent, at such time or times as the Lessor in its discretion may determine, do any one or more of the following:

- (a) Rights under PPSA, etc. Exercise all of the rights and remedies granted to secured parties under the PPSA and any other applicable statute, or otherwise available to the Lessor by contract, at law or in equity.
- (b) Dispose of Collateral. Realize on any or all of the Collateral and sell, lease, assign, give options to purchase, or otherwise dispose of and deliver any or all of the Collateral (or contract to do any of the above), in one or more parcels at any public or private sale, at any exchange, broker's board or office of the Lessor or elsewhere, with or without advertising or other formality, except as required by Applicable Law, on such terms and conditions as the Lessor may deem advisable and at such prices as it may deem best, for cash or on credit or for future delivery.
- (c) Court-Approved Disposition of Collateral. Obtain from any court of competent jurisdiction an order for the sale or foreclosure of any or all of the Collateral.
- (d) Purchase by Lessor. At any public sale, and to the extent permitted by Applicable Law on any private sale, bid for and purchase any or all of the Collateral offered for sale and, upon compliance with the terms of such sale, hold, retain, sell or otherwise dispose of such Collateral without any further accountability to the Debtor or any other Person with respect to such holding, retention, sale or other disposition, except as required by Applicable Law. In any such sale to the Lessor, the Lessor may, for the purpose of making payment for all or any part of the Collateral so purchased, use any claim for any or all of the Secured Liabilities then due and payable to it as a credit against the purchase price.
- (e) Transfer of Collateral. Transfer any Pledged Shares into the name of the Lessor or its nominee.
- (f) Voting. Vote any or all of the Pledged Shares (whether or not transferred to the Lessor or its nominee) and give or withhold all consents, waivers and ratifications with respect thereto and otherwise act with respect thereto as though it were the outright owner thereof.
- (g) Exercise Other Rights. Exercise any and all rights, privileges, entitlements and options pertaining to any Pledged Shares as if the Lessor were the absolute owner of such Pledged Shares.

Where no rights shall be exercised other than following the giving of notice by the Lessor to the Debtor, which notice has not been rescinded, the Lessor may exercise any or all of the foregoing rights and remedies without demand of performance or other demand, presentment, protest, advertisement or notice of any kind (except as required by Applicable Law) to or on the Debtor or any other Person, and the Debtor hereby waives each such demand, presentment, protest,

advertisement and notice to the extent permitted by Applicable Law. None of the above rights or remedies shall be exclusive of or dependent on or merge in any other right or remedy, and one or more of such rights and remedies may be exercised independently or in combination from time to time. The Debtor acknowledges and agrees that any action taken by the Lessor hereunder following the occurrence and during the continuance of an Event of Acceleration shall not be rendered invalid or ineffective as a result of the curing of the Lease Event of Default on which such action was based.

11. **Realization Standards.** To the extent that Applicable Law imposes duties on the Lessor to exercise remedies in a commercially reasonable manner and without prejudice to the ability of the Lessor to dispose of the Collateral in any such manner, the Debtor acknowledges and agrees that it is not commercially unreasonable for the Lessor to (or not to) (a) to the extent deemed necessary by the Lessor, obtain the services of other brokers, investment bankers, consultants and other professionals to assist the Lessor in the collection or disposition of any of the Collateral, (b) dispose of Collateral in whole or in part, (c) dispose of Collateral to a customer of the Lessor, and (d) establish an upset or reserve bid price with respect to Collateral.

12. **Securities Laws.** The Lessor is authorized, in connection with any offer or sale of any Pledged Shares, to comply with any limitation or restriction as it may be advised by counsel is necessary to comply with Applicable Law, including compliance with procedures that may restrict the number of prospective bidders and purchasers, requiring that prospective bidders and purchasers have certain qualifications, and restricting prospective bidders and purchasers to Persons who will represent and agree that they are purchasing for their own account or investment and not with a view to the distribution or resale of such Securities. In addition to and without limiting Section 11, the Debtor further agrees that compliance with any such limitation or restriction shall not result in a sale being considered or deemed not to have been made in a commercially reasonable manner, and the Lessor shall not be liable or accountable to the Debtor for any discount allowed by reason of the fact that such Pledged Shares are sold in compliance with any such limitation or restriction. If the Lessor chooses to exercise its right to sell any or all Pledged Shares, upon written request, the Debtor shall cause each applicable Pledged Issuer to furnish to the Lessor all such information as the Lessor may request in order to determine the number of shares and other instruments included in the Collateral which may be sold by the Lessor in exempt transactions under any Applicable Laws governing securities, and the rules and regulations of any applicable securities regulatory body thereunder, as the same are from time to time in effect.

13. **Application of Proceeds.** All Proceeds of Collateral received by the Lessor or a Receiver may be applied to discharge or satisfy any expenses (including the Receiver's remuneration and other expenses of enforcing the Lessor's rights under this Agreement), Liens on the Collateral in favour of Persons other than the Lessor, borrowings, taxes and other outgoings affecting the Collateral or which are considered advisable by the Lessor or the Receiver to protect, preserve, repair, process, maintain or enhance the Collateral or prepare it for sale or other disposition, or to keep in good standing any Liens on the Collateral ranking in priority to any of the Security Interests, or to sell or otherwise dispose of the Collateral. The balance of such Proceeds may, at the sole discretion of the Lessor, be held as collateral security for the Secured Liabilities or be applied to such of the Secured Liabilities (whether or not the same are due and payable) in such manner and at such times as the Lessor considers appropriate and thereafter shall be accounted for as required by Applicable Law.

14. **Continuing Liability of Debtor.** The Debtor shall remain liable for any Secured Liabilities that are outstanding following realization of all or any part of the Collateral and the application of the Proceeds thereof.

15. **Lessor's Appointment as Attorney-in-Fact.** Effective upon the occurrence and during the continuance of an Event of Acceleration, the Debtor constitutes and appoints the Lessor and any officer or agent of the Lessor, with full power of substitution, as the Debtor's true and lawful attorney-in-fact with full power and authority in the place of the Debtor and in the name of the Debtor or, in its own name, from time to time in the Lessor's discretion, to take any and all appropriate action and to execute any and all documents and instruments as, in the opinion of such attorney, may be necessary or desirable to accomplish the purposes of this Agreement. Without limiting the effect of this Section, the Debtor grants the Lessor an irrevocable proxy to vote the Pledged Shares and to exercise all other rights, powers, privileges and remedies to which a holder thereof would be entitled (including giving or withholding written consents of shareholders, calling special meetings of shareholders and voting at such meetings), which proxy shall be effective, automatically and without the necessity of any action (including any transfer of any Pledged Shares on the books and records of a Pledged Issuer or Pledged Securities Intermediary, as applicable), upon the occurrence of an Event of Acceleration. These powers are coupled with an interest and are irrevocable until the Release Date. Nothing in this Section affects the right of the Lessor as secured party or any other Person on the Lessor's behalf, to sign and file or deliver (as applicable) all such financing statements, financing change statements, notices, verification statements and other documents relating to the Collateral and this Agreement as the Lessor or such other Person considers appropriate. The Debtor hereby ratifies and confirms, and agrees to ratify and confirm, whatever lawful acts the Lessor or any of the Lessor's sub-agents, nominees or attorneys do or purport to do in exercise of the power of attorney granted to the Lessor pursuant to this Section.

16. **Performance by Lessor of Debtor's Obligations.** If the Debtor fails to perform or comply with any of the obligations of the Debtor under this Agreement, the Lessor may, but need not, perform or otherwise cause the performance or compliance of such obligation, provided that such performance or compliance shall not constitute a waiver, remedy or satisfaction of such failure. The expenses of the Lessor incurred in connection with any such performance or compliance shall be payable by the Debtor to the Lessor immediately on demand, and until paid, any such expenses shall form part of the Secured Liabilities and shall be secured by the Security Interests.

17. **Interest.** If any amount payable by the Debtor to the Lessor under this Agreement is not paid when due, the Debtor shall pay to the Lessor, immediately on demand, interest on such amount from the date due until paid at the Late Rate (as defined in the Lease). All amounts payable by the Debtor to the Lessor under this Agreement, and all interest on all such amounts shall form part of the Secured Liabilities and shall be secured by the Security Interests.

18. **Severability.** Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be severed from the balance of this Agreement, all without affecting the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

19. **Rights of Lessor; Limitations on Lessor's Obligations.**

- (a) Limitations on Liability of Lessor. The Lessor shall not be liable to the Debtor or any other Person for any failure or delay in exercising any of the rights of the Debtor under this Agreement (including any failure to take possession of, collect, sell, lease or otherwise dispose of any Collateral, or to preserve rights against prior parties). Neither the Lessor, a Receiver nor any agent thereof is required to take, or shall have any liability for any failure to take or delay in taking, any steps necessary or advisable to preserve rights against other Persons under any Collateral in its possession. Neither the Lessor, any Receiver nor any agent thereof shall be liable for any, and the Debtor shall bear the full risk of all, loss or damage to any and all of the Collateral (including any Collateral in the possession of the Lessor, any Receiver, or any agent thereof) caused for any reason other than the gross negligence or wilful misconduct of the Lessor, such Receiver or such agent thereof.
- (b) Use of Agents. The Lessor may perform any of its rights or duties under this Agreement by or through agents and is entitled to retain counsel and to act in reliance on the advice of such counsel concerning all matters pertaining to its rights and duties under this Agreement.

20. Dealings by Lessor. The Lessor shall not be obliged to exhaust its recourse against the Debtor or any other Person or against any other security it may hold with respect to the Secured Liabilities or any part thereof before realizing upon or otherwise dealing with the Collateral in such manner as the Lessor may consider desirable. The Lessor may grant extensions of time and other indulgences, take and give up security, accept compositions, grant releases and discharges and otherwise deal with the Debtor and any other Person, and with any or all of the Collateral, and with other security and sureties, as they may see fit, all without prejudice to the Secured Liabilities or to the rights and remedies of the Lessor under this Agreement. The powers conferred on the Lessor under this Agreement are solely to protect the interests of the Lessor in the Collateral and shall not impose any duty upon the Lessor to exercise any such powers.

21. Communication. Any notice or other communication required or permitted to be given under this Agreement will be given in accordance with the terms of the Participation Agreement.

22. Release of Information. The Debtor authorizes the Lessor to provide a copy of this Agreement and such other information as may be requested of the Lessor (i) to the extent necessary to enforce the Lessor's rights, remedies and entitlements under this Agreement, (ii) to any assignee or prospective assignee of all or any part of the Secured Liabilities, and (iii) as required by Applicable Law.

23. Expenses; Indemnity; Waiver.

- (a) The Debtor shall pay all reasonable out-of-pocket expenses incurred by the Lessor, including the reasonable fees, charges and disbursements of any counsel for the Lessor and all applicable taxes, in connection with the assessment, enforcement or protection of their rights in connection with this Agreement, including its rights under this Section, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations with respect to the Secured Liabilities.
- (b) The Debtor hereby agrees to indemnify the Lessor (to the extent not reimbursed by the Lessee), from and against any and all liabilities, obligations, damages, penalties,

actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever which may be imposed on, incurred by, or asserted against the Lessor in any way relating to or arising out of this Agreement or any other Basic Document or any action taken or admitted by the Lessor under or in respect of this Agreement; provided that the Debtor shall not be liable for any portion of such liabilities, obligations, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from the Lessor's gross negligence or wilful misconduct. Without limiting the generality of the foregoing, the Debtor agrees to reimburse the Lessor promptly upon demand in respect of any out of pocket expenses (including counsel fees) incurred by the Lessor in connection with the preservation of any rights of the Lessor or the Debtor under, or the enforcement of, or legal advice in respect of the rights or responsibilities under, this Agreement or any other Basic Document, to the extent that the Lessor is not reimbursed for such expenses by the Lessee.

- (c) The Debtor shall not assert, and hereby waives (to the fullest extent permitted by Applicable Law), (i) any claim against the Lessor (or any director, officer or employee thereof), on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, and (ii) all of the rights, benefits and protections given by any present or future statute that imposes limitations on the rights, powers or remedies of a secured party or on the methods of, or procedures for, realization of security, including any "seize or sue" or "anti-deficiency" statute or any similar provision of any other statute.
- (d) All amounts due under this Section shall be payable to the Lessor not later than three Business Days after written demand therefor.
- (e) The indemnifications set out in this Section shall survive the Release Date and the release or extinguishment of the Security Interests.

24. **Release of Debtor.** Upon the written request of the Debtor given at any time on or after the Release Date, the Lessor shall, at the expense of the Debtor, release the Debtor and the Collateral from the Security Interests. Upon such release, and at the request and expense of the Debtor, the Lessor shall execute and deliver to the Debtor such releases and discharges as the Debtor may reasonably request and return all Pledged Securities delivered to the Lessor pursuant to this Agreement.

25. **Additional Security.** This Agreement is in addition to, and not in substitution of, any and all other security previously or concurrently delivered by the Debtor or any other Person to the Lessor, all of which other security shall remain in full force and effect.

26. **Alteration or Waiver.** None of the terms or provisions of this Agreement may be waived, amended, supplemented or otherwise modified except by a written instrument executed by the Debtor and the Lessor. The Lessor shall not, by any act or delay, be deemed to have waived any right or remedy hereunder or to have acquiesced in any Lease Event of Default or in any breach of any of the terms and conditions hereof. No failure to exercise, nor any delay in exercising, on the part of the Lessor, any right, power or privilege hereunder shall operate as a waiver thereof. No single or partial exercise of any right, power or privilege hereunder shall preclude any other or

further exercise thereof or the exercise of any other right, power or privilege. A waiver by the Lessor of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy which the Lessor would otherwise have on any future occasion. Neither the taking of any judgment nor the exercise of any power of seizure or sale shall extinguish the liability of the Debtor to pay the Secured Liabilities, nor shall the same operate as a merger of any covenant contained in this Agreement or of any other liability, nor shall the acceptance of any payment or other security constitute or create any novation.

27. **Amalgamation.** If the Debtor is a corporation or other body corporate, the Debtor acknowledges that if it amalgamates or merges with any other corporation or corporations, or other bodies corporate, then (i) the Collateral and the Security Interests shall extend to and include all the property and assets of the amalgamated corporation or other body corporate and to any property or assets of the amalgamated corporation or other body corporate thereafter owned or acquired, (ii) the term “Debtor”, where used in this Agreement, shall extend to and include the amalgamated corporation or other body corporate, and (iii) the term “Secured Liabilities”, where used in this Agreement, shall extend to and include the Secured Liabilities of the amalgamated corporation or other body corporate.

28. **Governing Law; Attornment.** This Agreement shall be governed by and construed in accordance with the Laws of the Province of Ontario and the federal Laws of Canada applicable therein. Without prejudice to the ability of the Lessor to enforce this Agreement in any other proper jurisdiction, the Debtor irrevocably submits and attorns to the non-exclusive jurisdiction of the courts of such province. To the extent permitted by Applicable Law, the Debtor irrevocably waives any objection (including any claim of forum *non conveniens*) that it may now or hereafter have to the venue of any legal proceeding arising out of or relating to this Agreement in the courts of such Province.

29. **Interpretation.** The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. The word “or” is disjunctive; the word “and” is conjunctive. The word “shall” is mandatory; the word “may” is permissive. Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set out herein), (b) any reference herein to any statute or any section thereof shall, unless otherwise expressly stated, be deemed to be a reference to such statute or section as amended, restated or re-enacted from time to time, (c) any reference herein to any Person shall be construed to include such Person’s successors and permitted assigns, (d) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, and (e) all references herein to Sections and Schedules shall be construed to refer to Sections and Schedules to this Agreement. Section headings are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement. Any reference in this Agreement to a Permitted Lien is not intended to subordinate or postpone, and shall not be interpreted as subordinating or postponing, or as any agreement to subordinate or postpone, any Security Interest to any Permitted Lien.

30. **Paramourncy.** In the event of any conflict or inconsistency between the provisions of this Agreement and the provisions of the Participation Agreement or the Lease then, notwithstanding anything contained in this Agreement, the provisions contained in the Participation Agreement or the Lease, as applicable, shall prevail to the extent of such conflict or inconsistency and the provisions of this Agreement shall be deemed to be amended to the extent necessary to eliminate such conflict or inconsistency, it being understood that the purpose of this Agreement is to add to, and not detract from, the rights granted to the Lessor under the Participation Agreement or the Lease, as applicable. If any act or omission of the Debtor is expressly permitted under the Participation Agreement or the Lease but is expressly prohibited under this Agreement, such act or omission shall be permitted. If any act or omission is expressly prohibited under this Agreement, but the Participation Agreement and the Lease do not expressly permit such act or omission, or if any act is expressly required to be performed under this Agreement but the Participation Agreement and the Lease do not expressly relieve the Debtor from such performance, such circumstance shall not constitute a conflict between the applicable provisions of this Agreement and the provisions of the Participation Agreement or the Lease.

31. **Successors and Assigns.** This Agreement shall enure to the benefit of, and be binding on, the Debtor and its successors and permitted assigns, and shall enure to the benefit of, and be binding on, the Lessor and its successors and permitted assigns. The Debtor may not assign this Agreement, or any of its rights or obligations under this Agreement. The Lessor may assign this Agreement and any of its rights and obligations hereunder to any Person that replaces it in its capacity as such in accordance with and subject to the terms and conditions applicable to such assignment as set out in the Participation Agreement. If the Debtor or the Lessor is an individual, then the term “Debtor” or “Lessor”, as applicable, shall also include his or her heirs, administrators and executors.

32. **Acknowledgment of Receipt/Waiver.** The Debtor acknowledges receipt of an executed copy of this Agreement and, to the extent permitted by Applicable Law, waives the right to receive a copy of any financing statement or financing change statement registered in connection with this Agreement or any verification statement issued with respect to any such financing statement or financing change statement.

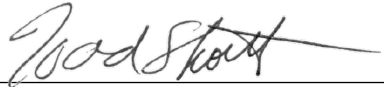
33. **Electronic Signature.** Delivery of an executed signature page to this Agreement by the Debtor by facsimile or other electronic form of transmission shall be as effective as delivery by the Debtor of a manually executed copy of this Agreement by the Debtor.

34. **Counterparts.** This Agreement may be executed and delivered in any number of counterparts, each of which when so executed and delivered shall constitute an original, but all of which when taken together shall constitute one and the same document.

[signature page follows]

IN WITNESS WHEREOF the undersigned has caused this Agreement to be duly executed as of the date first written above.

VALIDUS POWER CORP., as Debtor

By: 
Name: Todd Shortt
Title: President

SCHEDULE A

DEBTOR & PLEDGED PROPERTY INFORMATION

Full legal name:

Validus Power Corp.

Prior names:

None

Predecessor companies:

None

Jurisdiction of incorporation or organization:

Canada

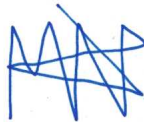
Address of chief executive office:

2B-1500 Sandhill Drive, Ancaster, Ontario, L9G 4V5

Pledged Certificated Securities:

Pledged Issuer	Securities Owned	% of issued and outstanding Securities of Pledged Issuer	Security Certificate Numbers	Security Certificate Location
Iroquois Falls Power Corp.	57,041,211	100%	C-07	Ontario
Bay Power Corp.	1,000	100%	AC-1	Ontario
Kap Power Corp.	1,000	100%	AC-1	Ontario

THIS IS **EXHIBIT “S”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,
THIS 31st DAY OF JULY, 2023.



Michael Noel
Commissioner for Taking Affidavits

ASSIGNMENT OF MATERIAL PROJECT DOCUMENTS

This Assignment of Material Project Documents is made as of April 7, 2022.

TO: MACQUARIE EQUIPMENT FINANCE LTD., as lessor

FROM: VALIDUS HOSTING INC., as Assignor (the “**Assignor**”)

RECITALS:

A. Iroquois Falls Power Corp. (the “**Lessee**”), each of Validus Power Corp., Bay Power Corp. and Kap Power Corp. (collectively with the Lessee, the “**Guarantors**”) and Macquarie Equipment Finance Ltd., as lessor (the “**Lessor**”), are party to a participation agreement dated as of the date hereof (as may be amended, supplemented, restated or replaced from time to time, the “**Participation Agreement**”) pursuant to which, among other things, (i) the Lessor is agreeing to purchase the Leased Property from the Lessee, and (ii) the Lessee is agreeing to lease the Leased Property from the Lessor.

B. Concurrently with the execution and delivery of the Participation Agreement: (i) the Lessor and the Lessee are entering into a lease agreement dated as of the date hereof between the Lessor, as lessor, and the Lessee, as lessee (as may be amended, supplemented, restated or replaced from time to time, the “**Lease**”) under which the Lessor agrees to lease to the Lessee, and the Lessee agrees to lease from the Lessor, the Leased Property, and (ii) the Assignor is entering into the limited recourse guarantee dated as of the date hereof (the “**Guarantee**”) to guarantee the payment and performance of all obligations of the Lessee and each other Guarantor in connection with the Participation Agreement, the Lease and the other Basic Documents.

C. It is a condition to the transactions contemplated by the Participation Agreement and the Lease that the Assignor is required to secure the payment and performance of the Secured Liabilities and, accordingly, the Assignor has agreed to grant to the Lessor a specific assignment of the Assigned Documents (as defined below) in accordance with the terms of this Agreement.

For good and valuable consideration, the receipt and adequacy of which are acknowledged by the Assignor, the Assignor agrees with and in favour of the Lessor as follows:

1. **Definitions.** In this Agreement capitalized terms used but not otherwise defined in this Agreement shall have the meanings given to them in the Participation Agreement or the Lease, as applicable, and the following terms have the following meanings:

“**Assigned Documents**” has the meaning set out in Section 2 hereof.

“**Assignment**” has the meaning set out in Section 2 hereof.

“**Assignor**” has the meaning set out in the recitals hereto.

“**Event of Acceleration**” has the meaning set out in Section 2 hereof.

“**Guarantee**” has the meaning set out in the recitals hereto.

“**Lease**” has the meaning set out in the recitals hereto.

“**Lessor**” has the meaning set out in the recitals hereto.

“**Participation Agreement**” has the meaning set out in the recitals hereto.

“**Release Date**” means the date on which all the Secured Liabilities have been indefeasibly paid and discharged in full and the Lessor has no further obligations to the Lessee under any Basic Document pursuant to which further Secured Liabilities might arise.

“**Secured Liabilities**” means all present and future indebtedness, liabilities and obligations of any and every kind, nature and description (whether direct or indirect, joint or several, absolute or contingent, matured or unmatured) of the Assignor to the Lessor under, in connection with or with respect to the Guarantee, and any unpaid balance thereof.

2. **Assignment.** As general and continuing security for the due payment and performance of the Secured Liabilities, the Assignor hereby grants to the Lessor as and by way of a specific assignment (the “**Assignment**”) all of the right, title and interest of the Assignor in and to each of the Material Project Documents (together with all amendments, modifications, supplements, restatements or replacements, if any, from time to time thereafter made thereto, and subject to any consent and acknowledgment agreements obtained in connection therewith, if any, collectively, the “**Assigned Documents**”) including, without limitation, (i) all deeds, documents, writings, papers, books, books of account and other records relating to the Assigned Documents, (ii) all revenues and other moneys due and payable or hereafter to become due and payable to the Assignor under or in connection with the Assigned Documents, (iii) the benefit of any guarantees or indemnities relating to any of the foregoing, (iv) the rights and benefits of any warranties and any confirmation letters relating thereto and (v) all benefit, power and advantage of the Assignor to be derived therefrom, including, without limitation, the benefit, power and advantage to enforce the rights of the Assignor thereunder in the name of the Assignor after a Lease Event of Default and acceleration of the Secured Liabilities pursuant to and as permitted by Section 13 of the Lease (collectively, an “**Event of Acceleration**”) has occurred and is continuing.

3. **Expenses.** All reasonable expenses, costs and charges incurred by or on behalf of the Lessor in connection with the realization of the Assigned Documents, including, without limitation, all legal fees, court costs, receiver’s or agent’s and other expenses of realizing and otherwise dealing with the Assigned Documents, shall be added to and form a part of the Secured Liabilities.

4. **Attachment.** The Assignor hereby acknowledges and agrees that value has been given, that the Assignor has rights in the Assigned Documents in effect on the date hereof (and will have rights in the Assigned Documents in effect after the date hereof) and that the security interest granted hereby will attach when the Assignor signs this Agreement and, in the case of any Assigned Documents entered into by the Assignor after the date hereof, when the Assignor has rights therein.

5. **After-Acquired Property.** The Assignor covenants and agrees that if and to the extent that its right, interest and title in an Assigned Document is not acquired until after delivery of this Agreement, this Agreement shall nonetheless apply thereto and the security interest hereby created

shall attach to any such Assigned Document at the same time as the Assignor acquires rights therein without the necessity of any further assignment or other assurance, and thereafter the security interest created hereby in respect of such Assigned Document shall be absolute, fixed and specific.

6. **Scope of Assignment.** To the extent that the creation of the Assignment would constitute a breach or permit the acceleration or result in the termination of any Assigned Document, the Assignment shall not extend or attach thereto, but the Assignor shall hold its interest therein in trust for the Lessor and shall assign such Assigned Contract to the Lessor, or as the Lessor may direct, forthwith upon obtaining the consent of the other party or parties thereto. The Assignor hereby represents and warrants to the Lessor that it has obtained all consents required to permit the Assigned Documents existing on the date hereof to be subject to the Assignment and covenants herein and agrees that it shall obtain any consent required to permit any Additional Material Project Document with respect to any Project entered into after the date hereof to be subject to the Assignment, to the extent that the Lessor's Security Interest in such Project has not been released pursuant to the terms of Section 5.3 of the Participation Agreement (such consent to be in form and substance satisfactory to the Lessor, acting reasonably).

7. **No Liability.** Nothing herein contained shall render the Lessor liable to any Person for the fulfillment or non-fulfillment of the obligations, covenants, agreements and undertakings of the Assignor under any Assigned Document, and the Assignor hereby indemnifies and agrees to save and hold harmless the Lessor and its respective officers, directors, employees and agents and all of its respective heirs, executors, administrators, successors and assigns from and against any and all claims, penalties, demands, actions, causes of action, losses, suits, damages and costs whatsoever arising directly or indirectly from the Assigned Documents or any of them other than by reason of their own gross negligence or wilful misconduct.

8. **Assignor's Dealings with the Assigned Documents.** Subject to the Basic Documents (including, without limitation, any covenants, restrictions or limitations in the Basic Documents with respect to the Assignor's ability to deal with the Assigned Documents), unless a Lease Event of Acceleration has occurred and is continuing, the Assignor shall be entitled to deal with the Assigned Documents and enforce and retain all of the benefits, rights, advantages and powers thereunder as though this Agreement had not been made and the Assignor shall be free from any interference of the Lessor; provided that the Assignor shall not be entitled to further assign, pledge or encumber the Assigned Documents without the consent of the Lessor or as permitted by the Basic Documents.

9. **Rights on Event of Acceleration.** If an Event of Acceleration has occurred and is continuing, then and in every such case all of the Secured Liabilities shall, at the option of the Lessor, become immediately due and payable and the Assignment shall become enforceable and the Lessor, in addition to any rights now or hereafter existing under Applicable Law may, personally or by agent, at such time or times as the Lessor in its discretion may determine, do any one or more of the following:

- (a) the Lessor may, in the name of the Assignor and at the Assignor's expense, perform any and all obligations or covenants of the Assignor under the Assigned Documents and enforce performance by the other parties to the Assigned Documents of their obligations, covenants and agreements thereunder;

- (b) the Lessor may sell, assign or otherwise dispose (by operation of law or otherwise) of any part of its interest in any of the Assigned Documents;
- (c) the Lessor may otherwise deal with the Assigned Documents to the same extent as if the Lessor was an original party thereto, in each case without any liability or responsibility of any kind on the part of the Lessor or its agents other than as a result of its gross negligence or wilful misconduct; and
- (d) the Lessor may give notice to any party or parties under the Assigned Documents:
 - (i) of the assignment of the Assigned Documents to the Lessor; and
 - (ii) requiring it or them to make any payments to the Lessor and to deal directly with the Lessor;

and the Assignor covenants and agrees, at the request of the Lessor, to join the Lessor in such notice and does hereby irrevocably appoint the Lessor as its attorney to join the Assignor in such notice.

10. **Lessor's Appointment as Attorney-in-Fact.** Effective upon the occurrence and during the continuance of an Event of Acceleration, the Assignor constitutes and appoints the Lessor and any officer or agent of the Lessor, with full power of substitution, as the Assignor's true and lawful attorney-in-fact with full power and authority in the place of the Assignor and in the name of the Assignor or, in its own name, from time to time in the Lessor's discretion, to take any and all appropriate action and to execute any and all documents and instruments as, in the opinion of such attorney, may be necessary or desirable to accomplish the purposes of this Agreement. These powers are coupled with an interest and are irrevocable until the Release Date. Nothing in this Section affects the right of the Lessor as secured party or any other Person on the Lessor's behalf, to sign and file or deliver (as applicable) all such financing statements, financing change statements, notices, verification statements and other documents relating to the Assigned Documents and this Agreement as the Lessor or such other Person considers appropriate. The Assignor hereby ratifies and confirms, and agrees to ratify and confirm, whatever lawful acts the Lessor or any of the Lessor's sub-agents, nominees or attorneys do or purport to do in exercise of the power of attorney granted to the Lessor pursuant to this Section.

11. **Dealings by the Lessor.** The Lessor shall not be obliged to exhaust its recourse against the Assignor or any other Person or against any other security it may hold with respect to the Secured Liabilities or any part thereof before realizing upon or otherwise dealing with the Assigned Documents in such manner as the Lessor may consider desirable. The Lessor may grant extensions of time and other indulgences, take and give up security, accept compositions, grant releases and discharges and otherwise deal with the Assignor and any other Person, and with any or all of the Assigned Documents, and with other security and sureties, as it may see fit, all without prejudice to the Secured Liabilities or to the rights and remedies of the Lessor under this Agreement. The powers conferred on the Lessor under this Agreement are solely to protect the interests of the Lessor in the Assigned Documents and shall not impose any duty upon the Lessor to exercise any such powers.

12. **Paramourncy.** In the event of any conflict or inconsistency between the provisions of this Agreement and the provisions of the Participation Agreement or the Lease then, unless otherwise provided for herein, the provisions contained in the Participation Agreement or the Lease, as applicable, shall prevail to the extent of such conflict or inconsistency and the provisions of this Agreement shall be deemed to be amended to the extent necessary to eliminate such conflict or inconsistency, it being understood that the purpose of this Agreement is to add to, and not detract from, the rights granted to the Lessor under the Participation Agreement or the Lease. If any act or omission of the Assignor is expressly permitted under the Participation Agreement or the Lease but is expressly prohibited under this Agreement, such act or omission shall be permitted. If any act or omission is expressly prohibited under this Agreement, but the Participation Agreement and the Lease do not expressly permit such act or omission, or if any act is expressly required to be performed under this Agreement but the Participation Agreement and the Lease do not expressly relieve the Assignor from such performance, such circumstance shall not constitute a conflict between the applicable provisions of this Agreement and the provisions of the Participation Agreement or the Lease.

13. **Severability.** Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be severed from the balance of this Agreement, all without affecting the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

14. **Communication.** Any notice or other communication required or permitted to be given under this Agreement will be given in accordance with the terms of the Participation Agreement.

15. **Release of Assignor.** Upon the written request of the Assignor given at any time on or after the Release Date, the Lessor shall, at the expense of the Assignor, release the Assignor and the Assigned Documents from the Assignment. Notwithstanding the foregoing or anything else contained herein or in the Participation Agreement, the Lease or any other Basic Document, the Lessor shall, at the expense of the Assignor, release any Assigned Document which relates to any Project in which the Lessor's Security Interest has been released pursuant to the terms of Section 5.3 of the Participation Agreement; provided that the Lessor shall not release any Assigned Document which relates to any Project in which the Lessor continues to maintain its Security Interest. Upon such release, and at the request and expense of the Assignor, the Lessor shall execute and deliver to the Assignor such releases and discharges as the Assignor may reasonably request.

16. **Additional Security.** This Agreement is in addition to, and not in substitution of, any and all other security previously or concurrently delivered by the Assignor or any other Person to the Lessor, all of which other security shall remain in full force and effect.

17. **Alteration or Waiver.** None of the terms or provisions of this Agreement may be waived, amended, supplemented or otherwise modified except by a written instrument executed by the Assignor and the Lessor. The Lessor shall not, by any act or delay, be deemed to have waived any right or remedy hereunder or to have acquiesced in any Lease Event of Default or in any breach of any of the terms and conditions hereof. No failure to exercise, nor any delay in exercising, on the part of the Lessor, any right, power or privilege hereunder shall operate as a waiver thereof. No single or partial exercise of any right, power or privilege hereunder shall preclude any other or

further exercise thereof or the exercise of any other right, power or privilege. A waiver by the Lessor of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy which the Lessor would otherwise have on any future occasion. Any waiver by the Lessor of the strict observance, performance or compliance with any term, covenant, condition or agreement herein contained and any indulgence granted, either expressly or by course of conduct, by the Lessor shall be effective only in the specific instance and for the purpose of which it was given and shall not be considered to create a course of dealing or to otherwise obligate in any respect the Lessor to execute similar or other waivers under the same or similar or other circumstances in the future. Neither the taking of any judgment nor the exercise of any power of seizure or sale shall extinguish the liability of the Assignor to pay the Secured Liabilities, nor shall the same operate as a merger of any covenant contained in this Agreement or of any other liability, nor shall the acceptance of any payment or other security constitute or create any novation.

18. **Governing Law; Attornment.** This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. Without prejudice to the ability of the Lessor to enforce this Agreement in any other proper jurisdiction, the Assignor irrevocably submits and attorns to the non-exclusive jurisdiction of the courts of such province. To the extent permitted by Applicable Law, the Assignor irrevocably waives any objection (including any claim of forum non conveniens) that it may now or hereafter have to the venue of any legal proceeding arising out of or relating to this Agreement in the courts of such Province.

19. **Interpretation.** The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. The word “or” is disjunctive; the word “and” is conjunctive. The word “shall” is mandatory; the word “may” is permissive. Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set out herein), (b) any reference herein to any statute or any section thereof shall, unless otherwise expressly stated, be deemed to be a reference to such statute or section as amended, restated or re-enacted from time to time, (c) any reference herein to any Person shall be construed to include such Person’s successors and permitted assigns, (d) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, and (e) all references herein to Sections and Schedules shall be construed to refer to Sections and Schedules to this Agreement. Section headings are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

20. **Successors and Assigns.** This Agreement shall enure to the benefit of, and be binding on, the Assignor and its successors and permitted assigns, and shall enure to the benefit of, and be binding on, the Lessor and its successors and assigns. The Assignor may not assign this Agreement, or any of its rights or obligations under this Agreement. The Lessor may assign this Agreement and any of its rights and obligations hereunder to any Person that replaces it in its capacity as such in accordance with and subject to the terms and conditions applicable to such assignment as set out in the Participation Agreement. If the Assignor or the Lessor is an individual,

then the term “Assignor” or “Lessor”, as applicable, shall also include his or her heirs, administrators and executors.

21. **Acknowledgment of Receipt/Waiver.** The Assignor acknowledges receipt of an executed copy of this Agreement and, to the extent permitted by Applicable Law, waives the right to receive a copy of any financing statement or financing change statement registered in connection with this Agreement or any verification statement issued with respect to any such financing statement or financing change statement.


22. **Electronic Signature.** Delivery of an executed signature page to this Agreement by the Assignor by facsimile or other electronic form of transmission shall be as effective as delivery by the Assignor of a manually executed copy of this Agreement by the Assignor.

23. **Counterparts.** This Agreement may be executed and delivered in any number of counterparts, each of which when so executed and delivered shall constitute an original, but all of which when taken together shall constitute one and the same document.

[signature page follows]

IN WITNESS WHEREOF the undersigned has caused this Agreement to be duly executed as of the date first written above.

VALIDUS HOSTING INC.

By: 
Name: Todd Shortt
Title: President and Chief Executive Officer

By: _____
Name:
Title:

THIS IS **EXHIBIT “T”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,
THIS 31st DAY OF JULY, 2023.



Michael Noel
Commissioner for Taking Affidavits

No. C-07

57,041,211 common shares

IROQUOIS FALLS POWER CORP.

INCORPORATED UNDER THE BUSINESS CORPORATIONS ACT (ONTARIO)

This is to certify that VALIDUS POWER CORP. is the registered holder of 57,041,211 common shares of Iroquois Falls Power Corp. (the "Corporation")

The class or series of shares represented by this certificate has rights, privileges, restrictions or conditions attached thereto and the Corporation will furnish to the holder, on demand and without charge, a full copy of the text of,

- (i) the rights, privileges, restrictions and conditions attached to the said shares and to each class authorized to be issued and to each series insofar as the same have been fixed by the directors, and
- (ii) the authority of the directors to fix the rights, privileges, restrictions and conditions of subsequent series, if applicable.

LIEN ON SHARES. The Corporation has a lien on the shares represented by this certificate for any debt of the shareholder to the Corporation.

RESTRICTIONS ON TRANSFER. There are restrictions on the right to transfer the shares represented by this certificate.

IN WITNESS WHEREOF the Corporation has caused this certificate to be signed by its duly authorized signing officers this 7th day of April 2022.



President, Todd Shortt

NOPAR VALUE

No. AC-1

1,000 Class A Common shares

BAY POWER CORP.

INCORPORATED UNDER THE BUSINESS CORPORATIONS ACT (ONTARIO)

This is to certify that VALIDUS POWER CORP. is the registered holder of one thousand (1,000) Class A Common shares of Bay Power Corp. (the "Corporation")

The class or series of shares represented by this certificate has rights, privileges, restrictions or conditions attached thereto and the Corporation will furnish to the holder, on demand and without charge, a full copy of the text of,

- (i) the rights, privileges, restrictions and conditions attached to the said shares and to each class authorized to be issued and to each series insofar as the same have been fixed by the directors, and
- (ii) the authority of the directors to fix the rights, privileges, restrictions and conditions of subsequent series, if applicable.

LIEN ON SHARES. The Corporation has a lien on the shares represented by this certificate for any debt of the shareholder to the Corporation.

RESTRICTIONS ON TRANSFER. There are restrictions on the right to transfer the shares represented by this certificate.

IN WITNESS WHEREOF the Corporation has caused this certificate to be signed by its duly authorized signing officers this
6th day of April, 2022.



President, Todd Shortt

NO PAR VALUE

No. AC-1

1,000 Class A Common shares

KAP POWER CORP.

INCORPORATED UNDER THE BUSINESS CORPORATIONS ACT (ONTARIO)

This is to certify that VALIDUS POWER CORP. is the registered holder of one thousand (1,000) Class A Common shares of Kap Power Corp. (the "Corporation")

The class or series of shares represented by this certificate has rights, privileges, restrictions or conditions attached thereto and the Corporation will furnish to the holder, on demand and without charge, a full copy of the text of,

- (i) the rights, privileges, restrictions and conditions attached to the said shares and to each class authorized to be issued and to each series insofar as the same have been fixed by the directors, and
- (ii) the authority of the directors to fix the rights, privileges, restrictions and conditions of subsequent series, if applicable.

LIEN ON SHARES. The Corporation has a lien on the shares represented by this certificate for any debt of the shareholder to the Corporation.

RESTRICTIONS ON TRANSFER. There are restrictions on the right to transfer the shares represented by this certificate.

IN WITNESS WHEREOF the Corporation has caused this certificate to be signed by its duly authorized signing officers this 6th day of April 2022.



President, Todd Shortt

NO PAR VALUE

STOCK POWER

FOR VALUE RECEIVED, Validus Power Corp. (the "**Transferor**") hereby sells, assigns and transfers unto _____, all of the Transferor's right, title, and interest in and to, and all rights and benefits of the Transferor relating to, 57,041,211 common (the "**Shares**") in the capital stock of Iroquois Falls Power Corp. (the "**Corporation**"), registered in the name of the Transferor on the books of said Corporation represented by Certificate No. C-07 herewith and does hereby irrevocably constitute and appoint _____ as attorney to transfer the Shares on the books of the Corporation, with full power of substitution.

Dated: _____

VALIDUS POWER CORP.

By: Todd Shortt

Name: Todd Shortt

Title: President and CEO

STOCK POWER

FOR VALUE RECEIVED, Validus Power Corp. (the "**Transferor**") hereby sells, assigns and transfers unto _____, all of the Transferor's right, title, and interest in and to, and all rights and benefits of the Transferor relating to, 1,000 class A common shares (the "**Shares**") in the capital stock of Bay Power Corp. (the "**Corporation**"), registered in the name of the Transferor on the books of said Corporation represented by Certificate No. AC-1 herewith and does hereby irrevocably constitute and appoint _____ as attorney to transfer the Shares on the books of the Corporation, with full power of substitution.

Dated: _____

VALIDUS POWER CORP.

By: Todd Shortt
Name: Todd Shortt
Title: President

STOCK POWER

FOR VALUE RECEIVED, Validus Power Corp. (the "**Transferor**") hereby sells, assigns and transfers unto _____, all of the Transferor's right, title, and interest in and to, and all rights and benefits of the Transferor relating to, 1,000 class A common shares (the "**Shares**") in the capital stock of Kap Power Corp. (the "**Corporation**"), registered in the name of the Transferor on the books of said Corporation represented by Certificate No. AC-1 herewith and does hereby irrevocably constitute and appoint _____ as attorney to transfer the Shares on the books of the Corporation, with full power of substitution.

Dated: _____

VALIDUS POWER CORP.

By:



Name: Todd Shortt

Title: President and CEO

No. GP-02

1 General Partner Unit

KINGSTON COGEN LIMITED PARTNERSHIP

(a limited partnership formed under the laws of the Province of Ontario)

This is to certify that KINGSTON COGEN GP INC. is the registered holder of one (1) General Partner units ("Units") in KINGSTON COGEN LIMITED PARTNERSHIP (the "Partnership")

The rights of a holder of Units are governed by the Fourth Amended and Restated Limited Partnership Agreement dated April 13, 2022 (the "Partnership Agreement"), as amended and restated from time to time. A transfer of any units represented by this certificate may be initiated by delivering this Certificate, together with a properly executed transfer form by the registered holder to the General Partner of the Partnership at its registered office.


The Units represented by this certificate are held subject to the conditions, restrictions, and terms of the Partnership Agreement and any assignment of the Units is set to the conditions, restrictions, and terms of the Partnership Agreement.

IN WITNESS WHEREOF the General Partner of the Partnership, has caused this certificate to be signed by its duly authorized signing officer(s).

DATED: April 13, 2022.

KINGSTON COGEN GP INC., General
Partner of the Partnership

By:




STOCK TRANSFER POWER

FOR VALUE RECEIVED, Kingston CoGen GP Inc. (the "Transferor") hereby sells, assigns and transfers unto _____, all of the Transferor's right, title, and interest in and to, and all rights and benefits of the Transferor relating to, **1 General Partner Unit** (the "Units") in the capital stock of Kingston CoGen Limited Partnership (the "Partnership"), registered in the name of the Transferor on the books of said Partnership represented by Certificate No. **GP-02** herewith and does hereby irrevocably constitute and appoint _____ as attorney to transfer the Units on the books of the Partnership, with full power of substitution.

Dated: _____

KINGSTON COGEN GP INC.

By: 
Name: **Todd Shortt**
Title: **President and CEO**

No. LP-04

4,529,051 Limited Partner Units

KINGSTON COGEN LIMITED PARTNERSHIP

(a limited partnership formed under the laws of the Province of Ontario)

This is to certify that VALIDUS POWER CORP. is the registered holder of four million five hundred twenty nine thousand fifty one (4,529,051) Limited Partner units ("Units") in KINGSTON COGEN LIMITED PARTNERSHIP (the "Partnership")

The rights of a holder of Units are governed by the Fourth Amended and Restated Limited Partnership Agreement dated April 13, 2022 (the "Partnership Agreement"), as amended and restated from time to time. A transfer of any units represented by this Certificate may be initiated by delivering this Certificate, together with a properly executed transfer form by the registered holder to the General Partner of the Partnership at its registered office.

The Units represented by this certificate are held subject to the conditions, restrictions, and terms of the Partnership Agreement and any assignment of the Units is set to the conditions, restrictions, and terms of the Partnership Agreement.

IN WITNESS WHEREOF the General Partner of the Partnership, has caused this certificate to be signed by its duly authorized signing officer(s).

DATED: April 13, 2022.

KINGSTON COGEN GP INC., General

Partner of the Partnership

By:



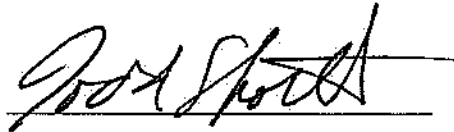
STOCK TRANSFER POWER

FOR VALUE RECEIVED, Validus Power Corp. (the "Transferor") hereby sells, assigns and transfers unto _____, all of the Transferor's right, title, and interest in and to, and all rights and benefits of the Transferor relating to, **4,529,051 limited partner units** (the "Units") in the capital stock of Kingston CoGen Limited Partnership (the "Partnership"), registered in the name of the Transferor on the books of said Partnership represented by Certificate No. **LP-04** herewith and does hereby irrevocably constitute and appoint _____ as attorney to transfer the Units on the books of the Partnership, with full power of substitution.

Dated: _____

VALIDUS POWER CORP.

By:



Name: **Todd Shortt**

Title: **President and CEO**

No. C-06

1 common share

KINGSTON COGEN GP INC.
AMALGAMATED UNDER THE BUSINESS CORPORATIONS ACT (ONTARIO)

This is to certify that VALIDUS POWER CORP. is the registered holder of one (1) common share of KINGSTON COGEN GP INC. (the "Corporation")

The class or series of shares represented by this certificate has rights, privileges, restrictions or conditions attached thereto and the Corporation will furnish to the holder, on demand and without charge, a full copy of the text of,

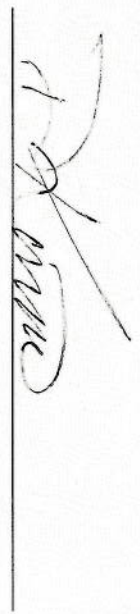
- (i) the rights, privileges, restrictions and conditions attached to the said shares and to each class authorized to be issued and to each series insofar as the same have been fixed by the directors, and
- (ii) the authority of the directors to fix the rights, privileges, restrictions and conditions of subsequent series, if applicable.

LIEN ON SHARES. The Corporation has a lien on the shares represented by this certificate for any debt of the shareholder to the Corporation.

RESTRICTIONS ON TRANSFER. There are restrictions on the right to transfer the shares represented by this certificate.

IN WITNESS WHEREOF the Corporation has caused this certificate to be signed by its duly authorized signing officer(s) this 13th day of April 2022.





NO PAR VALUE

STOCK TRANSFER POWER

FOR VALUE RECEIVED, Validus Power Corp. (the "Transferor") hereby sells, assigns and transfers unto _____, all of the Transferor's right, title, and interest in and to, and all rights and benefits of the Transferor relating to, **1 common share** (the "Shares") in the capital stock of Kingston CoGen GP Inc. (the "Corporation"), registered in the name of the Transferor on the books of said Corporation represented by Certificate No. **C-06** herewith and does hereby irrevocably constitute and appoint _____ as attorney to transfer the Shares on the books of the Corporation, with full power of substitution.

Dated: _____

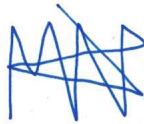
VALIDUS POWER CORP.

By: _____

Name: **Todd Shortt**

Title: **President and CEO**

THIS IS **EXHIBIT “U”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,
THIS 31st DAY OF JULY, 2023.



Michael Noel
Commissioner for Taking Affidavits



Profile Report

VALIDUS HOSTING INC. as of July 24, 2023

Act	Business Corporations Act
Type	Ontario Business Corporation
Name	VALIDUS HOSTING INC.
Ontario Corporation Number (OCN)	1000116513
Governing Jurisdiction	Canada - Ontario
Status	Active
Date of Incorporation	February 15, 2022
Registered or Head Office Address	100 Wellington Street West, Toronto, Ontario, Canada, M5J 2R2

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

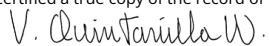
Active Director(s)

Minimum Number of Directors 1
Maximum Number of Directors 10

Name SHELLEY GOERTZ
Address for Service 100 Wellington Street West, Toronto, Ontario, Canada, M5J
2R2
Resident Canadian Yes
Date Began February 15, 2022

Name TODD SHORTT
Address for Service 100 Wellington Street West, Toronto, Ontario, Canada, M5J
2R2
Resident Canadian Yes
Date Began February 15, 2022

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.



Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Active Officer(s)

Name SHELLEY GOERTZ
Position Secretary
Address for Service 100 Wellington St. W, 2300, Toronto, Ontario, Canada, M5J 2R2
Date Began February 15, 2022

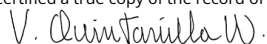
Name SHELLEY GOERTZ
Position Chief Financial Officer
Address for Service 100 Wellington Street West, 2300, Toronto, Ontario, Canada, M5J 2R2
Date Began February 15, 2022

Name DOUG KONNO
Position Vice-President
Address for Service 100 Wellington Street West, 2300, Toronto, Ontario, Canada, M5J 2R2
Date Began February 15, 2022

Name TODD SHORTT
Position Chief Executive Officer
Address for Service 100 Wellington Street West, 2300, Toronto, Ontario, Canada, M5J 2R2
Date Began February 15, 2022

Name TODD SHORTT
Position President
Address for Service 100 Wellington Street West, 2300, Toronto, Ontario, Canada, M5J 2R2
Date Began February 15, 2022

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.



Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Corporate Name History

Name

VALIDUS HOSTING INC.

Effective Date

February 15, 2022

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Active Business Names

This corporation does not have any active business names registered under the Business Names Act in Ontario.

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Expired or Cancelled Business Names

This corporation does not have any expired or cancelled business names registered under the Business Names Act in Ontario.

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Document List

Filing Name	Effective Date
Annual Return - 2023 PAF: TODD SHORTT	March 31, 2023
CIA - Notice of Change PAF: RYAN CHRISTOPHER WU CHUA	February 25, 2023
CIA - Notice of Change PAF: Todd SHORTT	October 12, 2022
CIA - Initial Return PAF: Todd SHORTT	March 23, 2022
BCA - Articles of Incorporation	February 15, 2022

All "PAF" (person authorizing filing) information is displayed exactly as recorded in the Ontario Business Registry. Where PAF is not shown against a document, the information has not been recorded in the Ontario Business Registry.

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Enquiry Result

File Currency: 23JUL 2023



Show All Pages

All Pages



Note: All pages have been returned.

Type of Search	Business Debtor								
Search Conducted On	VALIDUS HOSTING INC.								
File Currency	23JUL 2023								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	781711695	1	1	1	3	04APR 2027			
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
781711695		001	1		20220404 1105 1590 5954	P PPSA	5		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	VALIDUS HOSTING INC.								
	Address			City	Province	Postal Code			
	100 WELLINGTON STREET WEST, SUITE 2300			TORONTO	ON	M5J 2R2			
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address			City	Province	Postal Code			
Secured Party	Secured Party / Lien Claimant								
	MACQUARIE EQUIPMENT FINANCE LTD.								
	Address			City	Province	Postal Code			
	181 BAY STREET			TORONTO	ON	M5J 2T3			
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
				X	X				
Motor Vehicle Description	Year	Make			Model	V.I.N.			
General Collateral Description	General Collateral Description								

Registering Agent	Registering Agent			
	TORYS LLP			
	Address	City	Province	Postal Code
	79 WELLINGTON ST W, 30TH FLOOR PO BOX 27	TORONTO	ON	M5K 1N2

CONTINUED

Type of Search	Business Debtor				
Search Conducted On	VALIDUS HOSTING INC.				
File Currency	23JUL 2023				
	File Number	Family	of Families	Page	of Pages
	781711695	1	1	2	3

FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT

	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule Attached	Registration Number	Registered Under
		001	2		20220404 1608 1590 6082	

Record Referenced	File Number	Page Amended	No Specific Page Amended	Change Required	Renewal Years	Correct Period
	781711695		X	A AMNDMNT		

Reference Debtor/ Transferor	First Given Name	Initial	Surname

Business Debtor Name	VALIDUS HOSTING INC.
-----------------------------	----------------------

Other Change	Other Change

Reason / Description	Reason / Description
	TO ADD A GENERAL COLLATERAL DESCRIPTION.

Debtor/ Transferee	Date of Birth	First Given Name	Initial	Surname

	Business Debtor Name	Ontario Corporation Number		
	Address	City	Province	Postal Code

Assignor Name	Assignor Name

Secured Party	Secured party, lien claimant, assignee			
	Address	City	Province	Postal Code

Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date

Motor Vehicle Description	Year	Make	Model	V.I.N.

General Collateral Description	General Collateral Description
	ALL OF THE DEBTORS RIGHTS, TITLE AND INTERESTS IN AND TO THE ASSIGNED

Registering Agent	Registering Agent or Secured Party/ Lien Claimant			
	TORYS LLP			
	Address	City	Province	Postal Code
	79 WELLINGTON ST W, 30TH FLOOR PO BOX 27	TORONTO	ON	M5K 1N2

CONTINUED

Type of Search	Business Debtor				
Search Conducted On	VALIDUS HOSTING INC.				
File Currency	23JUL 2023				
	File Number	Family	of Families	Page	of Pages
	781711695	1	1	3	3

FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT

	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule Attached	Registration Number	Registered Under
		002	2		20220404 1608 1590 6082	

Record Referenced	File Number	Page Amended	No Specific Page Amended	Change Required	Renewal Years	Correct Period
	781711695					

Reference Debtor/ Transferor	First Given Name	Initial	Surname
	Business Debtor Name		

Other Change	Other Change

Reason / Description	Reason / Description

Debtor/ Transferee	Date of Birth	First Given Name	Initial	Surname
	Business Debtor Name			Ontario Corporation Number
	Address	City	Province	Postal Code

Assignor Name	Assignor Name

Secured Party	Secured party, lien claimant, assignee			
	Address	City	Province	Postal Code

Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date



Motor Vehicle	Year	Make	Model	V.I.N.



Description				
General Collateral Description	General Collateral Description			
	LTD.)			
Registering Agent	Registering Agent or Secured Party/ Lien Claimant			
	Address	City	Province	Postal Code

LAST PAGE

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Corporate Profile / Profil corporatif

Date and time of Corporate Profile (YYYY-MM-DD)	2023-07-24 10:32 AM	(AAAA-MM-JJ) Date et heure du Profil corporatif
--	---------------------	--

CORPORATE INFORMATION		RENSEIGNEMENTS CORPORATIFS
Corporate name	Dénomination	
	VALIDUS POWER CORP.	
Corporation number	1189047-6	Numéro de société ou d'organisation
Business number	747594133RC0001	Numéro d'entreprise
Governing legislation	Régime législatif	
	<i>Canada Business Corporations Act (CBCA) - 2020-02-06</i> <i>Loi canadienne sur les sociétés par actions (LCSA) - 2020-02-06</i>	
Status	Statut	
	Active	
	Active	

REGISTERED OFFICE ADDRESS	ADRESSE DU SIÈGE
100 Wellington Street West, Suite 2300 Toronto ON M5K 1G8 Canada	

ANNUAL FILINGS	DÉPÔTS ANNUELS	
Anniversary date (MM-DD)	02-06	(MM-JJ) Date anniversaire
Filing period (MM-DD)	02-06 to/au 04-06	(MM-JJ) Période de dépôt
Status of annual filings	Statut des dépôts annuels	
	Filed	2023 Déposé
	Filed	2022 Déposé
	Filed	2021 Déposé
Date of last annual meeting (YYYY-MM-DD)	2023-03-30	(AAAA-MM-JJ) Date de la dernière assemblée annuelle
Type	Type	
	Non-distributing corporation with 50 or fewer shareholders	
	Société n'ayant pas fait appel au public et comptant 50 actionnaires ou moins	

DIRECTORS		ADMINISTRATEURS
Minimum number	1	Nombre minimal
Maximum number	10	Nombre maximal
Current number	2	Nombre actuel
SHELLEY GOERTZ	2B-1500 SANDHILL DRIVE, ANCASTER ON L9G 4V5, Canada	
TODD SHORTT	2B-1500 SANDHILL DRIVE, ANCASTER ON L9G 4V5, Canada	

CORPORATE HISTORY		HISTORIQUE CORPORATIF
Corporate name history (YYYY-MM-DD)		(AAAA-MM-JJ) Historique de la dénomination
2020-02-06 to present / à maintenant	VALIDUS POWER CORP.	
Certificates issued (YYYY-MM-DD)		(AAAA-MM-JJ) Certificats émis
Certificate of Incorporation	2020-02-06 Certificat de constitution en société	
Amendments details are only available for amendments effected after 2010-03-20. Some certificates issued prior to 2000 may not be listed.	Seuls les renseignements concernant les modifications effectuées après 2010-03-20 sont disponibles. Certains certificats émis avant 2000 pourraient ne pas être listés.	
Documents filed (YYYY-MM-DD)		(AAAA-MM-JJ) Documents déposés

The Corporate Profile sets out the most recent information filed with and accepted by Corporations Canada as of the date and time set out on the Profile.	Le Profil corporatif fait état des renseignements fournis et acceptés par Corporations Canada à la date et à l'heure indiquées dans le profil.
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Enquiry Result

File Currency: 23JUL 2023



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All Pages



Note: All pages have been returned.

Type of Search	Business Debtor								
Search Conducted On	VALIDUS POWER CORP.								
File Currency	23JUL 2023								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	781679745	1	3	1	8	01APR 2027			
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
781679745		001	1		20220401 1617 1590 5831	P PPSA	5		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	VALIDUS POWER CORP.								
	Address			City	Province	Postal Code			
	100 WELLINGTON STREET WEST, SUITE 2300			TORONTO	ON	M5J 2R2			
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address			City	Province	Postal Code			
Secured Party	Secured Party / Lien Claimant								
	MACQUARIE EQUIPMENT FINANCE LTD.								
	Address			City	Province	Postal Code			
	181 BAY STREET			TORONTO	ON	M5J 2T3			
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
				X	X				
Motor Vehicle Description	Year	Make			Model	V.I.N.			
General Collateral Description	General Collateral Description								

Registering Agent	Registering Agent			
	TORYS LLP			
Address	City	Province	Postal Code	
79 WELLINGTON ST W, 30TH FLOOR PO BOX 27	TORONTO	ON	M5K 1N2	

CONTINUED

Type of Search	Business Debtor								
Search Conducted On	VALIDUS POWER CORP.								
File Currency	23JUL 2023								
	File Number	Family	of Families	Page					of Pages
	781679745	1	3	2					8
FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT									
	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule Attached	Registration Number			Registered Under	
		001	1		20220404 1609 1590 6083				
Record Referenced	File Number	Page Amended	No Specific Page Amended	Change Required	Renewal Years	Correct Period			
	781679745		X	A AMNDMNT					
Reference Debtor/ Transferor	First Given Name			Initial	Surname				
	Business Debtor Name								
	VALIDUS POWER CORP.								
Other Change	Other Change								
Reason / Description	Reason / Description								
	TO ADD A GENERAL COLLATERAL DESCRIPTION.								
Debtor/ Transferee	Date of Birth	First Given Name			Initial	Surname			
	Business Debtor Name							Ontario Corporation Number	
	Address				City	Province	Postal Code		
Assignor Name	Assignor Name								
Secured Party	Secured party, lien claimant, assignee								
	Address				City	Province	Postal Code		
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
Motor Vehicle Description	Year	Make			Model			V.I.N.	
	General Collateral Description								
	ALL OF THE DEBTOR'S RIGHTS, TITLE AND INTERESTS IN AND TO THE								
	COLLATERAL (AS DEFINED IN THE SECURITIES PLEDGE AGREEMENT ENTERED								
	INTO BY THE DEBTOR IN FAVOUR OF MACQUARIE EQUIPMENT FINANCE LTD.)								
Registering Agent	Registering Agent or Secured Party/ Lien Claimant								
	TORYS LLP								

	Address	City	Province	Postal Code
	79 WELLINGTON ST W, 30TH FLOOR PO BOX 27	TORONTO	ON	M5K 1N2

CONTINUED

Type of Search	Business Debtor								
Search Conducted On	VALIDUS POWER CORP.								
File Currency	23JUL 2023								
	File Number	Family	of Families	Page					of Pages
	781679745	1	3	3					8
FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT									
	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule Attached	Registration Number			Registered Under	
		001	3		20230223 1700 1590 2198				
Record Referenced	File Number	Page Amended	No Specific Page Amended	Change Required	Renewal Years	Correct Period			
	781679745		X	A AMNDMNT					
Reference Debtor/ Transferor	First Given Name			Initial	Surname				
	Business Debtor Name								
	VALIDUS POWER CORP.								
Other Change	Other Change								
Reason / Description	Reason / Description								
	TO REMOVE THE COLLATERAL DESCRIPTION IN REFERENCE FILE NO. 781679745, REGISTRATION NO. 20220404 1609 1590 6083 AND REPLACE WITH A NEW COLLATERAL DESCRIPTION.								
Debtor/ Transferee	Date of Birth	First Given Name			Initial	Surname			
	Business Debtor Name							Ontario Corporation Number	
	Address				City	Province	Postal Code		
Assignor Name	Assignor Name								
Secured Party	Secured party, lien claimant, assignee								
	Address				City	Province	Postal Code		
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
Motor Vehicle Description	Year	Make			Model			V.I.N.	
General Collateral Description	General Collateral Description								
	ALL OF THE DEBTOR'S RIGHTS, TITLE AND INTERESTS IN AND TO THE COLLATERAL (AS DEFINED IN THE SECURITIES PLEDGE AGREEMENT ENTERED INTO BY THE DEBTOR IN FAVOUR OF THE SECURED PARTY, AS AMENDED FROM								
Registering Agent	Registering Agent or Secured Party/ Lien Claimant								
	TORYS LLP								

	Address	City	Province	Postal Code
	79 WELLINGTON ST W, 30TH FL PO BOX 270	TORONTO	ON	M5K 1N2

CONTINUED

Type of Search	Business Debtor								
Search Conducted On	VALIDUS POWER CORP.								
File Currency	23JUL 2023								
	File Number	Family	of Families	Page					of Pages
	781679745	1	3	4					8
FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT									
	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule Attached	Registration Number			Registered Under	
		002	3		20230223 1700 1590 2198				
Record Referenced	File Number	Page Amended	No Specific Page Amended	Change Required	Renewal Years	Correct Period			
	781679745								
Reference Debtor/ Transferor	First Given Name			Initial	Surname				
	Business Debtor Name								
Other Change	Other Change								
Reason / Description	Reason / Description								
Debtor/ Transferee	Date of Birth	First Given Name			Initial	Surname			
	Business Debtor Name							Ontario Corporation Number	
	Address				City	Province	Postal Code		
Assignor Name	Assignor Name								
Secured Party	Secured party, lien claimant, assignee								
	Address				City	Province	Postal Code		
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
Motor Vehicle Description	Year	Make			Model			V.I.N.	
General Collateral Description	General Collateral Description								
	TIME TO TIME), INCLUDING ALL SECURITIES, SECURITY ENTITLEMENTS AND								
	OTHER EQUITY INTERESTS ISSUED BY OR WITH RESPECT TO IROQUOIS FALLS								
	POWER CORP., BAY POWER CORP., KAP POWER CORP., KINGSTON COGEN GP INC.								
Registering Agent	Registering Agent or Secured Party/ Lien Claimant								

	Address	City	Province	Postal Code

CONTINUED

Type of Search	Business Debtor								
Search Conducted On	VALIDUS POWER CORP.								
File Currency	23JUL 2023								
	File Number	Family	of Families	Page					of Pages
	781679745	1	3	5					8
FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT									
	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule Attached	Registration Number			Registered Under	
		003	3		20230223 1700 1590 2198				
Record Referenced	File Number	Page Amended	No Specific Page Amended	Change Required	Renewal Years	Correct Period			
	781679745								
Reference Debtor/ Transferor	First Given Name			Initial	Surname				
	Business Debtor Name								
Other Change	Other Change								
Reason / Description	Reason / Description								
Debtor/ Transferee	Date of Birth	First Given Name			Initial	Surname			
	Business Debtor Name							Ontario Corporation Number	
	Address				City	Province	Postal Code		
Assignor Name	Assignor Name								
Secured Party	Secured party, lien claimant, assignee								
	Address				City	Province	Postal Code		
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
Motor Vehicle Description	Year	Make			Model			V.I.N.	
General Collateral Description	General Collateral Description								
	AND KINGSTON COGEN LIMITED PARTNERSHIP.								
Registering Agent	Registering Agent or Secured Party/ Lien Claimant								

	Address	City	Province	Postal Code

END OF FAMILY

Type of Search	Business Debtor								
Search Conducted On	VALIDUS POWER CORP.								
File Currency	23JUL 2023								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	782849466	2	3	6	8	10MAY 2027			
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
782849466		01	001		20220510 1448 1530 9888	P PPSA	5		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	VALIDUS POWER CORP.								
	Address				City	Province	Postal Code		
	357CHRISTINA STREET NORTH				SARNIA	ON	N7T 5V6		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address				City	Province	Postal Code		
Secured Party	Secured Party / Lien Claimant								
	THE TORONTO-DOMINION BANK - 02022								
	Address				City	Province	Postal Code		
	98 WILSON STREET WEST				ANCASTER	ON	L9G 1N3		
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
				X	X				X
Motor Vehicle Description	Year	Make			Model	V.I.N.			
General Collateral Description	General Collateral Description								
Registering Agent	Registering Agent								
	D+H LIMITED PARTNERSHIP								
	Address				City	Province	Postal Code		
	SUITE 200, 4126 NORLAND AVENUE				BURNABY	BC	V5G 3S8		

END OF FAMILY

Type of Search	Business Debtor								
Search Conducted On	VALIDUS POWER CORP.								
File Currency	23JUL 2023								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	786354561	3	3	7	8	01SEP 2025			
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
786354561		001	2		20220901 1309 1532 0195	P PPSA	03		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	VALIDUS POWER CORP.								
	Address				City	Province	Postal Code		
	2B-1500 SANDHILL DRIVE				ANCASTER	ON	L9G4V5		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address				City	Province	Postal Code		
Secured Party	Secured Party / Lien Claimant								
	MERCEDES-BENZ FINANCIAL								
	Address				City	Province	Postal Code		
	2680 MATHESON BLVD. E. STE 500				MISSISSAUGA	ON	L4W0A5		
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
			X		X	X	179206.13	31AUG2025	
Motor Vehicle Description	Year	Make			Model	V.I.N.			
	2022	MERCEDES-BENZ			G63	W1NYC7HJ8NX441303			
General Collateral Description	General Collateral Description								
Registering Agent	Registering Agent								
	D + H LIMITED PARTNERSHIP								
	Address				City	Province	Postal Code		
	2 ROBERT SPECK PARKWAY, 15TH FLOOR				MISSISSAUGA	ON	L4Z 1H8		

CONTINUED

Type of Search	Business Debtor								
Search Conducted On	VALIDUS POWER CORP.								
File Currency	23JUL 2023								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	786354561	3	3	8	8	01SEP 2025			
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
786354561		002	2		20220901 1309 1532 0195				
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address				City	Province	Postal Code		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address				City	Province	Postal Code		
Secured Party	Secured Party / Lien Claimant								
	MERCEDES-BENZ FINANCIAL SERVICES CANADA CORPORATION								
	Address				City	Province	Postal Code		
	2680 MATHESON BLVD. E. STE 500				MISSISSAUGA	ON	L4W0A5		
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
Motor Vehicle Description	Year	Make			Model	V.I.N.			
General Collateral Description	General Collateral Description								
Registering Agent	Registering Agent								
	Address				City	Province	Postal Code		

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Profile Report

BAY POWER CORP. as of July 24, 2023

Act	Business Corporations Act
Type	Ontario Business Corporation
Name	BAY POWER CORP.
Ontario Corporation Number (OCN)	2820577
Governing Jurisdiction	Canada - Ontario
Status	Active
Date of Incorporation	March 03, 2021
Registered or Head Office Address	100 Wellington Street West, Suite 2300, Toronto, Ontario, Canada, M5J 2R2

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V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Active Director(s)

Minimum Number of Directors 1
Maximum Number of Directors 10

Name SHELLEY GOERTZ
Address for Service 100 Wellington Street West, Suite 2300, Toronto, Ontario,
Canada, M5J 2R2
Resident Canadian Yes
Date Began May 21, 2021

Name TODD SHORTT
Address for Service 100 Wellington Street West, Suite 2300, Toronto, Ontario,
Canada, M5J 2R2
Resident Canadian Yes
Date Began May 21, 2021

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V. Quintanilla W.

Director/Registrar

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Active Officer(s)

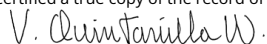
Name SHELLEY GOERTZ
Position Secretary
Address for Service 100 Wellington St W, 2300, Toronto, Ontario, Canada, M5J 2R2
Date Began May 21, 2021

Name SHELLEY GOERTZ
Position Chief Financial Officer
Address for Service 100 Wellington Street West, Suite 2300, Toronto, Ontario, Canada, M5J 2R2
Date Began May 21, 2021

Name DOUG KONNO
Position Vice-President
Address for Service 100 Wellington Street West, Suite 2300, Toronto, Ontario, Canada, M5J 2R2
Date Began May 21, 2021

Name TODD SHORTT
Position President
Address for Service 100 Wellington Street West, Suite 2300, Toronto, Ontario, Canada, M5J 2R2
Date Began May 21, 2021

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.



Director/Registrar

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Corporate Name History

Name

BAY POWER CORP.

Effective Date

March 03, 2021

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V. Quintanilla W.

Director/Registrar

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Active Business Names

This corporation does not have any active business names registered under the Business Names Act in Ontario.

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

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Expired or Cancelled Business Names

This corporation does not have any expired or cancelled business names registered under the Business Names Act in Ontario.

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

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Document List

Filing Name	Effective Date
Annual Return - 2021 PAF: RYAN CHUA	March 04, 2023
CIA - Notice of Change PAF: RYAN CHUA	February 25, 2023
CIA - Notice of Change PAF: Ryan CHUA	May 05, 2022
CIA - Notice of Change PAF: Ryan CHUA	April 06, 2022
CIA - Initial Return PAF: KENNETH SIM - DIRECTOR	March 03, 2021
BCA - Articles of Incorporation	March 03, 2021

All "PAF" (person authorizing filing) information is displayed exactly as recorded in the Ontario Business Registry. Where PAF is not shown against a document, the information has not been recorded in the Ontario Business Registry.

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Director/Registrar

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Enquiry Result

File Currency: 23JUL 2023



All Pages



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Type of Search	Business Debtor								
Search Conducted On	BAY POWER CORP.								
File Currency	23JUL 2023								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	781679817	1	1	1	1	01APR 2027			
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
781679817		001	1		20220401 1619 1590 5834	P PPSA	5		
Individual Debtor	Date of Birth	First Given Name		Initial	Surname				
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	BAY POWER CORP.								
	Address			City	Province	Postal Code			
	100 WELLINGTON STREET WEST, SUITE 2300			TORONTO	ON	M5J 2R2			
Individual Debtor	Date of Birth	First Given Name		Initial	Surname				
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address			City	Province	Postal Code			
Secured Party	Secured Party / Lien Claimant								
	MACQUARIE EQUIPMENT FINANCE LTD.								
	Address			City	Province	Postal Code			
	181 BAY STREET			TORONTO	ON	M5J 2T3			
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
		X	X	X	X	X			
Motor Vehicle Description	Year	Make		Model		V.I.N.			
General Collateral Description	General Collateral Description								
Registering Agent	Registering Agent								

	TORYS LLP			
	Address	City	Province	Postal Code
	79 WELLINGTON ST W, 30TH FLOOR PO BOX 27	TORONTO	ON	M5K 1N2

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Profile Report

IROQUOIS FALLS POWER CORP. as of July 24, 2023

Act	Business Corporations Act
Type	Ontario Business Corporation
Name	IROQUOIS FALLS POWER CORP.
Ontario Corporation Number (OCN)	1229763
Governing Jurisdiction	Canada - Ontario
Former Jurisdiction	Canada - New Brunswick
Status	Active
Date of Incorporation/Amalgamation	April 15, 1997
Date of Continuance	June 23, 2003
Registered or Head Office Address	1500 Sandhill Dr, 2b, Ancaster, Ontario, Canada, L9G4V5

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Active Director(s)

Minimum Number of Directors 1
Maximum Number of Directors 10

Name SHELLEY GOERTZ
Address for Service 1500 Sandhill Dr, 2b, Ancaster, Ontario, Canada, L9G4V5
Resident Canadian Yes
Date Began April 07, 2022

Name TODD SHORTT
Address for Service 100 Wellington Street West, Suite 2300, Toronto, Ontario, Canada, M5J 2R2
Resident Canadian Yes
Date Began April 07, 2022

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V. Quintanilla W.

Director/Registrar

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Active Officer(s)

Name SHELLEY GOERTZ
Position Secretary
Address for Service 1500 Sandhill Drive, 2b, Ancaster, Ontario, Canada, L9G 4V5
Date Began April 07, 2022

Name SHELLEY GOERTZ
Position Chief Financial Officer
Address for Service 1500 Sandhill Drive, 2b, Ancaster, Ontario, Canada, L9G 4V5
Date Began April 07, 2022

Name DOUG KONNO
Position Vice-President
Address for Service 100 Wellington Street West, Suite 2300, Toronto, Ontario, Canada, M5J 2R2
Date Began April 07, 2022

Name TODD SHORTT
Position Chief Executive Officer
Address for Service 100 Wellington Street West, Suite 2300, Toronto, Ontario, Canada, M5J 2R2
Date Began April 07, 2022

Name TODD SHORTT
Position President
Address for Service 100 Wellington Street West, Suite 2300, Toronto, Ontario, Canada, M5J 2R2
Date Began April 07, 2022

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V. Quintanilla W.

Director/Registrar

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Corporate Name History

Name

IROQUOIS FALLS POWER CORP.

Effective Date

April 18, 1997

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V. Quintanilla W.

Director/Registrar

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Amalgamating Corporations

Corporation Name
Ontario Corporation Number

IROQUOIS FALLS POWER CORP.
1223515

Corporation Name
Ontario Corporation Number

504507 NEW BRUNSWICK LIMITED
956978

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V. Quintanilla W.

Director/Registrar

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Active Business Names

This corporation does not have any active business names registered under the Business Names Act in Ontario.

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V. Quintanilla W.

Director/Registrar

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Expired or Cancelled Business Names

This corporation does not have any expired or cancelled business names registered under the Business Names Act in Ontario.

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V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Document List

Filing Name	Effective Date
CIA - Notice of Change PAF: SHELLEY GOERTZ	July 10, 2023
CIA - Notice of Change PAF: RYAN CHUA	April 13, 2023
Archive Document Package	January 20, 2023
CIA - Notice of Change PAF: Ryan CHUA	October 28, 2022
CIA - Notice of Change PAF: Ryan CHUA	October 28, 2022
CIA - Notice of Change PAF: Ryan CHUA	October 28, 2022
CIA - Notice of Change PAF: Ryan CHUA	October 28, 2022
Annual Return - 2021 PAF: Pallavi BHOORE	February 10, 2022
Annual Return - 2021 PAF: Pallavi BHOORE	January 12, 2022
Annual Return - 2020 PAF: Pallavi BHOORE	January 12, 2022
CIA - Notice of Change PAF: TRACY ROBILLARD - OTHER	March 08, 2021
Annual Return - 2019 PAF: PAULINE ALIMCHANDANI - OFFICER	July 26, 2020
CIA - Notice of Change PAF: TRACY ROBILLARD - OTHER	July 03, 2020

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V. Quintanilla W.

Director/Registrar

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CIA - Notice of Change PAF: TRACY ROBILLARD - OTHER	April 16, 2020
Annual Return - 2018 PAF: PAUL BRADLEY - OFFICER	July 21, 2019
CIA - Notice of Change PAF: TRACY ROBILLARD - OTHER	July 23, 2018
Annual Return - 2017 PAF: PAUL BRADLEY - OFFICER	July 22, 2018
Annual Return - 2016 PAF: PAUL BRADLEY - OFFICER	July 18, 2017
Annual Return - 2015 PAF: PAUL BRADLEY - OFFICER	July 17, 2016
CIA - Notice of Change PAF: JOSEPHINE SHAPIRO - OTHER	October 28, 2015
Annual Return - 2014 PAF: PAUL BRADLEY - OFFICER	July 18, 2015
Annual Return - 2013 PAF: PAUL BRADLEY - OFFICER	July 18, 2014
CIA - Notice of Change PAF: JOSEPHINE SHAPIRO - OTHER	February 05, 2014
Annual Return - 2012 PAF: PAUL BRADLEY - OFFICER	July 13, 2013
Annual Return - 2011 PAF: PAUL BRADLEY - OFFICER	June 30, 2012
CIA - Notice of Change PAF: JOSEPHINE SHAPIRO - OTHER	November 08, 2011
Annual Return - 2010 PAF: PAUL BRADLEY - OFFICER	July 02, 2011
Annual Return - 2009 PAF: ANTHONY ANDERSON - OFFICER	May 23, 2010

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Annual Return - 2008 PAF: ANTHONY ANDERSON - OFFICER	July 11, 2009
Annual Return - 2007 PAF: ANTHONY ANDERSON - OFFICER	August 09, 2008
Annual Return - 2006 PAF: ANTHONY ANDERSON - OFFICER	August 09, 2008
Annual Return - 2007 PAF: ANTHONY ANDERSON - OFFICER	June 07, 2008
Annual Return - 2006 PAF: ANTHONY ANDERSON - OFFICER	July 07, 2007
CIA - Notice of Change PAF: JOSEPHINE SHAPIRO - OTHER	February 05, 2007
CIA - Notice of Change PAF: JOSEPHINE SHAPIRO - OTHER	January 30, 2007
Annual Return - 2005 PAF: ANTHONY ANDERSON - OFFICER	July 15, 2006
Annual Return - 2004 PAF: A.F. ANDERSON - OFFICER	July 23, 2005
CIA - Notice of Change PAF: JOSEPHINE SHAPIRO - OTHER	December 11, 2003
CIA - Notice of Change PAF: JOSEPHINE SHAPIRO - OTHER	December 11, 2003
CIA - Notice of Change PAF: JOSEPHINE SHAPIRO - OTHER	November 10, 2003
CIA - Initial Return PAF: JOSEPHINE SHAPIRO - OTHER	July 18, 2003
BCA - Articles of Continuance	June 23, 2003
CIA - Initial Return PAF: LINDA L. BERTOLDI - OFFICER	April 18, 1997

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V. Quintanilla W.

Director/Registrar

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V. Quintanilla W.

Director/Registrar

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Enquiry Result

File Currency: 23JUL 2023



All Pages



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Type of Search	Business Debtor								
Search Conducted On	IROQUOIS FALLS POWER CORP.								
File Currency	23JUL 2023								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	781679718	1	1	1	1	01APR 2027			
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
781679718		001	1		20220401 1616 1590 5830	P PPSA	5		
Individual Debtor	Date of Birth	First Given Name		Initial	Surname				
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	IROQUOIS FALLS POWER CORP.								
	Address			City	Province	Postal Code			
	100 WELLINGTON STREET WEST, SUITE 2300			TORONTO	ON	M5J 2R2			
Individual Debtor	Date of Birth	First Given Name		Initial	Surname				
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address			City	Province	Postal Code			
Secured Party	Secured Party / Lien Claimant								
	MACQUARIE EQUIPMENT FINANCE LTD.								
	Address			City	Province	Postal Code			
	181 BAY STREET			TORONTO	ON	M5J 2T3			
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
		X	X	X	X	X			
Motor Vehicle Description	Year	Make			Model	V.I.N.			
General Collateral Description	General Collateral Description								
Registering Agent	Registering Agent								

	TORYS LLP			
	Address	City	Province	Postal Code
	79 WELLINGTON ST W, 30TH FLOOR PO BOX 27	TORONTO	ON	M5K 1N2

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Profile Report

KAP POWER CORP. as of July 24, 2023

Act	Business Corporations Act
Type	Ontario Business Corporation
Name	KAP POWER CORP.
Ontario Corporation Number (OCN)	2820572
Governing Jurisdiction	Canada - Ontario
Status	Active
Date of Incorporation	March 03, 2021
Registered or Head Office Address	100 Wellington Street West, Suite 2300, Toronto, Ontario, Canada, M5J 2R2

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V. Quintanilla W.

Director/Registrar

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Active Director(s)

Minimum Number of Directors 1
Maximum Number of Directors 10

Name SHELLEY GOERTZ
Address for Service 100 Wellington Street West, Suite 2300, Toronto, Ontario,
Canada, M5J 2R2
Resident Canadian Yes
Date Began May 21, 2021

Name TODD SHORTT
Address for Service 100 Wellington Street West, Suite 2300, Toronto, Ontario,
Canada, M5J 2R2
Resident Canadian Yes
Date Began May 21, 2021

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V. Quintanilla W.

Director/Registrar

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Active Officer(s)

Name SHELLEY GOERTZ
Position Secretary
Address for Service 100 Wellington St W, 2300, Toronto, Ontario, Canada, M5J 2R2
Date Began May 21, 2021

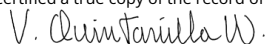
Name SHELLEY GOERTZ
Position Chief Financial Officer
Address for Service 100 Wellington Street West, Suite 2300, Toronto, Ontario, Canada, M5J 2R2
Date Began May 21, 2021

Name DOUG KONNO
Position Vice-President
Address for Service 100 Wellington Street West, Suite 2300, Toronto, Ontario, Canada, M5J 2R2
Date Began May 21, 2021

Name TODD SHORTT
Position President
Address for Service 100 Wellington Street West, Suite 2300, Toronto, Ontario, Canada, M5J 2R2
Date Began May 21, 2021

Name TODD SHORTT
Position Chief Executive Officer
Address for Service 100 Wellington Street West, Suite 2300, Toronto, Ontario, Canada, M5J 2R2
Date Began May 21, 2021

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Director/Registrar

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Corporate Name History

Name

KAP POWER CORP.

Effective Date

March 03, 2021

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V. Quintanilla W.

Director/Registrar

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Active Business Names

This corporation does not have any active business names registered under the Business Names Act in Ontario.

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

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Expired or Cancelled Business Names

This corporation does not have any expired or cancelled business names registered under the Business Names Act in Ontario.

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V. Quintanilla W.

Director/Registrar

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Document List

Filing Name	Effective Date
CIA - Notice of Change PAF: RYAN CHUA	February 25, 2023
CIA - Notice of Change PAF: Ryan CHUA	May 05, 2022
CIA - Notice of Change PAF: Ryan CHUA	April 06, 2022
CIA - Initial Return PAF: KENNETH SIM - DIRECTOR	March 03, 2021
BCA - Articles of Incorporation	March 03, 2021

All "PAF" (person authorizing filing) information is displayed exactly as recorded in the Ontario Business Registry. Where PAF is not shown against a document, the information has not been recorded in the Ontario Business Registry.

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Enquiry Result

File Currency: 23JUL 2023



All Pages



Note: All pages have been returned.

Type of Search	Business Debtor								
Search Conducted On	KAP POWER CORP.								
File Currency	23JUL 2023								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	781679754	1	1	1	1	01APR 2027			
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
781679754		001	1		20220401 1617 1590 5832	P PPSA	5		
Individual Debtor	Date of Birth	First Given Name		Initial	Surname				
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	KAP POWER CORP.								
	Address			City	Province	Postal Code			
	100 WELLINGTON STREET WEST, SUITE 2300			TORONTO	ON	M5J 2R2			
Individual Debtor	Date of Birth	First Given Name		Initial	Surname				
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address			City	Province	Postal Code			
Secured Party	Secured Party / Lien Claimant								
	MACQUARIE EQUIPMENT FINANCE LTD.								
	Address			City	Province	Postal Code			
	181 BAY STREET			TORONTO	ON	M5J 2T3			
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
		X	X	X	X	X			
Motor Vehicle Description	Year	Make		Model		V.I.N.			
General Collateral Description	General Collateral Description								
Registering Agent	Registering Agent								

	TORYS LLP			
	Address	City	Province	Postal Code
	79 WELLINGTON ST W, 30TH FLOOR PO BOX 27	TORONTO	ON	M5K 1N2

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Profile Report

KINGSTON COGEN GP INC. as of July 24, 2023

Act	Business Corporations Act
Type	Ontario Business Corporation
Name	KINGSTON COGEN GP INC.
Ontario Corporation Number (OCN)	1724299
Governing Jurisdiction	Canada - Ontario
Status	Active
Date of Amalgamation	January 31, 2007
Registered or Head Office Address	100 Wellington Street West, Suite 2300, Toronto, Ontario, Canada, M5J 2R2

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V. Quintanilla W.

Director/Registrar

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Active Director(s)

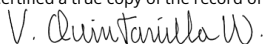
Minimum Number of Directors 1
Maximum Number of Directors 10

Name JASON BEBLOW
Address for Service 100 Wellington Street West, Suite 2300, Toronto, Ontario,
Canada, M5J 2R2
Resident Canadian Yes
Date Began April 07, 2022

Name SHELLEY GOERTZ
Address for Service 100 Wellington Street West, Suite 2300, Toronto, Ontario,
Canada, M5J 2R2
Resident Canadian Yes
Date Began April 07, 2022

Name TODD SHORTT
Address for Service 100 Wellington Street West, Suite 2300, Toronto, Ontario,
Canada, M5J 2R2
Resident Canadian Yes
Date Began April 07, 2022

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Active Officer(s)

Name JASON BEBLOW
Position Vice-President
Address for Service 100 Wellington Street West, Suite 2300, Toronto, Ontario,
Canada, M5J 2R2
Date Began April 07, 2022

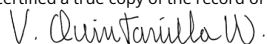
Name SHELLEY GOERTZ
Position Chief Financial Officer
Address for Service 100 Wellington Street West, Suite 2300, Toronto, Ontario,
Canada, M5J 2R2
Date Began April 07, 2022

Name DOUG KONNO
Position Vice-President
Address for Service 100 Wellington Street West, Suite 2300, Toronto, Ontario,
Canada, M5J 2R2
Date Began April 07, 2022

Name TODD SHORTT
Position Chief Executive Officer
Address for Service 100 Wellington Street West, Suite 2300, Toronto, Ontario,
Canada, M5J 2R2
Date Began April 07, 2022

Name TODD SHORTT
Position President
Address for Service 100 Wellington Street West, Suite 2300, Toronto, Ontario,
Canada, M5J 2R2
Date Began April 07, 2022

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Corporate Name History

Name	KINGSTON COGEN GP INC.
Effective Date	April 13, 2022
Previous Name	NPIF KINGSTON COGEN CORP.
Effective Date	January 31, 2007

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Director/Registrar

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Amalgamating Corporations

Corporation Name
Ontario Corporation Number

KINGSTON COGEN REORG INC.
1724251

Corporation Name
Ontario Corporation Number

NPIF KINGSTON COGEN CORP.
1719196

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Active Business Names

This corporation does not have any active business names registered under the Business Names Act in Ontario.

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V. Quintanilla W.

Director/Registrar

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Expired or Cancelled Business Names

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V. Quintanilla W.

Director/Registrar

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Document List

Filing Name	Effective Date
CIA - Notice of Change PAF: Ryan CHUA	October 28, 2022
CIA - Notice of Change PAF: Ryan CHUA	October 28, 2022
CIA - Notice of Change PAF: Ryan CHUA	October 28, 2022
BCA - Articles of Amendment	April 13, 2022
Annual Return - 2020 PAF: Pallavi BHORE	April 01, 2022
Annual Return - 2021 PAF: Pallavi BHORE	February 10, 2022
BCA - Articles of Amendment	December 15, 2021
CIA - Notice of Change PAF: TRACY ROBILLARD - OTHER	March 11, 2021
Annual Return - 2019 PAF: PAULINE ALIMCHANDANI - OFFICER	July 05, 2020
CIA - Notice of Change PAF: TRACY ROBILLARD - OTHER	July 03, 2020
CIA - Notice of Change PAF: TRACY ROBILLARD - OTHER	April 22, 2020
Annual Return - 2018 PAF: PAUL BRADLEY - OFFICER	July 07, 2019
CIA - Notice of Change PAF: TRACY ROBILLARD - OTHER	July 23, 2018
Annual Return - 2017	July 22, 2018

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Director/Registrar

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PAF: PAUL BRADLEY - OFFICER

CIA - Notice of Change
PAF: TRACY ROBILLARD - OTHER
November 20, 2017

Annual Return - 2016
PAF: PAUL BRADLEY - OFFICER
July 18, 2017

Annual Return - 2015
PAF: PAUL BRADLEY - OFFICER
July 03, 2016

Annual Return - 2014
PAF: PAUL BRADLEY - OFFICER
June 20, 2015

Annual Return - 2013
PAF: PAUL BRADLEY - OFFICER
April 19, 2014

Annual Return - 2012
PAF: PAUL BRADLEY - OFFICER
June 29, 2013

Annual Return - 2011
PAF: PAUL BRADLEY - OFFICER
June 23, 2012

CIA - Initial Return
PAF: JOSEPHINE SHAPIRO - OTHER
November 09, 2011

Annual Return - 2010
PAF: ANTHONY ANDERSON - OFFICER
August 27, 2011

Annual Return - 2009
PAF: ANTHONY ANDERSON - OFFICER
April 24, 2010

Annual Return - 2008
PAF: ANTHONY ANDERSON - DIRECTOR
June 20, 2009

Annual Return - 2007
PAF: MARK AIRHART - OFFICER
October 23, 2008

Annual Return - 2007
PAF: MARK AIRHART - OFFICER
June 04, 2008

CIA - Initial Return
PAF: ANNA C. NAUD - OTHER
February 13, 2007

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

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BCA - Articles of Amalgamation

January 31, 2007

All "PAF" (person authorizing filing) information is displayed exactly as recorded in the Ontario Business Registry. Where PAF is not shown against a document, the information has not been recorded in the Ontario Business Registry.

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

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Enquiry Result

File Currency: 23JUL 2023



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Note: All pages have been returned.

Type of Search	Business Debtor								
Search Conducted On	KINGSTON COGEN GP INC.								
File Currency	23JUL 2023								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	790978752	1	2	1	2	23FEB 2028			
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
790978752		001	1		20230223 1702 1590 2199	P PPSA	5		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	KINGSTON COGEN GP INC.								
	Address			City	Province	Postal Code			
	100 WELLINGTON STREET WEST, SUITE 2300			TORONTO	ON	M5J 2R2			
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	KINGSTON COGEN LIMITED PARTNERSHIP								
	Address			City	Province	Postal Code			
	100 WELLINGTON STREET WEST, SUITE 2300			TORONTO	ON	M5J 2R2			
Secured Party	Secured Party / Lien Claimant								
	MACQUARIE EQUIPMENT FINANCE LTD.								
	Address			City	Province	Postal Code			
	181 BAY STREET			TORONTO	ON	M5J 2T3			
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
		X	X	X	X	X			
Motor Vehicle Description	Year	Make			Model	V.I.N.			
General Collateral Description	General Collateral Description								

Registering Agent	Registering Agent			
	TORYS LLP			
	Address	City	Province	Postal Code
	79 WELLINGTON ST W, 30TH FL PO BOX 270	TORONTO	ON	M5K 1N2

END OF FAMILY

Type of Search	Business Debtor						
Search Conducted On	KINGSTON COGEN GP INC.						
File Currency	23JUL 2023						
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status
	790978779	2	2	2	2	23FEB 2028	

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period
790978779		001	1		20230223 1703 1590 2200	P PPSA	5

Individual Debtor	Date of Birth	First Given Name	Initial	Surname

Business Debtor	Business Debtor Name	Ontario Corporation Number		
	KINGSTON COGEN GP INC.			
	Address	City	Province	Postal Code
	100 WELLINGTON STREET WEST, SUITE 2300	TORONTO	ON	M5J 2R2

Individual Debtor	Date of Birth	First Given Name	Initial	Surname

Business Debtor	Business Debtor Name	Ontario Corporation Number		
	Address	City	Province	Postal Code

Secured Party	Secured Party / Lien Claimant			
	MACQUARIE EQUIPMENT FINANCE LTD.			
	Address	City	Province	Postal Code
	181 BAY STREET	TORONTO	ON	M5J 2T3

Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
		X	X	X	X	X			

Motor Vehicle Description	Year	Make	Model	V.I.N.

General Collateral Description	General Collateral Description

Registering Agent	Registering Agent			
	TORYS LLP			
	Address	City	Province	Postal Code
	79 WELLINGTON ST W, 30TH FL PO BOX 270	TORONTO	ON	M5K 1N2

LAST PAGE

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Profile Report

KINGSTON COGEN LIMITED PARTNERSHIP as of July 24, 2023

Act	Limited Partnerships Act
Type	Ontario Limited Partnership
Firm Name	KINGSTON COGEN LIMITED PARTNERSHIP
Business Identification Number (BIN)	971118013
Declaration Status	Active
Declaration Date	September 19, 1997
Expiry Date	September 13, 2027
Principal Place of Business	100 Wellington Street West, 2300, Toronto, Ontario, Canada, M5J 2R2
Activity (NAICS Code)	221112 - Fossil-fuel electric power generation

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

General Partners

Number of General Partners 1

Partners

Partner 1

Name	KINGSTON COGEN GP INC.
Ontario Corporation Number (OCN)	1724299
Entity Type	Ontario Business Corporation
Registered or Head Office Address	100 Wellington Street West, Suite 2300, Toronto, Ontario, Canada, M5J 2R2

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V. Quintanilla W.

Director/Registrar

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Firm Name History

Name

KINGSTON COGEN LIMITED PARTNERSHIP

Effective Date

September 19, 1997

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V. Quintanilla W.

Director/Registrar

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Active Business Names

This entity does not have any active business names registered under the Business Names Act in Ontario.

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Expired or Cancelled Business Names

This entity does not have any expired or cancelled business names registered under the Business Names Act in Ontario.

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V. Quintanilla W.

Director/Registrar

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Document List

Filing Name	Effective Date
Declaration of Change to an Ontario Limited Partnership	October 28, 2022
Renewal of an Ontario Limited Partnership Declaration	October 28, 2022
Declaration of Change to an Ontario Limited Partnership	April 13, 2022
LPA - File a Declaration of Change for a Limited Partnership (Automated process - Name of Corporate Partner Amended)	April 13, 2022
LPA - Declaration of Change for a Limited Partnership (Automated process - Address of Corporate Partner Amended)	February 10, 2022
Renewal of an Ontario Limited Partnership Declaration	September 11, 2017
Renewal of an Ontario Limited Partnership Declaration	August 08, 2012
Renewal of an Ontario Limited Partnership Declaration	August 21, 2007
Declaration of Change to an Ontario Limited Partnership	February 06, 2007
Declaration of Change to an Ontario Limited Partnership	July 04, 2006
Declaration of Change to an Ontario Limited Partnership	February 15, 2006
Declaration of Change to an Ontario Limited Partnership	July 25, 2003
Declaration of Change to an Ontario Limited Partnership	February 18, 2003
Renewal of an Ontario Limited Partnership Declaration	September 06, 2002
Declaration of Change to an Ontario Limited Partnership	February 07, 2000
Declaration of Change to an Ontario Limited Partnership	March 11, 1999
Declaration of Change to an Ontario Limited Partnership	July 07, 1998

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Renewal of an Ontario Limited Partnership Declaration

September 19, 1997

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V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Enquiry Result

File Currency: 23JUL 2023



All Pages



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Type of Search	Business Debtor								
Search Conducted On	KINGSTON COGEN LIMITED PARTNERSHIP								
File Currency	23JUL 2023								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	790978752	1	1	1	1	23FEB 2028			
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
790978752		001	1		20230223 1702 1590 2199	P PPSA	5		
Individual Debtor	Date of Birth	First Given Name		Initial	Surname				
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	KINGSTON COGEN GP INC.								
	Address			City	Province	Postal Code			
	100 WELLINGTON STREET WEST, SUITE 2300			TORONTO	ON	M5J 2R2			
Individual Debtor	Date of Birth	First Given Name		Initial	Surname				
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	KINGSTON COGEN LIMITED PARTNERSHIP								
	Address			City	Province	Postal Code			
	100 WELLINGTON STREET WEST, SUITE 2300			TORONTO	ON	M5J 2R2			
Secured Party	Secured Party / Lien Claimant								
	MACQUARIE EQUIPMENT FINANCE LTD.								
	Address			City	Province	Postal Code			
	181 BAY STREET			TORONTO	ON	M5J 2T3			
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
		X	X	X	X	X			
Motor Vehicle Description	Year	Make			Model		V.I.N.		
General Collateral Description	General Collateral Description								
Registering Agent	Registering Agent								

	TORYS LLP			
	Address	City	Province	Postal Code
	79 WELLINGTON ST W, 30TH FL PO BOX 270	TORONTO	ON	M5K 1N2

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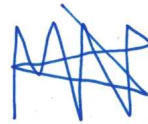
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THIS IS **EXHIBIT “V”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,
THIS 31st DAY OF JULY, 2023.



Michael Noel
Commissioner for Taking Affidavits

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OFFICE #6

65337-0373 (LT)

PREPARED FOR Luciana01
ON 2023/07/24 AT 10:14:17

* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

PROPERTY DESCRIPTION: PCL 9070 SEC NEC; LOCATION RY 357 TEEFY COMPOSED OF THOSE PARTS OF THE BED OF THE ABITIBI RIVER LYING IN FRONT OF LT 11, CON 3, PT 1, 6R6853; DISTRICT OF COCHRANE

PROPERTY REMARKS:

ESTATE/QUALIFIER:
FEE SIMPLE (EASEMENT)

RECENTLY:
FIRST CONVERSION FROM BOOK

PIN CREATION DATE:
2004/03/29

OWNERS' NAMES
IROQUOIS FALLS POWER CORP.

CAPACITY SHARE
NC

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
<i>** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 2004/03/26 **</i>						
6R6853	1996/05/14	PLAN REFERENCE				C
C474890	1997/08/29	TRANSFER EASEMENT			IROQUOIS FALLS POWER CORP.	C
C521180	2002/06/07	NOTICE REMARKS: AMENDMENT				C
CB174195	2022/04/07	CHARGE	\$60,000,000	IROQUOIS FALLS POWER CORP.	MACQUARIE EQUIPMENT FINANCE LTD.	C

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65337-0456 (LT)

PAGE 1 OF 1
PREPARED FOR Luciana01
ON 2023/07/24 AT 10:12:45

* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

PROPERTY DESCRIPTION: SURFACE RIGHTS ONLY ; PT S 1/2 LT 12 CON 3 TEEFY PT 1, 6R5962 EXCEPT PT 1, 6R8283 S/T PT 2, 6R6832 AS IN C469070 AMENDED BY C470222, C470223, C470224, C470225, C470226, C470227, C470228, C470229 & C470230 ; DISTRICT OF COCHRANE

PROPERTY REMARKS: CROWN GRANT SEE NNDP988.

ESTATE/QUALIFIER: FEE SIMPLE ABSOLUTE
RECENTLY: DIVISION FROM 65337-0040

PIN CREATION DATE: 2009/12/31

OWNERS' NAMES: IROQUOIS FALLS POWER CORP.
CAPACITY SHARE: BENO

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
<i>** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 2009/12/31 **</i>						
6R5962	1990/07/19	PLAN REFERENCE				C
C425641	1992/11/20	TRANSFER <i>REMARKS: AMENDED UNDER C470107, C470233</i>	\$9,830		956978 ONTARIO LIMITED	C
6R6832	1996/02/14	PLAN REFERENCE				C
C470109	1997/04/14	CHARGE		*** DELETED AGAINST THIS PROPERTY ***	CANADIAN IMPERIAL BANK OF COMMERCE	
C520680	2002/05/24	CHARGE		*** DELETED AGAINST THIS PROPERTY ***	CANADIAN IMPERIAL BANK OF COMMERCE	
CB73903	2011/05/31	DISCH OF CHARGE <i>REMARKS: C470109.</i>		*** COMPLETELY DELETED *** CANADIAN IMPERIAL BANK OF COMMERCE		
CB73904	2011/05/31	NOTICE <i>REMARKS: C520680</i>		*** COMPLETELY DELETED *** IROQUOIS FALLS POWER CORP.	CANADIAN IMPERIAL BANK OF COMMERCE	
CB102688	2014/03/07	NOTICE <i>REMARKS: C520680</i>		*** COMPLETELY DELETED *** IROQUOIS FALLS POWER CORP.	CANADIAN IMPERIAL BANK OF COMMERCE	
CB140537	2018/06/28	DISCH OF CHARGE <i>REMARKS: C520680.</i>		*** COMPLETELY DELETED *** CANADIAN IMPERIAL BANK OF COMMERCE		
CB174195	2022/04/07	CHARGE	\$60,000,000	IROQUOIS FALLS POWER CORP.	MACQUARIE EQUIPMENT FINANCE LTD.	C

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65337-0458 (LT)

PAGE 1 OF 2
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PROPERTY DESCRIPTION: SURFACE RIGHTS ONLY ; S 1/2 LT 12 CON 3 TEEFY EXCEPT PT 1, 6R5962, PTS 2 & 3, 6R8283 & PT 1, 6R8318, S/T PT 1, 3 & 4, 6R6832 AS IN C469070 AMENDED BY C470222, C470223, C470224, C470225, C470226, C470227, C470228, C470229 & C470230 ; DISTRICT OF COCHRANE

PROPERTY REMARKS: CROWN GRANT SEE NNDP988.

ESTATE/QUALIFIER:
FEE SIMPLE
ABSOLUTE

RECENTLY:
DIVISION FROM 65337-0454

PIN CREATION DATE:
2010/02/12

OWNERS' NAMES
IROQUOIS FALLS POWER CORP.

CAPACITY SHARE
ROWN

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
<i>** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 2010/02/12 **</i>						
C439377	1994/04/11	TRANSFER	\$50,000		956978 ONTARIO LIMITED	C
		<i>REMARKS: AMENDED UNDER C470107, C470233</i>				
6R6832	1996/02/14	PLAN REFERENCE				C
C470109	1997/04/14	CHARGE		*** DELETED AGAINST THIS PROPERTY ***	CANADIAN IMPERIAL BANK OF COMMERCE	
C520680	2002/05/24	CHARGE		*** DELETED AGAINST THIS PROPERTY ***	CANADIAN IMPERIAL BANK OF COMMERCE	
CB61039	2010/02/12	LR'S ORDER		LAND REGISTRAR, LRO #06		C
CB73903	2011/05/31	DISCH OF CHARGE		*** COMPLETELY DELETED *** CANADIAN IMPERIAL BANK OF COMMERCE		
		<i>REMARKS: C470109.</i>				
CB73904	2011/05/31	NOTICE		*** COMPLETELY DELETED *** IROQUOIS FALLS POWER CORP.	CANADIAN IMPERIAL BANK OF COMMERCE	
		<i>REMARKS: C520680</i>				
CB102688	2014/03/07	NOTICE		*** COMPLETELY DELETED *** IROQUOIS FALLS POWER CORP.	CANADIAN IMPERIAL BANK OF COMMERCE	
		<i>REMARKS: C520680</i>				
CB140537	2018/06/28	DISCH OF CHARGE		*** COMPLETELY DELETED *** CANADIAN IMPERIAL BANK OF COMMERCE		
		<i>REMARKS: C520680.</i>				
CB174195	2022/04/07	CHARGE	\$60,000,000	IROQUOIS FALLS POWER CORP.	MACQUARIE EQUIPMENT FINANCE LTD.	C
CB184081	2023/03/08	LIEN	\$6,002,211	HER MAJESTY THE QUEEN IN RIGHT OF CANADA AS REPRESENTED BY		C

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65337-0458 (LT)

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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
		REMARKS: TAX ARREARS		THE MINISTER OF NATIONAL REVENUE		

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OFFICE #6

65337-0369 (LT)

PAGE 1 OF 2
PREPARED FOR Luciana01
ON 2023/07/24 AT 10:11:34

* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

PROPERTY DESCRIPTION: PCL 9012 SEC NEC SRO; PT LT 11 CON 5 TEEFY PT 1, 6R6645 T/W PT 1 TO 4, 6R6644 & 1 TO 6, 6R6626 AS IN C447208 AMENDED BY C470222 T/W PT 2 TO 7 & 13 TO 16, 6R6645 AS IN C447209 AMENDED BY C470223 T/W PT 2, 6 TO 12, 6R6645 AS IN C447211 AMENDED BY C470225 T/W PT 17 TO 19, 6R6645 AS IN C447212 AMENDED BY C470226 T/W PT 1, 6R6898 AS IN C469024 AMENDED BY C470227 T/W PT 4 & 5, 6R6896 AS IN C469025 AMENDED BY C470228 T/W C469026 AMENDED BY C470229 T/W PT 1 & 2, 6R6853 AS IN C474890 AMENDED BY C521180 ; TOWN OF IROQUOIS FALLS

PROPERTY REMARKS: PLANNING ACT CONSENT AS IN C447207.

ESTATE/QUALIFIER: FEE SIMPLE ABSOLUTE
RECENTLY: FIRST CONVERSION FROM BOOK

PIN CREATION DATE: 2004/03/29

OWNERS' NAMES IROQUOIS FALLS POWER CORP.
CAPACITY SHARE BENO

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
<i>** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 2004/03/26 **</i>						
6R6645	1994/10/12	PLAN REFERENCE				C
C447207	1994/12/29	TRANSFER	\$50,000		956978 ONTARIO LIMITED	C
		<i>REMARKS: PLANNING ACT CONSENT AMENDED UNDER C470107, C470233</i>				
C470109	1997/04/14	CHARGE		*** DELETED AGAINST THIS PROPERTY ***	CANADIAN IMPERIAL BANK OF COMMERCE	
C520680	2002/05/24	CHARGE		*** DELETED AGAINST THIS PROPERTY ***	CANADIAN IMPERIAL BANK OF COMMERCE	
CB73903	2011/05/31	DISCH OF CHARGE		*** COMPLETELY DELETED *** CANADIAN IMPERIAL BANK OF COMMERCE		
		<i>REMARKS: C470109.</i>				
CB73904	2011/05/31	NOTICE		*** COMPLETELY DELETED *** IROQUOIS FALLS POWER CORP.	CANADIAN IMPERIAL BANK OF COMMERCE	
		<i>REMARKS: C520680</i>				
CB102688	2014/03/07	NOTICE		*** COMPLETELY DELETED *** IROQUOIS FALLS POWER CORP.	CANADIAN IMPERIAL BANK OF COMMERCE	
		<i>REMARKS: C520680</i>				
CB140537	2018/06/28	DISCH OF CHARGE		*** COMPLETELY DELETED *** CANADIAN IMPERIAL BANK OF COMMERCE		
		<i>REMARKS: C520680.</i>				
6R9249	2021/03/19	PLAN REFERENCE				C
CB174195	2022/04/07	CHARGE	\$60,000,000	IROQUOIS FALLS POWER CORP.	MACQUARIE EQUIPMENT FINANCE LTD.	C

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65337-0369 (LT)

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ON 2023/07/24 AT 10:11:34

* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
CB184081	2023/03/08	LIEN	\$6,002,211	HER MAJESTY THE QUEEN IN RIGHT OF CANADA AS REPRESENTED BY THE MINISTER OF NATIONAL REVENUE		C
<i>REMARKS: TAX ARREARS</i>						

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65337-0372 (LT)

PAGE 1 OF 1
PREPARED FOR Luciana01
ON 2023/07/24 AT 10:13:21

* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

PROPERTY DESCRIPTION: PCL 9070 SEC NEC; LOCATION RY 357 TEEFY COMPOSED OF THOSE PARTS OF THE BED OF THE ABITIBI RIVER LYING IN FRONT OF LT 11, CON 5, PT 2, 6R6853; DISTRICT OF COCHRANE

PROPERTY REMARKS:

ESTATE/QUALIFIER:
FEE SIMPLE (EASEMENT)

RECENTLY:
FIRST CONVERSION FROM BOOK

PIN CREATION DATE:
2004/03/29

OWNERS' NAMES
IROQUOIS FALLS POWER CORP.

CAPACITY SHARE
NC

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
<i>** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 2004/03/26 **</i>						
6R6853	1996/05/14	PLAN REFERENCE				C
C474890	1997/08/29	TRANSFER EASEMENT			IROQUOIS FALLS POWER CORP.	C
C521180	2002/06/07	NOTICE REMARKS: AMENDMENT				C
CB174195	2022/04/07	CHARGE	\$60,000,000	IROQUOIS FALLS POWER CORP.	MACQUARIE EQUIPMENT FINANCE LTD.	C

PROPERTY DESCRIPTION: PCL 12700 SEC CC; PT LT 24 CON 11 O'BRIEN PT 2, 6R6749 T/W PT 3, CR548 AS IN C478024; TOWN OF KAPUSKASING

PROPERTY REMARKS: CROWN GRANT SEE CP1922. PLANNING CONSENT IN C453481.

ESTATE/QUALIFIER: FEE SIMPLE ABSOLUTE
RECENTLY: FIRST CONVERSION FROM BOOK

PIN CREATION DATE:
2004/01/26

OWNERS' NAMES: KAP POWER CORP.
CAPACITY SHARE

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 2004/01/23 **						
C366646	1988/03/23	NOTICE REMARKS: AIRPORT ZONING				C
6R6749	1995/06/12	PLAN REFERENCE				C
C478023	1997/12/05	TRANSFER REMARKS: PLANNING ACT CONSENT		*** COMPLETELY DELETED ***	TRANSCANADA POWER SERVICES LTD.	
CB53826	2009/06/11	APL CH NAME OWNER REMARKS: CB9981, C478023 & C480809.		*** DELETED AGAINST THIS PROPERTY *** TRANSCANADA POWER SERVICES LTD.	EPCOR POWER SERVICES LTD.	
CB59524	2009/12/04	APL CH NAME OWNER		*** DELETED AGAINST THIS PROPERTY *** EPCOR POWER SERVICES LTD.	CPI INCOME SERVICES LTD.	
CB102240	2014/02/13	APL CH NAME OWNER		*** DELETED AGAINST THIS PROPERTY *** CPI INCOME SERVICES LTD.	ATLANTIC POWER GP INC.	
CB102448	2014/02/27	CHARGE REMARKS: US DOLLARS		*** COMPLETELY DELETED *** ATLANTIC POWER GP INC.	GOLDMAN SACHS LENDING PARTNERS LLC	
CB121978	2016/04/13	CHARGE		*** COMPLETELY DELETED *** ATLANTIC POWER GP INC.	GOLDMAN SACHS LENDING PARTNERS LLC	
CB121982	2016/04/13	DISCH OF CHARGE REMARKS: CB102448.		*** COMPLETELY DELETED *** GOLDMAN SACHS LENDING PARTNERS LLC		
CB163961	2021/05/17	DISCH OF CHARGE		*** COMPLETELY DELETED *** GOLDMAN SACHS LENDING PARTNERS LLC		

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.
NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.

LAND
 REGISTRY
 OFFICE #6

65095-0051 (LT)

* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
		<i>REMARKS: CB121978.</i>				
CB164060	2021/05/20	TRANSFER	\$1,500,000	ATLANTIC POWER GP INC.	KAP POWER CORP.	C
		<i>REMARKS: PLANNING ACT STATEMENTS.</i>				
CB174196	2022/04/07	CHARGE	\$60,000,000	KAP POWER CORP.	MACQUARIE EQUIPMENT FINANCE LTD.	C

LAND
REGISTRY
OFFICE #6

65095-0052 (LT)

PAGE 1 OF 2
PREPARED FOR Luciana01
ON 2023/07/24 AT 10:16:37

* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

PROPERTY DESCRIPTION: PCL 12927 SEC CC; PT LT 23 CON 10 O'BRIEN PT 1, 6R5800 T/W PARTS 1 & 2, 6R6731 AS IN C452347 T/W PT 3, 6R6731 AS IN C451853 T/W PARTS 4 & 5, 6R6731 AS IN C451851 T/W PARTS 3 TO 7, 6R6749 AS IN C453701 T/W PT 3, CR548 AS IN C478024; TOWN OF KAPUSKASING

PROPERTY REMARKS: CROWN GRANT SEE CP761.

ESTATE/QUALIFIER: FEE SIMPLE ABSOLUTE	RECENTLY: FIRST CONVERSION FROM BOOK	PIN CREATION DATE: 2004/01/26
--	--	---

OWNERS' NAMES KAP POWER CORP.	CAPACITY SHARE
---	-----------------------

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 2004/01/23 **						
C366646	1988/03/23	NOTICE <i>REMARKS: AIRPORT ZONING</i>				C
C385680	1989/07/14	NOTICE				C
6R5800	1989/11/09	PLAN REFERENCE				C
C478023	1997/12/05	TRANSFER <i>REMARKS: PLANNING ACT CONSENT</i>		*** COMPLETELY DELETED ***	TRANSCANADA POWER SERVICES LTD.	
CB53826	2009/06/11	APL CH NAME OWNER <i>REMARKS: CB9981, C478023 & C480809.</i>		*** DELETED AGAINST THIS PROPERTY *** TRANSCANADA POWER SERVICES LTD.	EPCOR POWER SERVICES LTD.	
CB59524	2009/12/04	APL CH NAME OWNER		*** DELETED AGAINST THIS PROPERTY *** EPCOR POWER SERVICES LTD.	CPI INCOME SERVICES LTD.	
CB102240	2014/02/13	APL CH NAME OWNER		*** DELETED AGAINST THIS PROPERTY *** CPI INCOME SERVICES LTD.	ATLANTIC POWER GP INC.	
CB102448	2014/02/27	CHARGE <i>REMARKS: US DOLLARS</i>		*** COMPLETELY DELETED *** ATLANTIC POWER GP INC.	GOLDMAN SACHS LENDING PARTNERS LLC	
CB121978	2016/04/13	CHARGE		*** COMPLETELY DELETED *** ATLANTIC POWER GP INC.	GOLDMAN SACHS LENDING PARTNERS LLC	
CB121982	2016/04/13	DISCH OF CHARGE <i>REMARKS: CB102448.</i>		*** COMPLETELY DELETED *** GOLDMAN SACHS LENDING PARTNERS LLC		

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.
NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.

LAND
 REGISTRY
 OFFICE #6

65095-0052 (LT)

* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
CB163961	2021/05/17	DISCH OF CHARGE		*** COMPLETELY DELETED *** GOLDMAN SACHS LENDING PARTNERS LLC		
	REMARKS: CB121978.					
CB164060	2021/05/20	TRANSFER	\$1,500,000	ATLANTIC POWER GP INC.	KAP POWER CORP.	C
	REMARKS: PLANNING ACT STATEMENTS.					
CB174196	2022/04/07	CHARGE	\$60,000,000	KAP POWER CORP.	MACQUARIE EQUIPMENT FINANCE LTD.	C

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.
 NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.

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REGISTRY
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45132-0375 (LT)

PAGE 1 OF 2
PREPARED FOR Luciana01
ON 2023/07/24 AT 10:20:37

* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

PROPERTY DESCRIPTION: PT LT 23 CON 1 ERNESTOWN PT 1 29R6737,; TOGETHER WITH AN EASEMENT AS IN LA69824; TOGETHER WITH AN EASEMENT AS IN LA208637; TOGETHER WITH AN EASEMENT AS IN LA208644; TOGETHER WITH AN EASEMENT AS IN LA210426; TOGETHER WITH AN EASEMENT AS IN LA210734; TOGETHER WITH AN EASEMENT AS IN LA210736; TOGETHER WITH AN EASEMENT AS IN LA210738; TOGETHER WITH AN EASEMENT OVER PTS 1 - 49 29R9849 UNTIL 2025/12/31 AS IN LX37160; TOGETHER WITH AN EASEMENT OVER PTS 1,3,4 29R6966 UNTIL 2025/12/31 AS IN LX37161; TOGETHER WITH AN EASEMENT OVER PTS 1 - 50 29R9850 UNTIL 2025/12/31 AS IN LX37162; TOGETHER WITH AN EASEMENT OVER PTS 1 - 11 29R9845 UNTIL 2030/12/31 AS IN LX37163; TOGETHER WITH AN EASEMENT OVER PTS 1 - 71 29R9851 UNTIL 2025/12/31 AS IN LX37164; TOGETHER WITH AN EASEMENT OVER PTS 1 - 14 29R9846 UNTIL 2025/12/31 AS IN LX37165; TOGETHER WITH AN EASEMENT OVER PTS 1 - 16 29R9847 AS IN LX37166; TOGETHER WITH AN EASEMENT OVER PTS 1 - 7 29R6860, PTS 1 & 2 29R7373, PTS 1 - 13 29R7650 AS IN LX37167; LOYALIST TOWNSHIP

PROPERTY REMARKS: PLANNING ACT CONSENT AS IN LA208454. PLANNING ACT CONSENT AS IN LA65026.

ESTATE/QUALIFIER:
FEE SIMPLE
LT CONVERSION QUALIFIED

RECENTLY:
RE-ENTRY FROM 45132-0037

PIN CREATION DATE:
2011/04/15

OWNERS' NAMES
KINGSTON COGEN GP INC.

CAPACITY SHARE

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 2011/04/15 **						
**SUBJECT, ON FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO:						
** SUBSECTION 44(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPH 11, PARAGRAPH 14, PROVINCIAL SUCCESSION DUTIES *						
** AND ESCHEATS OR FORFEITURE TO THE CROWN.						
** THE RIGHTS OF ANY PERSON WHO WOULD, BUT FOR THE LAND TITLES ACT, BE ENTITLED TO THE LAND OR ANY PART OF						
** IT THROUGH LENGTH OF ADVERSE POSSESSION, PRESCRIPTION, MISDESCRIPTION OR BOUNDARIES SETTLED BY						
** CONVENTION.						
** ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES.						
**DATE OF CONVERSION TO LAND TITLES: 2011/04/15 **						
29R6737	1995/01/17	PLAN REFERENCE				C
LA208787	1995/02/24	AGREEMENT			TOWNSHIP OF ERNESTOWN	C
		REMARKS: SITE PLAN CONTROL				
LA210739	1995/07/05	CHARGE		*** DELETED AGAINST THIS PROPERTY ***		
					THE BANK OF NOVA SCOTIA	
LA211429	1995/08/25	AGR AM CH		*** DELETED AGAINST THIS PROPERTY ***		
		REMARKS: LA210739				
LA285538	2011/01/25	TRANSFER	\$1	NPIF KINGSTON COGEN CORP.	NPIF KINGSTON COGEN CORP.	C

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.
NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
LX37171	2011/10/04	APL (GENERAL) <i>REMARKS: DELETE EASEMENTS LA210655,</i>	<i>LA210670, LA211400,</i>	*** COMPLETELY DELETED *** NPIF KINGSTON COGEN CORP.	INVISTA (CANADA) COMPANY	
LX37175	2011/10/04	CHARGE		*** COMPLETELY DELETED *** NPIF KINGSTON COGEN CORP.	THE BANK OF NOVA SCOTIA	
LX46794	2013/01/23	DISCH OF CHARGE <i>REMARKS: LA210739.</i>		*** COMPLETELY DELETED *** THE BANK OF NOVA SCOTIA		
LX46795	2013/01/23	DISCH OF CHARGE <i>REMARKS: LX37175.</i>		*** COMPLETELY DELETED *** THE BANK OF NOVA SCOTIA		
LX52043	2013/11/14	NOTICE <i>REMARKS: LA208644</i>		THE CORPORATION OF LOYALIST TOWNSHIP	NPIF KINGSTON COGEN CORP.	C
LX52593	2013/12/13	CONSTRUCTION LIEN		*** COMPLETELY DELETED *** BRICAZA CORPORATION		
LX52811	2014/01/07	DIS CONSTRUCT LIEN <i>REMARKS: LX52593.</i>		*** COMPLETELY DELETED *** BRICAZA CORPORATION		
LX118877	2023/03/01	APL CH NAME OWNER		NPIF KINGSTON COGEN CORP.	KINGSTON COGEN GP INC.	C
LX118878	2023/03/01	CHARGE	\$60,000,000	KINGSTON COGEN GP INC.	MACQUARIE EQUIPMENT FINANCE LTD.	C

LAND
REGISTRY
OFFICE #29

45132-0377 (LT)

PAGE 1 OF 2
PREPARED FOR Luciana01
ON 2023/07/24 AT 10:18:19

* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

PROPERTY DESCRIPTION: PT LT 24 CON BROKEN FRONT ERNESTOWN, PTS 1 TO 12 29R9843; T/W LA69824;; TOGETHER WITH AN EASEMENT OVER PTS 1 - 49 29R9849 UNTIL 2025/12/31 AS IN LX37160; TOGETHER WITH AN EASEMENT OVER PTS 1,3,4 29R6966 UNTIL 2025/12/31 AS IN LX37161; TOGETHER WITH AN EASEMENT OVER PTS 1 - 50 29R9850 UNTIL 2025/12/31 AS IN LX37162; TOGETHER WITH AN EASEMENT OVER PTS 1 - 11 29R9845 UNTIL 2030/12/31 AS IN LX37163; TOGETHER WITH AN EASEMENT OVER PTS 1 - 4 29R9844 AS IN LX37168; TOGETHER WITH AN EASEMENT OVER PTS 1 - 12 29R9843 AS IN LX37169; SUBJECT TO AN EASEMENT OVER PTS 1 - 12 29R9843 IN FAVOUR OF LA285539 (PARCELS 1,2,3); EXCEPT PTS 1 - 12 29R9843 & LA285539 (PARCEL 4) AS IN LX37170; LOYALIST TOWNSHIP

PROPERTY REMARKS: PLANNING ACT CONSENT AS IN LX36982. PLANNING ACT CONSENT IN DOCUMENT LX37170.

ESTATE/QUALIFIER:
LEASEHOLD
LT CONVERSION QUALIFIED

RECENTLY:
DIVISION FROM 45132-0372

PIN CREATION DATE:
2011/09/30

OWNERS' NAMES
KINGSTON COGEN GP INC.

CAPACITY SHARE

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 2011/09/30 **						
**SUBJECT, ON FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO:						
** SUBSECTION 44(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPH 11, PARAGRAPH 14, PROVINCIAL SUCCESSION DUTIES *						
** AND ESCHEATS OR FORFEITURE TO THE CROWN.						
** THE RIGHTS OF ANY PERSON WHO WOULD, BUT FOR THE LAND TITLES ACT, BE ENTITLED TO THE LAND OR ANY PART OF						
** IT THROUGH LENGTH OF ADVERSE POSSESSION, PRESCRIPTION, MISDESCRIPTION OR BOUNDARIES SETTLED BY						
** CONVENTION.						
** ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES.						
**DATE OF CONVERSION TO LAND TITLES: 2011/04/15 **						
LA45719	1966/09/30	BYLAW		*** DELETED AGAINST THIS PROPERTY ***		
LA116957	1980/10/16	CERTIFICATE				C
	REMARKS: SKETCH	ATTACHED.				
LA119096	1981/04/15	CERTIFICATE				C
	REMARKS: SKETCH	ATTACHED.				
LA122730	1982/03/24	CERTIFICATE				C
LA212073	1995/10/05	BYLAW		*** DELETED AGAINST THIS PROPERTY ***		
LA224798	1998/02/04	TRANSFER EASEMENT		*** DELETED AGAINST THIS PROPERTY ***		
KINGSTON NORTHERN LIGHTS INC.						

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.

NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
LA224799	1998/02/04	TRANSFER EASEMENT		*** DELETED AGAINST THIS PROPERTY ***	KINGSTON NORTHERN LIGHTS INC.	
29R9843	2011/06/06	PLAN REFERENCE				C
LX36982	2011/09/28	NOTICE OF LEASE	\$100,000	NPIF KINGSTON COGEN CORP.	NPIF KINGSTON COGEN CORP.	C
		REMARKS: PTS 1 TO 12 29R9843				
LX36983	2011/09/28	NOTICE		*** DELETED AGAINST THIS PROPERTY *** NPIF KINGSTON COGEN CORP.		
		REMARKS: AGREEMENT PTS 1 TO 12 29R9843				
LX36984	2011/09/28	APL LHOLD PARCEL		NPIF KINGSTON COGEN CORP.		C
		REMARKS: LX36982.				
LX37170	2011/10/04	TRANSFER EASEMENT	\$1	NPIF KINGSTON COGEN CORP.	INVISTA (CANADA) COMPANY	C
LX37171	2011/10/04	APL (GENERAL)		*** COMPLETELY DELETED *** NPIF KINGSTON COGEN CORP.	INVISTA (CANADA) COMPANY	
		REMARKS: DELETE EASEMENTS LA210655, LA210670, LA211400, LA224798, LA224799, LA224800, LA224801, LA224802, LA233435, LA224803, LA284783				
LX37175	2011/10/04	CHARGE		*** COMPLETELY DELETED *** NPIF KINGSTON COGEN CORP.	THE BANK OF NOVA SCOTIA	
LX37191	2011/10/05	NOTICE		*** COMPLETELY DELETED *** NPIF KINGSTON COGEN CORP.		
		REMARKS: NON-DISTURBANCE AGREEMENT DISCHARGE BY LX38078				
LX38575	2011/12/05	LR'S ORDER		*** COMPLETELY DELETED *** LAND REGISTRAR LRO #29		
		REMARKS: TO AMEND DOCUMENT POOL				
29R10041	2013/01/10	PLAN REFERENCE				C
LX46795	2013/01/23	DISCH OF CHARGE		*** COMPLETELY DELETED *** THE BANK OF NOVA SCOTIA		
		REMARKS: LX37175.				
LX118877	2023/03/01	APL CH NAME OWNER		NPIF KINGSTON COGEN CORP.	KINGSTON COGEN GP INC.	C
LX118878	2023/03/01	CHARGE	\$60,000,000	KINGSTON COGEN GP INC.	MACQUARIE EQUIPMENT FINANCE LTD.	C

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.
NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.

PROPERTY DESCRIPTION: LOC. CL14116, BEING PT OF THE BED OF LAKE ONTARIO IN FRONT OF LT 24, BROKEN FRONT CON. ERNESTOWN, PT 1 29R9227; LOYALIST

PROPERTY REMARKS:

ESTATE/QUALIFIER:

LEASEHOLD
ABSOLUTE

RECENTLY:

CROWN PATENT

PIN CREATION DATE:

2008/05/29

OWNERS' NAMES

INVISTA (CANADA) COMPANY

CAPACITY SHARE

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 2008/05/29 **						
29R9227	2007/05/24	PLAN REFERENCE				C
LX11671	2008/05/29	CROWN PATENT		HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO AS REPRESENTED BY THE MINISTER OF NATURAL RESOURCES	INVISTA (CANADA) COMPANY	C
		REMARKS: LEASE EXPIRES 2027/02/31				
LX37609	2011/10/26	APL (GENERAL)		INVISTA (CANADA) COMPANY	NPIF KINGSTON COGEN CORP.	C
		REMARKS: LX11671 SUBLEASE				
LX38334	2011/11/25	APL (GENERAL)		*** COMPLETELY DELETED *** NPIF KINGSTON COGEN CORP.	THE BANK OF NOVA SCOTIA	
		REMARKS: CHARGE OF SUBLEASE LX11671 & LX37609				
LX46796	2013/01/23	DISCHARGE INTEREST		*** COMPLETELY DELETED *** THE BANK OF NOVA SCOTIA		
		REMARKS: LX38334.				
LX52799	2014/01/07	CONSTRUCTION LIEN		*** COMPLETELY DELETED *** TOROMONT INDUSTRIES LTD. C.O.B. AS BATTLEFIELD EQUIPMENT RENTALS		
LX52853	2014/01/10	CONSTRUCTION LIEN		*** COMPLETELY DELETED *** UNITED RENTALS OF CANADA, INC.		
LX52940	2014/01/16	TRANSFER	\$2	INVISTA (CANADA) COMPANY	3274376 NOVA SCOTIA COMPANY	C
LX52941	2014/01/16	APL CH NAME OWNER		3274376 NOVA SCOTIA COMPANY	INVISTA (CANADA) COMPANY	C
LX53484	2014/02/28	DIS CONSTRUCT LIEN		*** COMPLETELY DELETED *** TOROMONT INDUSTRIES LTD. C.O.B. AS BATTLEFIELD EQUIPMENT RENTALS		
		REMARKS: LX52799.				

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.

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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
LX53487	2014/02/28	DIS CONSTRUCT LIEN <i>REMARKS: LX52853.</i>		*** COMPLETELY DELETED *** UNITED RENTALS OF CANADA, INC.		
LX119670	2023/04/19	APL CH NAME INST <i>REMARKS: LX37609.</i>		NPIF KINGSTON COGEN CORP.	KINGSTON COGEN GP INC.	C
LX120618	2023/06/06	APL (GENERAL) <i>REMARKS: LX11671 AND LX37609</i>		KINGSTON COGEN GP INC.		C

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REGISTRY
OFFICE #36

49127-0021 (LT)

PAGE 1 OF 2
PREPARED FOR Luciana01
ON 2023/07/24 AT 10:22:57

* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

PROPERTY DESCRIPTION: PCL 18734 SEC WF; PT LT 21 CON 2 WIDDIFIELD PT 7 & 8, 36R9382 T/W PT 1, 36R9384 AS IN LT332823, PT 1, 36R9381 AS IN LT332824, PT 2, 36R9381 AS IN LT332826, PT 2, 36R9384 AS IN LT332902, PT 3 & 9, 36R9381 AS IN LT332885, PT 7 & 8, 36R9381 AS IN LT333337, PT 4-6, 36R9381 AS IN LT339664, PT 2, 36R9382 & PT 1, 2, 3 & 5, 36R10374 AS IN LT366707, PT 1-3, 36R10375 AS IN LT366710; T/W LT366708 & LT366709; NORTH BAY ; DISTRICT OF NIPISSING

PROPERTY REMARKS: CROWN GRANT SEE NP643.

ESTATE/QUALIFIER: FEE SIMPLE ABSOLUTE
RECENTLY: FIRST CONVERSION FROM BOOK

PIN CREATION DATE: 2004/11/22


OWNERS' NAMES: BAY POWER CORP.
CAPACITY SHARE: ROWN

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 2004/11/19 **						
LT135401	1971/10/18	NOTICE REMARKS: AIRPORT ZONING REGULATIONS				C
LT212097	1980/08/28	NOTICE REMARKS: AMENDMENTS TO AIRPORT ZONING REGULATIONS				C
LT212098	1980/08/28	NOTICE REMARKS: AMENDMENTS TO AIRPORT ZONING REGULATIONS				C
LT224812	1982/06/21	NOTICE REMARKS: AMENDMENTS TO AIRPORT ZONING REGULATIONS				C
LT235848Z	1983/10/19	REST COV APL ANNEX				C
LT235849Z	1983/10/19	REST COV APL ANNEX				C
LT245558	1985/01/31	NOTICE REMARKS: AMENDMENTS TO AIRPORT ZONING REGULATIONS				C
36R9382	1993/01/27	PLAN REFERENCE CORRECTIONS: SURVEY NUMBER 36R9382 BY BARBE, GISELE.	ADDED ON 2013/10/07	BY BARBE, GISELE. MUNICIPALITY CITY OF NORTH BAY FOR TRANSCANADA PIPELINE ADDED ON 2013/10/07		C
LT366706	1997/12/04	TRANSFER REMARKS: PLANNING ACT CONSENT CORRECTIONS: SURVEY NUMBER 36R9384 BY BARBE, GISELE.		*** DELETED AGAINST THIS PROPERTY *** TRANSCANADA POWER SERVICES LTD.		
BS62234	2009/06/11	APL CH NAME OWNER		*** COMPLETELY DELETED *** TRANSCANADA POWER SERVICES LTD.	EPCOR POWER SERVICES LTD.	

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.
NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
		<i>REMARKS: RE LT366706</i>				
BS69991	2009/12/04	APL CH NAME OWNER		*** COMPLETELY DELETED *** EPCOR POWER SERVICES LTD.	CPI INCOME SERVICES LTD.	
		<i>REMARKS: RE LT366706; BS62234.</i>				
BS122714	2014/02/13	APL CH NAME OWNER		*** COMPLETELY DELETED *** CPI INCOME SERVICES LTD.	ATLANTIC POWER GP INC.	
BS122964	2014/02/27	CHARGE		*** COMPLETELY DELETED *** ATLANTIC POWER GP INC.	GOLDMAN SACHS LENDING PARTNERS LLC	
BS144572	2016/04/13	CHARGE		*** COMPLETELY DELETED *** ATLANTIC POWER GP INC.	GOLDMAN SACHS LENDING PARTNERS LLC	
		<i>REMARKS: DEMAND DEBENTURE</i>				
BS144575	2016/04/13	DISCH OF CHARGE		*** COMPLETELY DELETED *** GOLDMAN SACHS LENDING PARTNERS LLC		
		<i>REMARKS: BS122964.</i>				
BS198971	2021/05/17	DISCH OF CHARGE		*** COMPLETELY DELETED *** GOLDMAN SACHS LENDING PARTNERS LLC		
		<i>REMARKS: BS144572.</i>				
BS199111	2021/05/20	TRANSFER	\$1,500,000	ATLANTIC POWER GP INC.	BAY POWER CORP.	C
		<i>REMARKS: PLANNING ACT STATEMENTS.</i>				
BS212204	2022/04/07	CHARGE	\$60,000,000	BAY POWER CORP.	MACQUARIE EQUIPMENT FINANCE LTD.	C
BS213742	2022/05/04	NOTICE	\$2	THE CORPORATION OF THE CITY OF NORTH BAY	BAY POWER CORP.	C
		<i>REMARKS: SITE PLAN AGREEMENT</i>				

THIS IS **EXHIBIT “W”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,
THIS 31st DAY OF JULY, 2023.



Michael Noel
Commissioner for Taking Affidavits

LAND
REGISTRY
OFFICE #6

65337-0458 (LT)

PAGE 1 OF 2
PREPARED FOR Luciana01
ON 2023/07/24 AT 10:14:49

* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

PROPERTY DESCRIPTION: SURFACE RIGHTS ONLY ; S 1/2 LT 12 CON 3 TEEFY EXCEPT PT 1, 6R5962, PTS 2 & 3, 6R8283 & PT 1, 6R8318, S/T PT 1, 3 & 4, 6R6832 AS IN C469070 AMENDED BY C470222, C470223, C470224, C470225, C470226, C470227, C470228, C470229 & C470230 ; DISTRICT OF COCHRANE

PROPERTY REMARKS: CROWN GRANT SEE NNDP988.

ESTATE/QUALIFIER: FEE SIMPLE ABSOLUTE
RECENTLY: DIVISION FROM 65337-0454

PIN CREATION DATE: 2010/02/12

OWNERS' NAMES: IROQUOIS FALLS POWER CORP.
CAPACITY SHARE: ROWN

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 2010/02/12 **						
C439377	1994/04/11	TRANSFER	\$50,000		956978 ONTARIO LIMITED	C
	<i>REMARKS: AMENDED UNDER C470107, C470233</i>					
6R6832	1996/02/14	PLAN REFERENCE				C
C470109	1997/04/14	CHARGE		*** DELETED AGAINST THIS PROPERTY ***	CANADIAN IMPERIAL BANK OF COMMERCE	
C520680	2002/05/24	CHARGE		*** DELETED AGAINST THIS PROPERTY ***	CANADIAN IMPERIAL BANK OF COMMERCE	
CB61039	2010/02/12	LR'S ORDER		LAND REGISTRAR, LRO #06		C
CB73903	2011/05/31	DISCH OF CHARGE		*** COMPLETELY DELETED *** CANADIAN IMPERIAL BANK OF COMMERCE		
	<i>REMARKS: C470109.</i>					
CB73904	2011/05/31	NOTICE		*** COMPLETELY DELETED *** IROQUOIS FALLS POWER CORP.	CANADIAN IMPERIAL BANK OF COMMERCE	
	<i>REMARKS: C520680</i>					
CB102688	2014/03/07	NOTICE		*** COMPLETELY DELETED *** IROQUOIS FALLS POWER CORP.	CANADIAN IMPERIAL BANK OF COMMERCE	
	<i>REMARKS: C520680</i>					
CB140537	2018/06/28	DISCH OF CHARGE		*** COMPLETELY DELETED *** CANADIAN IMPERIAL BANK OF COMMERCE		
	<i>REMARKS: C520680.</i>					
CB174195	2022/04/07	CHARGE	\$60,000,000	IROQUOIS FALLS POWER CORP.	MACQUARIE EQUIPMENT FINANCE LTD.	C
CB184081	2023/03/08	LIEN	\$6,002,211	HER MAJESTY THE QUEEN IN RIGHT OF CANADA AS REPRESENTED BY		C

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.
NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.

LAND
REGISTRY
OFFICE #6

65337-0458 (LT)

PAGE 2 OF 2
PREPARED FOR Luciana01
ON 2023/07/24 AT 10:14:49

* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
		REMARKS: TAX ARREARS		THE MINISTER OF NATIONAL REVENUE		

LAND
REGISTRY
OFFICE #6

65337-0369 (LT)

PAGE 1 OF 2
PREPARED FOR Luciana01
ON 2023/07/24 AT 10:11:34

* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

PROPERTY DESCRIPTION: PCL 9012 SEC NEC SRO; PT LT 11 CON 5 TEEFY PT 1, 6R6645 T/W PT 1 TO 4, 6R6644 & 1 TO 6, 6R6626 AS IN C447208 AMENDED BY C470222 T/W PT 2 TO 7 & 13 TO 16, 6R6645 AS IN C447209 AMENDED BY C470223 T/W PT 2, 6 TO 12, 6R6645 AS IN C447211 AMENDED BY C470225 T/W PT 17 TO 19, 6R6645 AS IN C447212 AMENDED BY C470226 T/W PT 1, 6R6898 AS IN C469024 AMENDED BY C470227 T/W PT 4 & 5, 6R6896 AS IN C469025 AMENDED BY C470228 T/W C469026 AMENDED BY C470229 T/W PT 1 & 2, 6R6853 AS IN C474890 AMENDED BY C521180 ; TOWN OF IROQUOIS FALLS

PROPERTY REMARKS: PLANNING ACT CONSENT AS IN C447207.

ESTATE/QUALIFIER: FEE SIMPLE ABSOLUTE
RECENTLY: FIRST CONVERSION FROM BOOK

PIN CREATION DATE: 2004/03/29

OWNERS' NAMES IROQUOIS FALLS POWER CORP.
CAPACITY SHARE BENO

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
<i>** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 2004/03/26 **</i>						
6R6645	1994/10/12	PLAN REFERENCE				C
C447207	1994/12/29	TRANSFER	\$50,000		956978 ONTARIO LIMITED	C
		<i>REMARKS: PLANNING ACT CONSENT AMENDED UNDER C470107, C470233</i>				
C470109	1997/04/14	CHARGE		*** DELETED AGAINST THIS PROPERTY ***	CANADIAN IMPERIAL BANK OF COMMERCE	
C520680	2002/05/24	CHARGE		*** DELETED AGAINST THIS PROPERTY ***	CANADIAN IMPERIAL BANK OF COMMERCE	
CB73903	2011/05/31	DISCH OF CHARGE		*** COMPLETELY DELETED *** CANADIAN IMPERIAL BANK OF COMMERCE		
		<i>REMARKS: C470109.</i>				
CB73904	2011/05/31	NOTICE		*** COMPLETELY DELETED *** IROQUOIS FALLS POWER CORP.	CANADIAN IMPERIAL BANK OF COMMERCE	
		<i>REMARKS: C520680</i>				
CB102688	2014/03/07	NOTICE		*** COMPLETELY DELETED *** IROQUOIS FALLS POWER CORP.	CANADIAN IMPERIAL BANK OF COMMERCE	
		<i>REMARKS: C520680</i>				
CB140537	2018/06/28	DISCH OF CHARGE		*** COMPLETELY DELETED *** CANADIAN IMPERIAL BANK OF COMMERCE		
		<i>REMARKS: C520680.</i>				
6R9249	2021/03/19	PLAN REFERENCE				C
CB174195	2022/04/07	CHARGE	\$60,000,000	IROQUOIS FALLS POWER CORP.	MACQUARIE EQUIPMENT FINANCE LTD.	C

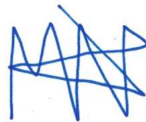
NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.
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65337-0369 (LT)

* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
CB184081	2023/03/08	LIEN	\$6,002,211	HER MAJESTY THE QUEEN IN RIGHT OF CANADA AS REPRESENTED BY THE MINISTER OF NATIONAL REVENUE		C
REMARKS: TAX ARREARS						

THIS IS **EXHIBIT “X”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,
THIS 31st DAY OF JULY, 2023.



Michael Noel
Commissioner for Taking Affidavits



Reply to the Attention of: Brett Harrison
Direct Line: 416.865.7932
Email Address: brett.harrison@mcmillan.ca
Date: May 12, 2023

DELIVERED VIA EMAIL

Attention: Todd Shortt, Chief Executive Officer and
President
Validus Power Group
tshortt@validuspower.com and tshortt@mindoka.com

Attention: Shelley Goertz, Chief Financial Officer
Validus Power Group and NPIF Kingston Cogen Corp.
shelley.goertz@validuspower.com

Dear Mr. Shortt and Ms. Goertz,

Re: Improper Withdrawal of \$550,000

We act as litigation counsel to CIBC and we write to reiterate CIBC's demand for the immediate return of CIBC's funds, improperly held by Validus Power Group, in the amount of \$550,000.

As you aware, NPIF Kingston Cogen Corp. erroneously wired \$550,000 from an internal CIBC account 4177118, which it had no right to access, to Validus Power on October 19 and November 4, 2022. On April 14, 2023, Mark Kalichman, Victoria Corbett, Rob Terrigno and Robyn Morgan of CIBC met with Shelley Goertz, the Chief Financial Officer of Validus Power Group and NPIF Kingston Cogen Corp., to discuss the removal of these funds. At that meeting, Ms. Goertz agreed to return the funds and requested wire instructions to direct the funds to CIBC. Following the meeting Ms. Goertz confirmed via text message: "*I haven't forgot about the call last Friday I will take care of that beginning of next week*".

CIBC delivered the wire transfer instructions to Ms. Goertz and sent numerous follow-up requests. However, to date, Validus Power Group has failed to return the funds.

We understand from CIBC that Validus' lender, Macquarie, is seeking to be added to the CMO profile of its subsidiaries, which raises concerns regarding the return of CIBC's funds.

We demand the return of CIBC's funds by 5:00 p.m. EST on Friday May 19, 2023 via wire, in the amount of \$550,000. Wire transfer instructions are attached to this letter.

Absent such payment or arrangements for payment satisfactory to CIBC, CIBC will exercise the full extent of its legal rights and remedies against you, including recovery of its legal costs on a full indemnity basis.

We look forward to hearing from you soon so that this matter can be resolved without delay.

Yours truly,

A handwritten signature in black ink, appearing to be "BH" or "B.H.", written in a cursive style.

Brett Harrison

cc: Samantha Gordon, McMillan LLP



Wire transfer instructions

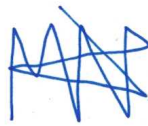
To receive a wire transfer to your CIBC bank account, you must provide the sender the following information:

Incoming Wire Details

Required Fields	Field Details
Bank Name	Canadian Imperial Bank of Commerce
Bank Address	199 Bay St, Toronto, ON M5L 1G9 Canada
SWIFT BIC Code	CIBCCATT
Canadian Clearing Code*	CC001000002
CIBC Institution Number	0010
Transit	00002
Beneficiary Account Number	8603812
Beneficiary Name	NPIF Kingston Cogen Corp.
Beneficiary Address	2B-1500 Sandhill Dr, Ancaster, ON L9G 4V5 Canada
Additional Payment Details	Please pay CC001000002

*Clearing Code Format = CC0010 + Five-digit Transit **(Some systems may not require the leading "CC" to be entered) 00002 = Five-digit Transit

THIS IS **EXHIBIT “Y”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,
THIS 31st DAY OF JULY, 2023.



Michael Noel
Commissioner for Taking Affidavits



CAROLYN HART
BARRISTER & SOLICITOR

Cell: 416-809-4278
Email: carolyn@hartlaw.ca

4100 Victoria Ave., Ste. 108
Vineland, Ontario, L0R 2C0

Telephone: 905-708-6054
Facsimile: 905-633-4363

1100 Burloak Drive, Suite 300
Burlington, Ontario, L7L 6B2

Telephone: 905-708-6054
Facsimile: 905-633-4363

May 25, 2023

VIA EMAIL & REGULAR MAIL
shelley.goertz@validuspower.com

Iroquois Falls Power Corp. /
Validus Power Corp.
2B-1500 Sandhill Drive
Ancaster, Ontario, L9G 4V5

Attention: Shelley Goertz, CFO

Dear Ms. Goertz

**Re: Failure to Remit GRSP Contributions & Provide Group Benefits
Iroquois Falls Power Corp./Validus Power Corp. (“the Employer”)**

The International Union of Operating Engineers Local 865 hereby grieves on behalf of its members and on its own behalf that commencing on or about March 1, 2023, the Employer violated the Collective Agreement, including but not limited to articles 20 and 21 by failing to provide Group Benefit coverage and by deducting but not matching or remitting Group RRSP contributions.

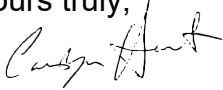
As redress for this violation of the Collective Agreement, the Union seeks the following relief:

1. A Declaration that there has been a sale of business, within the meaning of section 69 of the *Labour Relations Act*, from Iroquois Falls Power Corp. to Validus Power Corp;
2. A Declaration that Iroquois Falls Power Corp. to Validus Power Corp carry on associated or related activities under common control and direction within the meaning of subsection 1(4) of the *Labour Relations Act* and so should be treated as one employer for the purposes of the Act.
3. A Declaration that Validus Power Corp. is bound to the collective agreement between the International Union of Operating Engineers Local 865 and Iroquois Falls Power Corp. effective from July 1, 2019 to June 20, 2023;

4. A Declaration that Validus Power Corp. is bound by the Notice to Bargain sent on February 7, 2023 for the collective agreement between the International Union of Operating Engineers Local 865 and Iroquois Falls Power Corp. effective from July 1, 2019 to June 20, 2023;
5. A Declaration that Validus Power Corp. violated the Collective Agreement as alleged in this Grievance;
6. An Order directing Validus Power Corp. to forthwith:
 - a. remit all outstanding GRSP contributions;
 - b. reinstate group benefit coverage;
 - c. back date employee benefits claims.
7. Such further and other relief as may be appropriate in the circumstances.

I am requesting that you contact me immediately in order to resolve this grievance. Failure to resolve the grievance within seven (7) days of the receipt of this grievance will result in the referral of the grievance to arbitration and the filing of a successor employer application with the Ontario Labour Relations Board.

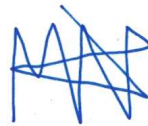
Yours truly,



Carolyn Hart
Counsel

cc. Garde Rutter

THIS IS **EXHIBIT “Z”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,
THIS 31st DAY OF JULY, 2023.



Michael Noel
Commissioner for Taking Affidavits

Hall, Erin

From: Derek Robinson <Derek_Robinson@ajg.com>
Sent: Wednesday, July 19, 2023 3:43 PM
To: James Roberts; Brad Gurr; Julian Manyewu; Hugh Anstey; Craig Tavares
Cc: Scott Heighington; CGM Insurance
Subject: Re: Validus policies

External Communication

James

Yes we can confirm received and paid the insurers .

Derek

Derek Robinson
Gallagher Energy Risk Services
1 403 560 1585

From: James Roberts <James.Roberts@macquarie.com>
Sent: Wednesday, July 19, 2023 1:39:17 PM
To: Brad Gurr <Brad_Gurr@AJG.com>; Julian Manyewu <Julian.Manyewu@macquarie.com>; Hugh Anstey <Hugh.Anstey@macquarie.com>; Craig Tavares <craig.tavares@validuspower.com>
Cc: Derek Robinson <Derek_Robinson@ajg.com>; Scott Heighington <Scott_Heighington@AJG.com>; CGM Insurance <CGMInsurance@macquarie.com>
Subject: RE: Validus policies

[EXTERNAL]

Hi Brad,

Hope you're well,

Can you confirm you have received the funds and passed on to the insurers?

Thanks
James

From: Brad Gurr <Brad_Gurr@AJG.com>
Sent: Friday, July 14, 2023 4:26 PM
To: James Roberts <James.Roberts@macquarie.com>; Julian Manyewu <Julian.Manyewu@macquarie.com>; Hugh Anstey <Hugh.Anstey@macquarie.com>; Craig Tavares <craig.tavares@validuspower.com>
Cc: Derek Robinson <Derek_Robinson@ajg.com>; Scott Heighington <Scott_Heighington@AJG.com>; CGM Insurance <CGMInsurance@macquarie.com>
Subject: RE: Validus policies

External Communication

Thank you James – we will watch for funds and urgently forward them to insurers when received.

Cheers,

Bradley Gurr, BComm
Director, Energy Practice



D 403.705.5560
C 403.874.3833
M 403.705.5555

brad_gurr@aig.com

Gallagher Energy Risk Services
1220, 530-8th Avenue SW, Calgary AB T2P 3S8
www.gallagherenergy.ca



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From: James Roberts <James.Roberts@macquarie.com>
Sent: Friday, July 14, 2023 1:56 PM
To: Brad Gurr <Brad_Gurr@AJG.com>; Julian Manyewu <Julian.Manyewu@macquarie.com>; Hugh Anstey <Hugh.Anstey@macquarie.com>; Craig Tavares <craig.tavares@validuspower.com>
Cc: Derek Robinson <Derek_Robinson@aig.com>; Scott Heighington <Scott_Heighington@AJG.com>; CGM Insurance <CGMInsurance@macquarie.com>
Subject: RE: Validus policies

[EXTERNAL]

Hi Brad,

Payments has been released, see remittance ID below:

BCA230714513154

Have a good weekend,
James

From: Brad Gurr <Brad_Gurr@AJG.com>

Sent: Friday, July 14, 2023 12:59 PM

To: James Roberts <James.Roberts@macquarie.com>; Julian Manyewu <Julian.Manyewu@macquarie.com>; Hugh Anstey <Hugh.Anstey@macquarie.com>; Craig Tavares <craig.tavares@validuspowers.com>

Cc: Derek Robinson <Derek_Robinson@ajg.com>; Scott Heighington <Scott_Heighington@AJG.com>; CGM Insurance <CGMInsurance@macquarie.com>

Subject: RE: Validus policies

External Communication

Thanks James – appreciate the update.

We will let Aegis know the funds are imminent. We really need the remittance info today so we can prove funds are flowing and they can stop the cancellation over the weekend.

Look forward to receiving asap.

Thank you,

Bradley Gurr, BComm
Director, Energy Practice

 **Gallagher Energy Risk Services**

D 403.705.5560

C 403.874.3833

M 403.705.5555

brad_gurr@ajg.com

Gallagher Energy Risk Services
1220, 530-8th Avenue SW, Calgary AB T2P 3S8
www.gallagherenergy.ca



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From: James Roberts <James.Roberts@macquarie.com>

Sent: Thursday, July 13, 2023 5:04 PM

To: Brad Gurr <Brad_Gurr@AJG.com>; Julian Manyewu <Julian.Manyewu@macquarie.com>; Hugh Anstey <Hugh.Anstey@macquarie.com>; Craig Tavares <craig.tavares@validuspowers.com>

Cc: Derek Robinson <Derek_Robinson@ajg.com>; Scott Heighington <Scott_Heighington@AJG.com>; CGM Insurance <CGMInsurance@macquarie.com>

Subject: RE: Validus policies

Hi Brad,

Sorry for slow response, have been travelling,

Our back office are processing the payment will send over the remittance when we have it,

Cheers

From: Brad Gurr <Brad_Gurr@AJG.com>

Sent: Thursday, July 13, 2023 9:58 AM

To: Julian Manyewu <Julian.Manyewu@macquarie.com>; Hugh Anstey <Hugh.Anstey@macquarie.com>; James Roberts <James.Roberts@macquarie.com>; Craig Tavares <craig.tavares@validuspower.com>

Cc: Derek Robinson <Derek_Robinson@ajg.com>; Scott Heighington <Scott_Heighington@AJG.com>; CGM Insurance <CGMInsurance@macquarie.com>

Subject: Re: Validus policies

External Communication

Good morning,

Just following up again. We now have only have 2 days to get funds into the insurers' account or coverage will cease Saturday.

Thank you,

Get [Outlook for Android](#)

From: Brad Gurr <Brad_Gurr@AJG.com>

Sent: Wednesday, July 12, 2023 6:26:15 AM

To: Julian Manyewu <Julian.Manyewu@macquarie.com>; Hugh Anstey <Hugh.Anstey@macquarie.com>; James Roberts <James.Roberts@macquarie.com>; Craig Tavares <craig.tavares@validuspower.com>

Cc: Derek Robinson <Derek_Robinson@ajg.com>; Scott Heighington <Scott_Heighington@AJG.com>; CGM Insurance <CGMInsurance@macquarie.com>

Subject: Re: Validus policies

Good morning all,

Can you please advise status of payment of the 2nd installment?

Coverage will cease as of this Saturday, July 15th if insurers do not have premium by then.

Look forward to hearing asap today.

Thank you

Get [Outlook for Android](#)

From: Brad Gurr

Sent: Thursday, July 6, 2023 10:56:54 AM

To: Julian Manyewu <Julian.Manyewu@macquarie.com>; Hugh Anstey <Hugh.Anstey@macquarie.com>; James Roberts <James.Roberts@macquarie.com>; Craig Tavares <craig.tavares@validuspowers.com>

Cc: Derek Robinson <Derek_Robinson@ajg.com>; Scott Heighington <Scott_Heighington@AJG.com>; CGM Insurance <CGMInsurance@macquarie.com>

Subject: RE: Validus policies

Hello all,

Please find attached the invoice for the 2nd Instalment of premium for Aegis and Intact/RSA shares.

Payment needs to be with insurers by July 15th – please arrange payment to our office by July 10th to ensure enough time to process and flow funds to insurers in time. If payment is not received by insurers in time, the policy will be cancelled with effective date July 16th.

Thank you,

Bradley Gurr, BComm
Director, Energy Practice

 **Gallagher Energy Risk Services**

D 403.705.5560
C 403.874.3833
M 403.705.5555

brad_gurr@ajg.com

Gallagher Energy Risk Services
1220, 530-8th Avenue SW, Calgary AB T2P 3S8
www.gallagherenergy.ca



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From: Brad Gurr

Sent: Tuesday, June 27, 2023 10:15 AM

To: Julian Manyewu <Julian.Manyewu@macquarie.com>; Hugh Anstey <Hugh.Anstey@macquarie.com>; James Roberts <James.Roberts@macquarie.com>; Craig Tavares <craig.tavares@validuspowers.com>

Cc: Derek Robinson <Derek_Robinson@ajg.com>; Scott Heighington <Scott_Heighington@AJG.com>; CGM Insurance <CGMInsurance@macquarie.com>

Subject: RE: Validus policies

Hi Julian,

Attached is a copy of the letter sent to Validus. As you can see, it provides continuity of coverage and the June 18th cancellation is rescinded.

Any update on a potential transaction? The next payment is due July 15th.

Thanks,

From: Julian Manyewu <Julian.Manyewu@macquarie.com>

Sent: Tuesday, June 27, 2023 1:03 AM

To: Brad Gurr <Brad_Gurr@AJG.com>; Hugh Anstey <Hugh.Anstey@macquarie.com>; James Roberts <James.Roberts@macquarie.com>; Craig Tavares <craig.tavares@validuspower.com>

Cc: Derek Robinson <Derek_Robinson@ajg.com>; Scott Heighington <Scott_Heighington@AJG.com>; CGM Insurance <CGMInsurance@macquarie.com>

Subject: Re: Validus policies

[EXTERNAL]

Thanks Brad,

Look forward to your feedback.

Best regards,
Julian

From: Brad Gurr <Brad_Gurr@AJG.com>

Sent: Tuesday, June 27, 2023 1:36 am

To: Julian Manyewu <Julian.Manyewu@macquarie.com>; Hugh Anstey <Hugh.Anstey@macquarie.com>; James Roberts <James.Roberts@macquarie.com>; Craig Tavares <craig.tavares@validuspower.com>

Cc: Derek Robinson <Derek_Robinson@ajg.com>; Scott Heighington <Scott_Heighington@AJG.com>; CGM Insurance <CGMInsurance@macquarie.com>

Subject: RE: Validus policies

External Communication

Hi Julian,

Agree funds have to have been tracked and allocated by now. I chased the underwriter twice more but no rescission yet (though have in writing that she will do so).

Will continue to hound her tomorrow and get it sorted.

Regards

From: Julian Manyewu <Julian.Manyewu@macquarie.com>
Sent: Monday, June 26, 2023 1:54 PM
To: Brad Gurr <Brad_Gurr@AJG.com>; Hugh Anstey <Hugh.Anstey@macquarie.com>; James Roberts <James.Roberts@macquarie.com>; Craig Tavares <craig.tavares@validuspowers.com>
Cc: Derek Robinson <Derek_Robinson@ajg.com>; Scott Heighington <Scott_Heighington@AJG.com>; CGM Insurance <CGMInsurance@macquarie.com>
Subject: RE: Validus policies

[EXTERNAL]

Hi Brad,

Could you please confirm that insurers have received funds and the NOC has been rescinded. By now insurers should have been able to track down funds.

Regards
Julian

From: Julian Manyewu <Julian.Manyewu@macquarie.com>
Sent: Thursday, June 22, 2023 9:17 PM
To: Brad Gurr <Brad_Gurr@AJG.com>; Hugh Anstey <Hugh.Anstey@macquarie.com>; James Roberts <James.Roberts@macquarie.com>; Craig Tavares <craig.tavares@validuspowers.com>
Cc: Derek Robinson <Derek_Robinson@ajg.com>; Scott Heighington <Scott_Heighington@AJG.com>; CGM Insurance <CGMInsurance@macquarie.com>
Subject: RE: Validus policies

Great, thanks Brad!

From: Brad Gurr <Brad_Gurr@AJG.com>
Sent: Thursday, June 22, 2023 9:14 PM
To: Julian Manyewu <Julian.Manyewu@macquarie.com>; Hugh Anstey <Hugh.Anstey@macquarie.com>; James Roberts <James.Roberts@macquarie.com>; Craig Tavares <craig.tavares@validuspowers.com>
Cc: Derek Robinson <Derek_Robinson@ajg.com>; Scott Heighington <Scott_Heighington@AJG.com>; CGM Insurance <CGMInsurance@macquarie.com>
Subject: RE: Validus policies

External Communication

Apologies – yes RSA as well.

Will advise on NoC rescission asap.

Bradley Gurr, BComm
Director, Energy Practice

 Gallagher Energy Risk Services

D 403.705.5560
C 403.874.3833
M 403.705.5555

brad_gurr@ajg.com

Gallagher Energy Risk Services
1220, 530-8th Avenue SW, Calgary AB T2P 3S8
www.gallagherenergy.ca



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From: Julian Manyewu <Julian.Manyewu@macquarie.com>
Sent: Thursday, June 22, 2023 2:10 PM
To: Brad Gurr <Brad_Gurr@AJG.com>; Hugh Anstey <Hugh.Anstey@macquarie.com>; James Roberts <James.Roberts@macquarie.com>; Craig Tavares <craig.tavares@validuspower.com>
Cc: Derek Robinson <Derek_Robinson@ajg.com>; Scott Heighington <Scott_Heighington@AJG.com>; CGM Insurance <CGMInsurance@macquarie.com>
Subject: Re: Validus policies

[EXTERNAL]

Thanks Brad,

Has payment also been made to RSA?

Look forward to hearing from you on the NOC being rescinded.

Best regards,
Julian

From: Brad Gurr <Brad_Gurr@AJG.com>
Sent: Thursday, June 22, 2023 8:32 pm
To: Julian Manyewu <Julian.Manyewu@macquarie.com>; Hugh Anstey <Hugh.Anstey@macquarie.com>; James Roberts <James.Roberts@macquarie.com>; Craig Tavares <craig.tavares@validuspower.com>
Cc: Derek Robinson <Derek_Robinson@ajg.com>; Scott Heighington <Scott_Heighington@AJG.com>; CGM Insurance <CGMInsurance@macquarie.com>
Subject: RE: Validus policies

External Communication

Hi Julian,

Remittance of the funds has been made to Aegis. The underwriter is tracking through their accounting group – so just waiting on the rescission of the NoC from her.

Hope to have later today.

Regards,

Bradley Gurr, BComm
Director, Energy Practice



D 403.705.5560
C 403.874.3833
M 403.705.5555

brad_gurr@aig.com

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From: Julian Manyewu <Julian.Manyewu@macquarie.com>
Sent: Thursday, June 22, 2023 5:10 AM
To: Brad Gurr <Brad_Gurr@AJG.com>; Hugh Anstey <Hugh.Anstey@macquarie.com>; James Roberts <James.Roberts@macquarie.com>; Craig Tavares <craig.tavares@validuspower.com>
Cc: Derek Robinson <Derek_Robinson@ajg.com>; Scott Heighington <Scott_Heighington@AJG.com>; CGM Insurance <CGMInsurance@macquarie.com>
Subject: RE: Validus policies

[EXTERNAL]

Hi Brad,

Hope you are well.

Could you please confirm that insurers have received funds and provide an update on Aegis rescinding the NOC?

Thanks and regards

Julian

From: Julian Manyewu <Julian.Manyewu@macquarie.com>
Sent: Tuesday, June 20, 2023 10:38 PM
To: Brad Gurr <Brad_Gurr@AJG.com>; Hugh Anstey <Hugh.Anstey@macquarie.com>; James Roberts <James.Roberts@macquarie.com>; Craig Tavares <craig.tavares@validuspower.com>
Cc: Derek Robinson <Derek_Robinson@ajg.com>; Scott Heighington <Scott_Heighington@AJG.com>; CGM Insurance <CGMInsurance@macquarie.com>
Subject: RE: Validus policies

Great, thanks for the update.

From: Brad Gurr <Brad_Gurr@AJG.com>
Sent: Tuesday, June 20, 2023 10:36 PM
To: Julian Manyewu <Julian.Manyewu@macquarie.com>; Hugh Anstey <Hugh.Anstey@macquarie.com>; James Roberts <James.Roberts@macquarie.com>; Craig Tavares <craig.tavares@validuspower.com>
Cc: Derek Robinson <Derek_Robinson@ajg.com>; Scott Heighington <Scott_Heighington@AJG.com>; CGM Insurance <CGMInsurance@macquarie.com>
Subject: RE: Validus policies

External Communication

Correct – the Aegis underwriter.

RSA has not officially issued notice so nothing to rescind – but is in agreement with the payment plan.

From: Julian Manyewu <Julian.Manyewu@macquarie.com>
Sent: Tuesday, June 20, 2023 3:33 PM
To: Brad Gurr <Brad_Gurr@AJG.com>; Hugh Anstey <Hugh.Anstey@macquarie.com>; James Roberts <James.Roberts@macquarie.com>; Craig Tavares <craig.tavares@validuspower.com>
Cc: Derek Robinson <Derek_Robinson@ajg.com>; Scott Heighington <Scott_Heighington@AJG.com>; CGM Insurance <CGMInsurance@macquarie.com>
Subject: RE: Validus policies

[EXTERNAL]

Thanks Brad,

By underwriter here, I assume you mean Aegis. For clarity, RSA agree with the current position so will also rescind NOC – correct?

Regards
Julian

Julian Manyewu | Senior Vice President
Commodities and Global Markets | Macquarie Bank Limited
Level 6, 28 Ropemaker St, London, United Kingdom, EC2Y 9HD
T +44 20 3037 4185 | M +44 792 0288 374 | E julian.manyewu@macquarie.com
www.macquarie.com

From: Brad Gurr <Brad_Gurr@AJG.com>
Sent: Tuesday, June 20, 2023 10:14 PM
To: Julian Manyewu <Julian.Manyewu@macquarie.com>; Hugh Anstey <Hugh.Anstey@macquarie.com>; James Roberts <James.Roberts@macquarie.com>; Craig Tavares <craig.tavares@validuspower.com>
Cc: Derek Robinson <Derek_Robinson@ajg.com>; Scott Heighington <Scott_Heighington@AJG.com>; CGM Insurance <CGMInsurance@macquarie.com>
Subject: RE: Validus policies

External Communication

Hi Julian,

We heard back from the underwriter today and got what we needed so premium should be flowing to them today/tomorrow.

Once funds are received, the underwriter has confirmed she will officially issue a rescission of the Notice of Cancellation.

They have also agreed to 1/3 instalment on July 15th and 1/3 instalment on August 15th in order to keep coverage in place.

Regards,

From: Julian Manyewu <Julian.Manyewu@macquarie.com>
Sent: Tuesday, June 20, 2023 1:19 PM
To: Hugh Anstey <Hugh.Anstey@macquarie.com>; Brad Gurr <Brad_Gurr@AJG.com>; James Roberts <James.Roberts@macquarie.com>; Craig Tavares <craig.tavares@validuspower.com>
Cc: Derek Robinson <Derek_Robinson@ajg.com>; Scott Heighington <Scott_Heighington@AJG.com>; CGM Insurance <CGMInsurance@macquarie.com>
Subject: Re: Validus policies

[EXTERNAL]

Hi Brad,

As below, I agree that there should be no issues with NOC being rescinded. We however need formal confirmation so we can update Sydney on latest status today.

Could you please discuss with insurers and confirm?

Thanks and regards,
Julian

From: Hugh Anstey <Hugh.Anstey@macquarie.com>
Sent: Monday, June 19, 2023 11:40 pm
To: Brad Gurr <Brad_Gurr@AJG.com>; James Roberts <James.Roberts@macquarie.com>; Craig Tavares <craig.tavares@validuspower.com>
Cc: Derek Robinson <Derek_Robinson@ajg.com>; Julian Manyewu <Julian.Manyewu@macquarie.com>; Scott

Heighington <Scott_Heighington@AJG.com>

Subject: RE: Validus policies

Thanks Brad

From: Brad Gurr <Brad_Gurr@AJG.com>

Sent: Monday, June 19, 2023 4:53 PM

To: Hugh Anstey <Hugh.Anstey@macquarie.com>; James Roberts <James.Roberts@macquarie.com>; Craig Tavares <craig.tavares@validuspower.com>

Cc: Derek Robinson <Derek_Robinson@ajg.com>; Julian Manyewu <Julian.Manyewu@macquarie.com>; Scott Heighington <Scott_Heighington@AJG.com>

Subject: RE: Validus policies

External Communication

Hi Hugh,

Apologies for the delay – we have not been able to track down Aegis today, apparently its Juneteenth holiday in the US?

We don't expect any issue on the rescission of the cancelation notice. No cancelation endorsement has been issued to us.

Also, can confirm funds have been received and processed. Just sorting out through our accounting and Aegis accounting regarding making a partial payment.

Will circle back tomorrow once we track down the underwriter.

Regards,

Bradley Gurr, BComm
Director, Energy Practice

 **Gallagher Energy Risk Services**

D 403.705.5560

C 403.874.3833

M 403.705.5555

brad_gurr@ajg.com

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1220, 530-8th Avenue SW, Calgary AB T2P 3S8

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From: Hugh Anstey <Hugh.Anstey@macquarie.com>
Sent: Monday, June 19, 2023 10:57 AM
To: Brad Gurr <Brad_Gurr@AJG.com>; James Roberts <James.Roberts@macquarie.com>; Craig Tavares <craig.tavares@validuspower.com>
Cc: Derek Robinson <Derek_Robinson@ajg.com>; Julian Manyewu <Julian.Manyewu@macquarie.com>; Scott Heighington <Scott_Heighington@AJG.com>
Subject: RE: Validus policies

[EXTERNAL]

Hi Brad,

Hope you had a great weekend.

Just checking to see if you have received the payment/heard from Aegis?

Thanks, Hugh

From: Hugh Anstey
Sent: Friday, June 16, 2023 5:26 PM
To: Brad Gurr <Brad_Gurr@AJG.com>; James Roberts <James.Roberts@macquarie.com>; Craig Tavares <craig.tavares@validuspower.com>
Cc: Derek Robinson <Derek_Robinson@ajg.com>; Julian Manyewu <Julian.Manyewu@macquarie.com>; Scott Heighington <Scott_Heighington@AJG.com>
Subject: RE: Validus policies

Hi Brad,

If you could please send us confirmation of receipt and a response from Aegis on the extension that would be great.

Have a good weekend.

Thanks, Hugh

From: Hugh Anstey
Sent: Friday, June 16, 2023 2:35 PM
To: Brad Gurr <Brad_Gurr@AJG.com>; James Roberts <James.Roberts@macquarie.com>; Craig Tavares <craig.tavares@validuspower.com>
Cc: Derek Robinson <Derek_Robinson@ajg.com>; Julian Manyewu <Julian.Manyewu@macquarie.com>; Scott Heighington <Scott_Heighington@AJG.com>
Subject: RE: Validus policies

Hi Brad,

Payment has just been confirmed.

Original Instruction ID: BCA230616509441

It should be in your account now.

Please let me know if there are any issues.

Thanks, Hugh

From: Brad Gurr <Brad_Gurr@AJG.com>

Sent: Friday, June 16, 2023 2:20 PM

To: Hugh Anstey <Hugh.Anstey@macquarie.com>; James Roberts <James.Roberts@macquarie.com>; Craig Tavares <craig.tavares@validuspower.com>

Cc: Derek Robinson <Derek_Robinson@ajg.com>; Julian Manyewu <Julian.Manyewu@macquarie.com>; Scott Heighington <Scott_Heighington@AJG.com>

Subject: RE: Validus policies

External Communication

Hi Hugh,

Anything further yet? We are coming toward the end of the day for our Toronto office (and Aegis in New Jersey) in order to confirm funds transfer and get the cancellation rescinded. Cancellation is effective this Sunday, June 18th so we are running very short on time.

Thanks,

From: Hugh Anstey <Hugh.Anstey@macquarie.com>

Sent: Friday, June 16, 2023 9:53 AM

To: Brad Gurr <Brad_Gurr@AJG.com>; James Roberts <James.Roberts@macquarie.com>; Craig Tavares <craig.tavares@validuspower.com>

Cc: Derek Robinson <Derek_Robinson@ajg.com>; Julian Manyewu <Julian.Manyewu@macquarie.com>; Scott Heighington <Scott_Heighington@AJG.com>

Subject: RE: Validus policies

[EXTERNAL]

Morning Brad,

The payment was approved last night.

I am waiting for the operations team to message me with the remittance.

I'll send it over as soon as I have it.

Thanks, Hugh

From: Brad Gurr <Brad_Gurr@AJG.com>

Sent: Friday, June 16, 2023 11:48 AM

To: Hugh Anstey <Hugh.Anstey@macquarie.com>; James Roberts <James.Roberts@macquarie.com>; Craig Tavares

<craig.tavares@validuspower.com>

Cc: Derek Robinson <Derek_Robinson@ajg.com>; Julian Manyewu <Julian.Manyewu@macquarie.com>; Scott Heighington <Scott_Heighington@AJG.com>

Subject: Re: Validus policies

External Communication

Thank Hugh - any further update this morning?

Get [Outlook for Android](#)

From: Hugh Anstey <Hugh.Anstey@macquarie.com>

Sent: Thursday, June 15, 2023 6:30:40 PM

To: James Roberts <James.Roberts@macquarie.com>; Brad Gurr <Brad_Gurr@AJG.com>; Craig Tavares <craig.tavares@validuspower.com>

Cc: Derek Robinson <Derek_Robinson@ajg.com>; Julian Manyewu <Julian.Manyewu@macquarie.com>; Scott Heighington <Scott_Heighington@AJG.com>

Subject: RE: Validus policies

[EXTERNAL]

Hi Brad,

The payment is currently in the final sign off with Sydney tonight (their day) to be released.

I will have the remittance to you tomorrow.

Thanks, Hugh

From: James Roberts <James.Roberts@macquarie.com>

Sent: Thursday, June 15, 2023 2:06 PM

To: Brad Gurr <Brad_Gurr@AJG.com>; Craig Tavares <craig.tavares@validuspower.com>; Hugh Anstey <Hugh.Anstey@macquarie.com>

Cc: Derek Robinson <Derek_Robinson@ajg.com>; Julian Manyewu <Julian.Manyewu@macquarie.com>; Scott Heighington <Scott_Heighington@AJG.com>

Subject: RE: Validus policies

Thanks Brad,

[@Hugh Anstey](#) – can you advise when payments been processed pls,

Thanks
James

From: Brad Gurr <Brad_Gurr@AJG.com>

Sent: Thursday, June 15, 2023 1:28 PM

To: James Roberts <James.Roberts@macquarie.com>; Craig Tavares <craig.tavares@validuspower.com>

Cc: Derek Robinson <Derek_Robinson@ajg.com>; Hugh Anstey <Hugh.Anstey@macquarie.com>; Julian Manyewu

<Julian.Manyewu@macquarie.com>; Scott Heighington <Scott_Heighington@AJG.com>

Subject: RE: Validus policies

External Communication

Hi James,

As requested, please find attached the invoice for the instalment of 1/3 of the premium for Aegis and RSA (Intact).

Included on the invoice is the EFT payment instructions.

Please provide confirmation of payment details as soon as you have processed payment today so that we can instruction accounting to watch for the funds and immediately pass on to insurers.

Thank you!

Bradley Gurr, BComm
Director, Energy Practice



D 403.705.5560
C 403.874.3833
M 403.705.5555

brad_gurr@ajg.com

Gallagher Energy Risk Services
1220, 530-8th Avenue SW, Calgary AB T2P 3S8
www.gallagherenergy.ca



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From: James Roberts <James.Roberts@macquarie.com>

Sent: Thursday, June 15, 2023 10:16 AM

To: Brad Gurr <Brad_Gurr@AJG.com>; Craig Tavares <craig.tavares@validuspower.com>

Cc: Derek Robinson <Derek_Robinson@ajg.com>; Hugh Anstey <Hugh.Anstey@macquarie.com>; Julian Manyewu <Julian.Manyewu@macquarie.com>; Scott Heighington <Scott_Heighington@AJG.com>

Subject: Re: Validus policies

[EXTERNAL]

Hi Brad, its should be invoiced to Validus and we will make a third party payment,

Confirm its via electronic transfer, thanks

Sent from [Outlook for Android](#)

From: Brad Gurr <Brad_Gurr@AJG.com>

Sent: Thursday, June 15, 2023 12:05:28 PM

To: James Roberts <James.Roberts@macquarie.com>; Craig Tavares <craig.tavares@validuspower.com>

Cc: Derek Robinson <Derek_Robinson@ajg.com>; Hugh Anstey <Hugh.Anstey@macquarie.com>; Julian Manyewu <Julian.Manyewu@macquarie.com>; Scott Heighington <Scott_Heighington@AJG.com>

Subject: RE: Validus policies

External Communication

Sorry one more question James,

What name should the invoice be in?

Thanks,

Bradley Gurr, BComm
Director, Energy Practice

 **Gallagher Energy Risk Services**

D 403.705.5560

C 403.874.3833

M 403.705.5555

brad_gurr@ajg.com

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From: Brad Gurr

Sent: Thursday, June 15, 2023 9:59 AM

To: James Roberts <James.Roberts@macquarie.com>; Craig Tavares <craig.tavares@validuspower.com>

Cc: Derek Robinson <Derek_Robinson@ajg.com>; Hugh Anstey <Hugh.Anstey@macquarie.com>; Julian Manyewu

<Julian.Manyewu@macquarie.com>; Scott Heighington <Scott_Heighington@AJG.com>

Subject: RE: Validus policies

Thanks James – we will get an invoice over to you asap.

Given the payment timeline, is it possible for payment to be made by EFT rather than cheque?

Thanks,

Bradley Gurr, BComm
Director, Energy Practice

 **Gallagher Energy Risk Services**

D 403.705.5560
C 403.874.3833
M 403.705.5555

brad_gurr@ajg.com

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From: James Roberts <James.Roberts@macquarie.com>

Sent: Thursday, June 15, 2023 6:26 AM

To: Brad Gurr <Brad_Gurr@AJG.com>; Craig Tavares <craig.tavares@validuspower.com>

Cc: Derek Robinson <Derek_Robinson@ajg.com>; Hugh Anstey <Hugh.Anstey@macquarie.com>; Julian Manyewu <Julian.Manyewu@macquarie.com>; Scott Heighington <Scott_Heighington@AJG.com>

Subject: RE: Validus policies

Importance: High

[EXTERNAL]

Morning Brad,

We are ok to proceed with the \$306k, could you send me an invoice for this amount as soon as possible please?

@Craig Tavares – can you acknowledge and confirm VPC acceptance of the payment,

Thanks

James

From: Brad Gurr <Brad_Gurr@AJG.com>
Sent: Wednesday, June 14, 2023 7:55 PM
To: James Roberts <James.Roberts@macquarie.com>
Cc: Derek Robinson <Derek_Robinson@ajg.com>; Craig Tavares <craig.tavares@validuspower.com>; Hugh Anstey <Hugh.Anstey@macquarie.com>; Julian Manyewu <Julian.Manyewu@macquarie.com>; Scott Heighington <Scott_Heighington@AJG.com>
Subject: RE: Validus policies

External Communication

Hi James,

See attached.

Regards,

From: James Roberts <James.Roberts@macquarie.com>
Sent: Wednesday, June 14, 2023 5:20 PM
To: Brad Gurr <Brad_Gurr@AJG.com>
Cc: Derek Robinson <Derek_Robinson@ajg.com>; Craig Tavares <craig.tavares@validuspower.com>; Hugh Anstey <Hugh.Anstey@macquarie.com>; Julian Manyewu <Julian.Manyewu@macquarie.com>; Scott Heighington <Scott_Heighington@AJG.com>
Subject: Re: Validus policies

[EXTERNAL]

Thanks a lot Brad, confirming with Sydney team now,

Can you send over the actual policies so our London team can review overnight please?

If all agreeable we will initiate payment first thing in the morning. Will let you know, thanks

From: Brad Gurr <Brad_Gurr@AJG.com>
Sent: Wednesday, June 14, 2023 6:51:34 pm
To: James Roberts <James.Roberts@macquarie.com>
Cc: Derek Robinson <Derek_Robinson@ajg.com>; Craig Tavares <craig.tavares@validuspower.com>; Hugh Anstey <Hugh.Anstey@macquarie.com>; Julian Manyewu <Julian.Manyewu@macquarie.com>; Scott Heighington <Scott_Heighington@AJG.com>
Subject: RE: Validus policies

External Communication

Hi James,

We have now heard back from Aegis. Sounds like their internal discussion was not overly positive. Their initial counter offer was 1/2 of the premium due now and remaining half due in 30 days. However, they have agreed that they will stop the cancellation if they receive a minimum of 1/3 of the premium before June 18th (cancellation effective date). That would mean we would need to be in receipt of funds by the end of tomorrow in order to make payment by Friday.

They are indicating the remaining balance would be due within 30 days there following (i.e. July 15th). We are pushing to see if we can get this split into 2 instalments (i.e. one in August) but have not heard back.

We have subsequently gotten RSA (Intact) to agree the same as Aegis' position above.

Accordingly, the amount due to avoid cancellation of these lines next week would be \$918,016 x 1/3 = \$306k.

Insurer	Share	Premium Share	Premium inc. ON Tax	OUTS
AEGIS	50.00%	\$696,415.00	\$752,128.20	\$
RSA	10.00%	\$153,600.00	\$165,888.00	\$

Hopefully this works and we can keep this additional 60% coverage in place. If the deal closes in the timeframe expected (i.e. before the next payment), that possibly the amount of that instalment becomes moot – but we will continue to push them get this agreed as outlined above.

Look forward to hearing back.

Regards,

Sent: Tuesday, June 13, 2023 8:16 PM

To: Brad Gurr <Brad_Gurr@AJG.com>; Derek Robinson <Derek_Robinson@ajg.com>; Craig Tavares <craig.tavares@validuspower.com>; Hugh Anstey <Hugh.Anstey@macquarie.com>; Julian Manyewu <Julian.Manyewu@macquarie.com>

Subject: Re: Validus policies

[EXTERNAL]

Thanks Brad

Sent from [Outlook for Android](#)

From: Brad Gurr <Brad_Gurr@AJG.com>

Sent: Tuesday, June 13, 2023 10:13:03 PM

To: James Roberts <James.Roberts@macquarie.com>; Derek Robinson <Derek_Robinson@ajg.com>; Craig Tavares <craig.tavares@validuspower.com>; Hugh Anstey <Hugh.Anstey@macquarie.com>; Julian Manyewu <Julian.Manyewu@macquarie.com>

Subject: Re: Validus policies

External Communication

Hi James

Caught up with Aegis late this afternoon. They are discussing internally in the morning and will get back to us asap.

Regards

Get [Outlook for Android](#)

From: Brad Gurr

Sent: Tuesday, June 13, 2023 9:30:38 AM

To: James Roberts <James.Roberts@macquarie.com>; Derek Robinson <Derek_Robinson@ajg.com>; Craig Tavares <craig.tavares@validuspower.com>; Hugh Anstey <Hugh.Anstey@macquarie.com>; Julian Manyewu <Julian.Manyewu@macquarie.com>

Subject: RE: Validus policies

Hi James,

Having been playing phone tag with Aegis. She has advised she is available this afternoon so hopefully have something more then.

Regards,

From: James Roberts <James.Roberts@macquarie.com>

Sent: Tuesday, June 13, 2023 8:49 AM

To: Brad Gurr <brad_gurr@ajg.com>; Derek Robinson <derek_robinson@ajg.com>; Craig Tavares <craig.tavares@validuspower.com>; Hugh Anstey <Hugh.Anstey@macquarie.com>; Julian Manyewu <Julian.Manyewu@macquarie.com>

Subject: Validus policies

[EXTERNAL]

Hi all,

Have you received feedback from Aegis and RSA?

Thanks

James

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THIS IS **EXHIBIT “AA”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,

THIS 31st DAY OF JULY, 2023.



Michael Noel

Commissioner for Taking Affidavits

Hall, Erin

From: Gareth Downs <Gareth_Downs@ajg.com>
Sent: Tuesday, June 6, 2023 6:25 PM
To: Brad Gurr; James Roberts; Hugh Anstey; Derek Robinson; Craig Tavares; Danika Jacob
Subject: RE: Validus - liability premium

External Communication

Hi James,

We've just received confirmation that the payment of \$63,369.60 has been successfully received, we will instruct our accounting team to send payment immediately and inform Starr that payment is on its way and request to rescind the notice of cancellation.

Thanks,

Gareth Downs
Account Manager



Cell: 403.614.8265
gareth_downs@ajg.com

Gallagher Energy Risk Services
530-8th Avenue SW, Suite 1220, Calgary AB T2P 3S8
www.gallagherenergy.ca

Learn more about **Gallagher**, our parent company, at ajg.com.

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From: Brad Gurr <Brad_Gurr@AJG.com>
Sent: Tuesday, June 6, 2023 4:17 PM
To: James Roberts <James.Roberts@macquarie.com>; Hugh Anstey <Hugh.Anstey@macquarie.com>; Gareth Downs <Gareth_Downs@ajg.com>; Derek Robinson <Derek_Robinson@ajg.com>; Craig Tavares <craig.tavares@validuspower.com>; Danika Jacob <Danika_Jacob@ajg.com>
Subject: RE: Validus - liability premium

Hi James,

I haven't heard back yet from accounting. I having chased again but suspect it will be morning before I hear.

Thanks,

From: James Roberts <James.Roberts@macquarie.com>

Sent: Tuesday, June 6, 2023 1:37 PM

To: Brad Gurr <Brad_Gurr@AJG.com>; Hugh Anstey <Hugh.Anstey@macquarie.com>; Gareth Downs <Gareth_Downs@ajg.com>; Derek Robinson <Derek_Robinson@ajg.com>; Craig Tavares <craig.tavares@validuspower.com>; Danika Jacob <Danika_Jacob@ajg.com>

Subject: RE: Validus - liability premium

[EXTERNAL]

Hi Brad,

Any update on this, my back office team said it was processed on Friday?

Thanks

James

From: Brad Gurr <Brad_Gurr@AJG.com>

Sent: Tuesday, June 6, 2023 11:57 AM

To: Hugh Anstey <Hugh.Anstey@macquarie.com>; James Roberts <James.Roberts@macquarie.com>; Gareth Downs <Gareth_Downs@ajg.com>; Derek Robinson <Derek_Robinson@ajg.com>; Craig Tavares <craig.tavares@validuspower.com>; Danika Jacob <Danika_Jacob@ajg.com>

Subject: RE: Validus - liability premium

External Communication

Hi Hugh,

Accounting is checking but I haven't heard back.

There is nothing shown as received/applied yet in the system.

Will advise.

Bradley Gurr, BComm
Director, Energy Practice

 **Gallagher Energy Risk Services**

D 403.705.5560

C 403.874.3833

M 403.705.5555

brad_gurr@ajg.com

Gallagher Energy Risk Services

1220, 530-8th Avenue SW, Calgary AB T2P 3S8

www.gallagherenergy.ca



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From: Hugh Anstey <Hugh.Anstey@macquarie.com>
Sent: Tuesday, June 6, 2023 8:53 AM
To: Brad Gurr <Brad_Gurr@AJG.com>; James Roberts <James.Roberts@macquarie.com>; Gareth Downs <Gareth_Downs@ajg.com>; Derek Robinson <Derek_Robinson@ajg.com>; Craig Tavares <craig.tavares@validuspowers.com>; Danika Jacob <Danika_Jacob@ajg.com>
Subject: RE: Validus - liability premium

[EXTERNAL]

Morning Brad,

Can you please confirm if you have received the payment.

Thanks, Hugh

From: Hugh Anstey
Sent: Monday, June 5, 2023 2:35 PM
To: Brad Gurr <Brad_Gurr@AJG.com>; James Roberts <James.Roberts@macquarie.com>; Gareth Downs <Gareth_Downs@ajg.com>; Derek Robinson <Derek_Robinson@ajg.com>; Craig Tavares <craig.tavares@validuspowers.com>; Danika Jacob <Danika_Jacob@ajg.com>
Subject: RE: Validus - liability premium

Yes, it was a wire.

From: Brad Gurr <Brad_Gurr@AJG.com>
Sent: Monday, June 5, 2023 2:00 PM
To: Hugh Anstey <Hugh.Anstey@macquarie.com>; James Roberts <James.Roberts@macquarie.com>; Gareth Downs <Gareth_Downs@ajg.com>; Derek Robinson <Derek_Robinson@ajg.com>; Craig Tavares <craig.tavares@validuspowers.com>; Danika Jacob <Danika_Jacob@ajg.com>
Subject: RE: Validus - liability premium

External Communication

Hi Hugh,

I am checking with accounting to confirm. Was it a wire?

Thanks,

Bradley Gurr, BComm
Director, Energy Practice



D 403.705.5560
C 403.874.3833
M 403.705.5555

brad_gurr@ajg.com

Gallagher Energy Risk Services
1220, 530-8th Avenue SW, Calgary AB T2P 3S8
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From: Hugh Anstey <Hugh.Anstey@macquarie.com>
Sent: Monday, June 5, 2023 11:43 AM
To: Brad Gurr <Brad_Gurr@AJG.com>; James Roberts <James.Roberts@macquarie.com>; Gareth Downs <Gareth_Downs@ajg.com>; Derek Robinson <Derek_Robinson@ajg.com>; Craig Tavares <craig.tavares@validuspowers.com>; Danika Jacob <Danika_Jacob@ajg.com>
Subject: RE: Validus - liability premium

[EXTERNAL]

Hi Brad,

Macquarie has paid \$63,369.6 to Gallagher's bank account.

Original Instruction ID
BCA230602038751

Can you please confirm you have received this?

Thanks, Hugh

From: Brad Gurr <Brad_Gurr@AJG.com>
Sent: Monday, June 5, 2023 1:18 PM
To: James Roberts <James.Roberts@macquarie.com>; Gareth Downs <Gareth_Downs@ajg.com>; Derek Robinson <Derek_Robinson@ajg.com>; Craig Tavares <craig.tavares@validuspowers.com>; Danika Jacob <Danika_Jacob@ajg.com>; Hugh Anstey <Hugh.Anstey@macquarie.com>
Subject: RE: Validus - liability premium

External Communication

Hello all – just an update, we received notification from Starr that they will be issuing notice of cancellation for non-payment tomorrow on the liability program.

Regards,

Bradley Gurr, BComm
Director, Energy Practice



D 403.705.5560
C 403.874.3833
M 403.705.5555

brad_gurr@ajg.com

Gallagher Energy Risk Services
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From: James Roberts <James.Roberts@macquarie.com>

Sent: Monday, May 29, 2023 1:54 PM

To: Gareth Downs <Gareth_Downs@ajg.com>; Derek Robinson <Derek_Robinson@ajg.com>; Craig Tavares <craig.tavares@validuspower.com>; Brad Gurr <Brad_Gurr@AJG.com>; Danika Jacob <Danika_Jacob@ajg.com>; Hugh Anstey <Hugh.Anstey@macquarie.com>

Subject: RE: Validus - liability premium

[EXTERNAL]

Thanks Gareth,

@Hugh Anstey – Can you commence setup and processing with the KYC and settlements team pls?

Thanks
James

From: Gareth Downs <Gareth_Downs@ajg.com>

Sent: Monday, May 29, 2023 2:35 PM

To: Derek Robinson <Derek_Robinson@ajg.com>; James Roberts <James.Roberts@macquarie.com>; Craig Tavares <craig.tavares@validuspower.com>; Brad Gurr <Brad_Gurr@AJG.com>; Danika Jacob <Danika_Jacob@ajg.com>
Subject: RE: Validus - liability premium

External Communication

James,

Please see enclosed invoices and payment details.

Premium payments can be remitted to [Arthur J. Gallagher Canada Ltd.](#) (wire details also attached):

Cheque to AJG	Wire / Electronic Funds Transfer to AJG
Lockbox Addresses (Canada Post) Arthur J. Gallagher Canada Ltd. Lockbox #T57194C P.O. Box 57194, Station A Toronto, ON M5W 5M5	Arthur J. Gallagher Canada Ltd. Institution ID:001 BMO Branch #00022 CAD Bank Account# 1644-710 Swift code: BOFMCAM2

Thanks

Gareth Downs
Account Manager



Cell: 403.614.8265
gareth_downs@ajg.com

Gallagher Energy Risk Services
530-8th Avenue SW, Suite 1220, Calgary AB T2P 3S8
www.gallagherenergy.ca

Learn more about **Gallagher**, our parent company, at ajg.com.

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A licensed Gallagher representative must provide the appropriate insurance carrier with written instructions in order to bind insurance coverage. Therefore, client instructions via email are not sufficient to bind coverage unless and until you have received explicit written confirmation from an authorized Gallagher representative

From: Derek Robinson <Derek_Robinson@ajg.com>

Sent: Monday, May 29, 2023 9:48 AM

To: James Roberts <James.Roberts@macquarie.com>; Craig Tavares <craig.tavares@validuspower.com>; Gareth Downs <Gareth_Downs@ajg.com>; Brad Gurr <Brad_Gurr@AJG.com>; Danika Jacob <Danika_Jacob@ajg.com>

Subject: Re: Validus - liability premium

Gareth

Can you please send James the liability only invoice (extension and renewal) and our payment details

Thanks

Derek Robinson
Gallagher Energy Risk Services
1 403 560 1585

From: James Roberts <James.Roberts@macquarie.com>
Sent: Monday, May 29, 2023 9:02:30 AM
To: Craig Tavares <craig.tavares@validuspower.com>
Cc: Derek Robinson <Derek_Robinson@ajg.com>
Subject: RE: Validus - liability premium

[EXTERNAL]

Hi both,

We have got the bank access now,

Derek – can you send me the relevant AJG legal entity name for payments and the invoice (made out to Validus) for liability, so I can start verification work with my back office team?

Thanks
James

From: Craig Tavares <craig.tavares@validuspower.com>
Sent: Thursday, May 25, 2023 3:24 PM
To: James Roberts <James.Roberts@macquarie.com>
Cc: Derek Robinson <Derek_Robinson@ajg.com>
Subject: Fwd: Validus - liability premium

External Communication

+James

Derek,

I also spoke to James at Macquarie and he confirmed again nothing has changed. I've added him to this email if you both have any questions.

Craig

From: Craig Tavares <craig.tavares@validuspower.com>
Sent: Thursday, May 25, 2023 2:40 PM
To: Derek Robinson <Derek_Robinson@ajg.com>; Shelley Goertz <shelley.goertz@validuspower.com>
Cc: Gareth Downs <Gareth_Downs@ajg.com>; Brad Gurr <Brad_Gurr@AJG.com>; Scott Heighington <Scott_Heighington@AJG.com>; Todd Shortt <todd.shortt@validuspower.com>
Subject: Re: Validus - liability premium

Hi Derek, Macquarie is ready to go but there were delays with the inter-banking admin work however I understand it should be cleared up shortly.

Shelley, do we have an ETA and can you please update Derek again by end of day today?

Thanks

From: Derek Robinson <Derek_Robinson@ajg.com>
Sent: Thursday, May 25, 2023 11:46 AM
To: Craig Tavares <craig.tavares@validuspower.com>; Shelley Goertz <shelley.goertz@validuspower.com>
Cc: Gareth Downs <Gareth_Downs@ajg.com>; Brad Gurr <Brad_Gurr@AJG.com>; Scott Heighington <Scott_Heighington@AJG.com>; Todd Shortt <todd.shortt@validuspower.com>
Subject: RE: Validus - liability premium

Craig

On the call with Macquarie, it was advised payment on the liability should be first thing this week. Can you please advise status?

Thanks

Derek Robinson, B.Comm, CRM
Director



Direct: 403.705.3591
Cell: 403.560.1585
derek_robinson@ajg.com

Gallagher Energy Risk Services
1220, 530-8th Avenue SW, Calgary AB T2P 3S8
www.gallagherenergy.ca



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From: Craig Tavares <craig.tavares@validuspower.com>
Sent: Tuesday, May 23, 2023 10:43 AM
To: Derek Robinson <Derek_Robinson@ajg.com>
Cc: Gareth Downs <Gareth_Downs@ajg.com>; Brad Gurr <Brad_Gurr@AJG.com>; Scott Heighington <Scott_Heighington@AJG.com>
Subject: Re: Validus - removing coverage

[EXTERNAL]

Hi Derek,
Please proceed on items 1 and 2, and request the adjusted terms from the markets as discussed.

Thanks

From: Derek Robinson <Derek_Robinson@ajg.com>
Sent: Friday, May 19, 2023 12:14 PM
To: Craig Tavares <craig.tavares@validuspower.com>
Cc: Gareth Downs <Gareth_Downs@ajg.com>; Brad Gurr <Brad_Gurr@AJG.com>; Scott Heighington <Scott_Heighington@AJG.com>
Subject: Validus - removing coverage

Craig

As per our conversations, please confirm back to me that you would like to make the following changes

Removing Business Interruption coverage from all locations effective May 19, 2023.

Deleting Kapuskasing and North Bay locations, effective May 19, 2023

Note: As mentioned, the markets when they originally wrote this account needed a certain premium level to be interested. The very well may say not interested in staying on risk with only two locations left and the premiums are just not worth their capital.

On the D & O ...given the circumstances, I would suggest you pay this and keep coverage in place. This is not the time you want to cancel D & O coverage as the highest risk period is when a company is in financial difficulties.

Liability. We will watch for payment early next week.

Thanks

Derek Robinson, B.Comm, CRM
Director

 Gallagher Energy Risk Services

Direct: 403.705.3591

Cell: 403.560.1585
derek_robinson@ajg.com

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policy changes are not bound until written confirmation is provided by a licensed broker.

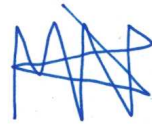
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In addition, to understand your rights as an insurance consumer and what you can expect from your insurance broker in the province of Ontario, please go to <https://www.ajg.com/ca/registered-insurance-brokers-of-ontario-fact-sheet/>.

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AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,

THIS 31st DAY OF JULY, 2023.



Michael Noel
Commissioner for Taking Affidavits



Angela Slattery
Underwriting Officer

June 8, 2023

Craig Tavares
Validus Power Corporation
95 Wellington St. W, Suite 300
Toronto, ON, M5J 2R2
Canada

RE: NOTICE OF CANCELLATION
Validus Power Corporation
Property Insurance Policy
AEGIS Policy Number: PO6006001P
Policy Period: 10/01/2022 to 10/01/2023

Dear Craig:

Please be advised that the above captioned policy will be cancelled on **6/18/2023** due to non-payment of premium.

This cancellation will be effective **6/18/2023** at 12:01A.M. Standard Time at the address of the NAMED INSURED.

Should you have any questions or require further assistance, please do not hesitate to contact our office.

Very truly yours,

Angela Slattery

Angela Slattery
Underwriting Officer
AEGIS Insurance Services, Inc.
1 Meadowlands Plaza
East Rutherford, NJ 07073

AEGIS Insurance Services, Inc.
1 Meadowlands Plaza
East Rutherford, NJ 07073
Tel: 201.994.8310
e-mail: angelaslattery@aegislimited.com

THIS IS EXHIBIT “CC” REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,

THIS 31st DAY OF JULY, 2023.



Michael Noel
Commissioner for Taking Affidavits



Angela Slattery
Underwriting Officer

June 27, 2023

Craig Tavares
Validus Power Corporation
95 Wellington St. W, Suite 300
Toronto, ON M5J 2R2
Canada

RE: NOTICE OF CANCELLATION

Validus Power Corporation
Property Insurance Policy

AEGIS Policy Number: PO6006001P

Policy Period: 10/01/2022 to 10/01/2023

Dear Craig:

Please be advised that AEGIS Insurance Services Inc. has received the outstanding payment and this policy (PO6006001P) will no longer be cancelled effective 6/18/2023.

Should you have any questions or require further assistance, please do not hesitate to contact our office.

Very truly yours,

Angela Slattery

Angela Slattery
Underwriting Officer
AEGIS Insurance Services, Inc.
1 Meadowlands Plaza
East Rutherford, NJ 07073

AEGIS Insurance Services, Inc.

1 Meadowlands Plaza

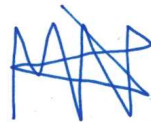
East Rutherford, NJ 07073

Tel: 201.994.8310

e-mail: angelaslattery@aegislimited.com

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AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,

THIS 31st DAY OF JULY, 2023.



Michael Noel

Commissioner for Taking Affidavits

Macquarie Equipment Finance Limited

A member of the Macquarie Group of Companies

181 Bay Street,
Toronto, Ontario M5J 2T3
CANADA

Internet

www.macquarie.com.au

12 May 2022

Iroquois Falls Power Corp.
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON
Canada M5J 2R2



Dear Directors

LEASE OF COMBINED CYCLE TURBINES AND RELATED EQUIPMENT AT IROQUOIS FALLS - POST-CLOSING COVENANT

We refer to the Participation Agreement dated April 7, 2022 between, among others, Iroquois Falls Power Corp. (IFPC) and Macquarie Equipment Finance Limited (Macquarie) (the **Participation Agreement**) and the Lease Agreement dated April 7, 2022 between IFPC and Macquarie (**Lease Agreement**). Capitalised terms not otherwise defined in this letter have the same meaning given to them under the Participation Agreement.

According to Section 4.48(1) of the Participation Agreement, the Obligors shall have assigned the Hut 8 PPA from the Parent to the North Bay Subsidiary, and amended the Hut 8 PPA to clarify the provisions for charges and rebates and establish new dates for phases 1, 2, and 3 by no later than April 30, 2022. We note that as of that date, and the date of this letter, such assignment and amendment has not occurred in accordance with the terms of such Section.

Macquarie reserves the right to invoke any and all rights, remedies and powers available to it at any time under the Basic Documents, at law, in equity, or otherwise and to do so without further notice, except for any notice, if any required, by a Basic Document or applicable law. Macquarie does not waive the default or circumstance outlined in this letter, or agree to forbear from any rights or remedies available to it at any time with respect thereto, and shall not be considered to have given such waiver or forbearance by not having exercised, or not exercising, at any time any right or remedy available to it.

Yours faithfully,
Macquarie Equipment Finance Limited



Lisa Tarnowsky, Senior Manager, Operations

Macquarie Equipment Finance Limited

A member of the Macquarie Group of Companies

181 Bay Street,
Toronto, Ontario M5J 2T3
CANADA

Internet www.macquarie.com.au

12 July 2022

Iroquois Falls Power Corp.

Validus Power Corp.

Bay Power Corp.

Kap Power Corp.

Validus Hosting Inc.

2300-100 Wellington Street West
Toronto, ON
Canada M5J 2R2



Dear Directors

LEASE OF COMBINED CYCLE TURBINES AND RELATED EQUIPMENT AT IROQUOIS FALLS – POST-CLOSING COVENANT

We refer to the Participation Agreement dated April 7, 2022 between, among others, Iroquois Falls Power Corp. (IFPC) and Macquarie Equipment Finance Limited (Macquarie) (the **Participation Agreement**) and the Lease Agreement dated April 7, 2022 between IFPC and Macquarie (**Lease Agreement**).

Capitalised terms not otherwise defined in this letter have the same meaning given to them under the Participation Agreement.

We hereby give you notice of the following sections of the Participation Agreement in respect of which a default has occurred and is continuing as of the date of this notice:

- Section 4.22 (Insurance);
- Section 4.48(1) (assignment and amendment of the Hut 8 PPA);
- Section 4.48(4) (real property items);
- Section 4.48(5) (IFPC electricity retailer license);
- Section 4.48(7) (Hosting electricity wholesaler license); and
- Section 4.48(8) (Hut 8 subordination and non-disturbance agreement).

We hereby give you notice of the following sections of the Lease Agreement in respect of which a default has occurred and is continuing as of the date of this notice:

- Section 11.1 (Insurance).

Macquarie reserves the right to invoke any and all rights, claims, privileges, remedies, powers and defenses available to it at any time under the Basic Documents, at law, in equity, or otherwise and to do so without further notice, except for any notice, if any required, by a Basic Document or applicable law. Macquarie does not waive any default or circumstance outlined in this notice, or agree to forbear from any rights or remedies available to it at any time with respect thereto, and shall not be considered to have given such waiver or forbearance by not having exercised, or not exercising, at any time any right or remedy available to it.

Yours faithfully,

Macquarie Equipment Finance Limited

Elena Popesko

Elena Popesko
Senior Manager

Macquarie Equipment Finance Limited

A member of the Macquarie Group of Companies

181 Bay Street,
Toronto, Ontario M5J 2T3
CANADA

Internet

www.macquarie.com.au

November 16, 2022

Iroquois Falls Power Corp.
Validus Power Corp.
Bay Power Corp.
Kap Power Corp.
Validus Hosting Inc.



Via email

Material Project Documents

We refer to certain agreements and documents entered into on or about April 7, 2022, including the following:

1. the Participation Agreement dated April 7, 2022 between, among others, Iroquois Falls Power Corp. (**IFPC**) and Macquarie Equipment Finance Limited (**Macquarie**) (the **Participation Agreement**); and
2. the Lease Agreement dated April 7, 2022 between IFPC and Macquarie (the **Lease Agreement**).

Capitalised terms not otherwise defined in this letter have the same meaning given to them under the Participation Agreement.

We wish to draw your attention to the various provisions of the Transaction Documents relevant to Material Project Documents. Such provisions include the following:

1. Section 4.19(a) and (c) – Lessee covenants to provide information and notices, including as to the following (among other things):
 - a. Any Lease Event of Default, Lease Default or any material breach or event of default by any Obligor under any Material Project Document;
 - b. Any event which is reasonably likely to have a Material Adverse Effect;
 - c. Any intentional withholding of material compensation to any Obligor under any Material Project Document;
 - d. Any pending or threatened (in writing) material litigation by or against any Obligor;
2. Section 4.20 – Obligor covenants regarding compliance with, and the enforcement of, Material Project Documents;
3. Section 4.32 – Obligor covenants regarding the termination, assignment etc. of Material Project Documents;
4. Section 4.35 – Obligor covenants regarding amendments to Material Project Documents; and
5. Section 4.36 – Obligor covenants regarding Additional Material Project Documents.

Neither this letter, nor any action or inaction by Macquarie or the passage of time, shall imply a waiver or forbearance of, or an amendment to, the Transaction Documents. Macquarie hereby reserves expressly all of its rights, remedies, and powers under the Transaction Documents, at law, in equity, or otherwise. Nothing contained in this letter is intended to (i) limit Macquarie's rights, remedies or recourses, including rights to demand any and all other sums that are or may hereafter become due and payable under the Transaction Documents or otherwise, including, without limitation, default interest, costs of collection, costs of enforcement and attorneys' fees, (ii) waive any default, Lease Default or Lease Event of Default, (iii) waive any rights, remedies, or recourses available to Macquarie, or (iv) constitute an election of remedies resulting from any default, with respect to any Transaction Document.

This matter requires your immediate attention. If you have questions, please contact Nasr Jeries or Joshua Stevens.

Yours faithfully,
Macquarie Equipment Finance Limited

Macquarie Equipment Finance Limited

A member of the Macquarie Group of Companies

181 Bay Street,
Toronto, Ontario M5J 2T3
CANADA

Internet www.macquarie.com.au

November 16, 2022

Iroquois Falls Power Corp.
Validus Power Corp.
Bay Power Corp.
Kap Power Corp.
Validus Hosting Inc.



Via email

Notice of Default and Reservation of Rights

We refer to certain agreements and documents entered into on or about April 7, 2022, including the following:

1. the Participation Agreement dated April 7, 2022 between, among others, Iroquois Falls Power Corp. (**IFPC**) and Macquarie Equipment Finance Limited (**Macquarie**) (the **Participation Agreement**); and
2. the Lease Agreement dated April 7, 2022 between IFPC and Macquarie (the **Lease Agreement**).

Capitalised terms not otherwise defined in this letter have the same meaning given to them under the Participation Agreement.

NOTICE IS HEREBY GIVEN, by Macquarie to IFPC, the Parent, the Kapuskasing Subsidiary, the North Bay Subsidiary and Hosting that:

- (i) one or more Lease Defaults and Lease Events of Default have occurred or are continuing as of the date of this notice; and
- (ii) one or more default(s) has occurred and is continuing as of the date of this notice under the Participation Agreement, the Lease Agreement and other Transaction Documents,

(each and collectively, **Specified Event(s) of Default**).

The Specified Event(s) of Default are continuing as of the date of this notice. The Specified Event(s) of Default include the following:

- (a) a breach of the Hut 8 PPA (a Material Project Document) by one or both parties thereto;
- (b) a breach of covenants relating to Material Project Documents, including Section 4.20 of the Participation Agreement;
- (c) non-provision of certain financial and other reports required to be provided to Macquarie in accordance with Section 4.1 of the Participation Agreement;
- (d) non-provision of certain notices required to be provided to Macquarie in accordance with Section 4.8 of the Participation Agreement;
- (e) non-provision of certain inspection reports required to be provided to Macquarie in accordance with Section 4.12 of the Participation Agreement;

- (f) non-provision of certain information and notices required to be provided to Macquarie in accordance with Section 4.19 of the Participation Agreement;
- (g) non-performance of certain post-closing covenants in accordance with Section 4.48 of the Participation Agreement; and
- (h) breaches of the Guarantee by each Guarantor.

The Transaction Documents set out certain rights that are now available to Macquarie arising out of the occurrence of the Specified Event(s) of Default. Macquarie is considering what actions, if any, it intends to take in respect of the Specified Event[s] of Default. Macquarie (i) expressly retains and reserves the right to invoke any and all rights and remedies available to it at any time and without further notice, except for notice, if any required by the Transaction Documents or applicable law and (ii) does not, and does not intend to waive the Specified Events of Default or any other Lease Default, Lease Event of Default or other default, or agree to forbear from any rights or remedies with respect thereto.

No failure or delay by Macquarie with respect to the exercise of any right, power, privilege or remedy under the Transaction Documents or applicable law shall (i) operate as a waiver thereof, and the single or partial exercise of any such right, power, privilege or remedy shall not preclude any later exercise of any other right, power, privilege or remedy, or (ii) be sufficient, by itself or together with any other action or inaction by Macquarie, to establish a course of dealing or course of conduct by Macquarie upon which you shall be entitled to rely. Neither this notice, nor any action or inaction by Macquarie or the passage of time, shall imply a waiver or forbearance of, or an amendment to, the Transaction Documents. Macquarie hereby reserves expressly all of its rights, remedies, and powers under the Transaction Documents, at law, in equity, or otherwise. Further, events additional to the Specified Event[s] of Default may have occurred, or may occur in the future, that would constitute Lease Defaults, Lease Events of Default or other defaults, and Macquarie hereby reserves the right to declare any such events as such at any time. Any failure to specify such events in this letter or otherwise give notice of such events shall in no way constitute a waiver of any Lease Defaults, Lease Events of Default or other defaults.

No communication, written or oral, which you have had or may have with Macquarie (or any other person on its behalf) concerning the Transaction Documents or any obligations thereunder, or waiver of deficiency in any way modifies this letter or constitutes consent to any non-performance or Lease Default, Lease Event of Default or other default of any Transaction Document, or a waiver by Macquarie of any of the remedies described herein or in the Transaction Documents or under law or in equity. There are currently no modification, renewal, extension or settlement agreements between you and Macquarie with regard to the terms of the Transaction Documents and all proposals made by you to Macquarie for any of the foregoing are hereby rejected. Any agreement, commitment, assurance or intention of Macquarie with respect to any of the Transaction Documents shall be effective only if in writing and duly executed on behalf of Macquarie.

Nothing contained in this letter is intended to (i) limit Macquarie's rights, remedies or recourses, including rights to demand any and all other sums that are or may hereafter become due and payable under the Transaction Documents or otherwise, including, without limitation, default interest, costs of collection, costs of enforcement and attorneys' fees, (ii) waive any default, Lease Default or Lease Event of Default, (iii) waive any rights, remedies, or recourses available to Macquarie, or (iv) constitute an election of remedies resulting from any default, with respect to any Transaction Document.

This matter requires your immediate attention. If you have questions, please contact Nasr Jeries or Joshua Stevens.

Yours faithfully,
Macquarie Equipment Finance Limited

Macquarie Equipment Finance Limited

A member of the Macquarie Group of Companies

181 Bay Street,
Toronto, Ontario M5J 2T3
CANADA

Internet

www.macquarie.com.au

April 16, 2023

Iroquois Falls Power Corp.
Validus Power Corp.
Bay Power Corp.
Kap Power Corp.
Validus Hosting Inc.
Kingston Cogen Limited Partnership
Kingston Cogen GP Inc.



Via email

Notice of Default and Reservation of Rights

We refer to certain agreements and documents entered into on or about April 7, 2022 and February 24, 2023, including the following:

1. the Participation Agreement dated April 7, 2022 between, among others, Iroquois Falls Power Corp. (**IFPC**) and Macquarie Equipment Finance Limited (**Macquarie**), as amended and supplemented, including as of February 24, 2023 (the **Participation Agreement**); and
2. the Lease Agreement dated April 7, 2022 between IFPC and Macquarie, as amended and supplemented, including as of February 24, 2023 (the **Lease Agreement**).

Capitalised terms not otherwise defined in this letter have the same meaning given to them under the Participation Agreement.

NOTICE IS HEREBY GIVEN, by Macquarie to IFPC, the Parent, the Kapuskasing Subsidiary, the North Bay Subsidiary, Hosting, Kingston Cogen Limited Partnership and Kingston Cogen GP Inc. that:

- (i) one or more Lease Defaults and Lease Events of Default have occurred or are continuing as of the date of this notice; and
- (ii) one or more default(s) has occurred and is continuing as of the date of this notice under the Participation Agreement, the Lease Agreement and other Transaction Documents,

(each and collectively, **Specified Event(s) of Default**).

The Specified Event(s) of Default are continuing as of the date of this notice. The Specified Event(s) of Default include but are not limited to the following:

- (a) non-payment of the remittance of HST in accordance with Section 2.3 of the Participation Agreement;
- (b) information provided to Macquarie indicated the payment of the remittance of HST for the purposes of Section 2.3 of the Participation Agreement was incorrect;
- (c) the following representations and warranties were incorrect when given:
 - i. Section 3.1(e) (Litigation)
 - ii. Section 3.1(f) (Absence of Events)

- iii. Section 3.1(h) (Applicable Law)
 - iv. Section 3.1(k) (Taxes)
 - v. Section 3.1(l) (Disclosure)
 - vi. Section 3.1(s) (Compliance with Applicable Law)
 - vii. Section 3.1(v) (Indebtedness)
 - viii. Section 3.1(y) (Insurance)
 - ix. Section 3.1(aa) (Labour Matters)
 - x. Section 3.1(cc) (Security)
 - xi. Section 3.1(ff) (Liens)
 - xii. Section 3.1(gg) (Priority)
 - xiii. Section 3.1(hh) (Transactions with Affiliates)
- (d) a breach of the obligation to provide annual financial statements, semi-annual financial statements, bank statements and other reports required to be provided in accordance with Section 4.1 of the Participation Agreement;
 - (e) a breach of the obligation to comply with all Applicable Laws in accordance with Section 4.7 of the Participation Agreement;
 - (f) a breach of the obligation to give notice of a Lease Default, Lease Event of Default, Event of Loss, default under any of the Transaction Documents or event that with the giving of notice or passage of time would constitute a Lease Default, Lease Event of Default, Event of Loss, or default under any of the Transaction Documents in accordance with Section 4.8 of the Participation Agreement;
 - (g) non-payment of Taxes in accordance with Section 4.9 of the Participation Agreement;
 - (h) a breach of the obligation to provide the inspection reports and other information required to be provided in accordance with Section 4.12 of the Participation Agreement;
 - (i) a breach of the obligation to take all actions to protect and preserve the Liens created by each Security Document and the required priority of such Liens in accordance with Section 4.13 of the Participation Agreement;
 - (j) a breach of the obligation not to incur, suffer to occur or permit to subsist any Lien in accordance with Section 4.16 of the Participation Agreement;
 - (k) a breach of the obligation not to make any Restricted Payment in accordance with Section 4.18 of the Participation Agreement;
 - (l) a breach of the obligation to provide the information and notices required to be provided in accordance with Section 4.19 of the Participation Agreement;
 - (m) a breach of covenants relating to Material Project Documents, including Section 4.20 of the Participation Agreement;
 - (n) a breach of the obligation to ensure Obligations are senior, unconditional and secured in accordance with Section 4.21 of the Participation Agreement;
 - (o) a breach of the obligations to insure in accordance with Section 4.22 of the Participation Agreement;
 - (p) a breach of the obligation to maintain proper books, accounts and records in accordance with Section 4.23 of the Participation Agreement;
 - (q) a breach of the obligation to use the proceeds to finance the acquisition to be made pursuant to the Northland Securities Purchase Agreement and for general

working capital purposes of Lessee in accordance with Section 4.24 of the Participation Agreement;

- (r) a breach of the obligation to not conduct other business in accordance with Section 4.29 of the Participation Agreement;
- (s) a breach of the obligation to not incur, become liable for or permit to subsist any Indebtedness in accordance with Section 4.30 of the Participation Agreement;
- (t) a breach of the covenants regarding the termination, assignment etc. of Material Project Documents under Section 4.32 of the Participation Agreement;
- (u) a breach of the obligations relating to transactions with affiliates, shareholder or affiliates of shareholders under Section 4.40 of the Participation Agreement;
- (v) a breach of certain post-closing covenants under Section 4.48 of the Participation Agreement;
- (w) a breach of the Hut 8 PPA (a Material Project Document) by one or both parties thereto;
- (x) non-payment of a prepayment due January 16, 2022 in accordance with Section 3.3 of the Lease Agreement;
- (y) failure to maintain the insurance coverages required under Section 11 of the Lease Agreement;
- (z) a breach of certain covenants under Section 4(b) of the Acknowledgment and Reservation of Rights Agreement made February 24, 2023 between, among others, IFPC and Macquarie;
- (aa) breaches of the Guarantee by Guarantors.

The Transaction Documents set out certain rights that are now available to Macquarie arising out of the occurrence of the Specified Event(s) of Default. Macquarie is considering what actions, if any, it intends to take in respect of the Specified Event[s] of Default. Macquarie (i) expressly retains and reserves the right to invoke any and all rights and remedies available to it at any time and without further notice, except for notice, if any required by the Transaction Documents or applicable law and (ii) does not, and does not intend to waive the Specified Events of Default or any other Lease Default, Lease Event of Default or other default, or agree to forbear from any rights or remedies with respect thereto.

No failure or delay by Macquarie with respect to the exercise of any right, power, privilege or remedy under the Transaction Documents or applicable law shall (i) operate as a waiver thereof, and the single or partial exercise of any such right, power, privilege or remedy shall not preclude any later exercise of any other right, power, privilege or remedy, or (ii) be sufficient, by itself or together with any other action or inaction by Macquarie, to establish a course of dealing or course of conduct by Macquarie upon which you shall be entitled to rely. Neither this notice, nor any action or inaction by Macquarie or the passage of time, shall imply a waiver or forbearance of, or an amendment to, the Transaction Documents. Macquarie hereby reserves expressly all of its rights, remedies, and powers under the Transaction Documents, at law, in equity, or otherwise. Further, events additional to the Specified Event[s] of Default may have occurred, or may occur in the future, that would constitute Lease Defaults, Lease Events of Default or other defaults, and Macquarie hereby reserves the right to declare any such events as such at any time. Any failure to specify such events in this letter or otherwise give notice of such events shall in no way constitute a waiver of any Lease Defaults, Lease Events of Default or other defaults.

No communication, written or oral, which you have had or may have with Macquarie (or any other person on its behalf) concerning the Transaction Documents or any obligations thereunder, or waiver of deficiency in any way modifies this letter or constitutes consent to any non-performance or Lease Default, Lease Event of Default or other default of any Transaction Document, or a waiver by Macquarie of any of the remedies described herein or in the Transaction Documents or under law or in equity.

There are currently no modification, renewal, extension or settlement agreements between you and Macquarie with regard to the terms of the Transaction Documents and all proposals made by you to Macquarie for any of the foregoing are hereby rejected. Any agreement, commitment, assurance or intention of Macquarie with respect to any of the Transaction Documents shall be effective only if in writing and duly executed on behalf of Macquarie.

Nothing contained in this letter is intended to (i) limit Macquarie's rights, remedies or recourses, including rights to demand any and all other sums that are or may hereafter become due and payable under the Transaction Documents or otherwise, including, without limitation, default interest, costs of collection, costs of enforcement and attorneys' fees, (ii) waive any default, Lease Default or Lease Event of Default, (iii) waive any rights, remedies, or recourses available to Macquarie, or (iv) constitute an election of remedies resulting from any default, with respect to any Transaction Document.

This matter requires your immediate attention. If you have questions, please contact Nasr Jeries or Joshua Stevens.

Yours faithfully,
Macquarie Equipment Finance Limited

Macquarie Equipment Finance Limited

A member of the Macquarie Group of Companies

181 Bay Street,
Toronto, Ontario M5J 2T3
CANADA

Internet

www.macquarie.com.au

June 2, 2023

Iroquois Falls Power Corp.
Validus Power Corp.
Bay Power Corp.
Kap Power Corp.
Validus Hosting Inc.
Kingston Cogen Limited Partnership
Kingston Cogen GP Inc.



Via email

Notice of Default and Reservation of Rights

We refer to certain agreements and documents, including the following:

1. the Participation Agreement dated April 7, 2022 between, among others, Iroquois Falls Power Corp. (**IFPC**) and Macquarie Equipment Finance Limited (**Macquarie**), as amended and supplemented, including as amended and restated as of February 24, 2023 (the **Participation Agreement**); and
2. the Lease Agreement dated April 7, 2022 between IFPC and Macquarie, as amended and supplemented, including as amended and restated as of February 24, 2023 (the **Lease Agreement**).

Capitalised terms not otherwise defined in this letter have the same meaning given to them under the Participation Agreement.

NOTICE IS HEREBY GIVEN, by Macquarie to IFPC, the Parent, the Kapuskasing Subsidiary, the North Bay Subsidiary, Hosting, Kingston Cogen Limited Partnership and Kingston Cogen GP Inc. that, further to previously notified defaults, Lease Defaults and Lease Events of Default which continue:

- (i) one or more further Lease Defaults and Lease Events of Default have occurred and are continuing as of the date of this notice; and
- (ii) one or more further default(s) has occurred and is continuing as of the date of this notice under the Participation Agreement, the Lease Agreement and other Transaction Documents,

(each and collectively, **Specified Event(s) of Default**).

The Specified Event(s) of Default are continuing as of the date of this notice. The Specified Event(s) of Default include but are not limited to the following:

- (a) non-payment of the Base Rent due May 31, 2023 in accordance with the Lease Agreement;
- (b) non-payment of municipal taxes in accordance with Section 4.9 of the Participation Agreement;
- (c) a breach of the obligation to comply with all Applicable Laws in accordance with Section 4.7 of the Participation Agreement;

- (d) a breach of the obligation to take all actions to protect and preserve the Liens created by each Security Document and the required priority of such Liens in accordance with Section 4.13 of the Participation Agreement;
- (e) a breach of the obligation not to incur, suffer to occur or permit to subsist any Lien in accordance with Section 4.16 of the Participation Agreement;
- (f) a breach of the obligation to give notice of a Lease Default, Lease Event of Default, Event of Loss, default under any of the Transaction Documents or event that with the giving of notice or passage of time would constitute a Lease Default, Lease Event of Default, Event of Loss, or default under any of the Transaction Documents in accordance with Section 4.8 of the Participation Agreement;
- (g) a breach of the obligation to ensure Obligations are senior, unconditional and secured in accordance with Section 4.21 of the Participation Agreement;
- (h) a breach of the obligation to not incur, become liable for or permit to subsist any Indebtedness in accordance with Section 4.30 of the Participation Agreement;
- (i) a breach of certain covenants under Section 4(b) of the Acknowledgment and Reservation of Rights Agreement made February 24, 2023 between, among others, IFPC and Macquarie;
- (j) breaches of the Guarantee by Guarantors.

The Transaction Documents set out certain rights that are now available to Macquarie arising out of the occurrence of the Specified Event(s) of Default. Macquarie is considering what actions, if any, it intends to take in respect of the Specified Event[s] of Default. Macquarie (i) expressly retains and reserves the right to invoke any and all rights and remedies available to it at any time and without further notice, except for notice, if any required by the Transaction Documents or applicable law and (ii) does not, and does not intend to waive the Specified Events of Default or any other Lease Default, Lease Event of Default or other default, or agree to forbear from any rights or remedies with respect thereto.

No failure or delay by Macquarie with respect to the exercise of any right, power, privilege or remedy under the Transaction Documents or applicable law shall (i) operate as a waiver thereof, and the single or partial exercise of any such right, power, privilege or remedy shall not preclude any later exercise of any other right, power, privilege or remedy, or (ii) be sufficient, by itself or together with any other action or inaction by Macquarie, to establish a course of dealing or course of conduct by Macquarie upon which you shall be entitled to rely. Neither this notice, nor any action or inaction by Macquarie or the passage of time, shall imply a waiver or forbearance of, or an amendment to, the Transaction Documents. Macquarie hereby reserves expressly all of its rights, remedies, and powers under the Transaction Documents, at law, in equity, or otherwise. Further, events additional to the Specified Event[s] of Default may have occurred, or may occur in the future, that would constitute Lease Defaults, Lease Events of Default or other defaults, and Macquarie hereby reserves the right to declare any such events as such at any time. Any failure to specify such events in this letter or otherwise give notice of such events shall in no way constitute a waiver of any Lease Defaults, Lease Events of Default or other defaults.

No communication, written or oral, which you have had or may have with Macquarie (or any other person on its behalf) concerning the Transaction Documents or any obligations thereunder, or waiver of deficiency in any way modifies this letter or constitutes consent to any non-performance or Lease Default, Lease Event of Default or other default of any Transaction Document, or a waiver by Macquarie of any of the remedies described herein or in the Transaction Documents or under law or in equity. There are currently no modification, renewal, extension or settlement agreements between you and Macquarie with regard to the terms of the Transaction Documents and all proposals made by you to Macquarie for any of the foregoing are hereby rejected. Any agreement, commitment, assurance or intention of Macquarie with respect to any of the Transaction Documents shall be effective only if in writing and duly executed on behalf of Macquarie.

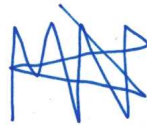
Nothing contained in this letter is intended to (i) limit Macquarie's rights, remedies or recourses, including rights to demand any and all other sums that are or may hereafter become due and payable under the Transaction Documents or otherwise, including, without limitation, default interest, costs of collection, costs of enforcement and attorneys' fees, (ii) waive any default, Lease Default or Lease Event of Default, (iii) waive any rights, remedies, or recourses available to Macquarie, or (iv) constitute an election of remedies resulting from any default, with respect to any Transaction Document.

This matter requires your immediate attention. If you have questions, please contact Nasr Jeries or Joshua Stevens.

Yours faithfully,
Macquarie Equipment Finance Limited

THIS IS EXHIBIT “EE” REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,

THIS 31st DAY OF JULY, 2023.



Michael Noel
Commissioner for Taking Affidavits



Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

HUT 8 MINING CORP.

Plaintiff

- and -

VALIDUS POWER CORP. and BAY POWER CORP.

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff.
The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the *Rules of Civil Procedure*, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service in this court office, **WITHIN TWENTY DAYS** after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the *Rules of Civil Procedure*. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES,

-2-

LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date January 25, 2023 Issued by _____
Local Registrar

Address of court office: Superior Court of Justice
330 University Avenue
Toronto ON M5G 1R7

TO: **VALIDUS POWER CORP.**
100 Wellington Street West
Suite 2300
Toronto ON M5J 2R2

AND TO: **BAY POWER CORP.**
100 Wellington Street West
Suite 2300
Toronto ON M5J 2R2

CLAIM

1. The plaintiff, Hut 8 Mining Corp. ("Hut 8") claims against the defendants, Validus Power Corp. ("Validus") and Bay Power Corp. ("BPC") for:

- (a) an order compelling Validus and BPC to assign their rights, title and interests in any of the agreements, documents or instruments pertaining to the ownership, operation and maintenance of the Facility, the Lease and the Gas Supply Agreement (as defined below);
- (b) an order allowing Hut 8 to step-in and assume operational control of the Facility from Validus and BPC;
- (c) an order requiring Validus and BPC to take all such actions, including executing and delivering documents and instruments, as may be reasonably necessary in order to give effect to the foregoing;
- (d) a declaration that Validus is required to sell energy to Hut 8 at a unit rate of \$0.02740 per kWh;
- (e) damages in an amount to be determined before trial for breach of contract;
- (f) damages in an amount to be determined before trial for Validus' and BPC's breaches of their duties of honest contractual performance;
- (g) orders, if necessary, for interim, interlocutory and / or permanent injunctions restraining Validus and BPC from:

-4-

- (i) re-entering the premises leased by Hut 8 for the purposes of terminating the Lease or re-leasing the premises;
 - (ii) interfering with any of Hut 8's property located on the premises; or
 - (iii) otherwise interfering with Hut 8's rights available under the Lease.
- (h) prejudgment interest in accordance with section 128 of the *Courts of Justice Act*, RSO 1990, c C.43, as amended;
- (i) postjudgment interest in accordance with section 129 of the *Courts of Justice Act*, RSO 1990, c C.43, as amended;
- (j) the costs of this proceeding, plus all applicable taxes; and
- (k) such further and other relief as to this Honourable Court may seem just.

Overview

2. In 2021, Hut 8 was in search of an energy provider to help it grow its digital asset mining operations. Through this search, Hut 8 came across Validus.

3. Validus held itself out to Hut 8 as being highly skilled and experienced at providing turnkey energy solutions to customers that had advanced, high capacity power needs. Validus promised that it could quickly re-energize a mothballed gas power plant in North Bay, Ontario, and eventually provide Hut 8 with 100 MW of energy at the site.

4. Hut 8 was keen to partner with Validus based on this proposal. The parties therefore entered into a power purchase agreement in October 2021, pursuant to which Validus agreed that

it would start providing 35 MW of power to Hut 8 within just ten weeks of the parties entering into the agreement, and total capacity of 100 MW by July 1, 2022.

5. To assist Validus with the capital required to power up the facility and in consideration of receiving a discounted energy rate once the facility achieved commercial operations, Hut 8 advanced \$20 million to Validus before Validus became capable of selling any energy to Hut 8.

6. Instead of benefiting from a turnkey power facility with the low rate of energy that Hut 8 bargained for, Validus has missed all of the critical milestones contemplated by the parties' agreement and still refuses to provide Hut 8 with the 35 MW of energy that Validus agreed it would be able to produce by December 31, 2021.

7. Faced with natural gas prices that skyrocketed after the parties entered into their agreement, Validus has deliberately refused to abide by its contractual obligations in the face of what it now perceives to be an uneconomical bargain. While Validus has minimally and admittedly become capable of supplying a smaller amount of energy that would allow Hut 8 to partially proceed with its operations, Validus has refused to honour the rates agreed to by the parties, and has since completely shut off the flow of power. Validus has done so after inducing Hut 8 to advance \$20 million for which it has effectively received nothing and purportedly until Hut 8 agrees to pay rates that vastly exceed what was contractually agreed to.

8. Relying on Validus' representations and contractual obligations to provide a steady and affordable source of requisite electricity, Hut 8 invested tens of millions of dollars to create a sophisticated digital asset mining operation in North Bay, Ontario. Hut 8 now finds itself without its key energy provider, as Validus has failed to abide by its contractual obligations and refused to allow Hut 8 to exercise its right to step in and assume operational control of the power facility.

Validus has done so in bad faith, hoping that it could leverage Hut 8's significant reliance on energy to cause it to pay far more for far less power than was bargained (and paid) for.

The Parties

9. The plaintiff, Hut 8, is a corporation incorporated under the laws of the Province of British Columbia, with its registered office located in Vancouver, British Columbia. Hut 8 is one of North America's largest miners of digital assets, including digital currencies such as Bitcoin. Common shares of Hut 8 are publicly traded under the ticker symbol "HUT" on the Toronto Stock Exchange and the NASDAQ Stock Market LLC.

10. The defendant, Validus, is a corporation incorporated under the federal laws of Canada, with its registered office located in Toronto, Ontario. Validus holds itself out as being a global leader in advanced power solutions, capable of providing customers of all types with the ability to generate reliable, sustainable power whenever and wherever it is needed.

11. The defendant, BPC, is a corporation incorporated under the laws of Ontario, with its registered office located in Toronto, Ontario. BPC is a wholly owned subsidiary of Validus and is the registered and beneficial owner of the properties and premises in dispute in this proceeding.

The Power Purchase Agreement

12. Hut 8 is involved in the mining of digital assets, a process by which new digital currencies are minted. This process requires sophisticated and powerful computer equipment, which in turn requires a significant amount of energy to operate.

13. In 2021, the parties began having discussions about Validus becoming Hut 8's electricity provider for its Bitcoin mining operations. Hut 8 was in search of an experienced partner who could provide it with the large amounts of energy that Hut 8 required for its operations. Validus represented itself as being such a partner, claiming that it was well conducted within the industry and that it had the experience and the expertise to build and operate the necessary facilities to handle Hut 8's long-term energy needs.

14. Pursuant to a power purchase agreement dated April 16, 2021, Validus agreed to design, construct, own, operate and maintain certain natural gas power generation facilities at a site in Alberta to service Hut 8's operations (the "Alberta PPA"). As part of that agreement, Hut 8 agreed to purchase electricity from Validus' facilities to power Hut 8's digital asset mining operations.

15. Due in part to Validus' inability to secure a site lease and sufficient gas supply in Alberta, the parties subsequently agreed not to proceed with the project contemplated by the Alberta PPA. Instead, Validus proposed to Hut 8 that the parties proceed with a project using a 40 MW natural gas facility that Validus had recently acquired in North Bay, Ontario (the "Facility"). Validus represented at the time that the Facility could be quickly brought online and be ready to supply Hut 8 with power.

16. Hut 8 accepted Validus' proposal, and pursuant to a power purchase agreement dated October 22, 2021 (the "PPA"), the parties agreed that Validus would design, construct, own, operate and maintain the Facility, and Hut 8 would purchase energy from the Facility on the terms set out in the PPA. Section 2.1 of the PPA contemplates the term of the agreement lasting for five years following COD (defined below), with an option for Hut 8 to renew the PPA for up to two additional five-year terms.

17. The parties entered into two further agreements relating to the Facility in October 2021: (i) a construction agreement dated October 21, 2021 between Validus and Hut 8's subsidiary, Hut 8 Holdings Corp., pursuant to which Validus agreed to build a 100 MW electrical distribution data centre beside the Facility for Hut 8 to use for its digital asset mining operations (the "Data Centre"); and (ii) a lease agreement dated October 27, 2021 among Hut 8, Validus and Validus' subsidiary, BPC, pursuant to which Validus and BPC agreed to lease the Data Centre and certain other premises located near the Facility to Hut 8 (the "Lease").

The Commercial Operations Deadline

18. Pursuant to the PPA, and reflecting its representation that it had the expertise and ability to build and operate a power generation facility, Validus was responsible for all elements relating to the design, construction and installation of the Facility. Further, the parties agreed that time was of the essence in connection with completing the Facility, and that they would "diligently pursue all milestones" established by the PPA, particularly as they related to achieving commercial operations.

19. To achieve commercial operations, the PPA required: (i) Validus to make a determination that the Facility had been properly constructed; (ii) Validus to successfully commission the Facility by completing certain tests and other actions prescribed by the PPA; and (iii) the Facility to commence generating electricity for sale to Hut 8.

20. Pursuant to section 4 of the PPA, Validus agreed that as part of achieving commercial operations, it would be capable of delivering 35 MW of energy to Hut 8 by December 31, 2021 (the "Commercial Operation Deadline" or "COD") as part of Phase 1 of the project. Validus also agreed that it would be capable of delivering a further 35 MW of energy as part of Phase 2 of the

project by April 1, 2022, and the final 30 MW of energy by July 1, 2022, for a total capacity of 100 MW.

21. Despite representing that it was capable of achieving COD within only ten weeks of entering into the PPA, Validus failed to achieve COD by December 31, 2021, and, as described further below, has still not achieved COD over a year later.

Pricing Structure Under the PPA

22. To assist Validus with the capital needed to re-energize the Facility, and in consideration of receiving a discounted energy rate once the Facility became operational, Hut 8 agreed to advance up to \$25 million to Validus as part of an upfront capital pre-payment amount (the "Capital Pre-Payment Amount"). Specifically, Schedule D of the PPA provides that Hut 8 agreed to pay Validus the Capital Pre-Payment Amount: (i) to fund a portion of Validus' capital costs; (ii) to facilitate the performance by Validus of the services it agreed to provide pursuant to the PPA; (iii) to obtain the blended rate; and (iv) to participate in a future profit sharing agreement.

23. Hut 8 advanced \$20 million of the Capital Pre-Payment Amount to Validus in accordance with the PPA. Hut 8 has not advanced the remaining \$5 million, as Validus has not achieved the milestones required to entitle it to the final payment, including by failing to achieve COD.

24. Pursuant to section 4 of the PPA, and as contemplated by Schedule D, the parties agreed that the unit rate charged by Validus would be as follows: "\$0.0495 CAD / kWh base rate, with blended rate of \$0.02740 CAD / kWh (all-in cost for Energy and Services) subject to a max. variance of +/- 10%".

25. Section 4 of the PPA further provides that the blended rate of 2.74 cents per kWh was agreed upon based on: (i) the Project schedule and the configuration of the Project as of the date of execution of the PPA, and (ii) the performance by both of the parties of their respective obligations under the PPA.

26. Notwithstanding the fact that Hut 8 complied with its obligations in advancing the Capital Pre-Payment Amount, Hut 8 has not received any benefit for its \$20 million, as Validus has failed to supply Hut 8 with the contracted amount of power at the agreed-upon discounted rate. Further, it remains unclear whether Validus used the \$20 million advanced to it by Hut 8 for the purposes contemplated in the PPA.

Validus' Failure to Achieve COD

27. Despite representing that it would only take ten weeks to achieve COD for the first phase of the Project, Validus failed to achieve COD by the agreed-upon Commercial Operation Deadline of December 31, 2021. Further, despite having more than a year to belatedly achieve COD, Validus remains unwilling to generate the 35 MW of energy required for the first phase of the 100 MW Project that Validus represented it would be able to build and operate.

28. Validus and Hut 8 entered into the PPA in October 2021. In the months that followed, the price of natural gas increased significantly. While this increase in price may explain Validus' unwillingness to comply with its contractual obligations to purchase and supply the Facility with enough natural gas to meet its commitments under the PPA (the "Gas Supply Agreement"), Hut 8 remains entitled to receive the bargain that the parties agreed to in October 2021, including the agreed upon blended rate of 2.74 cents per kWh obtained as a result of Hut 8 advancing \$20 million through the Capital Pre-Payment Amount.

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29. Validus started testing the Facility's ability to provide power to the Data Centre in May 2022, and on June 2, 2022, Validus began supplying Hut 8 with an unstable and inconsistent supply of energy that was well short of the initial contracted capacity. Notwithstanding Validus' failure to achieve COD even by that date, through discussions with senior management, and in an effort to mitigate Hut 8's losses suffered by Validus' failure to comply with its contractual obligations, the parties agreed in June 2022 that Validus would sell lesser amounts of energy to Hut 8 to allow Hut 8 to at least partially proceed with its operations in North Bay (the "Interim Agreement").

30. Pursuant to the Interim Agreement, the parties agreed that after a brief testing period during which Hut 8 would pay a floating market rate, Validus would supply all further energy that it produced at the rate agreed upon in the PPA (namely, the blended rate of 2.74 cents per kWh) until the Facility achieved COD.

31. Hut 8 accepted and paid for the lesser amount of energy pursuant to the Interim Agreement and made payments under the Lease for its use of the Data Centre, all without prejudice to its rights to hold Validus and BPC accountable for their failure to meet their obligations under the PPA and the Lease.

The Notices of Default

32. Hut 8 continued to receive and pay for energy supplied pursuant to the Interim Agreement up until November 2022.

33. As of November 9, 2022, more than 10 months after the agreed upon date, Validus still had not achieved COD for Phase 1 of the Project. Hut 8 therefore provided Validus with a notice of

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default on November 9, 2022, stating that Validus' failure to achieve COD by December 31, 2021 amounted to a Seller Default pursuant to section 13 of the PPA.

34. Validus responded to Hut 8's notice of default on November 15, 2022 denying that an event of default had occurred, purportedly on the basis that Hut 8 had allegedly prevented Validus from performing its obligations under the PPA to achieve COD. Validus further claimed that Hut 8 was in violation of the PPA by failing to pay amounts that Validus wrongly alleged were owing under the Interim Agreement.

35. Hut 8 contributed in no way to Validus' failure to achieve COD on time or in the year that followed the COD deadline. As explained below, Validus was instead attempting to extract additional funds from Hut 8 by failing to live up to its contractual obligations and threatening to shut off power in bad faith and in breach of Validus' duty of honest performance.

36. Further, given that the PPA applies only to energy sold following the achievement of COD, no breach of the PPA occurred relating to energy sold pursuant to the Interim Agreement, and Hut 8 advanced all amounts owing to Validus pursuant to the Interim Agreement.

37. In breach of the Interim Agreement, and in addition to the continued breaches of the PPA, Validus stopped providing power all together to Hut 8 on November 18, 2022. Meanwhile, Hut 8 continued to pay rent owing under the Lease as a gesture of good faith to Validus, notwithstanding (and without prejudice to) Hut 8's right under section 5 of the Lease to have rent abate until Validus cured any continuing event of default declared pursuant to the PPA.

38. Given that Validus still had not achieved COD by December 31, 2022, having attempted to workarround Validus' ongoing delays in good faith, Hut 8 exercised its right under section 5 of

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the Lease and declined to advance any further rent owing for the Data Centre. Validus subsequently wrote to Hut 8 on January 4, 2022 and wrongfully declared an event of default under the Lease and threatened to invoke self-help remedies it purportedly had available under the Lease.

39. Validus' false notices of default and threats to invoke self-help remedies were made in an attempt to force Hut 8 to resile from an agreement that has proven improvident for Validus through no fault of Hut 8. As explained below, its attempts to do so amount to breaches of Validus' and BPC's duties of honest performance.

Breach of Contract

40. Validus breached the PPA by failing to achieve COD by December 31, 2021. Validus has further breached the PPA by failing to achieve the Commercial Operation Deadline for each phase of the Project. Validus' breaches are ongoing.

41. Each of Validus' breaches of the PPA by failing to achieve COD by the agreed-upon deadlines constitutes an event of default pursuant to section 13(a)(vii) of the PPA.

42. Hut 8 provided notice of the event of default to Validus on November 9, 2022. Validus failed to cure the event of default within 30 days as required by the PPA, and remains in breach of its obligations through its continued failure to achieve COD.

43. In the event of a material breach of the PPA, including an event of default listed in section 13(a), section 13(b)(ii) of the PPA entitles Hut 8 to require Validus

to assign Seller's right, title and interests in the any of the agreements, documents or instruments pertaining to the procurement, leasing and financing of the power generation units comprising the Facility or the ownership, operation and maintenance of the Facility, the Commercial Lease and Access Agreement, the Gas

Supply Agreement, and/or the right to step-in and assume operational control from Seller of the Facility, and upon such a notice being issued by Seller, the Parties shall execute and deliver such further documents and instruments and shall take such other actions as may be reasonably in order to give effect to the foregoing.

44. Hut 8 exercised its right under section 13(b)(ii) of the PPA on January 23, 2023 by notifying Validus of its intention to do so. Despite providing Validus with proper notice, Validus has failed to comply with any of its obligations under section 3(b)(ii) and has not taken any steps to assign any of its rights to Hut 8.

45. Further, Hut 8 has suffered damages by losing the bargain that it negotiated with Validus when the parties entered into the PPA. Hut 8 advanced \$20 million to Validus with the expectation that Validus would provide Hut 8 with up to 100 MW of power at a discounted rate. Validus has been in breach of its obligations for more than a year, and Hut 8 has failed to receive any benefit for the millions of dollars that it paid upfront to Validus.

46. Validus also expressly agreed that it would provide up to 100 MW of energy to Hut 8 for up to fifteen years in exchange for Hut 8 paying the blended rate set out in the PPA. Validus' failure to provide even 35 of 100 MW of the contracted capacity at the North Bay site has left Hut 8 with an insufficient supply of energy that it will be required to purchase at a higher rate from other providers, potentially at a different project site, resulting in damages.

47. Further particulars of Hut 8's damages will be provided before trial.

Breach of Duty of Honest Performance

48. Validus and BPC were, either expressly or implicitly, contractually obligated to deal fairly, honestly and with integrity toward Hut 8.

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49. By refusing to deliver on their contractual obligations on what has turned out to be an improvident agreement for Validus, by trumping up fictitious allegations that Hut 8 has somehow prevented them from performing their contractual obligations, by threatening to and ultimately shutting off power supplied pursuant to the Interim Agreement as leverage to try to compel Hut 8 to abandon its contracted-for rights, and by concocting false events of default in an attempt create leverage for themselves, Validus and BPC have breached their duties of honest contractual performance.

50. As a result of Validus' and BPC's breaches of their duties, Hut 8 has suffered damages, further particulars of which will be provided before trial.

Place of Trial

51. Hut 8 proposes that this action be tried in Toronto, Ontario.

January 25, 2022

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-and-

Court File No.

ONTARIO
SUPERIOR COURT OF JUSTICE
PROCEEDING COMMENCED AT
TORONTO

STATEMENT OF CLAIM

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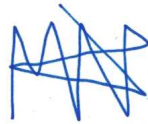
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THIS IS EXHIBIT “FF” REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,

THIS 31st DAY OF JULY, 2023.



Michael Noel
Commissioner for Taking Affidavits

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

HUT 8 MINING CORP.

Plaintiff

and

VALIDUS POWER CORP. and BAY POWER CORP.

Defendants

**AMENDED STATEMENT OF DEFENCE AND COUNTERCLAIM
OF THE DEFENDANTS,
VALIDUS POWER CORP. and BAY POWER CORP.**

1. The Defendants admit the allegations contained in paragraphs 10, 11, 13 (first sentence only) and 14 of the Statement of Claim.
2. The Defendants have no knowledge of the allegations contained in paragraphs 9 and 12 of the Statement of Claim.
3. The Defendants deny the balance of the allegations contained in the Statement of Claim.

Contracts Between the Parties

4. The Alberta PPA as defined in paragraph 14 of the Statement of Claim provided that the Plaintiff (“**Hut 8**”) would pay to the Defendant, Validus Power Corp. (“**Validus**”) a milestone payment of \$15,000,000 upon execution thereof. That payment was

provided. The purpose of the payment was to provide Validus with capital with which to construct two mobile turbines for the purpose of generating power to be sold to Hut 8 for use in its data centre to be constructed on the agreed upon Alberta site.

5. Within several months, it became apparent that Hut 8 would be experiencing significant delays with respect to the development and construction of its data centre.

6. In order to assist Hut 8 with its business plans, Validus proposed the migration of the project from Alberta to a power plant in North Bay, Ontario owned by the Defendant, Bay Power Corp. ("**Bay**") a wholly owned subsidiary of Validus. To that end, Validus provided Hut 8 with a Deployment Plan contemplating that:

- (a) The project would involve the use of Bay's power plant at 4001 Highway 11 N, North Bay;
- (b) Validus would construct a data centre at the site adjacent to the power plant to be owned by Bay and leased to Hut 8 for its operations. Hut 8 was responsible for the interconnection between the data centre and the power plant as well interior leasehold improvements and fixtures;
- (c) Hut 8 would construct and install the downstream electrical infrastructure required to deliver power from the power plant to the data centre, and the interior racking, shelving and telecommunications equipment needed to operate the building as a data centre; and
- (d) The rent for the data centre would be \$250,200 per month for a five (5) year term.

7. The Deployment Plan was acceptable to Hut 8 and the parties proceeded to enter into a new power purchase agreement on October 22, 2021, defined in paragraph 16 of the Statement of Claim as the PPA. Several days later, the parties entered into a lease of the data centre to be constructed dated October 27, 2021, identifying Hut 8 as tenant and the Defendants collectively as landlord. The \$15,000,000 milestone payment provided upon execution of the Alberta PPA was credited to Hut 8 as an advance capital pre-payment under the PPA.

8. At about the same time, Hut 8 and Validus entered into a Design-Build Stipulated Price Contract ("**CCDC**") between Validus as Design-Builder and Hut 8 Holdings Corp., a wholly owned subsidiary of Hut 8, as Owner for the construction of portions of the data centre and related electrical infrastructure.

9. The parties contemplated that the construction of the data centre would be completed by December 2021 so that Hut 8 could begin its operations at that time provided that Hut 8 had installed its equipment and was ready to commence business operations by then.

10. By December 31, 2021, all construction work with respect to the adjacent Validus power plant had been completed. The power plant was ready to deliver energy to the data centre at that time. The power plant was entirely capable of delivering 35 MW of power, even though the electrical designs submitted to Validus by Hut 8 for the data centre restricted the power capacity that the data centre could accept to 32.5 MW.

11. However, while the exterior of the data centre was also complete by that time, construction in the interior thereof had not been completed as a result of a series of delays on the part of Hut 8. In particular:

- (a) Hut 8 did not provide Validus with the racking layout designs for the data centre, required by Validus in order to complete the design and engineering work under the CCDC, until mid-November 2021;
- (b) Hut 8 did not submit its shelving layout design to Validus, required for the same purpose, until later in November 2021;
- (c) Hut 8 was unable to deliver its low voltage breaker panels required in December 2021 until the end of February 2022 as a result of Hut 8's late submission of designs to the manufacturer and the manufacturer's shut down during the December 2021 holiday. As a result, the date for commissioning tests was delayed from December 2021 to the end of February 2022;
- (d) Many of Hut 8's power distribution units ("**PDU**s") were faulty;
- (e) On January 28, 2022, Hut 8 requested design changes to its racking to allow for redundant PDUs to address the risk of its PDUs being faulty;
- (f) On March 16, 2022, Hut 8 advised Validus that Hut 8's PDU manufacturer had confirmed that its equipment contained breakers that were improperly labelled as being UL certified. Hut 8 advised that it was sourcing replacements. This in turn resulted in the commissioning tests being

further delayed;

- (g) On March 24, 2022, Hut 8 advised Validus that it could source replacement PDUs but the replacement stock would not be certified until the middle of April. Hut 8 asked Validus for additional construction work to de-install faulty equipment and install new rack cabling and ventilation equipment;
- (h) Hut 8 failed to deliver the required HVAC designs for the building permit and equipment procurement before the end of December 2021. It delivered draft drawings for the building permit in late January 2022 and final drawings were not delivered until March 2022. In turn, this led to delays in the procurement of HVAC equipment until months later;
- (i) While Validus' power plant had been ready to deliver energy at the end of December 2021, as agreed, Hut 8 was unable to complete its obligations with respect to the data centre until the summer of 2022 and its operations could not begin until then.

12. At all times, Hut 8 was responsible for all interior construction work in the data centre as well as the construction of the downstream electrical facilities connecting the data centre to the power plant. Hut 8 defaulted in respect of these obligations in the manner described above.

13. Validus' construction obligations under the CCDC were complied with in a timely manner. The construction work for which Validus was responsible and which did not

require the participation of Hut 8 was completed on time. Similarly, the power plant was ready to deliver the required level of energy by December 31, 2021.

Pricing Issues

14. As indicated above, Hut 8 provided an upfront capital prepayment amount of \$15,000,000 to Validus at the date of execution of the Alberta PPA which amount was credited in respect of the PPA. Hut 8 provided a further \$5,000,000 as an additional prepayment amount as required by Schedule "B" of the PPA, for a total of \$20,000,000.

15. The additional \$5,000,000 became payable under the PPA upon the execution of the lease of the data centre and the completion of the initial project site design preparation work and related activities.

16. The upfront capital prepayments were intended to be, and were, used by Validus to prepare its power plant for the delivery of energy and related services to Hut 8 as agreed.

17. With respect to energy pricing, Hut 8 has maintained that it is entitled to the supply of energy at a fixed rate commencing on December 31, 2021, allegedly being the agreed-upon Commercial Operation Deadline, defined by Hut 8 as "COD" in paragraph 20 of the Statement of Claim.

18. In fact, no COD was actually agreed upon or set, as a result of Hut 8's inability to honour its obligations and complete the interior construction for which it was responsible by the end of December as originally contemplated, and because Hut 8 insisted on an incorrect interpretation of its obligations as to pricing.

19. From the date upon which Hut 8 commenced operations, Validus invoiced, and Hut 8 paid for, energy at daily market rates on a flow through basis. Validus provided energy on that basis until July 2022 when Hut 8 stopped paying the invoices generated by Validus. Hut 8 did so because the rapid decline in the market value of digital currencies at that time made its entire operations completely uneconomical.

20. Alternatively, and even if a fixed rate billing regime was to have applied, Hut 8 would have no entitlement to the blended rate referenced in paragraph 24 of its Statement of Claim in any event.

21. As a result, a substantial amount of power delivered by Validus to Hut 8 has never been paid for by Hut 8. The invoices rendered by Validus in this connection which remain outstanding are part of the subject matter of the Counterclaim herein.

22. By July 2022, Hut 8 was indebted to Validus for energy in the amount of \$1,074,343.98, for which Validus issued a letter of demand on August 24, 2022. Nevertheless, Validus continued to supply power to Hut 8. In December 2022, having already failed to make payment of the outstanding amount owing for energy, Hut 8 ceased to pay rent under its lease of the data centre.

23. As to paragraph 1(b) and 43 of the Statement of Claim, the assignment and step in rights contained in the PPA are unenforceable as an unconscionable penalty. In any event, the Defendants are not in default of any obligations under any of the agreements into which they have entered. There has been no event of default on the part of Validus and accordingly, Validus would be under no obligation to assign its interest in any aspect of the project to Hut 8.

24. Hut 8 has not suffered damages as a result of any breach on the part of either Defendant. Hut 8's business declined precipitously as a result of the extreme downturn in the market for digital assets including Bitcoin, and has seized the opportunity to cease honouring its obligations and blame Validus for its own economic misfortune.

25. On January 4, 2023, the Defendants issued a written Notice of Default in connection with both the PPA and the lease. Shortly thereafter, Hut 8 began to remove assets from the data centre.

The Defendants Validly Terminated the lease

26. The Defendants terminated the lease by Notice of Termination dated February 9, 2023 without prejudice to its rights to pursue a claim for unpaid rent as well as a damages in respect of rent and other amounts that would have been payable under the lease up to the date of expiry but for the termination.

27. The said termination was valid and lawful.

28. As to paragraph 37 of the Amended Statement of Claim, section 5 of the lease providing for Hut 8's remedies in the event of a default on the part of Validus has no application. There was no Event of Default with respect to Validus.

29. Furthermore and in any event, section 3(b) of the lease specifically provides that Hut 8 was to pay Gross Rent without deduction, abatement or set off.

30. The Notice of Termination provided Hut 8 with a period of twenty (20) days to remove its surface equipment. The lease does not provide for any specific time period

in this regard, and the time period given was generous. Hut 8's most valuable equipment consisted of miners and related equipment as well as transformers. The removal of this material would not have taken, and did not take, more than a few days and substantially less than twenty (20) days.

31. Hut 8, through its counsel, requested additional time to remove its underground infrastructure consisting of cabling and other commodity hardware and materials comprising a part of the electrical distribution from the power plant to the data centre. The Defendants agreed to allow Hut 8 until July to complete the removal of that equipment.

No Breach of Duty

32. The Defendants deny having breached any duty owed to Hut 8.

33. At all times, the Defendants acted strictly in accordance with their rights under the various agreements with Hut 8. Any and all damages and losses which may have been suffered by Hut 8, the existence of which is denied, arose exclusively as a result of Hut 8's failure or refusal to honour its contractual obligations.

~~27-34.~~ The Defendants therefore submit that this action be dismissed with costs on a substantial indemnity basis.

COUNTERCLAIM

~~28-35.~~ Validus claims:

- (a) Damages for breach of the PPA in the amount of \$39,636,765.

~~29-36.~~ Validus and Bay claim:

- (b) Payment of rental arrears for the months of December 2022, January 2023 and February 2023 in the amount of \$848,178;
- (c) Damages for unpaid rent over the balance of the term of the lease in the amount of \$13,288,122;
- (d) interest pursuant to the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
- (e) the costs on a substantial indemnity basis of this counterclaim;
- (f) such further and other relief as to this Honourable Court may deem just.

~~30-37.~~ Validus and Bay repeat and rely upon the allegations in the Statement of Defence.

(A) Claims under the PPA

~~31-38.~~ Between September 2022 and November 2022, Validus invoiced Hut 8 for power supplied between August 2022 and November 2022 in the total amount of \$6,191,665. Hut 8 paid Validus the amount of \$1,868,649.59. Hut 8 remains indebted to Validus for the balance in the amount of \$4,323,015.42.

~~32-39.~~ Hut 8's breach of the PPA gives rise to additional damages in the amount of \$35,313,750, being the total contract value less the total cost to Validus of the supply of energy.

~~33-40.~~ Accordingly, Validus has suffered damages as a result of Hut 8's breach of the PPA in the aggregate amount of \$39,636,765.

(B) Claims under the Lease

~~34-41.~~ Hut 8 defaulted on its lease obligations as of the month of December 2022. To date, its rental arrears amount to \$848,178.

~~35-42.~~ The lease provides in section 5(b)(i) that in the event of a default on the part of Hut 8, Validus and Bay would be entitled to damages including "all deficiencies between what would have been paid by Hut 8 for what would have been the balance of the Term, but for such termination, less only the net amounts (after expenses) actually received by [Validus and Bay] for such period".

~~36-43.~~ Accordingly, Validus and Bay are also entitled to monthly rent of \$282,726 (being \$250,200 plus HST) for 47 months (March 2023 to December 2026) for a total of \$13,288,122.

~~February 17, 2023~~ April 11, 2023

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HUT 8 MINING CORP.

Plaintiff

-and-

VALIDUS POWER CORP. et al.

Defendants

Court File No. CV-23-00693515-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

**AMENDED STATEMENT OF DEFENCE AND
COUNTERCLAIM OF THE DEFENDANTS**

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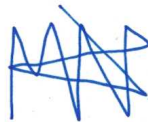
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Lawyers for the Defendants

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Michael Noel
Commissioner for Taking Affidavits

From: Jatinder Wadhwa <Jatinder.Wadhwa@ca.ey.com>
Sent: Monday, July 17, 2023 3:11 PM
To: James Roberts
Cc: Alex Morrison; Michael Hayes
Subject: Project Turbo

External Communication

Hello James,

I had reached out to Charles on Thursday for a further update but have not heard anything back.

Unless you feel otherwise, I was not planning to follow up with 2140 further for an update unless they come back themselves with anything solid on the financing. We can discuss further tomorrow at our update call.

Regards,
Jatinder



Jatinder Wadhwa | Partner/Principal | TCF-Lead Advisory

Ernst & Young LLP
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Aminah Ahmad | 4169433275 | aminah.ahmad@ca.ey.com

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THIS IS **EXHIBIT “HH”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,

THIS 31st DAY OF JULY, 2023.



Michael Noel

Commissioner for Taking Affidavits

June 9, 2023

VIA PERSONAL DELIVERY AND REGISTERED MAIL

Iroquois Falls Power Corp.
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON
Canada M5J 2R2

Attention: Mr. Todd Shortt

Dear Sirs/Mesdames:

**Re: Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023 (the “Lease”), between Macquarie Equipment Finance Ltd. (the “Lessor”) and Iroquois Falls Power Corp. (the “Lessee”); General Security Agreement made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023 (the “GSA”) by the Lessee in favour of the Lessor and the other documents listed in Schedule “A” (collectively, the “Security Documents”)
and
Notices of Default and Reservation of Rights letters set out in Schedule “B” (collectively, the “Notices of Default”)**

We refer to the Security Documents and the Notices of Default. Unless otherwise defined, capitalized terms used herein have the meanings attributed to such terms in the Lease or the GSA.

As the Lessor advised under the Notices of Default, events of default and other similar events have occurred under the Security Documents. In addition, the Lessor has failed to pay the Base Rent (and associated HST) due on May 31, 2023. This is a non-exhaustive list of events of default and other similar events under the Security Documents. One or more of the foregoing events of default and other similar events are Lease Events of Default, Lease Defaults (as defined in the GSA) and/or other defaults or acceleration events under the Security Documents, have continued since the Notices of Default were delivered and are continuing as of the date hereof. Where notice of such events of default and other similar events is required under the Security Documents and has not previously been provided by the Lessor to the Lessee, this letter shall constitute such notice.

Pursuant to the Lease, upon the occurrence of a Lease Event of Default, the Lessor may in its sole and absolute discretion, among other things, enforce the rights and remedies set out in section 13.1 of the Lease.

Pursuant to the GSA, upon the occurrence of an Event of Acceleration, the Lessor may in its sole and absolute discretion, among other things, declare the Secured Liabilities to be immediately due and payable and the Security Interests to be immediately enforceable, demand the amounts

payable and/or demand possession of and realize upon all or any part of the Collateral pursuant to the Security Interests.

Pursuant to the relevant provisions of the Security Documents, including, without limitation, the Lease and the GSA, the Lessor hereby demands payment of the overdue amounts owing, by no later than June 19, 2023. Payment should be made to our last notified bank account for payments.

As at June 9, 2023, the aggregate amount of the overdue Base Rent and associated HST owing pursuant to the Lease is \$6,780,000.00 (the "**Arrears**"). This amount is exclusive of legal and other adviser expenses and other amounts payable, including interest, costs, charges and fees accrued or incurred to such date, and the Lessor reserves the right to demand such amounts. The Lessor is not exercising its rights to demand payment of the amounts set out in sections 13.1 (e) or 13.1 (f) of the Lease at this time but reserves the right to do so. The exact amount of the Obligations and/or the Secured Liabilities may be obtained at any time by contacting the Lessor.

[Remainder left intentionally blank]

Enclosed is a Notice of Intention to Enforce a Security pursuant to section 244 of the *Bankruptcy and Insolvency Act* (Canada). Please be advised that if payment as aforesaid is not made, the Lessor will take such further steps as it deems necessary or advisable to recover the Arrears and other amounts owed to the Lessor under the Security Documents. This letter further informs you that the Lessor hereby expressly reserves all available rights, remedies and claims in their entirety—including, without limitation, the appointment by a court of competent jurisdiction of a receiver to realize on the business, property, assets and undertaking of the Lessee and/or Validus Hosting Inc., Validus Power Corp., Bay Power Corp., Kap Power Corp., Kingston CoGen GP Inc. or Kingston CoGen Limited Partnership (collectively, the “**Guarantors**”)—any of which may be exercised or otherwise pursued at any time, and from time to time, and without further notice to you, in the sole and absolute discretion of the Lessor, as the case may be, in accordance with the Security Documents, or at law and in equity.

Yours truly,

Macquarie Equipment Finance Ltd.

DocuSigned by:

Lisa Tamowsky

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Schedule "A"

Security Documents

- a) The Lease
- b) The GSA
- c) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the Lessee and the Guarantors
- d) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the Lessee
- e) Guarantee made as of April 7, 2022, as amended and restated pursuant to the Amended and Restated Guarantee dated February 24, 2023, in favour of the Lessor by the Lessee and the Guarantors
- f) Demand Debenture made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023, in favour of the Lessor by the Lessee
- g) Ontario PPSA Registration registered against the Lessee in favour of the Lessor and bearing Reference File Number "781679718"
- h) The Notices of Default

Schedule "B"

Notices of Default and Reservation of Rights Letters

- a) Notice of default dated May 12, 2022
- b) Notice of default dated July 12, 2022
- c) Notice of default dated November 16, 2022
- d) Notice of default and reservation of rights dated November 16, 2022
- e) Acknowledgement and reservation of rights agreement dated February 24, 2023
- f) Notice of default and reservation of rights dated April 16, 2023
- g) Acknowledgment and reservation of rights agreement no. 2 dated May 19, 2023
- h) Notice of default and reservation of rights dated June 2, 2023

**NOTICE OF INTENTION TO
ENFORCE A SECURITY**
(Rule 124)
(Pursuant to Subsection 244(1)
of the *Bankruptcy and Insolvency Act*)

TO:

Iroquois Falls Power Corp., an insolvent person
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON
Canada M5J 2R2

Attention: Mr. Todd Shortt

TAKE NOTICE THAT:

1. Macquarie Equipment Finance Ltd. (the "Lessor"), a secured creditor, intends to enforce its security on the insolvent person's property, including, without limitation, as described below:
 - (a) All "Leased Property" of the insolvent person, as such term is defined in the Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023 (the "Lease"), between the Lessor and the insolvent person
 - (b) All "Collateral" of the insolvent person, as such term is defined in the General Security Agreement dated April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023 (the "GSA"), between the Lessor and the insolvent person
 - (c) All property and collateral that was assigned, transferred, pledged, granted, mortgaged, charged and/or similarly secured pursuant to the Security Documents (as such term is defined below)
 - (d) All property and collateral against which the security interests bearing Reference File Number "781679718" have been registered pursuant to the *Personal Property Security Act* (Ontario) (the "PPSA Registration")
2. The security that is to be enforced is the following:
 - (a) The Lease
 - (b) The GSA
 - (c) The PPSA Registration

- (d) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the insolvent person and Validus Power Corp., Bay Power Corp., Kap Power Corp., Kingston CoGen Limited Partnership and Kingston CoGen GP Inc. (collectively, the "Guarantors")
- (e) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the insolvent person
- (f) Guarantee made as of April 7, 2022, as amended and restated pursuant to the Amended and Restated Guarantee dated February 24, 2023, in favour of the Lessor by the insolvent person and the Guarantors
- (g) Demand Debenture made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023, in favour of the Lessor by the insolvent person

(the foregoing, together with all other agreements and security documents related to the foregoing, collectively, the "Security Documents")

- 3. The total amount of indebtedness subject to a demand for payment secured by the security is \$6,780,000.00, as at June 9, 2023. This amount is exclusive of legal and other adviser expenses and other amounts payable, including interest, costs, charges and fees accrued or incurred to such date, and the Lessor reserves the right to demand such amounts.
- 4. The secured creditor will not have the right to enforce the security until after the expiry of the 10-day period after this notice is sent unless the insolvent person consents to an earlier enforcement. A Consent is included herewith as Schedule "A".

Dated at Toronto, Ontario this 9th day of June, 2023.

Macquarie Equipment Finance Ltd.

DocuSigned by:
Lisa Tarnowsky
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Schedule "A"

CONSENT

TO: Macquarie Equipment Finance Ltd.

FROM: Iroquois Falls Power Corp., an insolvent person

The insolvent person acknowledges receipt of a Notice of Intention to Enforce a Security delivered by Macquarie Equipment Finance Ltd. (the "Lessor").

For consideration received, the receipt and sufficiency of which is hereby irrevocably acknowledged, the insolvent person hereby consents to the immediate enforcement by the Lessor of the security held by the Lessor from the insolvent person, and for the same consideration waives completely all rights to any delay by or any further notice from the Lessor with respect to the enforcement of its security and the exercise of the other remedies of the Lessor against the insolvent person.

DATED at _____ this ____ day of _____, 2023.

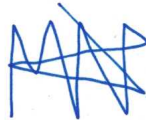
IROQUOIS FALLS POWER CORP.

Per: _____
Name:
Title:

I have the authority to bind the corporation.

THIS IS **EXHIBIT “II”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,

THIS 31st DAY OF JULY, 2023.



Michael Noel
Commissioner for Taking Affidavits

June 9, 2023

VIA PERSONAL DELIVERY AND REGISTERED MAIL

Kap Power Corp.
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON M5J 2R2
Canada

Attention: Mr. Todd Shortt

Dear Sirs/Mesdames:

**Re: Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023 (the “Lease”), between Macquarie Equipment Finance Ltd. (the “Lessor”) and Iroquois Falls Power Corp. (the “Lessee”); Guarantee made as of April 7, 2022, as amended and restated pursuant to the Amended and Restated Guarantee dated February 24, 2023 (the “Guarantee”), in favour of the Lessor by the Lessee, Kap Power Corp. (the “Guarantor”), Validus Power Corp., Bay Power Corp., Kingston CoGen GP Inc. and Kingston CoGen Limited Partnership (together, the “Other Guarantors”); General Security Agreement made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023 (the “GSA”) by the Guarantor in favour of the Lessor and the other documents listed in Schedule “A” (collectively, the “Security Documents”)
and
Notices of Default and Reservation of Rights letters set out in Schedule “B” (collectively, the “Notices of Default”)**

We refer to the Security Documents and the Notices of Default. Unless otherwise defined, capitalized terms used herein have the meanings attributed to such terms in the Guarantee or the GSA, as applicable.

Enclosed is the Lessor’s demand letter to the Lessee dated June 9, 2023, declaring all Arrears (as defined therein) immediately due and payable in full and demanding payment thereof (along with a Notice to Enforce Security pursuant to section 244 of the *Bankruptcy and Insolvency Act* (Canada)). The Arrears include the Obligations (as defined in the Guarantee) and the Secured Liabilities (as defined in the GSA). Where notice is required under the Security Documents and has not previously been provided by the Lender to the Guarantor, this letter shall constitute such notice.

Pursuant to the Guarantee, the Guarantor absolutely, unconditionally and irrevocably guaranteed to the Lessor the payment of the Obligations. The Guarantor’s liability to make payment under the Guarantee arises forthwith after demand for payment has been made.

Pursuant to the relevant provisions of the Security Documents, including, without limitation, the Guarantee and the GSA, the Lessor hereby declares Arrears to be due and payable in full and

demands payment thereof by no later than June 19, 2023. Payment should be made to our last notified bank account for payments.

As at June 9, 2023, the aggregate amount of the Arrears is \$6,780,000.00. This amount is exclusive of legal and other adviser expenses and other amounts payable, including interest, costs, charges and fees incurred to such date, and the Lessor reserves the right to demand such amounts. The exact amount of the Obligations and/or the Secured Liabilities may be obtained at any time by contacting the Lessor.

[Remainder left intentionally blank]

Enclosed is a Notice of Intention to Enforce a Security pursuant to section 244 of the *Bankruptcy and Insolvency Act* (Canada). Please be advised that if payment as aforesaid is not made, the Lessor will take such further steps as it deems necessary or advisable to recover the Arrears and other amounts owed to the Lessor under the Security Documents. This letter further informs you that the Lessor hereby expressly reserves all available rights, remedies and claims in their entirety—including, without limitation, the appointment by a court of competent jurisdiction of a receiver to realize on the business, property, assets and undertaking of the Lessee, the Guarantor and/or the Other Guarantors—any of which may be exercised or otherwise pursued at any time, and from time to time, and without further notice to you, in the sole and absolute discretion of the Lessor, as the case may be, in accordance with the Security Documents, or at law and in equity.

Yours truly,

Macquarie Equipment Finance Ltd.

DocuSigned by:

Lisa Tarnowsky

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Schedule "A"

Security Documents

- a) The Lease
- b) The Guarantee
- c) The GSA
- d) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the Lessee, the Guarantor and the Other Guarantors
- e) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the Lessee
- f) Demand Debenture made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023, in favour of the Lessor by the Guarantor
- g) Ontario PPSA Registration registered against the Guarantor in favour of the Lessor and bearing Reference File Number "781679754"
- h) The Notices of Default

Schedule "B"

Notices of Default and Reservation of Rights Letters

- a) Notice of default dated May 12, 2022
- b) Notice of default dated July 12, 2022
- c) Notice of default dated November 16, 2022
- d) Notice of default and reservation of rights dated November 16, 2022
- e) Acknowledgement and reservation of rights agreement dated February 24, 2023
- f) Notice of default and reservation of rights dated April 16, 2023
- g) Acknowledgment and reservation of rights agreement no. 2 dated May 19, 2023
- h) Notice of default and reservation of rights dated June 2, 2023

**NOTICE OF INTENTION TO
ENFORCE A SECURITY**
(Rule 124)
(Pursuant to Subsection 244(1)
of the *Bankruptcy and Insolvency Act*)

TO:

Kap Power Corp., an insolvent person
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON
Canada M5J 2R2

Attention: Mr. Todd Shortt

TAKE NOTICE THAT:

1. Macquarie Equipment Finance Ltd. (the "Lessor"), a secured creditor, intends to enforce its security on the insolvent person's property, including, without limitation, as described below:
 - (a) All "Collateral" of the insolvent person, as such term is defined in the General Security Agreement dated April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023 (the "GSA"), between the Lessor and the insolvent person
 - (b) All property and collateral that was assigned, transferred, pledged, granted, mortgaged, charged and/or similarly secured pursuant to the Security Documents (as such term is defined below)
 - (c) All property and collateral against which the security interests bearing Reference File Number "781679754" have been registered pursuant to the *Personal Property Security Act* (Ontario) (the "PPSA Registration")
2. The security that is to be enforced is the following:
 - (a) The GSA
 - (b) The PPSA Registration
 - (c) Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023, between the Lessor and Iroquois Falls Power Corp. (the "Lessee")
 - (d) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the

Lessor, the insolvent person, the Lessee and Validus Power Corp., Bay Power Corp., Kingston CoGen Limited Partnership and Kingston CoGen GP Inc. (together, the "Other Guarantors")

- (e) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the Lessee
- (f) Guarantee made as of April 7, 2022, as amended and restated pursuant to the Amended and Restated Guarantee dated February 24, 2023, in favour of the Lessor by the Lessee, the insolvent person and the Other Guarantors
- (g) Demand Debenture made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023, in favour of the Lessor by the insolvent person

(the foregoing, together with all other agreements and security documents related to the foregoing, collectively, the "Security Documents")

- 3. The total amount of indebtedness subject to a demand for payment secured by the security is \$6,780,000.00, as at June 9, 2023. This amount is exclusive of legal and other adviser expenses and other amounts payable, including interest, costs, charges and fees accrued or incurred to such date, and the Lessor reserves the right to demand such amounts.
- 4. The secured creditor will not have the right to enforce the security until after the expiry of the 10-day period after this notice is sent unless the insolvent person consents to an earlier enforcement. A Consent is included herewith as Schedule "A".

Dated at Toronto, Ontario this 9th day of June, 2023.

Macquarie Equipment Finance Ltd.

DocuSigned by:
Lisa Tamowsky
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Schedule "A"

CONSENT

TO: Macquarie Equipment Finance Ltd.

FROM: Kap Power Corp., an insolvent person

The insolvent person acknowledges receipt of a Notice of Intention to Enforce a Security delivered by Macquarie Equipment Finance Ltd. (the "Lessor").

For consideration received, the receipt and sufficiency of which is hereby irrevocably acknowledged, the insolvent person hereby consents to the immediate enforcement by the Lessor of the security held by the Lessor from the insolvent person, and for the same consideration waives completely all rights to any delay by or any further notice from the Lessor with respect to the enforcement of its security and the exercise of the other remedies of the Lessor against the insolvent person.

DATED at _____ this ____ day of _____, 2023.

KAP POWER CORP.

Per: _____
Name:
Title:

I have the authority to bind the corporation.

June 9, 2023

VIA PERSONAL DELIVERY AND REGISTERED MAIL

Iroquois Falls Power Corp.
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON
Canada M5J 2R2

Attention: Mr. Todd Shortt

Dear Sirs/Mesdames:

Re: Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023 (the “Lease”), between Macquarie Equipment Finance Ltd. (the “Lessor”) and Iroquois Falls Power Corp. (the “Lessee”); General Security Agreement made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023 (the “GSA”) by the Lessee in favour of the Lessor and the other documents listed in Schedule “A” (collectively, the “Security Documents”)
and
Notices of Default and Reservation of Rights letters set out in Schedule “B” (collectively, the “Notices of Default”)

We refer to the Security Documents and the Notices of Default. Unless otherwise defined, capitalized terms used herein have the meanings attributed to such terms in the Lease or the GSA.

As the Lessor advised under the Notices of Default, events of default and other similar events have occurred under the Security Documents. In addition, the Lessor has failed to pay the Base Rent (and associated HST) due on May 31, 2023. This is a non-exhaustive list of events of default and other similar events under the Security Documents. One or more of the foregoing events of default and other similar events are Lease Events of Default, Lease Defaults (as defined in the GSA) and/or other defaults or acceleration events under the Security Documents, have continued since the Notices of Default were delivered and are continuing as of the date hereof. Where notice of such events of default and other similar events is required under the Security Documents and has not previously been provided by the Lessor to the Lessee, this letter shall constitute such notice.

Pursuant to the Lease, upon the occurrence of a Lease Event of Default, the Lessor may in its sole and absolute discretion, among other things, enforce the rights and remedies set out in section 13.1 of the Lease.

Pursuant to the GSA, upon the occurrence of an Event of Acceleration, the Lessor may in its sole and absolute discretion, among other things, declare the Secured Liabilities to be immediately due and payable and the Security Interests to be immediately enforceable, demand the amounts

payable and/or demand possession of and realize upon all or any part of the Collateral pursuant to the Security Interests.

Pursuant to the relevant provisions of the Security Documents, including, without limitation, the Lease and the GSA, the Lessor hereby demands payment of the overdue amounts owing, by no later than June 19, 2023. Payment should be made to our last notified bank account for payments.

As at June 9, 2023, the aggregate amount of the overdue Base Rent and associated HST owing pursuant to the Lease is \$6,780,000.00 (the "**Arrears**"). This amount is exclusive of legal and other adviser expenses and other amounts payable, including interest, costs, charges and fees accrued or incurred to such date, and the Lessor reserves the right to demand such amounts. The Lessor is not exercising its rights to demand payment of the amounts set out in sections 13.1 (e) or 13.1 (f) of the Lease at this time but reserves the right to do so. The exact amount of the Obligations and/or the Secured Liabilities may be obtained at any time by contacting the Lessor.

[Remainder left intentionally blank]

Enclosed is a Notice of Intention to Enforce a Security pursuant to section 244 of the *Bankruptcy and Insolvency Act* (Canada). Please be advised that if payment as aforesaid is not made, the Lessor will take such further steps as it deems necessary or advisable to recover the Arrears and other amounts owed to the Lessor under the Security Documents. This letter further informs you that the Lessor hereby expressly reserves all available rights, remedies and claims in their entirety—including, without limitation, the appointment by a court of competent jurisdiction of a receiver to realize on the business, property, assets and undertaking of the Lessee and/or Validus Hosting Inc., Validus Power Corp., Bay Power Corp., Kap Power Corp., Kingston CoGen GP Inc. or Kingston CoGen Limited Partnership (collectively, the “**Guarantors**”)—any of which may be exercised or otherwise pursued at any time, and from time to time, and without further notice to you, in the sole and absolute discretion of the Lessor, as the case may be, in accordance with the Security Documents, or at law and in equity.

Yours truly,

Macquarie Equipment Finance Ltd.

DocuSigned by:

Lisa Tamowsky

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Schedule "A"

Security Documents

- a) The Lease
- b) The GSA
- c) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the Lessee and the Guarantors
- d) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the Lessee
- e) Guarantee made as of April 7, 2022, as amended and restated pursuant to the Amended and Restated Guarantee dated February 24, 2023, in favour of the Lessor by the Lessee and the Guarantors
- f) Demand Debenture made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023, in favour of the Lessor by the Lessee
- g) Ontario PPSA Registration registered against the Lessee in favour of the Lessor and bearing Reference File Number "781679718"
- h) The Notices of Default

Schedule "B"

Notices of Default and Reservation of Rights Letters

- a) Notice of default dated May 12, 2022
- b) Notice of default dated July 12, 2022
- c) Notice of default dated November 16, 2022
- d) Notice of default and reservation of rights dated November 16, 2022
- e) Acknowledgement and reservation of rights agreement dated February 24, 2023
- f) Notice of default and reservation of rights dated April 16, 2023
- g) Acknowledgment and reservation of rights agreement no. 2 dated May 19, 2023
- h) Notice of default and reservation of rights dated June 2, 2023

**NOTICE OF INTENTION TO
ENFORCE A SECURITY**
(Rule 124)
(Pursuant to Subsection 244(1)
of the *Bankruptcy and Insolvency Act*)

TO:

Iroquois Falls Power Corp., an insolvent person
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON
Canada M5J 2R2

Attention: Mr. Todd Shortt

TAKE NOTICE THAT:

1. Macquarie Equipment Finance Ltd. (the "Lessor"), a secured creditor, intends to enforce its security on the insolvent person's property, including, without limitation, as described below:
 - (a) All "Leased Property" of the insolvent person, as such term is defined in the Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023 (the "Lease"), between the Lessor and the insolvent person
 - (b) All "Collateral" of the insolvent person, as such term is defined in the General Security Agreement dated April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023 (the "GSA"), between the Lessor and the insolvent person
 - (c) All property and collateral that was assigned, transferred, pledged, granted, mortgaged, charged and/or similarly secured pursuant to the Security Documents (as such term is defined below)
 - (d) All property and collateral against which the security interests bearing Reference File Number "781679718" have been registered pursuant to the *Personal Property Security Act* (Ontario) (the "PPSA Registration")
2. The security that is to be enforced is the following:
 - (a) The Lease
 - (b) The GSA
 - (c) The PPSA Registration

- (d) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the insolvent person and Validus Power Corp., Bay Power Corp., Kap Power Corp., Kingston CoGen Limited Partnership and Kingston CoGen GP Inc. (collectively, the "Guarantors")
- (e) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the insolvent person
- (f) Guarantee made as of April 7, 2022, as amended and restated pursuant to the Amended and Restated Guarantee dated February 24, 2023, in favour of the Lessor by the insolvent person and the Guarantors
- (g) Demand Debenture made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023, in favour of the Lessor by the insolvent person

(the foregoing, together with all other agreements and security documents related to the foregoing, collectively, the "Security Documents")

- 3. The total amount of indebtedness subject to a demand for payment secured by the security is \$6,780,000.00, as at June 9, 2023. This amount is exclusive of legal and other adviser expenses and other amounts payable, including interest, costs, charges and fees accrued or incurred to such date, and the Lessor reserves the right to demand such amounts.
- 4. The secured creditor will not have the right to enforce the security until after the expiry of the 10-day period after this notice is sent unless the insolvent person consents to an earlier enforcement. A Consent is included herewith as Schedule "A".

Dated at Toronto, Ontario this 9th day of June, 2023.

Macquarie Equipment Finance Ltd.

DocuSigned by:
Lisa Tarnowsky
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Schedule "A"

CONSENT

TO: Macquarie Equipment Finance Ltd.

FROM: Iroquois Falls Power Corp., an insolvent person

The insolvent person acknowledges receipt of a Notice of Intention to Enforce a Security delivered by Macquarie Equipment Finance Ltd. (the "Lessor").

For consideration received, the receipt and sufficiency of which is hereby irrevocably acknowledged, the insolvent person hereby consents to the immediate enforcement by the Lessor of the security held by the Lessor from the insolvent person, and for the same consideration waives completely all rights to any delay by or any further notice from the Lessor with respect to the enforcement of its security and the exercise of the other remedies of the Lessor against the insolvent person.

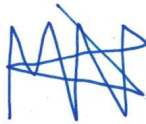
DATED at _____ this ____ day of _____, 2023.

IROQUOIS FALLS POWER CORP.

Per: _____
Name:
Title:

I have the authority to bind the corporation.

THIS IS **EXHIBIT “JJ”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,
THIS 31st DAY OF JULY, 2023.



Michael Noel
Commissioner for Taking Affidavits

June 9, 2023

VIA PERSONAL DELIVERY AND REGISTERED MAIL

Validus Hosting Inc
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON M5J 2R2
Canada

Attention: Mr. Todd Shortt

Dear Sirs/Mesdames:

**Re: Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023 (the “Lease”), between Macquarie Equipment Finance Ltd. (the “Lessor”) and Iroquois Falls Power Corp. (the “Lessee”); Limited Recourse Guarantee made as of April 7, 2022, as amended and restated pursuant to the Amended and Restated Limited Recourse Guarantee dated February 24, 2023 (the “Guarantee”), in favour of the Lessor by Validus Hosting Inc. (the “Guarantor”); Assignment of Material Project Documents made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023 (the “Assignment Agreement”) by the Guarantor in favour of the Lessor and the other documents listed in Schedule “A” (collectively, the “Security Documents”) and
Notices of Default and Reservation of Rights letters set out in Schedule “B” (collectively, the “Notices of Default”)**

We refer to the Security Documents and the Notices of Default. Unless otherwise defined, capitalized terms used herein have the meanings attributed to such terms in the Guarantee or the Assignment Agreement, as applicable.

Enclosed is the Lessor’s demand letter to the Lessee dated June 9, 2023, declaring all Arrears (as defined therein) immediately due and payable in full and demanding payment thereof (along with a Notice to Enforce Security pursuant to section 244 of the *Bankruptcy and Insolvency Act* (Canada)). The Arrears include the Obligations (as defined in the Guarantee) and the Secured Liabilities (as defined in the Assignment Agreement). Where notice is required under the Security Documents and has not previously been provided by the Lender to the Guarantor, this letter shall constitute such notice.

Pursuant to the Guarantee, the Guarantor absolutely, unconditionally and irrevocably guaranteed to the Lessor the payment of the Obligations. The Guarantor’s liability to make payment under the Guarantee arises forthwith after demand for payment has been made.

Pursuant to the relevant provisions of the Security Documents, including, without limitation, the Guarantee and the Assignment Agreement, the Lessor hereby declares Arrears to be due and payable in full and demands payment thereof by no later than June 19, 2023. Payment should be made to our last notified bank account for payments.

As at June 9, 2023, the aggregate amount of the Arrears is \$6,780,000.00. This amount is exclusive of legal and other adviser expenses and other amounts payable, including interest, costs, charges and fees accrued or incurred to such date, and the Lessor reserves the right to demand such amounts. The exact amount of the Obligations and/or the Secured Liabilities may be obtained at any time by contacting the Lessor or the undersigned.

[Remainder left intentionally blank]

Enclosed is a Notice of Intention to Enforce a Security pursuant to section 244 of the *Bankruptcy and Insolvency Act* (Canada). Please be advised that if payment as aforesaid is not made, the Lessor will take such further steps as it deems necessary or advisable to recover the Arrears and other amounts owed to the Lessor under the Security Documents. This letter further informs you that the Lessor hereby expressly reserves all available rights, remedies and claims in their entirety—including, without limitation, the appointment by a court of competent jurisdiction of a receiver to realize on the business, property, assets and undertaking of the Lessee, the Guarantor and/or Validus Power Corp., Bay Power Corp., Kap Power Corp., Kingston CoGen GP Inc. or Kingston CoGen Limited Partnership (collectively, the “**Other Guarantors**”)—any of which may be exercised or otherwise pursued at any time, and from time to time, and without further notice to you, in the sole and absolute discretion of the Lessor, as the case may be, in accordance with the Security Documents, or at law and in equity.

Yours truly,

Macquarie Equipment Finance Ltd.

DocuSigned by:
Lisa Tarnowsky
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Schedule "A"

Security Documents

- a) The Lease
- b) The Guarantee
- c) The Assignment Agreement
- d) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the Lessee, the Guarantor and the Other Guarantors
- e) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the Lessee
- f) Ontario PPSA Registration registered against the Guarantor in favour of the Lessor and bearing Reference File Number "781711695"
- g) The Notices of Default

Schedule "B"

Notices of Default and Reservation of Rights Letters

- a) Notice of default dated May 12, 2022
- b) Notice of default dated July 12, 2022
- c) Notice of default dated November 16, 2022
- d) Notice of default and reservation of rights dated November 16, 2022
- e) Acknowledgement and reservation of rights agreement dated February 24, 2023
- f) Notice of default and reservation of rights dated April 16, 2023
- g) Acknowledgment and reservation of rights agreement no. 2 dated May 19, 2023
- h) Notice of default and reservation of rights dated June 2, 2023

**NOTICE OF INTENTION TO
ENFORCE A SECURITY**
(Rule 124)
(Pursuant to Subsection 244(1)
of the *Bankruptcy and Insolvency Act*)

TO:

Validus Hosting Inc., an insolvent person
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON
Canada M5J 2R2

Attention: Mr. Todd Shortt

TAKE NOTICE THAT:

1. Macquarie Equipment Finance Ltd. (the "Lessor"), a secured creditor, intends to enforce its security on the insolvent person's property, including, without limitation, as described below:
 - (a) All "Assigned Documents" of the insolvent person, as such term is defined in the Assignment of Material Project Documents made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24 (the "Assignment Agreement"), in favour of the Lessor by the insolvent person
 - (b) All property and collateral that was assigned, transferred, pledged, granted, mortgaged, charged and/or similarly secured pursuant to the Security Documents (as such term is defined below)
 - (c) All property and collateral against which the security interests bearing Reference File Number "781711695" have been registered pursuant to the *Personal Property Security Act* (Ontario) (the "PPSA Registration")
2. The security that is to be enforced is the following:
 - (a) The Assignment Agreement
 - (b) The PPSA Registration
 - (c) Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023, between the Lessor and Iroquois Falls Power Corp. (the "Lessee")

- (d) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the Lessee, Validus Power Corp., Bay Power Corp., Kap Power Corp., Kingston CoGen Limited Partnership and Kingston CoGen GP Inc.
- (e) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the Lessee
- (f) Limited Recourse Guarantee made as of April 7, 2022, as amended and restated pursuant to the Amended and Restated Limited Recourse Guarantee dated February 24, 2023, in favour of the Lessor by the insolvent person

(the foregoing, together with all other agreements and security documents related to the foregoing, collectively, the "Security Documents")

- 3. The total amount of indebtedness subject to a demand for payment secured by the security is \$6,780,000.00, as at June 9, 2023. This amount is exclusive of legal and other adviser expenses and other amounts payable, including interest, costs, charges and fees accrued or incurred to such date, and the Lessor reserves the right to demand such amounts.
- 4. The secured creditor will not have the right to enforce the security until after the expiry of the 10-day period after this notice is sent unless the insolvent person consents to an earlier enforcement. A Consent is included herewith as Schedule "A".

Dated at Toronto, Ontario this 9th day of June, 2023.

Macquarie Equipment Finance Ltd.

DocuSigned by:

Lisa Tamowsky

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Schedule "A"

CONSENT

TO: Macquarie Equipment Finance Ltd.

FROM: Validus Hosting Inc., an insolvent person

The insolvent person acknowledges receipt of a Notice of Intention to Enforce a Security delivered by Macquarie Equipment Finance Ltd. (the "Lessor").

For consideration received, the receipt and sufficiency of which is hereby irrevocably acknowledged, the insolvent person hereby consents to the immediate enforcement by the Lessor of the security held by the Lessor from the insolvent person, and for the same consideration waives completely all rights to any delay by or any further notice from the Lessor with respect to the enforcement of its security and the exercise of the other remedies of the Lessor against the insolvent person.

DATED at _____ this ____ day of _____, 2023.

VALIDUS HOSTING INC.

Per: _____
Name:
Title:

I have the authority to bind the corporation.

June 9, 2023

VIA PERSONAL DELIVERY AND REGISTERED MAIL

Iroquois Falls Power Corp.
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON
Canada M5J 2R2

Attention: Mr. Todd Shortt

Dear Sirs/Mesdames:

Re: Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023 (the “Lease”), between Macquarie Equipment Finance Ltd. (the “Lessor”) and Iroquois Falls Power Corp. (the “Lessee”); General Security Agreement made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023 (the “GSA”) by the Lessee in favour of the Lessor and the other documents listed in Schedule “A” (collectively, the “Security Documents”)
and
Notices of Default and Reservation of Rights letters set out in Schedule “B” (collectively, the “Notices of Default”)

We refer to the Security Documents and the Notices of Default. Unless otherwise defined, capitalized terms used herein have the meanings attributed to such terms in the Lease or the GSA.

As the Lessor advised under the Notices of Default, events of default and other similar events have occurred under the Security Documents. In addition, the Lessor has failed to pay the Base Rent (and associated HST) due on May 31, 2023. This is a non-exhaustive list of events of default and other similar events under the Security Documents. One or more of the foregoing events of default and other similar events are Lease Events of Default, Lease Defaults (as defined in the GSA) and/or other defaults or acceleration events under the Security Documents, have continued since the Notices of Default were delivered and are continuing as of the date hereof. Where notice of such events of default and other similar events is required under the Security Documents and has not previously been provided by the Lessor to the Lessee, this letter shall constitute such notice.

Pursuant to the Lease, upon the occurrence of a Lease Event of Default, the Lessor may in its sole and absolute discretion, among other things, enforce the rights and remedies set out in section 13.1 of the Lease.

Pursuant to the GSA, upon the occurrence of an Event of Acceleration, the Lessor may in its sole and absolute discretion, among other things, declare the Secured Liabilities to be immediately due and payable and the Security Interests to be immediately enforceable, demand the amounts

payable and/or demand possession of and realize upon all or any part of the Collateral pursuant to the Security Interests.

Pursuant to the relevant provisions of the Security Documents, including, without limitation, the Lease and the GSA, the Lessor hereby demands payment of the overdue amounts owing, by no later than June 19, 2023. Payment should be made to our last notified bank account for payments.

As at June 9, 2023, the aggregate amount of the overdue Base Rent and associated HST owing pursuant to the Lease is \$6,780,000.00 (the "**Arrears**"). This amount is exclusive of legal and other adviser expenses and other amounts payable, including interest, costs, charges and fees accrued or incurred to such date, and the Lessor reserves the right to demand such amounts. The Lessor is not exercising its rights to demand payment of the amounts set out in sections 13.1 (e) or 13.1 (f) of the Lease at this time but reserves the right to do so. The exact amount of the Obligations and/or the Secured Liabilities may be obtained at any time by contacting the Lessor.

[Remainder left intentionally blank]

Enclosed is a Notice of Intention to Enforce a Security pursuant to section 244 of the *Bankruptcy and Insolvency Act* (Canada). Please be advised that if payment as aforesaid is not made, the Lessor will take such further steps as it deems necessary or advisable to recover the Arrears and other amounts owed to the Lessor under the Security Documents. This letter further informs you that the Lessor hereby expressly reserves all available rights, remedies and claims in their entirety—including, without limitation, the appointment by a court of competent jurisdiction of a receiver to realize on the business, property, assets and undertaking of the Lessee and/or Validus Hosting Inc., Validus Power Corp., Bay Power Corp., Kap Power Corp., Kingston CoGen GP Inc. or Kingston CoGen Limited Partnership (collectively, the “**Guarantors**”)—any of which may be exercised or otherwise pursued at any time, and from time to time, and without further notice to you, in the sole and absolute discretion of the Lessor, as the case may be, in accordance with the Security Documents, or at law and in equity.

Yours truly,

Macquarie Equipment Finance Ltd.

DocuSigned by:

Lisa Tamowsky

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Schedule "A"

Security Documents

- a) The Lease
- b) The GSA
- c) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the Lessee and the Guarantors
- d) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the Lessee
- e) Guarantee made as of April 7, 2022, as amended and restated pursuant to the Amended and Restated Guarantee dated February 24, 2023, in favour of the Lessor by the Lessee and the Guarantors
- f) Demand Debenture made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023, in favour of the Lessor by the Lessee
- g) Ontario PPSA Registration registered against the Lessee in favour of the Lessor and bearing Reference File Number "781679718"
- h) The Notices of Default

Schedule "B"

Notices of Default and Reservation of Rights Letters

- a) Notice of default dated May 12, 2022
- b) Notice of default dated July 12, 2022
- c) Notice of default dated November 16, 2022
- d) Notice of default and reservation of rights dated November 16, 2022
- e) Acknowledgement and reservation of rights agreement dated February 24, 2023
- f) Notice of default and reservation of rights dated April 16, 2023
- g) Acknowledgment and reservation of rights agreement no. 2 dated May 19, 2023
- h) Notice of default and reservation of rights dated June 2, 2023

**NOTICE OF INTENTION TO
ENFORCE A SECURITY**
(Rule 124)
(Pursuant to Subsection 244(1)
of the *Bankruptcy and Insolvency Act*)

TO:

Iroquois Falls Power Corp., an insolvent person
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON
Canada M5J 2R2

Attention: Mr. Todd Shortt

TAKE NOTICE THAT:

1. Macquarie Equipment Finance Ltd. (the "Lessor"), a secured creditor, intends to enforce its security on the insolvent person's property, including, without limitation, as described below:
 - (a) All "Leased Property" of the insolvent person, as such term is defined in the Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023 (the "Lease"), between the Lessor and the insolvent person
 - (b) All "Collateral" of the insolvent person, as such term is defined in the General Security Agreement dated April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023 (the "GSA"), between the Lessor and the insolvent person
 - (c) All property and collateral that was assigned, transferred, pledged, granted, mortgaged, charged and/or similarly secured pursuant to the Security Documents (as such term is defined below)
 - (d) All property and collateral against which the security interests bearing Reference File Number "781679718" have been registered pursuant to the *Personal Property Security Act* (Ontario) (the "PPSA Registration")
2. The security that is to be enforced is the following:
 - (a) The Lease
 - (b) The GSA
 - (c) The PPSA Registration

- (d) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the insolvent person and Validus Power Corp., Bay Power Corp., Kap Power Corp., Kingston CoGen Limited Partnership and Kingston CoGen GP Inc. (collectively, the "Guarantors")
- (e) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the insolvent person
- (f) Guarantee made as of April 7, 2022, as amended and restated pursuant to the Amended and Restated Guarantee dated February 24, 2023, in favour of the Lessor by the insolvent person and the Guarantors
- (g) Demand Debenture made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023, in favour of the Lessor by the insolvent person

(the foregoing, together with all other agreements and security documents related to the foregoing, collectively, the "Security Documents")

- 3. The total amount of indebtedness subject to a demand for payment secured by the security is \$6,780,000.00, as at June 9, 2023. This amount is exclusive of legal and other adviser expenses and other amounts payable, including interest, costs, charges and fees accrued or incurred to such date, and the Lessor reserves the right to demand such amounts.
- 4. The secured creditor will not have the right to enforce the security until after the expiry of the 10-day period after this notice is sent unless the insolvent person consents to an earlier enforcement. A Consent is included herewith as Schedule "A".

Dated at Toronto, Ontario this 9th day of June, 2023.

Macquarie Equipment Finance Ltd.

DocuSigned by:
Lisa Tarnowsky
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Schedule "A"

CONSENT

TO: Macquarie Equipment Finance Ltd.

FROM: Iroquois Falls Power Corp., an insolvent person

The insolvent person acknowledges receipt of a Notice of Intention to Enforce a Security delivered by Macquarie Equipment Finance Ltd. (the "Lessor").

For consideration received, the receipt and sufficiency of which is hereby irrevocably acknowledged, the insolvent person hereby consents to the immediate enforcement by the Lessor of the security held by the Lessor from the insolvent person, and for the same consideration waives completely all rights to any delay by or any further notice from the Lessor with respect to the enforcement of its security and the exercise of the other remedies of the Lessor against the insolvent person.

DATED at _____ this ____ day of _____, 2023.

IROQUOIS FALLS POWER CORP.

Per: _____
Name:
Title:

I have the authority to bind the corporation.

THIS IS **EXHIBIT “KK”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,

THIS 31st DAY OF JULY, 2023.



Michael Noel

Commissioner for Taking Affidavits

June 9, 2023

VIA PERSONAL DELIVERY AND REGISTERED MAIL

Kingston CoGen GP Inc.
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON M5J 2R2
Canada

Attention: Mr. Todd Shortt

Dear Sirs/Mesdames:

**Re: Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023 (the “Lease”), between Macquarie Equipment Finance Ltd. (the “Lessor”) and Iroquois Falls Power Corp. (the “Lessee”); Amended and Restated Guarantee dated February 24, 2023 (the “Guarantee”), in favour of the Lessor by the Lessee, Kingston CoGen GP Inc. (the “Guarantor”), Validus Power Corp., Kap Power Corp., Bay Power Corp. and Kingston CoGen Limited Partnership (together, the “Other Guarantors”); General Security Agreement made as of February 24, 2023 (the “GSA”) by the Guarantor in favour of the Lessor and the other documents listed in Schedule “A” (collectively, the “Security Documents”)
and
Notices of Default and Reservation of Rights letters set out in Schedule “B” (collectively, the “Notices of Default”)**

We refer to the Security Documents and the Notices of Default. Unless otherwise defined, capitalized terms used herein have the meanings attributed to such terms in the Guarantee or the GSA, as applicable.

Enclosed is the Lessor’s demand letter to the Lessee dated June 9, 2023, declaring all Arrears (as defined therein) immediately due and payable in full and demanding payment thereof (along with a Notice to Enforce Security pursuant to section 244 of the *Bankruptcy and Insolvency Act* (Canada)). The Arrears include the Obligations (as defined in the Guarantee) and the Secured Liabilities (as defined in the GSA). Where notice is required under the Security Documents and has not previously been provided by the Lender to the Guarantor, this letter shall constitute such notice.

Pursuant to the Guarantee, the Guarantor absolutely, unconditionally and irrevocably guaranteed to the Lessor the payment of the Obligations. The Guarantor’s liability to make payment under the Guarantee arises forthwith after demand for payment has been made.

Pursuant to the relevant provisions of the Security Documents, including, without limitation, the Guarantee and the GSA, the Lessor hereby declares Arrears to be due and payable in full and demands payment thereof by no later than June 19, 2023. Payment should be made to our last notified bank account for payments.

As at June 9, 2023, the aggregate amount of the Arrears is \$6,780,000.00. This amount is exclusive of legal and other adviser expenses and other amounts payable, including interest, costs, charges and fees accrued or incurred to such date, and the Lessor reserves the right to demand such amounts. The exact amount of the Obligations and/or the Secured Liabilities may be obtained at any time by contacting the Lessor.

[Remainder left intentionally blank]

Enclosed is a Notice of Intention to Enforce a Security pursuant to section 244 of the *Bankruptcy and Insolvency Act* (Canada). Please be advised that if payment as aforesaid is not made, the Lessor will take such further steps as it deems necessary or advisable to recover the Arrears and other amounts owed to the Lessor under the Security Documents. This letter further informs you that the Lessor hereby expressly reserves all available rights, remedies and claims in their entirety—including, without limitation, the appointment by a court of competent jurisdiction of a receiver to realize on the business, property, assets and undertaking of the Lessee, the Guarantor and/or the Other Guarantors—any of which may be exercised or otherwise pursued at any time, and from time to time, and without further notice to you, in the sole and absolute discretion of the Lessor, as the case may be, in accordance with the Security Documents, or at law and in equity.

Yours truly,

Macquarie Equipment Finance Ltd.

DocuSigned by:

Lisa Tarnowsky

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Schedule "A"

Security Documents

- a) The Lease
- b) The Guarantee
- c) The GSA
- d) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the Lessee, the Guarantor and the Other Guarantors
- e) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the Lessee
- f) Demand Debenture made as of February 24, 2023, in favour of the Lessor by the Guarantor, in its own capacity and in its capacity as general partner of Kingston CoGen Limited Partnership
- g) Demand Debenture made as of February 24, 2023, in favour of the Lessor by the Guarantor
- h) Ontario PPSA Registration registered against the Guarantor in favour of the Lessor and bearing Reference File Number "790978779"
- i) The Notices of Default

Schedule "B"

Notices of Default and Reservation of Rights Letters

- a) Notice of default dated May 12, 2022
- b) Notice of default dated July 12, 2022
- c) Notice of default dated November 16, 2022
- d) Notice of default and reservation of rights dated November 16, 2022
- e) Acknowledgement and reservation of rights agreement dated February 24, 2023
- f) Notice of default and reservation of rights dated April 16, 2023
- g) Acknowledgment and reservation of rights agreement no. 2 dated May 19, 2023
- h) Notice of default and reservation of rights dated June 2, 2023

**NOTICE OF INTENTION TO
ENFORCE A SECURITY**
(Rule 124)
(Pursuant to Subsection 244(1)
of the *Bankruptcy and Insolvency Act*)

TO:

Kingston CoGen GP Inc., an insolvent person
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON
Canada M5J 2R2

Attention: Mr. Todd Shortt

TAKE NOTICE THAT:

1. Macquarie Equipment Finance Ltd. (the "Lessor"), a secured creditor, intends to enforce its security on the insolvent person's property, including, without limitation, as described below:
 - (a) All "Collateral" of the insolvent person, as such term is defined in the General Security Agreement dated February 24, 2023 (the "GSA"), between the Lessor and the insolvent person
 - (b) All property and collateral that was assigned, transferred, pledged, granted, mortgaged, charged and/or similarly secured pursuant to the Security Documents (as such term is defined below)
 - (c) All property and collateral against which the security interests bearing Reference File Number "790978779" have been registered pursuant to the *Personal Property Security Act* (Ontario) (the "PPSA Registration")
2. The security that is to be enforced is the following:
 - (a) The GSA
 - (b) The PPSA Registration
 - (c) Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023, between the Lessor and Iroquois Falls Power Corp. (the "Lessee")
 - (d) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the insolvent person, the Lessee and Validus Power Corp., Bay Power Corp., Kap

Power Corp. and Kingston CoGen Limited Partnership (together, the "Other Guarantors")

- (e) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the Lessee
- (f) Amended and Restated Guarantee dated February 24, 2023, in favour of the Lessor by the Lessee, the insolvent person and the Other Guarantors
- (g) Demand Debenture made as of February 24, 2023, in favour of the Lessor by the insolvent person, in its own capacity and in its capacity as general partner of Kingston CoGen Limited Partnership
- (h) Demand Debenture made as of February 24, 2023, in favour of the Lessor by the insolvent person

(the foregoing, together with all other agreements and security documents related to the foregoing, collectively, the "Security Documents")

- 3. The total amount of indebtedness subject to a demand for payment secured by the security is \$6,780,000.00, as at June 9, 2023. This amount is exclusive of legal and other adviser expenses and other amounts payable, including interest, costs, charges and fees accrued or incurred to such date, and the Lessor reserves the right to demand such amounts.
- 4. The secured creditor will not have the right to enforce the security until after the expiry of the 10-day period after this notice is sent unless the insolvent person consents to an earlier enforcement. A Consent is included herewith as Schedule "A".

Dated at Toronto, Ontario this 9th day of June, 2023.

Macquarie Equipment Finance Ltd.

DocuSigned by:

Lisa Tarnowsky

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Schedule "A"

CONSENT

TO: Macquarie Equipment Finance Ltd.

FROM: Kingston CoGen GP Inc., an insolvent person

The insolvent person acknowledges receipt of a Notice of Intention to Enforce a Security delivered by Macquarie Equipment Finance Ltd. (the "Lessor").

For consideration received, the receipt and sufficiency of which is hereby irrevocably acknowledged, the insolvent person hereby consents to the immediate enforcement by the Lessor of the security held by the Lessor from the insolvent person, and for the same consideration waives completely all rights to any delay by or any further notice from the Lessor with respect to the enforcement of its security and the exercise of the other remedies of the Lessor against the insolvent person.

DATED at _____ this ____ day of _____, 2023.

KINGSTON COGEN GP INC.

Per: _____
Name:
Title:

I have the authority to bind the corporation.

June 9, 2023

VIA PERSONAL DELIVERY AND REGISTERED MAIL

Iroquois Falls Power Corp.
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON
Canada M5J 2R2

Attention: Mr. Todd Shortt

Dear Sirs/Mesdames:

Re: Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023 (the “Lease”), between Macquarie Equipment Finance Ltd. (the “Lessor”) and Iroquois Falls Power Corp. (the “Lessee”); General Security Agreement made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023 (the “GSA”) by the Lessee in favour of the Lessor and the other documents listed in Schedule “A” (collectively, the “Security Documents”)
and
Notices of Default and Reservation of Rights letters set out in Schedule “B” (collectively, the “Notices of Default”)

We refer to the Security Documents and the Notices of Default. Unless otherwise defined, capitalized terms used herein have the meanings attributed to such terms in the Lease or the GSA.

As the Lessor advised under the Notices of Default, events of default and other similar events have occurred under the Security Documents. In addition, the Lessor has failed to pay the Base Rent (and associated HST) due on May 31, 2023. This is a non-exhaustive list of events of default and other similar events under the Security Documents. One or more of the foregoing events of default and other similar events are Lease Events of Default, Lease Defaults (as defined in the GSA) and/or other defaults or acceleration events under the Security Documents, have continued since the Notices of Default were delivered and are continuing as of the date hereof. Where notice of such events of default and other similar events is required under the Security Documents and has not previously been provided by the Lessor to the Lessee, this letter shall constitute such notice.

Pursuant to the Lease, upon the occurrence of a Lease Event of Default, the Lessor may in its sole and absolute discretion, among other things, enforce the rights and remedies set out in section 13.1 of the Lease.

Pursuant to the GSA, upon the occurrence of an Event of Acceleration, the Lessor may in its sole and absolute discretion, among other things, declare the Secured Liabilities to be immediately due and payable and the Security Interests to be immediately enforceable, demand the amounts

payable and/or demand possession of and realize upon all or any part of the Collateral pursuant to the Security Interests.

Pursuant to the relevant provisions of the Security Documents, including, without limitation, the Lease and the GSA, the Lessor hereby demands payment of the overdue amounts owing, by no later than June 19, 2023. Payment should be made to our last notified bank account for payments.

As at June 9, 2023, the aggregate amount of the overdue Base Rent and associated HST owing pursuant to the Lease is \$6,780,000.00 (the "**Arrears**"). This amount is exclusive of legal and other adviser expenses and other amounts payable, including interest, costs, charges and fees accrued or incurred to such date, and the Lessor reserves the right to demand such amounts. The Lessor is not exercising its rights to demand payment of the amounts set out in sections 13.1 (e) or 13.1 (f) of the Lease at this time but reserves the right to do so. The exact amount of the Obligations and/or the Secured Liabilities may be obtained at any time by contacting the Lessor.

[Remainder left intentionally blank]

Enclosed is a Notice of Intention to Enforce a Security pursuant to section 244 of the *Bankruptcy and Insolvency Act* (Canada). Please be advised that if payment as aforesaid is not made, the Lessor will take such further steps as it deems necessary or advisable to recover the Arrears and other amounts owed to the Lessor under the Security Documents. This letter further informs you that the Lessor hereby expressly reserves all available rights, remedies and claims in their entirety—including, without limitation, the appointment by a court of competent jurisdiction of a receiver to realize on the business, property, assets and undertaking of the Lessee and/or Validus Hosting Inc., Validus Power Corp., Bay Power Corp., Kap Power Corp., Kingston CoGen GP Inc. or Kingston CoGen Limited Partnership (collectively, the “**Guarantors**”)—any of which may be exercised or otherwise pursued at any time, and from time to time, and without further notice to you, in the sole and absolute discretion of the Lessor, as the case may be, in accordance with the Security Documents, or at law and in equity.

Yours truly,

Macquarie Equipment Finance Ltd.

DocuSigned by:

Lisa Tamowsky

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Schedule "A"

Security Documents

- a) The Lease
- b) The GSA
- c) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the Lessee and the Guarantors
- d) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the Lessee
- e) Guarantee made as of April 7, 2022, as amended and restated pursuant to the Amended and Restated Guarantee dated February 24, 2023, in favour of the Lessor by the Lessee and the Guarantors
- f) Demand Debenture made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023, in favour of the Lessor by the Lessee
- g) Ontario PPSA Registration registered against the Lessee in favour of the Lessor and bearing Reference File Number "781679718"
- h) The Notices of Default

Schedule "B"

Notices of Default and Reservation of Rights Letters

- a) Notice of default dated May 12, 2022
- b) Notice of default dated July 12, 2022
- c) Notice of default dated November 16, 2022
- d) Notice of default and reservation of rights dated November 16, 2022
- e) Acknowledgement and reservation of rights agreement dated February 24, 2023
- f) Notice of default and reservation of rights dated April 16, 2023
- g) Acknowledgment and reservation of rights agreement no. 2 dated May 19, 2023
- h) Notice of default and reservation of rights dated June 2, 2023

**NOTICE OF INTENTION TO
ENFORCE A SECURITY**
(Rule 124)
(Pursuant to Subsection 244(1)
of the *Bankruptcy and Insolvency Act*)

TO:

Iroquois Falls Power Corp., an insolvent person
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON
Canada M5J 2R2

Attention: Mr. Todd Shortt

TAKE NOTICE THAT:

1. Macquarie Equipment Finance Ltd. (the "Lessor"), a secured creditor, intends to enforce its security on the insolvent person's property, including, without limitation, as described below:
 - (a) All "Leased Property" of the insolvent person, as such term is defined in the Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023 (the "Lease"), between the Lessor and the insolvent person
 - (b) All "Collateral" of the insolvent person, as such term is defined in the General Security Agreement dated April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023 (the "GSA"), between the Lessor and the insolvent person
 - (c) All property and collateral that was assigned, transferred, pledged, granted, mortgaged, charged and/or similarly secured pursuant to the Security Documents (as such term is defined below)
 - (d) All property and collateral against which the security interests bearing Reference File Number "781679718" have been registered pursuant to the *Personal Property Security Act* (Ontario) (the "PPSA Registration")
2. The security that is to be enforced is the following:
 - (a) The Lease
 - (b) The GSA
 - (c) The PPSA Registration

- (d) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the insolvent person and Validus Power Corp., Bay Power Corp., Kap Power Corp., Kingston CoGen Limited Partnership and Kingston CoGen GP Inc. (collectively, the "Guarantors")
- (e) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the insolvent person
- (f) Guarantee made as of April 7, 2022, as amended and restated pursuant to the Amended and Restated Guarantee dated February 24, 2023, in favour of the Lessor by the insolvent person and the Guarantors
- (g) Demand Debenture made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023, in favour of the Lessor by the insolvent person

(the foregoing, together with all other agreements and security documents related to the foregoing, collectively, the "Security Documents")

- 3. The total amount of indebtedness subject to a demand for payment secured by the security is \$6,780,000.00, as at June 9, 2023. This amount is exclusive of legal and other adviser expenses and other amounts payable, including interest, costs, charges and fees accrued or incurred to such date, and the Lessor reserves the right to demand such amounts.
- 4. The secured creditor will not have the right to enforce the security until after the expiry of the 10-day period after this notice is sent unless the insolvent person consents to an earlier enforcement. A Consent is included herewith as Schedule "A".

Dated at Toronto, Ontario this 9th day of June, 2023.

Macquarie Equipment Finance Ltd.

DocuSigned by:
Lisa Tarnowsky
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Schedule "A"

CONSENT

TO: Macquarie Equipment Finance Ltd.

FROM: Iroquois Falls Power Corp., an insolvent person

The insolvent person acknowledges receipt of a Notice of Intention to Enforce a Security delivered by Macquarie Equipment Finance Ltd. (the "Lessor").

For consideration received, the receipt and sufficiency of which is hereby irrevocably acknowledged, the insolvent person hereby consents to the immediate enforcement by the Lessor of the security held by the Lessor from the insolvent person, and for the same consideration waives completely all rights to any delay by or any further notice from the Lessor with respect to the enforcement of its security and the exercise of the other remedies of the Lessor against the insolvent person.

DATED at _____ this ____ day of _____, 2023.

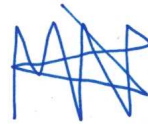
IROQUOIS FALLS POWER CORP.

Per: _____
Name:
Title:

I have the authority to bind the corporation.

THIS IS EXHIBIT “LL” REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,

THIS 31st DAY OF JULY, 2023.



Michael Noel
Commissioner for Taking Affidavits

June 9, 2023

VIA PERSONAL DELIVERY AND REGISTERED MAIL

Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON M5J 2R2
Canada

Attention: Mr. Todd Shortt

Dear Sirs/Mesdames:

**Re: Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023 (the “Lease”), between Macquarie Equipment Finance Ltd. (the “Lessor”) and Iroquois Falls Power Corp. (the “Lessee”); Guarantee made as of April 7, 2022, as amended and restated pursuant to the Amended and Restated Guarantee dated February 24, 2023 (the “Guarantee”), in favour of the Lessor by the Lessee, Validus Power Corp. (the “Guarantor”), Bay Power Corp., Kap Power Corp., Kingston CoGen GP Inc. and Kingston CoGen Limited Partnership (together, the “Other Guarantors”); Securities Pledge Agreement made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023 (the “Pledge Agreement”) by the Guarantor in favour of the Lessor and the other documents listed in Schedule “A” (collectively, the “Security Documents”)
and
Notices of Default and Reservation of Rights letters set out in Schedule “B” (collectively, the “Notices of Default”)**

We refer to the Security Documents and the Notices of Default. Unless otherwise defined, capitalized terms used herein have the meanings attributed to such terms in the Guarantee or the Pledge Agreement, as applicable.

Enclosed is the Lessor’s demand letter to the Lessee dated June 9, 2023, declaring all Arrears (as defined therein) immediately due and payable in full and demanding payment thereof (along with a Notice to Enforce Security pursuant to section 244 of the *Bankruptcy and Insolvency Act* (Canada)). The Arrears include the Obligations (as defined in the Guarantee) and the Secured Liabilities (as defined in the Pledge Agreement). Where notice is required under the Security Documents and has not previously been provided by the Lender to the Guarantor, this letter shall constitute such notice.

Pursuant to the Guarantee, the Guarantor absolutely, unconditionally and irrevocably guaranteed to the Lessor the payment of the Obligations. The Guarantor’s liability to make payment under the Guarantee arises forthwith after demand for payment has been made.

Pursuant to the relevant provisions of the Security Documents, including, without limitation, the Guarantee and the Pledge Agreement, the Lessor hereby declares Arrears to be due and payable in full and demands payment thereof by no later than June 19, 2023. Payment should

be made to our last notified bank account for payments.

As at June 9, 2023, the aggregate amount of the Arrears is \$6,780,000.00. This amount is exclusive of legal and other adviser expenses and other amounts payable, including interest, costs, charges and fees accrued or incurred to such date, and the Lessor reserves the right to demand such amounts. The exact amount of the Obligations and/or the Secured Liabilities may be obtained at any time by contacting the Lessor.

[Remainder left intentionally blank]

Enclosed is a Notice of Intention to Enforce a Security pursuant to section 244 of the *Bankruptcy and Insolvency Act* (Canada). Please be advised that if payment as aforesaid is not made, the Lessor will take such further steps as it deems necessary or advisable to recover the Arrears and other amounts owed to the Lessor under the Security Documents. This letter further informs you that the Lessor hereby expressly reserves all available rights, remedies and claims in their entirety—including, without limitation, the appointment by a court of competent jurisdiction of a receiver to realize on the business, property, assets and undertaking of the Lessee, the Guarantor and/or the Other Guarantors—any of which may be exercised or otherwise pursued at any time, and from time to time, and without further notice to you, in the sole and absolute discretion of the Lessor, as the case may be, in accordance with the Security Documents, or at law and in equity.

Yours truly,

Macquarie Equipment Finance Ltd.

DocuSigned by:
Lisa Tamowsky
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Schedule "A"

Security Documents

- a) The Lease
- b) The Guarantee
- c) The Pledge Agreement
- d) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the Lessee, the Guarantor and the Other Guarantors
- e) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the Lessee
- f) Ontario PPSA Registration registered against the Guarantor in favour of the Lessor and bearing Reference File Number "781679745"
- g) The Notices of Default

Schedule "B"

Notices of Default and Reservation of Rights Letters

- a) Notice of default dated May 12, 2022
- b) Notice of default dated July 12, 2022
- c) Notice of default dated November 16, 2022
- d) Notice of default and reservation of rights dated November 16, 2022
- e) Acknowledgement and reservation of rights agreement dated February 24, 2023
- f) Notice of default and reservation of rights dated April 16, 2023
- g) Acknowledgment and reservation of rights agreement no. 2 dated May 19, 2023
- h) Notice of default and reservation of rights dated June 2, 2023

**NOTICE OF INTENTION TO
ENFORCE A SECURITY**
(Rule 124)
(Pursuant to Subsection 244(1)
of the *Bankruptcy and Insolvency Act*)

TO:

Validus Power Corp., an insolvent person
2300-100 Wellington Street West
Toronto, ON
Canada M5J 2R2

Attention: Mr. Todd Shortt

TAKE NOTICE THAT:

1. Macquarie Equipment Finance Ltd. (the "Lessor"), a secured creditor, intends to enforce its security on the insolvent person's property, including, without limitation, as described below:
 - (a) All "Collateral" of the insolvent person, as such term is defined in the Securities Pledge Agreement made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023 (the "Pledge Agreement"), between the Lessor and the insolvent person
 - (b) All property and collateral that was assigned, transferred, pledged, granted, mortgaged, charged and/or similarly secured pursuant to the Security Documents (as such term is defined below)
 - (c) All property and collateral against which the security interests bearing Reference File Number "781679745" have been registered pursuant to the *Personal Property Security Act* (Ontario) (the "PPSA Registration")
2. The security that is to be enforced is the following:
 - (a) The Pledge Agreement
 - (b) The PPSA Registration
 - (c) Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023, between the Lessor and Iroquois Falls Power Corp. (the "Lessee")
 - (d) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the insolvent person, the Lessee and Bay Power Corp., Kap Power Corp.,

Kingston CoGen Limited Partnership and Kingston CoGen GP Inc. (together, the "Other Guarantors")

- (e) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the Lessee
- (f) Guarantee made as of April 7, 2022, as amended and restated pursuant to the Amended and Restated Guarantee dated February 24, 2023, in favour of the Lessor by the Lessee, the insolvent person and the Other Guarantors

(the foregoing, together with all other agreements and security documents related to the foregoing, collectively, the "Security Documents")

- 3. The total amount of indebtedness subject to a demand for payment secured by the security is \$6,780,000.00, as at June 9, 2023. This amount is exclusive of legal and other adviser expenses and other amounts payable, including interest, costs, charges and fees accrued or incurred to such date, and the Lessor reserves the right to demand such amounts.
- 4. The secured creditor will not have the right to enforce the security until after the expiry of the 10-day period after this notice is sent unless the insolvent person consents to an earlier enforcement. A Consent is included herewith as Schedule "A".

Dated at Toronto, Ontario this 9th day of June, 2023.

Macquarie Equipment Finance Ltd.

DocuSigned by:

Lisa Tarnowsky

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Schedule "A"

CONSENT

TO: Macquarie Equipment Finance Ltd.

FROM: Validus Power Corp., an insolvent person

The insolvent person acknowledges receipt of a Notice of Intention to Enforce a Security delivered by Macquarie Equipment Finance Ltd. (the "Lessor").

For consideration received, the receipt and sufficiency of which is hereby irrevocably acknowledged, the insolvent person hereby consents to the immediate enforcement by the Lessor of the security held by the Lessor from the insolvent person, and for the same consideration waives completely all rights to any delay by or any further notice from the Lessor with respect to the enforcement of its security and the exercise of the other remedies of the Lessor against the insolvent person.

DATED at _____ this ____ day of _____, 2023.

VALIDUS POWER CORP.

Per: _____
Name:
Title:

I have the authority to bind the corporation.

June 9, 2023

VIA PERSONAL DELIVERY AND REGISTERED MAIL

Iroquois Falls Power Corp.
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON
Canada M5J 2R2

Attention: Mr. Todd Shortt

Dear Sirs/Mesdames:

Re: Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023 (the “Lease”), between Macquarie Equipment Finance Ltd. (the “Lessor”) and Iroquois Falls Power Corp. (the “Lessee”); General Security Agreement made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023 (the “GSA”) by the Lessee in favour of the Lessor and the other documents listed in Schedule “A” (collectively, the “Security Documents”)
and
Notices of Default and Reservation of Rights letters set out in Schedule “B” (collectively, the “Notices of Default”)

We refer to the Security Documents and the Notices of Default. Unless otherwise defined, capitalized terms used herein have the meanings attributed to such terms in the Lease or the GSA.

As the Lessor advised under the Notices of Default, events of default and other similar events have occurred under the Security Documents. In addition, the Lessor has failed to pay the Base Rent (and associated HST) due on May 31, 2023. This is a non-exhaustive list of events of default and other similar events under the Security Documents. One or more of the foregoing events of default and other similar events are Lease Events of Default, Lease Defaults (as defined in the GSA) and/or other defaults or acceleration events under the Security Documents, have continued since the Notices of Default were delivered and are continuing as of the date hereof. Where notice of such events of default and other similar events is required under the Security Documents and has not previously been provided by the Lessor to the Lessee, this letter shall constitute such notice.

Pursuant to the Lease, upon the occurrence of a Lease Event of Default, the Lessor may in its sole and absolute discretion, among other things, enforce the rights and remedies set out in section 13.1 of the Lease.

Pursuant to the GSA, upon the occurrence of an Event of Acceleration, the Lessor may in its sole and absolute discretion, among other things, declare the Secured Liabilities to be immediately due and payable and the Security Interests to be immediately enforceable, demand the amounts

payable and/or demand possession of and realize upon all or any part of the Collateral pursuant to the Security Interests.

Pursuant to the relevant provisions of the Security Documents, including, without limitation, the Lease and the GSA, the Lessor hereby demands payment of the overdue amounts owing, by no later than June 19, 2023. Payment should be made to our last notified bank account for payments.

As at June 9, 2023, the aggregate amount of the overdue Base Rent and associated HST owing pursuant to the Lease is \$6,780,000.00 (the "**Arrears**"). This amount is exclusive of legal and other adviser expenses and other amounts payable, including interest, costs, charges and fees accrued or incurred to such date, and the Lessor reserves the right to demand such amounts. The Lessor is not exercising its rights to demand payment of the amounts set out in sections 13.1 (e) or 13.1 (f) of the Lease at this time but reserves the right to do so. The exact amount of the Obligations and/or the Secured Liabilities may be obtained at any time by contacting the Lessor.

[Remainder left intentionally blank]

Enclosed is a Notice of Intention to Enforce a Security pursuant to section 244 of the *Bankruptcy and Insolvency Act* (Canada). Please be advised that if payment as aforesaid is not made, the Lessor will take such further steps as it deems necessary or advisable to recover the Arrears and other amounts owed to the Lessor under the Security Documents. This letter further informs you that the Lessor hereby expressly reserves all available rights, remedies and claims in their entirety—including, without limitation, the appointment by a court of competent jurisdiction of a receiver to realize on the business, property, assets and undertaking of the Lessee and/or Validus Hosting Inc., Validus Power Corp., Bay Power Corp., Kap Power Corp., Kingston CoGen GP Inc. or Kingston CoGen Limited Partnership (collectively, the “**Guarantors**”)—any of which may be exercised or otherwise pursued at any time, and from time to time, and without further notice to you, in the sole and absolute discretion of the Lessor, as the case may be, in accordance with the Security Documents, or at law and in equity.

Yours truly,

Macquarie Equipment Finance Ltd.

DocuSigned by:

Lisa Tamowsky

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Schedule "A"

Security Documents

- a) The Lease
- b) The GSA
- c) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the Lessee and the Guarantors
- d) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the Lessee
- e) Guarantee made as of April 7, 2022, as amended and restated pursuant to the Amended and Restated Guarantee dated February 24, 2023, in favour of the Lessor by the Lessee and the Guarantors
- f) Demand Debenture made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023, in favour of the Lessor by the Lessee
- g) Ontario PPSA Registration registered against the Lessee in favour of the Lessor and bearing Reference File Number "781679718"
- h) The Notices of Default

Schedule "B"

Notices of Default and Reservation of Rights Letters

- a) Notice of default dated May 12, 2022
- b) Notice of default dated July 12, 2022
- c) Notice of default dated November 16, 2022
- d) Notice of default and reservation of rights dated November 16, 2022
- e) Acknowledgement and reservation of rights agreement dated February 24, 2023
- f) Notice of default and reservation of rights dated April 16, 2023
- g) Acknowledgment and reservation of rights agreement no. 2 dated May 19, 2023
- h) Notice of default and reservation of rights dated June 2, 2023

**NOTICE OF INTENTION TO
ENFORCE A SECURITY**
(Rule 124)
(Pursuant to Subsection 244(1)
of the *Bankruptcy and Insolvency Act*)

TO:

Iroquois Falls Power Corp., an insolvent person
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON
Canada M5J 2R2

Attention: Mr. Todd Shortt

TAKE NOTICE THAT:

1. Macquarie Equipment Finance Ltd. (the "Lessor"), a secured creditor, intends to enforce its security on the insolvent person's property, including, without limitation, as described below:
 - (a) All "Leased Property" of the insolvent person, as such term is defined in the Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023 (the "Lease"), between the Lessor and the insolvent person
 - (b) All "Collateral" of the insolvent person, as such term is defined in the General Security Agreement dated April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023 (the "GSA"), between the Lessor and the insolvent person
 - (c) All property and collateral that was assigned, transferred, pledged, granted, mortgaged, charged and/or similarly secured pursuant to the Security Documents (as such term is defined below)
 - (d) All property and collateral against which the security interests bearing Reference File Number "781679718" have been registered pursuant to the *Personal Property Security Act* (Ontario) (the "PPSA Registration")
2. The security that is to be enforced is the following:
 - (a) The Lease
 - (b) The GSA
 - (c) The PPSA Registration

- (d) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the insolvent person and Validus Power Corp., Bay Power Corp., Kap Power Corp., Kingston CoGen Limited Partnership and Kingston CoGen GP Inc. (collectively, the "Guarantors")
- (e) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the insolvent person
- (f) Guarantee made as of April 7, 2022, as amended and restated pursuant to the Amended and Restated Guarantee dated February 24, 2023, in favour of the Lessor by the insolvent person and the Guarantors
- (g) Demand Debenture made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023, in favour of the Lessor by the insolvent person

(the foregoing, together with all other agreements and security documents related to the foregoing, collectively, the "Security Documents")

- 3. The total amount of indebtedness subject to a demand for payment secured by the security is \$6,780,000.00, as at June 9, 2023. This amount is exclusive of legal and other adviser expenses and other amounts payable, including interest, costs, charges and fees accrued or incurred to such date, and the Lessor reserves the right to demand such amounts.
- 4. The secured creditor will not have the right to enforce the security until after the expiry of the 10-day period after this notice is sent unless the insolvent person consents to an earlier enforcement. A Consent is included herewith as Schedule "A".

Dated at Toronto, Ontario this 9th day of June, 2023.

Macquarie Equipment Finance Ltd.

DocuSigned by:
Lisa Tarnowsky
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Schedule "A"

CONSENT

TO: Macquarie Equipment Finance Ltd.

FROM: Iroquois Falls Power Corp., an insolvent person

The insolvent person acknowledges receipt of a Notice of Intention to Enforce a Security delivered by Macquarie Equipment Finance Ltd. (the "Lessor").

For consideration received, the receipt and sufficiency of which is hereby irrevocably acknowledged, the insolvent person hereby consents to the immediate enforcement by the Lessor of the security held by the Lessor from the insolvent person, and for the same consideration waives completely all rights to any delay by or any further notice from the Lessor with respect to the enforcement of its security and the exercise of the other remedies of the Lessor against the insolvent person.

DATED at _____ this ____ day of _____, 2023.

IROQUOIS FALLS POWER CORP.

Per: _____
Name:
Title:

I have the authority to bind the corporation.

THIS IS **EXHIBIT “MM”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,

THIS 31st DAY OF JULY, 2023.



Michael Noel

Commissioner for Taking Affidavits

June 9, 2023

VIA PERSONAL DELIVERY AND REGISTERED MAIL

Bay Power Corp.
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON M5J 2R2
Canada

Attention: Mr. Todd Shortt

Dear Sirs/Mesdames:

**Re: Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023 (the “Lease”), between Macquarie Equipment Finance Ltd. (the “Lessor”) and Iroquois Falls Power Corp. (the “Lessee”); Guarantee made as of April 7, 2022, as amended and restated pursuant to the Amended and Restated Guarantee dated February 24, 2023 (the “Guarantee”), in favour of the Lessor by the Lessee, Bay Power Corp. (the “Guarantor”), Validus Power Corp., Kap Power Corp., Kingston CoGen GP Inc. and Kingston CoGen Limited Partnership (together, the “Other Guarantors”); General Security Agreement made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023 (the “GSA”) by the Guarantor in favour of the Lessor and the other documents listed in Schedule “A” (collectively, the “Security Documents”)
and
Notices of Default and Reservation of Rights letters set out in Schedule “B” (collectively, the “Notices of Default”)**

We refer to the Security Documents and the Notices of Default. Unless otherwise defined, capitalized terms used herein have the meanings attributed to such terms in the Guarantee or the GSA, as applicable.

Enclosed is the Lessor’s demand letter to the Lessee dated June 9, 2023, declaring all Arrears (as defined therein) immediately due and payable in full and demanding payment thereof (along with a Notice to Enforce Security pursuant to section 244 of the *Bankruptcy and Insolvency Act* (Canada)). The Arrears include the Obligations (as defined in the Guarantee) and the Secured Liabilities (as defined in the GSA). Where notice is required under the Security Documents and has not previously been provided by the Lender to the Guarantor, this letter shall constitute such notice.

Pursuant to the Guarantee, the Guarantor absolutely, unconditionally and irrevocably guaranteed to the Lessor the payment of the Obligations. The Guarantor’s liability to make payment under the Guarantee arises forthwith after demand for payment has been made.

Pursuant to the relevant provisions of the Security Documents, including, without limitation, the Guarantee and the GSA, the Lessor hereby declares Arrears to be due and payable in full and demands payment thereof by no later than June 19, 2023. Payment should be made to our last notified bank account for payments.

As at June 9, 2023, the aggregate amount of the Arrears is \$6,780,000. This amount is exclusive of legal and other adviser expenses and other amounts payable, including interest, costs, charges and fees accrued or incurred to such date, and the Lessor reserves the right to demand such amounts. The exact amount of the Obligations and/or the Secured Liabilities may be obtained at any time by contacting the Lessor.

[Remainder left intentionally blank]

Enclosed is a Notice of Intention to Enforce a Security pursuant to section 244 of the *Bankruptcy and Insolvency Act* (Canada). Please be advised that if payment as aforesaid is not made, the Lessor will take such further steps as it deems necessary or advisable to recover the Arrears and other amounts owed to the Lessor under the Security Documents. This letter further informs you that the Lessor hereby expressly reserves all available rights, remedies and claims in their entirety—including, without limitation, the appointment by a court of competent jurisdiction of a receiver to realize on the business, property, assets and undertaking of the Lessee, the Guarantor and/or the Other Guarantors—any of which may be exercised or otherwise pursued at any time, and from time to time, and without further notice to you, in the sole and absolute discretion of the Lessor, as the case may be, in accordance with the Security Documents, or at law and in equity.

Yours truly,

Macquarie Equipment Finance Ltd.

DocuSigned by:
Lisa Tamowsky
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Schedule "A"

Security Documents

- a) The Lease
- b) The Guarantee
- c) The GSA
- d) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the Lessee, the Guarantor and the Other Guarantors
- e) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the Lessee
- f) Demand Debenture made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023, in favour of the Lessor by the Guarantor
- g) Ontario PPSA Registration registered against the Guarantor in favour of the Lessor and bearing Reference File Number "781679817"
- h) The Notices of Default

Schedule "B"

Notices of Default and Reservation of Rights Letters

- a) Notice of default dated May 12, 2022
- b) Notice of default dated July 12, 2022
- c) Notice of default dated November 16, 2022
- d) Notice of default and reservation of rights dated November 16, 2022
- e) Acknowledgement and reservation of rights agreement dated February 24, 2023
- f) Notice of default and reservation of rights dated April 16, 2023
- g) Acknowledgment and reservation of rights agreement no. 2 dated May 19, 2023
- h) Notice of default and reservation of rights dated June 2, 2023

**NOTICE OF INTENTION TO
ENFORCE A SECURITY**
(Rule 124)
(Pursuant to Subsection 244(1)
of the *Bankruptcy and Insolvency Act*)

TO:

Bay Power Corp., an insolvent person
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON
Canada M5J 2R2

Attention: Mr. Todd Shortt

TAKE NOTICE THAT:

1. Macquarie Equipment Finance Ltd. (the "Lessor"), a secured creditor, intends to enforce its security on the insolvent person's property, including, without limitation, as described below:
 - (a) All "Collateral" of the insolvent person, as such term is defined in the General Security Agreement dated April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023 (the "GSA"), between the Lessor and the insolvent person
 - (b) All property and collateral that was assigned, transferred, pledged, granted, mortgaged, charged and/or similarly secured pursuant to the Security Documents (as such term is defined below)
 - (c) All property and collateral against which the security interests bearing Reference File Number "781679817" have been registered pursuant to the *Personal Property Security Act* (Ontario) (the "PPSA Registration")
2. The security that is to be enforced is the following:
 - (a) The GSA
 - (b) The PPSA Registration
 - (c) Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023, between the Lessor and Iroquois Falls Power Corp. (the "Lessee")
 - (d) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the

Lessor, the insolvent person, the Lessee and Validus Power Corp., Kap Power Corp., Kingston CoGen Limited Partnership and Kingston CoGen GP Inc. (together, the "Other Guarantors")

- (e) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the Lessee
- (f) Guarantee made as of April 7, 2022, as amended and restated pursuant to the Amended and Restated Guarantee dated February 24, 2023, in favour of the Lessor by the Lessee, the insolvent person and the Other Guarantors
- (g) Demand Debenture made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023, in favour of the Lessor by the insolvent person

(the foregoing, together with all other agreements and security documents related to the foregoing, collectively, the "Security Documents")

- 3. The total amount of indebtedness subject to a demand for payment secured by the security is \$6,780,000.00, as at June 9, 2023. This amount is exclusive of legal and other adviser expenses and other amounts payable, including interest, costs, charges and fees accrued or incurred to such date, and the Lessor reserves the right to demand such amounts.
- 4. The secured creditor will not have the right to enforce the security until after the expiry of the 10-day period after this notice is sent unless the insolvent person consents to an earlier enforcement. A Consent is included herewith as Schedule "A".

Dated at Toronto, Ontario this 9th day of June, 2023.

Macquarie Equipment Finance Ltd.

DocuSigned by:
Lisa Tarnowsky
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Schedule "A"

CONSENT

TO: Macquarie Equipment Finance Ltd.

FROM: Bay Power Corp., an insolvent person

The insolvent person acknowledges receipt of a Notice of Intention to Enforce a Security delivered by Macquarie Equipment Finance Ltd. (the "Lessor").

For consideration received, the receipt and sufficiency of which is hereby irrevocably acknowledged, the insolvent person hereby consents to the immediate enforcement by the Lessor of the security held by the Lessor from the insolvent person, and for the same consideration waives completely all rights to any delay by or any further notice from the Lessor with respect to the enforcement of its security and the exercise of the other remedies of the Lessor against the insolvent person.

DATED at _____ this ____ day of _____, 2023.

BAY POWER CORP.

Per: _____
Name:
Title:

I have the authority to bind the corporation.

June 9, 2023

VIA PERSONAL DELIVERY AND REGISTERED MAIL

Iroquois Falls Power Corp.
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON
Canada M5J 2R2

Attention: Mr. Todd Shortt

Dear Sirs/Mesdames:

Re: Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023 (the “Lease”), between Macquarie Equipment Finance Ltd. (the “Lessor”) and Iroquois Falls Power Corp. (the “Lessee”); General Security Agreement made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023 (the “GSA”) by the Lessee in favour of the Lessor and the other documents listed in Schedule “A” (collectively, the “Security Documents”)
and
Notices of Default and Reservation of Rights letters set out in Schedule “B” (collectively, the “Notices of Default”)

We refer to the Security Documents and the Notices of Default. Unless otherwise defined, capitalized terms used herein have the meanings attributed to such terms in the Lease or the GSA.

As the Lessor advised under the Notices of Default, events of default and other similar events have occurred under the Security Documents. In addition, the Lessor has failed to pay the Base Rent (and associated HST) due on May 31, 2023. This is a non-exhaustive list of events of default and other similar events under the Security Documents. One or more of the foregoing events of default and other similar events are Lease Events of Default, Lease Defaults (as defined in the GSA) and/or other defaults or acceleration events under the Security Documents, have continued since the Notices of Default were delivered and are continuing as of the date hereof. Where notice of such events of default and other similar events is required under the Security Documents and has not previously been provided by the Lessor to the Lessee, this letter shall constitute such notice.

Pursuant to the Lease, upon the occurrence of a Lease Event of Default, the Lessor may in its sole and absolute discretion, among other things, enforce the rights and remedies set out in section 13.1 of the Lease.

Pursuant to the GSA, upon the occurrence of an Event of Acceleration, the Lessor may in its sole and absolute discretion, among other things, declare the Secured Liabilities to be immediately due and payable and the Security Interests to be immediately enforceable, demand the amounts

payable and/or demand possession of and realize upon all or any part of the Collateral pursuant to the Security Interests.

Pursuant to the relevant provisions of the Security Documents, including, without limitation, the Lease and the GSA, the Lessor hereby demands payment of the overdue amounts owing, by no later than June 19, 2023. Payment should be made to our last notified bank account for payments.

As at June 9, 2023, the aggregate amount of the overdue Base Rent and associated HST owing pursuant to the Lease is \$6,780,000.00 (the "**Arrears**"). This amount is exclusive of legal and other adviser expenses and other amounts payable, including interest, costs, charges and fees accrued or incurred to such date, and the Lessor reserves the right to demand such amounts. The Lessor is not exercising its rights to demand payment of the amounts set out in sections 13.1 (e) or 13.1 (f) of the Lease at this time but reserves the right to do so. The exact amount of the Obligations and/or the Secured Liabilities may be obtained at any time by contacting the Lessor.

[Remainder left intentionally blank]

Enclosed is a Notice of Intention to Enforce a Security pursuant to section 244 of the *Bankruptcy and Insolvency Act* (Canada). Please be advised that if payment as aforesaid is not made, the Lessor will take such further steps as it deems necessary or advisable to recover the Arrears and other amounts owed to the Lessor under the Security Documents. This letter further informs you that the Lessor hereby expressly reserves all available rights, remedies and claims in their entirety—including, without limitation, the appointment by a court of competent jurisdiction of a receiver to realize on the business, property, assets and undertaking of the Lessee and/or Validus Hosting Inc., Validus Power Corp., Bay Power Corp., Kap Power Corp., Kingston CoGen GP Inc. or Kingston CoGen Limited Partnership (collectively, the “**Guarantors**”)—any of which may be exercised or otherwise pursued at any time, and from time to time, and without further notice to you, in the sole and absolute discretion of the Lessor, as the case may be, in accordance with the Security Documents, or at law and in equity.

Yours truly,

Macquarie Equipment Finance Ltd.

DocuSigned by:

Lisa Tamowsky

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Schedule "A"

Security Documents

- a) The Lease
- b) The GSA
- c) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the Lessee and the Guarantors
- d) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the Lessee
- e) Guarantee made as of April 7, 2022, as amended and restated pursuant to the Amended and Restated Guarantee dated February 24, 2023, in favour of the Lessor by the Lessee and the Guarantors
- f) Demand Debenture made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023, in favour of the Lessor by the Lessee
- g) Ontario PPSA Registration registered against the Lessee in favour of the Lessor and bearing Reference File Number "781679718"
- h) The Notices of Default

Schedule "B"

Notices of Default and Reservation of Rights Letters

- a) Notice of default dated May 12, 2022
- b) Notice of default dated July 12, 2022
- c) Notice of default dated November 16, 2022
- d) Notice of default and reservation of rights dated November 16, 2022
- e) Acknowledgement and reservation of rights agreement dated February 24, 2023
- f) Notice of default and reservation of rights dated April 16, 2023
- g) Acknowledgment and reservation of rights agreement no. 2 dated May 19, 2023
- h) Notice of default and reservation of rights dated June 2, 2023

**NOTICE OF INTENTION TO
ENFORCE A SECURITY**
(Rule 124)
(Pursuant to Subsection 244(1)
of the *Bankruptcy and Insolvency Act*)

TO:

Iroquois Falls Power Corp., an insolvent person
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON
Canada M5J 2R2

Attention: Mr. Todd Shortt

TAKE NOTICE THAT:

1. Macquarie Equipment Finance Ltd. (the "Lessor"), a secured creditor, intends to enforce its security on the insolvent person's property, including, without limitation, as described below:
 - (a) All "Leased Property" of the insolvent person, as such term is defined in the Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023 (the "Lease"), between the Lessor and the insolvent person
 - (b) All "Collateral" of the insolvent person, as such term is defined in the General Security Agreement dated April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023 (the "GSA"), between the Lessor and the insolvent person
 - (c) All property and collateral that was assigned, transferred, pledged, granted, mortgaged, charged and/or similarly secured pursuant to the Security Documents (as such term is defined below)
 - (d) All property and collateral against which the security interests bearing Reference File Number "781679718" have been registered pursuant to the *Personal Property Security Act* (Ontario) (the "PPSA Registration")
2. The security that is to be enforced is the following:
 - (a) The Lease
 - (b) The GSA
 - (c) The PPSA Registration

- (d) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the insolvent person and Validus Power Corp., Bay Power Corp., Kap Power Corp., Kingston CoGen Limited Partnership and Kingston CoGen GP Inc. (collectively, the "Guarantors")
- (e) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the insolvent person
- (f) Guarantee made as of April 7, 2022, as amended and restated pursuant to the Amended and Restated Guarantee dated February 24, 2023, in favour of the Lessor by the insolvent person and the Guarantors
- (g) Demand Debenture made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023, in favour of the Lessor by the insolvent person

(the foregoing, together with all other agreements and security documents related to the foregoing, collectively, the "Security Documents")

- 3. The total amount of indebtedness subject to a demand for payment secured by the security is \$6,780,000.00, as at June 9, 2023. This amount is exclusive of legal and other adviser expenses and other amounts payable, including interest, costs, charges and fees accrued or incurred to such date, and the Lessor reserves the right to demand such amounts.
- 4. The secured creditor will not have the right to enforce the security until after the expiry of the 10-day period after this notice is sent unless the insolvent person consents to an earlier enforcement. A Consent is included herewith as Schedule "A".

Dated at Toronto, Ontario this 9th day of June, 2023.

Macquarie Equipment Finance Ltd.

DocuSigned by:
Lisa Tarnowsky
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Schedule "A"

CONSENT

TO: Macquarie Equipment Finance Ltd.

FROM: Iroquois Falls Power Corp., an insolvent person

The insolvent person acknowledges receipt of a Notice of Intention to Enforce a Security delivered by Macquarie Equipment Finance Ltd. (the "Lessor").

For consideration received, the receipt and sufficiency of which is hereby irrevocably acknowledged, the insolvent person hereby consents to the immediate enforcement by the Lessor of the security held by the Lessor from the insolvent person, and for the same consideration waives completely all rights to any delay by or any further notice from the Lessor with respect to the enforcement of its security and the exercise of the other remedies of the Lessor against the insolvent person.

DATED at _____ this ____ day of _____, 2023.

IROQUOIS FALLS POWER CORP.

Per: _____
Name:
Title:

I have the authority to bind the corporation.

THIS IS **EXHIBIT “NN”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,

THIS 31st DAY OF JULY, 2023.



Michael Noel

Commissioner for Taking Affidavits

June 9, 2023

VIA PERSONAL DELIVERY AND REGISTERED MAIL

Kingston CoGen Limited Partnership
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON M5J 2R2
Canada

Attention: Mr. Todd Shortt

Dear Sirs/Mesdames:

Re: Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023 (the “Lease”), between Macquarie Equipment Finance Ltd. (the “Lessor”) and Iroquois Falls Power Corp. (the “Lessee”); Amended and Restated Guarantee dated February 24, 2023 (the “Guarantee”), in favour of the Lessor by the Lessee, Kingston CoGen Limited Partnership (the “Guarantor”), Validus Power Corp., Kap Power Corp., Bay Power Corp. and Kingston CoGen GP Inc. (together, the “Other Guarantors”); General Security Agreement made as of February 24, 2023 (the “GSA”) by the Guarantor in favour of the Lessor and the other documents listed in Schedule “A” (collectively, the “Security Documents”) and Notices of Default and Reservation of Rights letters set out in Schedule “B” (collectively, the “Notices of Default”)

We refer to the Security Documents and the Notices of Default. Unless otherwise defined, capitalized terms used herein have the meanings attributed to such terms in the Guarantee or the GSA, as applicable.

Enclosed is the Lessor’s demand letter to the Lessee dated June 9, 2023, declaring all Arrears (as defined therein) immediately due and payable in full and demanding payment thereof (along with a Notice to Enforce Security pursuant to section 244 of the *Bankruptcy and Insolvency Act* (Canada)). The Arrears include the Obligations (as defined in the Guarantee) and the Secured Liabilities (as defined in the GSA). Where notice is required under the Security Documents and has not previously been provided by the Lender to the Guarantor, this letter shall constitute such notice.

Pursuant to the Guarantee, the Guarantor absolutely, unconditionally and irrevocably guaranteed to the Lessor the payment of the Obligations. The Guarantor’s liability to make payment under the Guarantee arises forthwith after demand for payment has been made.

Pursuant to the relevant provisions of the Security Documents, including, without limitation, the Guarantee and the GSA, the Lessor hereby declares Arrears to be due and payable in full and demands payment thereof by no later than June 19, 2023. Payment should be made to our last notified bank account for payments.

As at June 9, 2023, the aggregate amount of the Arrears is \$6,780,000.00. This amount is exclusive of legal and other adviser expenses and other amounts payable, including interest, costs, charges and fees incurred to such date, and the Lessor reserves the right to demand such amounts. The exact amount of the Obligations and/or the Secured Liabilities may be obtained at any time by contacting the Lessor.

[Remainder left intentionally blank]

Enclosed is a Notice of Intention to Enforce a Security pursuant to section 244 of the *Bankruptcy and Insolvency Act* (Canada). Please be advised that if payment as aforesaid is not made, the Lessor will take such further steps as it deems necessary or advisable to recover the Arrears and other amounts owed to the Lessor under the Security Documents. This letter further informs you that the Lessor hereby expressly reserves all available rights, remedies and claims in their entirety—including, without limitation, the appointment by a court of competent jurisdiction of a receiver to realize on the business, property, assets and undertaking of the Lessee, the Guarantor and/or the Other Guarantors—any of which may be exercised or otherwise pursued at any time, and from time to time, and without further notice to you, in the sole and absolute discretion of the Lessor, as the case may be, in accordance with the Security Documents, or at law and in equity.

Yours truly,

Macquarie Equipment Finance Ltd.

DocuSigned by:
Lisa Tarnowsky
2950D8D7E7E84A6...

Schedule "A"

Security Documents

- a) The Lease
- b) The Guarantee
- c) The GSA
- d) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the Lessee, the Guarantor and the Other Guarantors
- e) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the Lessee
- f) Demand Debenture made as of February 24, 2023, in favour of the Lessor by the Guarantor
- g) Ontario PPSA Registration registered against the Guarantor in favour of the Lessor and bearing Reference File Number "790978752"
- h) The Notices of Default

Schedule "B"

Notices of Default and Reservation of Rights Letters

- a) Notice of default dated May 12, 2022
- b) Notice of default dated July 12, 2022
- c) Notice of default dated November 16, 2022
- d) Notice of default and reservation of rights dated November 16, 2022
- e) Acknowledgement and reservation of rights agreement dated February 24, 2023
- f) Notice of default and reservation of rights dated April 16, 2023
- g) Acknowledgment and reservation of rights agreement no. 2 dated May 19, 2023
- h) Notice of default and reservation of rights dated June 2, 2023

**NOTICE OF INTENTION TO
ENFORCE A SECURITY**
(Rule 124)
(Pursuant to Subsection 244(1)
of the *Bankruptcy and Insolvency Act*)

TO:

Kingston CoGen Limited Partnership, an insolvent person
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON
Canada M5J 2R2

Attention: Mr. Todd Shortt

TAKE NOTICE THAT:

1. Macquarie Equipment Finance Ltd. (the "Lessor"), a secured creditor, intends to enforce its security on the insolvent person's property, including, without limitation, as described below:
 - (a) All "Collateral" of the insolvent person, as such term is defined in the General Security Agreement dated February 24, 2023 (the "GSA"), between the Lessor and the insolvent person
 - (b) All property and collateral that was assigned, transferred, pledged, granted, mortgaged, charged and/or similarly secured pursuant to the Security Documents (as such term is defined below)
 - (c) All property and collateral against which the security interests bearing Reference File Number "790978752" have been registered pursuant to the *Personal Property Security Act* (Ontario) (the "PPSA Registration")
2. The security that is to be enforced is the following:
 - (a) The GSA
 - (b) The PPSA Registration
 - (c) Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023, between the Lessor and Iroquois Falls Power Corp. (the "Lessee")
 - (d) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the

Lessor, the insolvent person, the Lessee and Validus Power Corp., Bay Power Corp., Kap Power Corp. and Kingston CoGen GP Inc. (together, the "Other Guarantors")

- (e) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the Lessee
- (f) Amended and Restated Guarantee dated February 24, 2023, in favour of the Lessor by the Lessee, the insolvent person and the Other Guarantors
- (g) Demand Debenture made as of February 24, 2023, in favour of the Lessor by the insolvent person

(the foregoing, together with all other agreements and security documents related to the foregoing, collectively, the "Security Documents")

- 3. The total amount of indebtedness subject to a demand for payment secured by the security is \$6,780,000.00, as at June 9, 2023. This amount is exclusive of legal and other adviser expenses and other amounts payable, including interest, costs, charges and fees accrued or incurred to such date, and the Lessor reserves the right to demand such amounts.
- 4. The secured creditor will not have the right to enforce the security until after the expiry of the 10-day period after this notice is sent unless the insolvent person consents to an earlier enforcement. A Consent is included herewith as Schedule "A".

Dated at Toronto, Ontario this 9th day of June, 2023.

Macquarie Equipment Finance Ltd.

DocuSigned by:
Lisa Tarnowsky
2950D8D7E7E84A6...

Schedule "A"

CONSENT

TO: Macquarie Equipment Finance Ltd.

FROM: Kingston CoGen Limited Partnership, an insolvent person

The insolvent person acknowledges receipt of a Notice of Intention to Enforce a Security delivered by Macquarie Equipment Finance Ltd. (the "Lessor").

For consideration received, the receipt and sufficiency of which is hereby irrevocably acknowledged, the insolvent person hereby consents to the immediate enforcement by the Lessor of the security held by the Lessor from the insolvent person, and for the same consideration waives completely all rights to any delay by or any further notice from the Lessor with respect to the enforcement of its security and the exercise of the other remedies of the Lessor against the insolvent person.

DATED at _____ this ____ day of _____, 2023.

KINGSTON COGEN GP INC., in its capacity as
general partner of **KINGSTON COGEN
LIMITED PARTNERSHIP**

Per: _____
Name:
Title:

I have the authority to bind the partnership.

June 9, 2023

VIA PERSONAL DELIVERY AND REGISTERED MAIL

Iroquois Falls Power Corp.
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON
Canada M5J 2R2

Attention: Mr. Todd Shortt

Dear Sirs/Mesdames:

Re: Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023 (the “Lease”), between Macquarie Equipment Finance Ltd. (the “Lessor”) and Iroquois Falls Power Corp. (the “Lessee”); General Security Agreement made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023 (the “GSA”) by the Lessee in favour of the Lessor and the other documents listed in Schedule “A” (collectively, the “Security Documents”)
and
Notices of Default and Reservation of Rights letters set out in Schedule “B” (collectively, the “Notices of Default”)

We refer to the Security Documents and the Notices of Default. Unless otherwise defined, capitalized terms used herein have the meanings attributed to such terms in the Lease or the GSA.

As the Lessor advised under the Notices of Default, events of default and other similar events have occurred under the Security Documents. In addition, the Lessor has failed to pay the Base Rent (and associated HST) due on May 31, 2023. This is a non-exhaustive list of events of default and other similar events under the Security Documents. One or more of the foregoing events of default and other similar events are Lease Events of Default, Lease Defaults (as defined in the GSA) and/or other defaults or acceleration events under the Security Documents, have continued since the Notices of Default were delivered and are continuing as of the date hereof. Where notice of such events of default and other similar events is required under the Security Documents and has not previously been provided by the Lessor to the Lessee, this letter shall constitute such notice.

Pursuant to the Lease, upon the occurrence of a Lease Event of Default, the Lessor may in its sole and absolute discretion, among other things, enforce the rights and remedies set out in section 13.1 of the Lease.

Pursuant to the GSA, upon the occurrence of an Event of Acceleration, the Lessor may in its sole and absolute discretion, among other things, declare the Secured Liabilities to be immediately due and payable and the Security Interests to be immediately enforceable, demand the amounts

payable and/or demand possession of and realize upon all or any part of the Collateral pursuant to the Security Interests.

Pursuant to the relevant provisions of the Security Documents, including, without limitation, the Lease and the GSA, the Lessor hereby demands payment of the overdue amounts owing, by no later than June 19, 2023. Payment should be made to our last notified bank account for payments.

As at June 9, 2023, the aggregate amount of the overdue Base Rent and associated HST owing pursuant to the Lease is \$6,780,000.00 (the "**Arrears**"). This amount is exclusive of legal and other adviser expenses and other amounts payable, including interest, costs, charges and fees accrued or incurred to such date, and the Lessor reserves the right to demand such amounts. The Lessor is not exercising its rights to demand payment of the amounts set out in sections 13.1 (e) or 13.1 (f) of the Lease at this time but reserves the right to do so. The exact amount of the Obligations and/or the Secured Liabilities may be obtained at any time by contacting the Lessor.

[Remainder left intentionally blank]

Enclosed is a Notice of Intention to Enforce a Security pursuant to section 244 of the *Bankruptcy and Insolvency Act* (Canada). Please be advised that if payment as aforesaid is not made, the Lessor will take such further steps as it deems necessary or advisable to recover the Arrears and other amounts owed to the Lessor under the Security Documents. This letter further informs you that the Lessor hereby expressly reserves all available rights, remedies and claims in their entirety—including, without limitation, the appointment by a court of competent jurisdiction of a receiver to realize on the business, property, assets and undertaking of the Lessee and/or Validus Hosting Inc., Validus Power Corp., Bay Power Corp., Kap Power Corp., Kingston CoGen GP Inc. or Kingston CoGen Limited Partnership (collectively, the “**Guarantors**”)—any of which may be exercised or otherwise pursued at any time, and from time to time, and without further notice to you, in the sole and absolute discretion of the Lessor, as the case may be, in accordance with the Security Documents, or at law and in equity.

Yours truly,

Macquarie Equipment Finance Ltd.

DocuSigned by:

Lisa Tamowsky

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Schedule "A"

Security Documents

- a) The Lease
- b) The GSA
- c) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the Lessee and the Guarantors
- d) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the Lessee
- e) Guarantee made as of April 7, 2022, as amended and restated pursuant to the Amended and Restated Guarantee dated February 24, 2023, in favour of the Lessor by the Lessee and the Guarantors
- f) Demand Debenture made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023, in favour of the Lessor by the Lessee
- g) Ontario PPSA Registration registered against the Lessee in favour of the Lessor and bearing Reference File Number "781679718"
- h) The Notices of Default

Schedule "B"

Notices of Default and Reservation of Rights Letters

- a) Notice of default dated May 12, 2022
- b) Notice of default dated July 12, 2022
- c) Notice of default dated November 16, 2022
- d) Notice of default and reservation of rights dated November 16, 2022
- e) Acknowledgement and reservation of rights agreement dated February 24, 2023
- f) Notice of default and reservation of rights dated April 16, 2023
- g) Acknowledgment and reservation of rights agreement no. 2 dated May 19, 2023
- h) Notice of default and reservation of rights dated June 2, 2023

**NOTICE OF INTENTION TO
ENFORCE A SECURITY**
(Rule 124)
(Pursuant to Subsection 244(1)
of the *Bankruptcy and Insolvency Act*)

TO:

Iroquois Falls Power Corp., an insolvent person
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON
Canada M5J 2R2

Attention: Mr. Todd Shortt

TAKE NOTICE THAT:

1. Macquarie Equipment Finance Ltd. (the "Lessor"), a secured creditor, intends to enforce its security on the insolvent person's property, including, without limitation, as described below:
 - (a) All "Leased Property" of the insolvent person, as such term is defined in the Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023 (the "Lease"), between the Lessor and the insolvent person
 - (b) All "Collateral" of the insolvent person, as such term is defined in the General Security Agreement dated April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023 (the "GSA"), between the Lessor and the insolvent person
 - (c) All property and collateral that was assigned, transferred, pledged, granted, mortgaged, charged and/or similarly secured pursuant to the Security Documents (as such term is defined below)
 - (d) All property and collateral against which the security interests bearing Reference File Number "781679718" have been registered pursuant to the *Personal Property Security Act* (Ontario) (the "PPSA Registration")
2. The security that is to be enforced is the following:
 - (a) The Lease
 - (b) The GSA
 - (c) The PPSA Registration

- (d) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the insolvent person and Validus Power Corp., Bay Power Corp., Kap Power Corp., Kingston CoGen Limited Partnership and Kingston CoGen GP Inc. (collectively, the "Guarantors")
- (e) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the insolvent person
- (f) Guarantee made as of April 7, 2022, as amended and restated pursuant to the Amended and Restated Guarantee dated February 24, 2023, in favour of the Lessor by the insolvent person and the Guarantors
- (g) Demand Debenture made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023, in favour of the Lessor by the insolvent person

(the foregoing, together with all other agreements and security documents related to the foregoing, collectively, the "Security Documents")

- 3. The total amount of indebtedness subject to a demand for payment secured by the security is \$6,780,000.00, as at June 9, 2023. This amount is exclusive of legal and other adviser expenses and other amounts payable, including interest, costs, charges and fees accrued or incurred to such date, and the Lessor reserves the right to demand such amounts.
- 4. The secured creditor will not have the right to enforce the security until after the expiry of the 10-day period after this notice is sent unless the insolvent person consents to an earlier enforcement. A Consent is included herewith as Schedule "A".

Dated at Toronto, Ontario this 9th day of June, 2023.

Macquarie Equipment Finance Ltd.

DocuSigned by:
Lisa Tarnowsky
2950D8D7E7E84A6...

Schedule "A"

CONSENT

TO: Macquarie Equipment Finance Ltd.

FROM: Iroquois Falls Power Corp., an insolvent person

The insolvent person acknowledges receipt of a Notice of Intention to Enforce a Security delivered by Macquarie Equipment Finance Ltd. (the "Lessor").

For consideration received, the receipt and sufficiency of which is hereby irrevocably acknowledged, the insolvent person hereby consents to the immediate enforcement by the Lessor of the security held by the Lessor from the insolvent person, and for the same consideration waives completely all rights to any delay by or any further notice from the Lessor with respect to the enforcement of its security and the exercise of the other remedies of the Lessor against the insolvent person.

DATED at _____ this ____ day of _____, 2023.

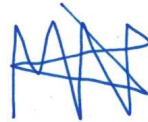
IROQUOIS FALLS POWER CORP.

Per: _____
Name:
Title:

I have the authority to bind the corporation.

THIS IS **EXHIBIT “OO”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,

THIS 31st DAY OF JULY, 2023.



Michael Noel
Commissioner for Taking Affidavits

From: Ryan Chua <ryan.chua@validuspower.com>
Sent: Saturday, June 10, 2023 9:12 AM
To: Ronnie Alam
Cc: Craig Tavares; Shelley Goertz
Subject: Re: Validus - Demand Packages

External Communication

Thanks Ronnie, I've been on a short medical leave the past few weeks but will review these and recent correspondence and catch up with Craig/Shelley.

Ryan

From: Ronnie Alam <Ronnie.Alam@macquarie.com>
Date: Friday, June 9, 2023 at 6:40 PM
To: Craig Tavares <craig.tavares@validuspower.com>, Ryan Chua <ryan.chua@validuspower.com>, Shelley Goertz <shelley.goertz@validuspower.com>
Subject: Validus - Demand Packages

All

Please see the attached letters and notices

@Craig Tavares, I understand Joshua and/or James have reached out to discuss these



Ronnie Alam | Legal Counsel | Division Director
Commodities and Global Markets | Macquarie Group Limited
Level 6, 50 Martin Place, Sydney NSW 2000 Australia
M +61 424 504 672 | [macquarie.com](https://www.macquarie.com)

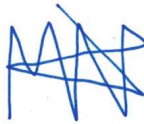
Member of the
Legal and Governance Group

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THIS IS **EXHIBIT “PP”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,
THIS 31st DAY OF JULY, 2023.



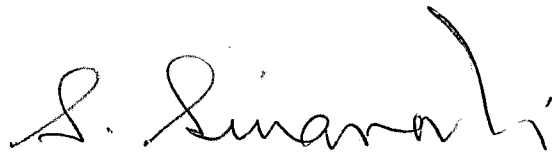
Michael Noel
Commissioner for Taking Affidavits

AFFIDAVIT OF DELIVERY

I, Siva Sivaperuman, of the City of Toronto, in the Province of Ontario, MAKE OATH
AND SAY:

1. I am a Mailroom Clerk with the law firm of Torys LLP, lawyers for Macquarie Equipment Finance Ltd. (“**Macquarie**”), and, as such, I have knowledge of the matters contained in this affidavit.
2. On June 9, 2023, I caused to be sent for delivery on behalf of Macquarie copies of Demand Letters and Section 244 Notices to the seven parties set out in Exhibit “A” by sending each such party copies by registered mail to the addresses specified therein.
3. Attached hereto as Exhibit “B” are the receipts that I received from Canada Post, which receipts provide confirmation that each such Demand Letter and Section 244 Notice was sent for delivery in the manner specified above.

SWORN before me by Siva Sivaperuman at the City of Toronto in the Province of Ontario, before me on June 9, 2023 in accordance with O.Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits
(or as may be)

SIVA SIVAPERUMAN

MIKE NOEL
(LSO#: 80130F)

AFFIDAVIT OF DELIVERY

I, Siva Sivaperuman, of the City of Toronto, in the Province of Ontario, MAKE OATH AND SAY:

1. I am a Mailroom Clerk with the law firm of Torys LLP, lawyers for Macquarie Equipment Finance Ltd. (“**Macquarie**”), and, as such, I have knowledge of the matters contained in this affidavit.
2. On June 9, 2023, I caused to be sent for delivery on behalf of Macquarie copies of Demand Letters and Section 244 Notices to the seven parties set out in Exhibit “A” by sending each such party copies by registered mail to the addresses specified therein.
3. Attached hereto as Exhibit “B” are the receipts that I received from Canada Post, which receipts provide confirmation that each such Demand Letter and Section 244 Notice was sent for delivery in the manner specified above.

SWORN before me by Siva Sivaperuman at the City of Toronto in the Province of Ontario, before me on June 9, 2023 in accordance with O.Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits
(or as may be)

MIKE NOEL
(LSO#: 80130F)

SIVA SIVAPERUMAN

**This is Exhibit “A” referred to in the
Affidavit of Siva Sivaperuman
sworn before me, this 9th day
of June, 2023.**

A Commissioner, etc.

Mike Noel

Parties and Addresses for Delivery

Validus Power Corp.

2300-100 Wellington Street West
Toronto, ON M5J 2R2
Canada

Iroquois Falls Power Corp.

c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON
Canada M5J 2R2

Validus Hosting Inc

c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON M5J 2R2
Canada

Kingston CoGen Limited Partnership

c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON M5J 2R2
Canada

Kingston CoGen GP Inc.

c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON M5J 2R2
Canada

Kap Power Corp.

c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON M5J 2R2
Canada

Bay Power Corp.

c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON M5J 2R2
Canada

**This is Exhibit “B” referred to in the
Affidavit of Siva Sivaperuman
sworn before me, this 9th day
of June, 2023.**

A Commissioner, etc.

Mike Noel

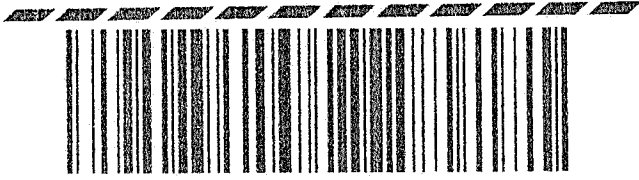


REGISTERED RECOMMANDÉ

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SIGNATURE



TRACKING NUMBER RN 651 888 445 CA N° DE REPÉRAGE

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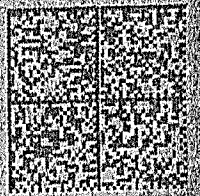
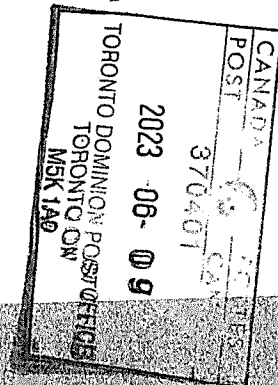
TORRYS
LLP

REGISTERED MAIL

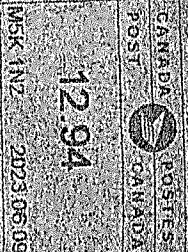
Christine Palladino
79 Wellington St. W., 30th Floor
Box 270, TD South Tower
Toronto, Ontario M5K 1N2 Canada

Kingston CoGen Limited Partnership
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON M5J 2R2
Canada

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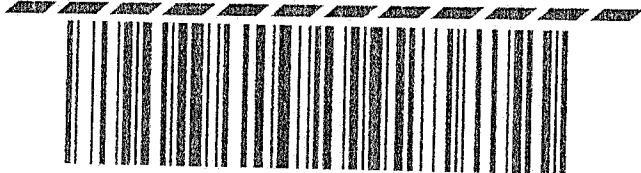
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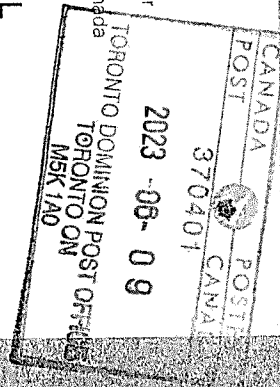
TORRYS
LLP

Christine Palladino
79 Wellington St. W., 30th Floor
Box 270, TD South Tower
Toronto, Ontario M5K 1N2 Canada

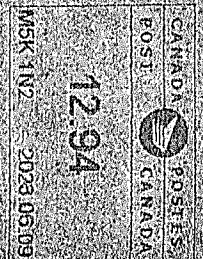
REGISTERED MAIL

Validus Hosting Inc.
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON M5J 2R2
Canada

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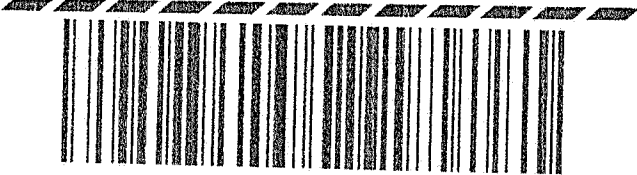


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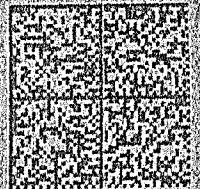
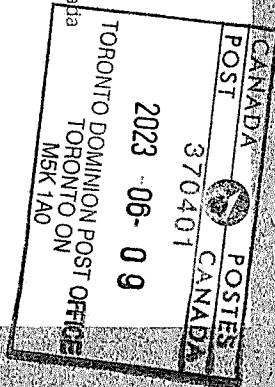
TORRYS
LLP

REGISTERED MAIL

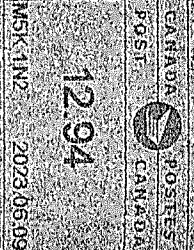
Kingston CoGen GP Inc.
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON M5J 2R2
Canada

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Christine Palladino
79 Wellington St. W., 30th Floor
Box 270, TD South Tower
Toronto, Ontario M5K 1N2 Canada



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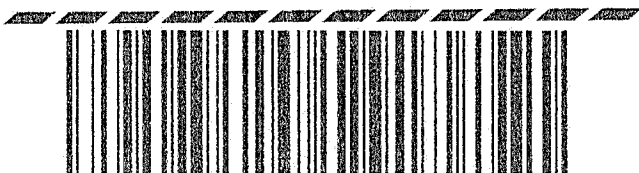


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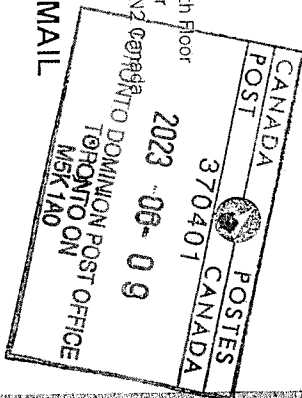
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TORRYS LLP

Christine Palladino
79 Wellington St. W., 30th Floor
Box 270, TD South Tower
Toronto, Ontario M5K 1N2

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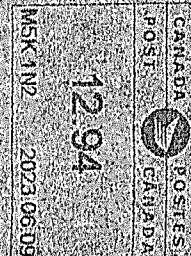


Kap Power Corp.
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON M5J 2R2
Canada

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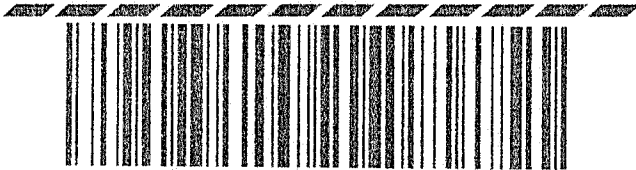
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TORRYS
LLP

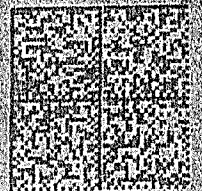
Christine Palladino
79 Wellington St. W., 30th Floor
Box 270, TD South Tower
Toronto, Ontario M5K 1N2 Canada

REGISTERED MAIL

Iroquois Falls Power Corp.
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON
Canada M5J 2R2

387082511

TEST
CANADA
/ 0401
2023-06-09
TORONTO DOMINION POST OFFICE
TORONTO ON
M5K 1A0



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CANADA POSTES
POST CANADA
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M5K 1N2 2023-06-09



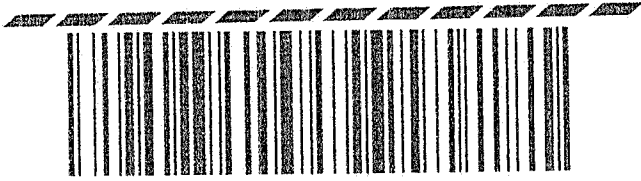
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RN 651 888 414 CA



SIGNATURE



TRACKING NUMBER RN 651 888 414 CA N° DE REPÉRAGE

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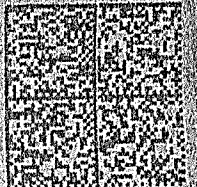
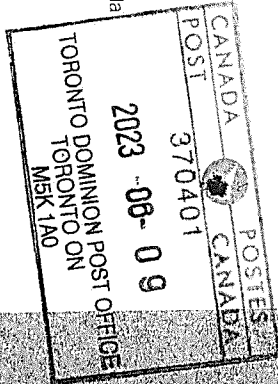
TORRYS
LLP

Christine Palladino
79 Wellington St. W., 30th Floor
Box 270, TD South Tower
Toronto, Ontario M5K 1N2 Canada

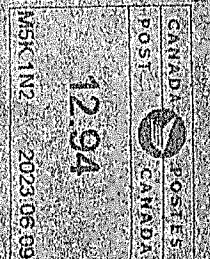
REGISTERED MAIL

Bay Power Corp.
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON M5J 2R2
Canada

38708251.1



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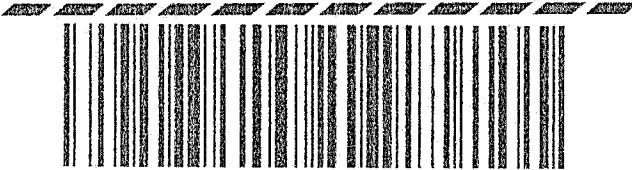


REGISTERED RECOMMANDÉ



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SIGNATURE



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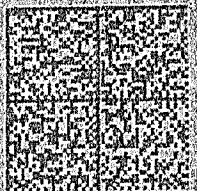
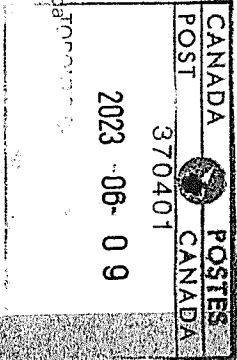
TORYS LLP

Christine Palladino
79 Wellington St. W., 30th Floor
Box 270, TD South Tower
Toronto, Ontario M5K 1N2 Canada

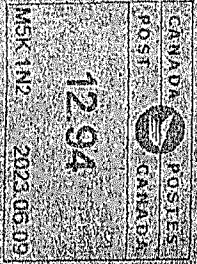
REGISTERED MAIL

Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON M5J 2R2
Canada

38708251.1



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0609 143522



THIS IS **EXHIBIT “QQ”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,

THIS 31st DAY OF JULY, 2023.



Michael Noel

Commissioner for Taking Affidavits

RE:

Delivery of Demand Letters and Section 244 Notices to Validus Power Corp., Iroquois Falls Power Corp., Validus Hosting Inc., Kingston CoGen Limited Partnership, Kingston CoGen GP Inc., Kap Power Corp., and Bay Power Corp.

AFFIDAVIT OF ATTEMPTED DELIVERY

I, **PATRICK GONYA**, of the City of Toronto, in the Province of Ontario;

MAKE OATH AND SAY:

1. I am an employee of Donaldson Law Clerk Services Ltd. and as such have personal knowledge of the matters hereinafter deposed to.
2. On June 9, 2023, I was given the Demand Letters and Section 244 Notices to deliver to Validus Power Corp., Iroquois Falls Power Corp., Validus Hosting Inc., Kingston CoGen Limited Partnership, Kingston CoGen GP Inc., Kap Power Corp., and Bay Power Corp. c/o VALIDUS POWER CORP. at 2300-100 Wellington St. W., Toronto, Ontario.
3. On June 9, 2023, at approximately 3:00 p.m., I attended at the above address and checked on the directory and found the company listed at Suite 2300. I attempted to go to the 23rd floor but the elevator would not go to the 23rd floor. I spoke to the female security personnel at the desk in the lobby, who appeared to be getting ready to leave for the day, and she advised me that she could not provide me access to a secured floor and that I could speak to building management. She called building management and handed me the phone. The building management personnel I spoke to advised me that 2300 is a secured floor and that they do not let anyone up to that floor and that I should call the tenant that I was making the delivery to make arrangements. I tried to


locate a contact number online for Validus Power Corp. and did not see one on Google or on their website.

4. I called the building management office back and enquired if they could call the tenant and/or provide a telephone number for them and they advised me that they do not get involved with deliveries for tenants nor do they provide information on tenants as it was not their responsibility to facilitate deliveries.

5. I called Mike Noel of Torys LLP for instructions and was advised to return and leave the sealed envelopes on the security desk in the lobby. I returned at 3:30 p.m. and left the bundle of envelopes on the security desk in front of the keyboard as no security personnel was present at the time.

6. I make this affidavit to show the attempts at personal service and for no other reason.

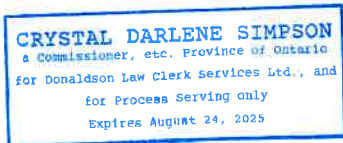
SWORN BEFORE ME at the)
City of Toronto this 13th day)
of June, 2023)



Commissioner for taking affidavits)

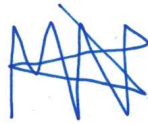


PATRICK GONYA)



THIS IS **EXHIBIT “RR”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,

THIS 31st DAY OF JULY, 2023.



Michael Noel
Commissioner for Taking Affidavits

AFFIDAVIT

I, Siva Sivaperuman, of the City of Toronto, in the Province of Ontario, MAKE OATH AND SAY:

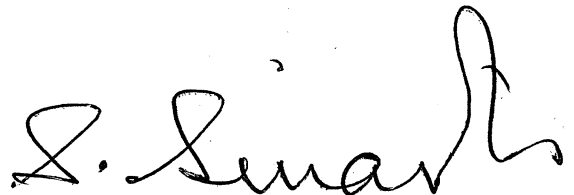
1. I am a Mailroom Clerk with the law firm of Torys LLP, lawyers for Macquarie Equipment Finance Ltd. (“**Macquarie**”), and, as such, I have knowledge of the matters contained in this affidavit.
2. On the afternoon of June 9, 2023, I caused to be sent for delivery on behalf of Macquarie copies of Demand Letters and Section 244 Notices to the seven parties set out in Exhibit “A” (collectively, the “**Recipients**”) by handing those documents to an employee of Donaldson Law Clerk Services Ltd., to be personally delivered to the Recipients at the premises located at the address specified therein (the “**Premises**”). The Premises are located across the street from the offices of Torys LLP.
3. Later that same afternoon, personnel representing the building manager for the Premises returned those packages to me in person and notified me that the Recipients are no longer tenants of, and have vacated, the Premises.

SWORN before me by Siva Sivaperuman at the City of Toronto in the Province of Ontario, before me on June 13, 2023 in accordance with O.Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits
(or as may be)

MIKE NOEL
(LSO#: 80130F)



SIVA SIVAPERUMAN

**This is Exhibit "A" referred to in the
Affidavit of Siva Sivaperuman
sworn before me, this 13th day
of June, 2023.**



A Commissioner, etc.

Mike Noel

Parties and Addresses for Delivery

Validus Power Corp.

2300-100 Wellington Street West
Toronto, ON M5J 2R2
Canada

Iroquois Falls Power Corp.

c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON
Canada M5J 2R2

Validus Hosting Inc

c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON M5J 2R2
Canada

Kingston CoGen Limited Partnership

c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON M5J 2R2
Canada

Kingston CoGen GP Inc.

c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON M5J 2R2
Canada

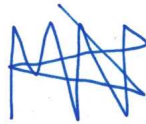
Kap Power Corp.

c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON M5J 2R2
Canada

Bay Power Corp.

c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON M5J 2R2
Canada

THIS IS EXHIBIT “SS” REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,
THIS 31st DAY OF JULY, 2023.



Michael Noel
Commissioner for Taking Affidavits

July 24, 2023

VIA EMAIL

Bay Power Corp.
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON M5J 2R2
Canada

Attention: Mr. Todd Shortt

Dear Sirs/Mesdames:

**Re: Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023 (the “Lease”), between Macquarie Equipment Finance Ltd. (the “Lessor”) and Iroquois Falls Power Corp. (the “Lessee”); Guarantee made as of April 7, 2022, as amended and restated pursuant to the Amended and Restated Guarantee dated February 24, 2023 (the “Guarantee”), in favour of the Lessor by the Lessee, Kap Power Corp. (the “Guarantor”), Validus Power Corp., Bay Power Corp., Kingston CoGen GP Inc. and Kingston CoGen Limited Partnership (together, the “Other Guarantors”); General Security Agreement made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023 (the “GSA”) by the Guarantor in favour of the Lessor and the other documents listed in Schedule “A” (collectively, the “Security Documents”)
and
Notices of Default, Reservation of Rights letters, Demand Letter and Section 244 Notice set out in Schedule “B” (collectively, the “Notices and Demand Letter”)**

We refer to the Security Documents and the Notices and Demand Letter. Unless otherwise defined, capitalized terms used herein have the meanings attributed to such terms in the Guarantee or the GSA, as applicable.

Enclosed is the Lessor’s demand letter to the Lessee dated July 24, 2023, declaring all Arrears (as defined therein) immediately due and payable in full and demanding payment thereof. The Arrears include the Obligations (as defined in the Guarantee) and the Secured Liabilities (as defined in the GSA). Where notice is required under the Security Documents and has not previously been provided by the Lender to the Guarantor, this letter shall constitute such notice.

Pursuant to the Guarantee, the Guarantor absolutely, unconditionally and irrevocably guaranteed to the Lessor the payment of the Obligations. The Guarantor’s liability to make payment under the Guarantee arises forthwith after demand for payment has been made.

Pursuant to the relevant provisions of the Security Documents, including, without limitation, the Guarantee and the GSA, the Lessor hereby declares Arrears to be due and payable in full and demands immediate payment thereof. Payment should be made to our last notified bank account for payments.

As at July 24, 2023, the aggregate amount of the Arrears is \$9,605,000. This amount is exclusive of legal and other adviser expenses and other amounts payable, including interest, costs, charges and fees accrued or incurred to such date, and the Lessor reserves the right to demand such amounts. The exact amount of the Obligations and/or the Secured Liabilities may be obtained at any time by contacting the Lessor.

[Remainder left intentionally blank]

Yours truly,

Macquarie Equipment Finance Ltd.

DocuSigned by:
Lisa Tarnowsky
2950D8D7E7E84A6...

Schedule "A"

Security Documents

- a) The Lease
- b) The Guarantee
- c) The GSA
- d) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the Lessee, the Guarantor and the Other Guarantors
- e) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the Lessee
- f) Demand Debenture made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023, in favour of the Lessor by the Guarantor
- g) Ontario PPSA Registration registered against the Guarantor in favour of the Lessor and bearing Reference File Number "781679754"
- h) The Notices and Demand Letter

Schedule "B"

**Notices of Default, Reservation of Rights Letters,
Demand Letter and Section 244 Notices**

- a) Notice of default dated May 12, 2022
- b) Notice of default dated July 12, 2022
- c) Notice of default dated November 16, 2022
- d) Notice of default and reservation of rights dated November 16, 2022
- e) Acknowledgement and reservation of rights agreement dated February 24, 2023
- f) Notice of default and reservation of rights dated April 16, 2023
- g) Acknowledgment and reservation of rights agreement no. 2 dated May 19, 2023
- h) Notice of default and reservation of rights dated June 2, 2023
- i) Demand Letter dated June 9, 2023
- j) Section 244 Notice dated June 9, 2023

July 24, 2023

VIA EMAIL

Iroquois Falls Power Corp.
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON
Canada M5J 2R2

Attention: Mr. Todd Shortt

Dear Sirs/Mesdames:

Re: Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023 (the “Lease”), between Macquarie Equipment Finance Ltd. (the “Lessor”) and Iroquois Falls Power Corp. (the “Lessee”); General Security Agreement made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023 (the “GSA”) by the Lessee in favour of the Lessor and the other documents listed in Schedule “A” (collectively, the “Security Documents”)
and
Notices of Default, Reservation of Rights letters, Demand Letter and Section 244 Notice set out in Schedule “B” (collectively, the “Notices and Demand Letter”)

We refer to the Security Documents and the Notices and Demand Letter. Unless otherwise defined, capitalized terms used herein have the meanings attributed to such terms in the Lease or the GSA.

As the Lessor advised under the Notices and Demand Letter, events of default and other similar events have occurred under the Security Documents. In addition, the Lessor has failed to pay three installments of Base Rent (and associated HST) due on May 31, June 7 and July 7, 2023. This is a non-exhaustive list of events of default and other similar events under the Security Documents. One or more of the foregoing events of default and other similar events are Lease Events of Default, Lease Defaults (as defined in the GSA) and/or other defaults or acceleration events under the Security Documents, have continued since the Notices and Demand Letter were delivered and are continuing as of the date hereof. Where notice of such events of default and other similar events is required under the Security Documents and has not previously been provided by the Lessor to the Lessee, this letter shall constitute such notice.

Pursuant to the Lease, upon the occurrence of a Lease Event of Default, the Lessor may in its sole and absolute discretion, among other things, enforce the rights and remedies set out in section 13.1 of the Lease.

Pursuant to the GSA, upon the occurrence of an Event of Acceleration, the Lessor may in its sole and absolute discretion, among other things, declare the Secured Liabilities to be immediately

due and payable and the Security Interests to be immediately enforceable, demand the amounts payable and/or demand possession of and realize upon all or any part of the Collateral pursuant to the Security Interests.

Pursuant to the relevant provisions of the Security Documents, including, without limitation, the Lease and the GSA, the Lessor hereby demands immediate payment of the overdue amounts owing. Payment should be made to our last notified bank account for payments.

As at July 24, 2023, the aggregate amount of the overdue Base Rent and associated HST owing pursuant to the Lease is \$9,605,000 (the “**Arrears**”). This amount is exclusive of legal and other adviser expenses and other amounts payable, including interest, costs, charges and fees accrued or incurred to such date, and the Lessor reserves the right to demand such amounts. The exact amount of the Obligations and/or the Secured Liabilities may be obtained at any time by contacting the Lessor.

[Remainder left intentionally blank]

Yours truly,

Macquarie Equipment Finance Ltd.

DocuSigned by:
Lisa Tarnowsky
2950D8D7E7E84A6...

Schedule "A"

Security Documents

- a) The Lease
- b) The GSA
- c) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the Lessee and the Guarantors
- d) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the Lessee
- e) Guarantee made as of April 7, 2022, as amended and restated pursuant to the Amended and Restated Guarantee dated February 24, 2023, in favour of the Lessor by the Lessee and the Guarantors
- f) Demand Debenture made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023, in favour of the Lessor by the Lessee
- g) Ontario PPSA Registration registered against the Lessee in favour of the Lessor and bearing Reference File Number "781679718"
- h) The Notices and Demand Letter

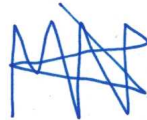
Schedule "B"

**Notices of Default, Reservation of Rights letters,
Demand Letter and Section 244 Notice**

- a) Notice of default dated May 12, 2022
- b) Notice of default dated July 12, 2022
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- e) Acknowledgement and reservation of rights agreement dated February 24, 2023
- f) Notice of default and reservation of rights dated April 16, 2023
- g) Acknowledgment and reservation of rights agreement no. 2 dated May 19, 2023
- h) Notice of default and reservation of rights dated June 2, 2023
- i) Demand Letter dated June 9, 2023
- j) Section 244 Notice dated June 9, 2023

THIS IS EXHIBIT “TT” REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,

THIS 31st DAY OF JULY, 2023.



Michael Noel
Commissioner for Taking Affidavits

July 24, 2023

VIA EMAIL

Kap Power Corp.
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON M5J 2R2
Canada

Attention: Mr. Todd Shortt

Dear Sirs/Mesdames:

**Re: Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023 (the “Lease”), between Macquarie Equipment Finance Ltd. (the “Lessor”) and Iroquois Falls Power Corp. (the “Lessee”); Guarantee made as of April 7, 2022, as amended and restated pursuant to the Amended and Restated Guarantee dated February 24, 2023 (the “Guarantee”), in favour of the Lessor by the Lessee, Kap Power Corp. (the “Guarantor”), Validus Power Corp., Bay Power Corp., Kingston CoGen GP Inc. and Kingston CoGen Limited Partnership (together, the “Other Guarantors”); General Security Agreement made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023 (the “GSA”) by the Guarantor in favour of the Lessor and the other documents listed in Schedule “A” (collectively, the “Security Documents”)
and
Notices of Default, Reservation of Rights letters, Demand Letter and Section 244 Notice set out in Schedule “B” (collectively, the “Notices and Demand Letter”)**

We refer to the Security Documents and the Notices and Demand Letter. Unless otherwise defined, capitalized terms used herein have the meanings attributed to such terms in the Guarantee or the GSA, as applicable

Enclosed is the Lessor’s demand letter to the Lessee dated July 24, 2023, declaring all Arrears (as defined therein) immediately due and payable in full and demanding payment thereof. The Arrears include the Obligations (as defined in the Guarantee) and the Secured Liabilities (as defined in the GSA). Where notice is required under the Security Documents and has not previously been provided by the Lender to the Guarantor, this letter shall constitute such notice.

Pursuant to the Guarantee, the Guarantor absolutely, unconditionally and irrevocably guaranteed to the Lessor the payment of the Obligations. The Guarantor’s liability to make payment under the Guarantee arises forthwith after demand for payment has been made.

Pursuant to the relevant provisions of the Security Documents, including, without limitation, the Guarantee and the GSA, the Lessor hereby declares Arrears to be due and payable in full and

demands immediate payment thereof. Payment should be made to our last notified bank account for payments.

As at July 24, 2023, the aggregate amount of the Arrears is \$9,605,000. This amount is exclusive of legal and other adviser expenses and other amounts payable, including interest, costs, charges and fees accrued or incurred to such date, and the Lessor reserves the right to demand such amounts. The exact amount of the Obligations and/or the Secured Liabilities may be obtained at any time by contacting the Lessor.

[Remainder left intentionally blank]

Yours truly,

Macquarie Equipment Finance Ltd.

DocuSigned by:

Lisa Tamowsky

2950D8D7E7E84A6...

Schedule "A"

Security Documents

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- b) The Guarantee
- c) The GSA
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- g) Ontario PPSA Registration registered against the Guarantor in favour of the Lessor and bearing Reference File Number "781679754"
- h) The Notices and Demand Letter

Schedule "B"

**Notices of Default, Reservation of Rights Letters,
Demand Letter and Section 244 Notices**

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- i) Demand Letter dated June 9, 2023
- j) Section 244 Notice dated June 9, 2023

July 24, 2023

VIA EMAIL

Iroquois Falls Power Corp.
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON
Canada M5J 2R2

Attention: Mr. Todd Shortt

Dear Sirs/Mesdames:

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and
Notices of Default, Reservation of Rights letters, Demand Letter and Section 244 Notice set out in Schedule “B” (collectively, the “Notices and Demand Letter”)

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Pursuant to the GSA, upon the occurrence of an Event of Acceleration, the Lessor may in its sole and absolute discretion, among other things, declare the Secured Liabilities to be immediately

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Pursuant to the relevant provisions of the Security Documents, including, without limitation, the Lease and the GSA, the Lessor hereby demands immediate payment of the overdue amounts owing. Payment should be made to our last notified bank account for payments.

As at July 24, 2023, the aggregate amount of the overdue Base Rent and associated HST owing pursuant to the Lease is \$9,605,000 (the “**Arrears**”). This amount is exclusive of legal and other adviser expenses and other amounts payable, including interest, costs, charges and fees accrued or incurred to such date, and the Lessor reserves the right to demand such amounts. The exact amount of the Obligations and/or the Secured Liabilities may be obtained at any time by contacting the Lessor.

[Remainder left intentionally blank]

Yours truly,

Macquarie Equipment Finance Ltd.

DocuSigned by:
Lisa Tarnowsky
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Schedule "A"

Security Documents

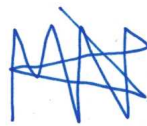
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- f) Demand Debenture made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023, in favour of the Lessor by the Lessee
- g) Ontario PPSA Registration registered against the Lessee in favour of the Lessor and bearing Reference File Number "781679718"
- h) The Notices and Demand Letter

Schedule "B"

**Notices of Default, Reservation of Rights letters,
Demand Letter and Section 244 Notice**

- a) Notice of default dated May 12, 2022
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- h) Notice of default and reservation of rights dated June 2, 2023
- i) Demand Letter dated June 9, 2023
- j) Section 244 Notice dated June 9, 2023

THIS IS EXHIBIT “UU” REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,
THIS 31st DAY OF JULY, 2023.



Michael Noel

Commissioner for Taking Affidavits

July 24, 2023

VIA EMAIL

Kingston CoGen GP Inc.
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON M5J 2R2
Canada

Attention: Mr. Todd Shortt

Dear Sirs/Mesdames:

Re: Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023 (the "Lease"), between Macquarie Equipment Finance Ltd. (the "Lessor") and Iroquois Falls Power Corp. (the "Lessee"); Amended and Restated Guarantee dated February 24, 2023 (the "Guarantee"), in favour of the Lessor by the Lessee, Kingston CoGen GP Inc. (the "Guarantor"), Validus Power Corp., Kap Power Corp., Bay Power Corp. and Kingston CoGen Limited Partnership (together, the "Other Guarantors"); General Security Agreement made as of February 24, 2023 (the "GSA") by the Guarantor in favour of the Lessor and the other documents listed in Schedule "A" (collectively, the "Security Documents")

and

Notices of Default, Reservation of Rights letters, Demand Letter and Section 244 Notice set out in Schedule "B" (collectively, the "Notices and Demand Letter")

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Enclosed is the Lessor's demand letter to the Lessee dated July 24, 2023, declaring all Arrears (as defined therein) immediately due and payable in full and demanding payment thereof. The Arrears include the Obligations (as defined in the Guarantee) and the Secured Liabilities (as defined in the GSA). Where notice is required under the Security Documents and has not previously been provided by the Lender to the Guarantor, this letter shall constitute such notice.

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exclusive of legal and other adviser expenses and other amounts payable, including interest, costs, charges and fees accrued or incurred to such date, and the Lessor reserves the right to demand such amounts. The exact amount of the Obligations and/or the Secured Liabilities may be obtained at any time by contacting the Lessor.

[Remainder left intentionally blank]

Yours truly,

Macquarie Equipment Finance Ltd.

DocuSigned by:

Lisa Tarnowsky

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Schedule "A"

Security Documents

- a) The Lease
- b) The Guarantee
- c) The GSA
- d) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the Lessee, the Guarantor and the Other Guarantors
- e) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the Lessee
- f) Demand Debenture made as of February 24, 2023, in favour of the Lessor by the Guarantor, in its own capacity and in its capacity as general partner of Kingston CoGen Limited Partnership
- g) Demand Debenture made as of February 24, 2023, in favour of the Lessor by the Guarantor
- h) Ontario PPSA Registration registered against the Guarantor in favour of the Lessor and bearing Reference File Number "790978779"
- i) The Notices and Demand Letter

Schedule "B"

**Notices of Default, Reservation of Rights Letters,
Demand Letter and Section 244 Notices**

- a) Notice of default dated May 12, 2022
- b) Notice of default dated July 12, 2022
- c) Notice of default dated November 16, 2022
- d) Notice of default and reservation of rights dated November 16, 2022
- e) Acknowledgement and reservation of rights agreement dated February 24, 2023
- f) Notice of default and reservation of rights dated April 16, 2023
- g) Acknowledgment and reservation of rights agreement no. 2 dated May 19, 2023
- h) Notice of default and reservation of rights dated June 2, 2023
- i) Demand Letter dated June 9, 2023
- j) Section 244 Notice dated June 9, 2023

July 24, 2023

VIA EMAIL

Iroquois Falls Power Corp.
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON
Canada M5J 2R2

Attention: Mr. Todd Shortt

Dear Sirs/Mesdames:

Re: Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023 (the “Lease”), between Macquarie Equipment Finance Ltd. (the “Lessor”) and Iroquois Falls Power Corp. (the “Lessee”); General Security Agreement made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023 (the “GSA”) by the Lessee in favour of the Lessor and the other documents listed in Schedule “A” (collectively, the “Security Documents”)
and
Notices of Default, Reservation of Rights letters, Demand Letter and Section 244 Notice set out in Schedule “B” (collectively, the “Notices and Demand Letter”)

We refer to the Security Documents and the Notices and Demand Letter. Unless otherwise defined, capitalized terms used herein have the meanings attributed to such terms in the Lease or the GSA.

As the Lessor advised under the Notices and Demand Letter, events of default and other similar events have occurred under the Security Documents. In addition, the Lessor has failed to pay three installments of Base Rent (and associated HST) due on May 31, June 7 and July 7, 2023. This is a non-exhaustive list of events of default and other similar events under the Security Documents. One or more of the foregoing events of default and other similar events are Lease Events of Default, Lease Defaults (as defined in the GSA) and/or other defaults or acceleration events under the Security Documents, have continued since the Notices and Demand Letter were delivered and are continuing as of the date hereof. Where notice of such events of default and other similar events is required under the Security Documents and has not previously been provided by the Lessor to the Lessee, this letter shall constitute such notice.

Pursuant to the Lease, upon the occurrence of a Lease Event of Default, the Lessor may in its sole and absolute discretion, among other things, enforce the rights and remedies set out in section 13.1 of the Lease.

Pursuant to the GSA, upon the occurrence of an Event of Acceleration, the Lessor may in its sole and absolute discretion, among other things, declare the Secured Liabilities to be immediately

due and payable and the Security Interests to be immediately enforceable, demand the amounts payable and/or demand possession of and realize upon all or any part of the Collateral pursuant to the Security Interests.

Pursuant to the relevant provisions of the Security Documents, including, without limitation, the Lease and the GSA, the Lessor hereby demands immediate payment of the overdue amounts owing. Payment should be made to our last notified bank account for payments.

As at July 24, 2023, the aggregate amount of the overdue Base Rent and associated HST owing pursuant to the Lease is \$9,605,000 (the “**Arrears**”). This amount is exclusive of legal and other adviser expenses and other amounts payable, including interest, costs, charges and fees accrued or incurred to such date, and the Lessor reserves the right to demand such amounts. The exact amount of the Obligations and/or the Secured Liabilities may be obtained at any time by contacting the Lessor.

[Remainder left intentionally blank]

Yours truly,

Macquarie Equipment Finance Ltd.

DocuSigned by:
Lisa Tarnowsky
2950D8D7E7E84A6...

Schedule "A"

Security Documents

- a) The Lease
- b) The GSA
- c) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the Lessee and the Guarantors
- d) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the Lessee
- e) Guarantee made as of April 7, 2022, as amended and restated pursuant to the Amended and Restated Guarantee dated February 24, 2023, in favour of the Lessor by the Lessee and the Guarantors
- f) Demand Debenture made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023, in favour of the Lessor by the Lessee
- g) Ontario PPSA Registration registered against the Lessee in favour of the Lessor and bearing Reference File Number "781679718"
- h) The Notices and Demand Letter

Schedule "B"

**Notices of Default, Reservation of Rights letters,
Demand Letter and Section 244 Notice**

- a) Notice of default dated May 12, 2022
- b) Notice of default dated July 12, 2022
- c) Notice of default dated November 16, 2022
- d) Notice of default and reservation of rights dated November 16, 2022
- e) Acknowledgement and reservation of rights agreement dated February 24, 2023
- f) Notice of default and reservation of rights dated April 16, 2023
- g) Acknowledgment and reservation of rights agreement no. 2 dated May 19, 2023
- h) Notice of default and reservation of rights dated June 2, 2023
- i) Demand Letter dated June 9, 2023
- j) Section 244 Notice dated June 9, 2023

THIS IS EXHIBIT “VV” REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,
THIS 31st DAY OF JULY, 2023.



Michael Noel
Commissioner for Taking Affidavits

July 24, 2023

VIA EMAIL

Kingston CoGen Limited Partnership
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON M5J 2R2
Canada

Attention: Mr. Todd Shortt

Dear Sirs/Mesdames:

Re: Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023 (the “Lease”), between Macquarie Equipment Finance Ltd. (the “Lessor”) and Iroquois Falls Power Corp. (the “Lessee”); Amended and Restated Guarantee dated February 24, 2023 (the “Guarantee”), in favour of the Lessor by the Lessee, Kingston CoGen Limited Partnership (the “Guarantor”), Validus Power Corp., Kap Power Corp., Bay Power Corp. and Kingston CoGen GP Inc. (together, the “Other Guarantors”); General Security Agreement made as of February 24, 2023 (the “GSA”) by the Guarantor in favour of the Lessor and the other documents listed in Schedule “A” (collectively, the “Security Documents”)

and

Notices of Default, Reservation of Rights letters, Demand Letter and Section 244 Notice set out in Schedule “B” (collectively, the “Notices and Demand Letter”)

We refer to the Security Documents and the Notices and Demand Letter. Unless otherwise defined, capitalized terms used herein have the meanings attributed to such terms in the Guarantee or the GSA, as applicable.

Enclosed is the Lessor’s demand letter to the Lessee dated July 24, 2023, declaring all Arrears (as defined therein) immediately due and payable in full and demanding payment thereof. The Arrears include the Obligations (as defined in the Guarantee) and the Secured Liabilities (as defined in the GSA). Where notice is required under the Security Documents and has not previously been provided by the Lender to the Guarantor, this letter shall constitute such notice.

Pursuant to the Guarantee, the Guarantor absolutely, unconditionally and irrevocably guaranteed to the Lessor the payment of the Obligations. The Guarantor’s liability to make payment under the Guarantee arises forthwith after demand for payment has been made.

Pursuant to the relevant provisions of the Security Documents, including, without limitation, the Guarantee and the GSA, the Lessor hereby declares Arrears to be due and payable in full and demands immediate payment thereof. Payment should be made to our last notified bank account for payments.

As at July 24, 2023, the aggregate amount of the Arrears is \$9,605,000. This amount is

exclusive of legal and other adviser expenses and other amounts payable, including interest, costs, charges and fees accrued or incurred to such date, and the Lessor reserves the right to demand such amounts. The exact amount of the Obligations and/or the Secured Liabilities may be obtained at any time by contacting the Lessor.

[Remainder left intentionally blank]

Yours truly,

Macquarie Equipment Finance Ltd.

DocuSigned by:

Lisa Tamowsky

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Schedule "A"

Security Documents

- a) The Lease
- b) The Guarantee
- c) The GSA
- d) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the Lessee, the Guarantor and the Other Guarantors
- e) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the Lessee
- f) Demand Debenture made as of February 24, 2023, in favour of the Lessor by the Guarantor
- g) Ontario PPSA Registration registered against the Guarantor in favour of the Lessor and bearing Reference File Number "790978752"
- h) The Notices and Demand Letter

Schedule "B"

**Notices of Default, Reservation of Rights Letters,
Demand Letter and Section 244 Notice**

- a) Notice of default dated May 12, 2022
- b) Notice of default dated July 12, 2022
- c) Notice of default dated November 16, 2022
- d) Notice of default and reservation of rights dated November 16, 2022
- e) Acknowledgement and reservation of rights agreement dated February 24, 2023
- f) Notice of default and reservation of rights dated April 16, 2023
- g) Acknowledgment and reservation of rights agreement no. 2 dated May 19, 2023
- h) Notice of default and reservation of rights dated June 2, 2023
- i) Demand Letter dated June 9, 2023
- j) Section 244 Notice dated June 9, 2023

July 24, 2023

VIA EMAIL

Iroquois Falls Power Corp.
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON
Canada M5J 2R2

Attention: Mr. Todd Shortt

Dear Sirs/Mesdames:

Re: Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023 (the “Lease”), between Macquarie Equipment Finance Ltd. (the “Lessor”) and Iroquois Falls Power Corp. (the “Lessee”); General Security Agreement made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023 (the “GSA”) by the Lessee in favour of the Lessor and the other documents listed in Schedule “A” (collectively, the “Security Documents”)
and
Notices of Default, Reservation of Rights letters, Demand Letter and Section 244 Notice set out in Schedule “B” (collectively, the “Notices and Demand Letter”)

We refer to the Security Documents and the Notices and Demand Letter. Unless otherwise defined, capitalized terms used herein have the meanings attributed to such terms in the Lease or the GSA.

As the Lessor advised under the Notices and Demand Letter, events of default and other similar events have occurred under the Security Documents. In addition, the Lessor has failed to pay three installments of Base Rent (and associated HST) due on May 31, June 7 and July 7, 2023. This is a non-exhaustive list of events of default and other similar events under the Security Documents. One or more of the foregoing events of default and other similar events are Lease Events of Default, Lease Defaults (as defined in the GSA) and/or other defaults or acceleration events under the Security Documents, have continued since the Notices and Demand Letter were delivered and are continuing as of the date hereof. Where notice of such events of default and other similar events is required under the Security Documents and has not previously been provided by the Lessor to the Lessee, this letter shall constitute such notice.

Pursuant to the Lease, upon the occurrence of a Lease Event of Default, the Lessor may in its sole and absolute discretion, among other things, enforce the rights and remedies set out in section 13.1 of the Lease.

Pursuant to the GSA, upon the occurrence of an Event of Acceleration, the Lessor may in its sole and absolute discretion, among other things, declare the Secured Liabilities to be immediately

due and payable and the Security Interests to be immediately enforceable, demand the amounts payable and/or demand possession of and realize upon all or any part of the Collateral pursuant to the Security Interests.

Pursuant to the relevant provisions of the Security Documents, including, without limitation, the Lease and the GSA, the Lessor hereby demands immediate payment of the overdue amounts owing. Payment should be made to our last notified bank account for payments.

As at July 24, 2023, the aggregate amount of the overdue Base Rent and associated HST owing pursuant to the Lease is \$9,605,000 (the “**Arrears**”). This amount is exclusive of legal and other adviser expenses and other amounts payable, including interest, costs, charges and fees accrued or incurred to such date, and the Lessor reserves the right to demand such amounts. The exact amount of the Obligations and/or the Secured Liabilities may be obtained at any time by contacting the Lessor.

[Remainder left intentionally blank]

Yours truly,

Macquarie Equipment Finance Ltd.

DocuSigned by:
Lisa Tarnowsky
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Schedule "A"

Security Documents

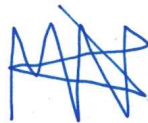
- a) The Lease
- b) The GSA
- c) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the Lessee and the Guarantors
- d) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the Lessee
- e) Guarantee made as of April 7, 2022, as amended and restated pursuant to the Amended and Restated Guarantee dated February 24, 2023, in favour of the Lessor by the Lessee and the Guarantors
- f) Demand Debenture made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023, in favour of the Lessor by the Lessee
- g) Ontario PPSA Registration registered against the Lessee in favour of the Lessor and bearing Reference File Number "781679718"
- h) The Notices and Demand Letter

Schedule "B"

**Notices of Default, Reservation of Rights letters,
Demand Letter and Section 244 Notice**

- a) Notice of default dated May 12, 2022
- b) Notice of default dated July 12, 2022
- c) Notice of default dated November 16, 2022
- d) Notice of default and reservation of rights dated November 16, 2022
- e) Acknowledgement and reservation of rights agreement dated February 24, 2023
- f) Notice of default and reservation of rights dated April 16, 2023
- g) Acknowledgment and reservation of rights agreement no. 2 dated May 19, 2023
- h) Notice of default and reservation of rights dated June 2, 2023
- i) Demand Letter dated June 9, 2023
- j) Section 244 Notice dated June 9, 2023

THIS IS **EXHIBIT “WW”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,
THIS 31st DAY OF JULY, 2023.



Michael Noel

Commissioner for Taking Affidavits

July 24, 2023

VIA EMAIL

Validus Hosting Inc
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON M5J 2R2
Canada

Attention: Mr. Todd Shortt

Dear Sirs/Mesdames:

**Re: Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023 (the “Lease”), between Macquarie Equipment Finance Ltd. (the “Lessor”) and Iroquois Falls Power Corp. (the “Lessee”); Limited Recourse Guarantee made as of April 7, 2022, as amended and restated pursuant to the Amended and Restated Limited Recourse Guarantee dated February 24, 2023 (the “Guarantee”), in favour of the Lessor by Validus Hosting Inc. (the “Guarantor”); Assignment of Material Project Documents made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023 (the “Assignment Agreement”) by the Guarantor in favour of the Lessor and the other documents listed in Schedule “A” (collectively, the “Security Documents”) and
Notices of Default, Reservation of Rights letters, Demand Letter and Section 244 Notice set out in Schedule “B” (collectively, the “Notices and Demand Letter”)**

We refer to the Security Documents and the Notices and Demand Letter. Unless otherwise defined, capitalized terms used herein have the meanings attributed to such terms in the Guarantee or the Assignment Agreement, as applicable.

Enclosed is the Lessor’s demand letter to the Lessee dated July 24, 2023, declaring all Arrears (as defined therein) immediately due and payable in full and demanding payment thereof. The Arrears include the Obligations (as defined in the Guarantee) and the Secured Liabilities (as defined in the Assignment Agreement). Where notice is required under the Security Documents and has not previously been provided by the Lender to the Guarantor, this letter shall constitute such notice.

Pursuant to the Guarantee, the Guarantor absolutely, unconditionally and irrevocably guaranteed to the Lessor the payment of the Obligations. The Guarantor’s liability to make payment under the Guarantee arises forthwith after demand for payment has been made.

Pursuant to the relevant provisions of the Security Documents, including, without limitation, the Guarantee and the Assignment Agreement, the Lessor hereby declares Arrears to be due and payable in full and demands immediate payment thereof. Payment should be made to our last notified bank account for payments.

As at July 24, 2023, the aggregate amount of the Arrears is \$9,605,000. This amount is exclusive of legal and other adviser expenses and other amounts payable, including interest, costs, charges and fees accrued or incurred to such date, and the Lessor reserves the right to demand such amounts. The exact amount of the Obligations and/or the Secured Liabilities may be obtained at any time by contacting the Lessor.

[Remainder left intentionally blank]

Yours truly,

Macquarie Equipment Finance Ltd.

DocuSigned by:
Lisa Tamowsky
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Schedule "A"

Security Documents

- a) The Lease
- b) The Guarantee
- c) The Assignment Agreement
- d) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the Lessee, the Guarantor and the Other Guarantors
- e) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the Lessee
- f) Ontario PPSA Registration registered against the Guarantor in favour of the Lessor and bearing Reference File Number "781711695"
- g) The Notices and Demand Letter

Schedule "B"

**Notices of Default, Reservation of Rights Letters,
Demand Letter and Section 244 Notices**

- a) Notice of default dated May 12, 2022
- b) Notice of default dated July 12, 2022
- c) Notice of default dated November 16, 2022
- d) Notice of default and reservation of rights dated November 16, 2022
- e) Acknowledgement and reservation of rights agreement dated February 24, 2023
- f) Notice of default and reservation of rights dated April 16, 2023
- g) Acknowledgment and reservation of rights agreement no. 2 dated May 19, 2023
- h) Notice of default and reservation of rights dated June 2, 2023
- i) Demand Letter dated June 9, 2023
- j) Section 244 Notice dated June 9, 2023

July 24, 2023

VIA EMAIL

Iroquois Falls Power Corp.
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON
Canada M5J 2R2

Attention: Mr. Todd Shortt

Dear Sirs/Mesdames:

Re: Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023 (the “Lease”), between Macquarie Equipment Finance Ltd. (the “Lessor”) and Iroquois Falls Power Corp. (the “Lessee”); General Security Agreement made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023 (the “GSA”) by the Lessee in favour of the Lessor and the other documents listed in Schedule “A” (collectively, the “Security Documents”)
and
Notices of Default, Reservation of Rights letters, Demand Letter and Section 244 Notice set out in Schedule “B” (collectively, the “Notices and Demand Letter”)

We refer to the Security Documents and the Notices and Demand Letter. Unless otherwise defined, capitalized terms used herein have the meanings attributed to such terms in the Lease or the GSA.

As the Lessor advised under the Notices and Demand Letter, events of default and other similar events have occurred under the Security Documents. In addition, the Lessor has failed to pay three installments of Base Rent (and associated HST) due on May 31, June 7 and July 7, 2023. This is a non-exhaustive list of events of default and other similar events under the Security Documents. One or more of the foregoing events of default and other similar events are Lease Events of Default, Lease Defaults (as defined in the GSA) and/or other defaults or acceleration events under the Security Documents, have continued since the Notices and Demand Letter were delivered and are continuing as of the date hereof. Where notice of such events of default and other similar events is required under the Security Documents and has not previously been provided by the Lessor to the Lessee, this letter shall constitute such notice.

Pursuant to the Lease, upon the occurrence of a Lease Event of Default, the Lessor may in its sole and absolute discretion, among other things, enforce the rights and remedies set out in section 13.1 of the Lease.

Pursuant to the GSA, upon the occurrence of an Event of Acceleration, the Lessor may in its sole and absolute discretion, among other things, declare the Secured Liabilities to be immediately

due and payable and the Security Interests to be immediately enforceable, demand the amounts payable and/or demand possession of and realize upon all or any part of the Collateral pursuant to the Security Interests.

Pursuant to the relevant provisions of the Security Documents, including, without limitation, the Lease and the GSA, the Lessor hereby demands immediate payment of the overdue amounts owing. Payment should be made to our last notified bank account for payments.

As at July 24, 2023, the aggregate amount of the overdue Base Rent and associated HST owing pursuant to the Lease is \$9,605,000 (the "**Arrears**"). This amount is exclusive of legal and other adviser expenses and other amounts payable, including interest, costs, charges and fees accrued or incurred to such date, and the Lessor reserves the right to demand such amounts. The exact amount of the Obligations and/or the Secured Liabilities may be obtained at any time by contacting the Lessor.

[Remainder left intentionally blank]

Yours truly,

Macquarie Equipment Finance Ltd.

DocuSigned by:
Lisa Tarnowsky
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Schedule "A"

Security Documents

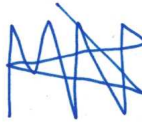
- a) The Lease
- b) The GSA
- c) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the Lessee and the Guarantors
- d) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the Lessee
- e) Guarantee made as of April 7, 2022, as amended and restated pursuant to the Amended and Restated Guarantee dated February 24, 2023, in favour of the Lessor by the Lessee and the Guarantors
- f) Demand Debenture made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023, in favour of the Lessor by the Lessee
- g) Ontario PPSA Registration registered against the Lessee in favour of the Lessor and bearing Reference File Number "781679718"
- h) The Notices and Demand Letter

Schedule "B"

**Notices of Default, Reservation of Rights letters,
Demand Letter and Section 244 Notice**

- a) Notice of default dated May 12, 2022
- b) Notice of default dated July 12, 2022
- c) Notice of default dated November 16, 2022
- d) Notice of default and reservation of rights dated November 16, 2022
- e) Acknowledgement and reservation of rights agreement dated February 24, 2023
- f) Notice of default and reservation of rights dated April 16, 2023
- g) Acknowledgment and reservation of rights agreement no. 2 dated May 19, 2023
- h) Notice of default and reservation of rights dated June 2, 2023
- i) Demand Letter dated June 9, 2023
- j) Section 244 Notice dated June 9, 2023

THIS IS **EXHIBIT “XX”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,
THIS 31st DAY OF JULY, 2023.



Michael Noel
Commissioner for Taking Affidavits

July 24, 2023

VIA EMAIL

Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON M5J 2R2
Canada

Attention: Mr. Todd Shortt

Dear Sirs/Mesdames:

Re: Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023 (the “Lease”), between Macquarie Equipment Finance Ltd. (the “Lessor”) and Iroquois Falls Power Corp. (the “Lessee”); Guarantee made as of April 7, 2022, as amended and restated pursuant to the Amended and Restated Guarantee dated February 24, 2023 (the “Guarantee”), in favour of the Lessor by the Lessee, Validus Power Corp. (the “Guarantor”), Bay Power Corp., Kap Power Corp., Kingston CoGen GP Inc. and Kingston CoGen Limited Partnership (together, the “Other Guarantors”); Securities Pledge Agreement made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023 (the “Pledge Agreement”) by the Guarantor in favour of the Lessor and the other documents listed in Schedule “A” (collectively, the “Security Documents”)

and

Notices of Default, Reservation of Rights letters, Demand Letter and Section 244 Notice set out in Schedule “B” (collectively, the “Notices and Demand Letter”)

We refer to the Security Documents and the Notices and Demand Letter. Unless otherwise defined, capitalized terms used herein have the meanings attributed to such terms in the Guarantee or the Pledge Agreement, as applicable.

Enclosed is the Lessor’s demand letter to the Lessee dated July 24, 2023, declaring all Arrears (as defined therein) immediately due and payable in full and demanding payment thereof. The Arrears include the Obligations (as defined in the Guarantee) and the Secured Liabilities (as defined in the Pledge Agreement). Where notice is required under the Security Documents and has not previously been provided by the Lender to the Guarantor, this letter shall constitute such notice.

Pursuant to the Guarantee, the Guarantor absolutely, unconditionally and irrevocably guaranteed to the Lessor the payment of the Obligations. The Guarantor’s liability to make payment under the Guarantee arises forthwith after demand for payment has been made.

Pursuant to the relevant provisions of the Security Documents, including, without limitation, the Guarantee and the Pledge Agreement, the Lessor hereby declares Arrears to be due and payable in full and demands immediate payment thereof. Payment should be made to our last

notified bank account for payments.

As at July 24, 2023, the aggregate amount of the Arrears is \$9,605,000. This amount is exclusive of legal and other adviser expenses and other amounts payable, including interest, costs, charges and fees accrued or incurred to such date, and the Lessor reserves the right to demand such amounts. The exact amount of the Obligations and/or the Secured Liabilities may be obtained at any time by contacting the Lessor.

[Remainder left intentionally blank]

Yours truly,

Macquarie Equipment Finance Ltd.

DocuSigned by:

Lisa Tamowsky

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Schedule "A"

Security Documents


- a) The Lease
- b) The Guarantee
- c) The Pledge Agreement
- d) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the Lessee, the Guarantor and the Other Guarantors
- e) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the Lessee
- f) Ontario PPSA Registration registered against the Guarantor in favour of the Lessor and bearing Reference File Number "781679745"
- g) The Notices and Demand Letter

Schedule "B"

**Notices of Default, Reservation of Rights Letters,
Demand Letter and Section 244 Notice**

- a) Notice of default dated May 12, 2022
- b) Notice of default dated July 12, 2022
- c) Notice of default dated November 16, 2022
- d) Notice of default and reservation of rights dated November 16, 2022
- e) Acknowledgement and reservation of rights agreement dated February 24, 2023
- f) Notice of default and reservation of rights dated April 16, 2023
- g) Acknowledgment and reservation of rights agreement no. 2 dated May 19, 2023
- h) Notice of default and reservation of rights dated June 2, 2023
- i) Demand Letter dated June 9, 2023
- j) Section 244 Notice dated June 9, 2023

THIS IS **EXHIBIT “YY”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,
THIS 31st DAY OF JULY, 2023.



Michael Noel

Commissioner for Taking Affidavits

July 24, 2023

VIA EMAIL

Iroquois Falls Power Corp.
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON
Canada M5J 2R2

Attention: Mr. Todd Shortt

Dear Sirs/Mesdames:

Re: Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023 (the “Lease”), between Macquarie Equipment Finance Ltd. (the “Lessor”) and Iroquois Falls Power Corp. (the “Lessee”); General Security Agreement made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023 (the “GSA”) by the Lessee in favour of the Lessor and the other documents listed in Schedule “A” (collectively, the “Security Documents”)
and
Notices of Default, Reservation of Rights letters, Demand Letter and Section 244 Notice set out in Schedule “B” (collectively, the “Notices and Demand Letter”)

We refer to the Security Documents and the Notices and Demand Letter. Unless otherwise defined, capitalized terms used herein have the meanings attributed to such terms in the Lease or the GSA.

As the Lessor advised under the Notices and Demand Letter, events of default and other similar events have occurred under the Security Documents. In addition, the Lessor has failed to pay three installments of Base Rent (and associated HST) due on May 31, June 7 and July 7, 2023. This is a non-exhaustive list of events of default and other similar events under the Security Documents. One or more of the foregoing events of default and other similar events are Lease Events of Default, Lease Defaults (as defined in the GSA) and/or other defaults or acceleration events under the Security Documents, have continued since the Notices and Demand Letter were delivered and are continuing as of the date hereof. Where notice of such events of default and other similar events is required under the Security Documents and has not previously been provided by the Lessor to the Lessee, this letter shall constitute such notice.

Pursuant to the Lease, upon the occurrence of a Lease Event of Default, the Lessor may in its sole and absolute discretion, among other things, enforce the rights and remedies set out in section 13.1 of the Lease.

Pursuant to the GSA, upon the occurrence of an Event of Acceleration, the Lessor may in its sole and absolute discretion, among other things, declare the Secured Liabilities to be immediately

due and payable and the Security Interests to be immediately enforceable, demand the amounts payable and/or demand possession of and realize upon all or any part of the Collateral pursuant to the Security Interests.

Pursuant to the relevant provisions of the Security Documents, including, without limitation, the Lease and the GSA, the Lessor hereby demands immediate payment of the overdue amounts owing. Payment should be made to our last notified bank account for payments.

As at July 24, 2023, the aggregate amount of the overdue Base Rent and associated HST owing pursuant to the Lease is \$9,605,000 (the “**Arrears**”). This amount is exclusive of legal and other adviser expenses and other amounts payable, including interest, costs, charges and fees accrued or incurred to such date, and the Lessor reserves the right to demand such amounts. The exact amount of the Obligations and/or the Secured Liabilities may be obtained at any time by contacting the Lessor.

[Remainder left intentionally blank]

Yours truly,

Macquarie Equipment Finance Ltd.

DocuSigned by:
Lisa Tarnowsky
2950D8D7E7E84A6...

Schedule "A"

Security Documents

- a) The Lease
- b) The GSA
- c) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the Lessee and the Guarantors
- d) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the Lessee
- e) Guarantee made as of April 7, 2022, as amended and restated pursuant to the Amended and Restated Guarantee dated February 24, 2023, in favour of the Lessor by the Lessee and the Guarantors
- f) Demand Debenture made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023, in favour of the Lessor by the Lessee
- g) Ontario PPSA Registration registered against the Lessee in favour of the Lessor and bearing Reference File Number "781679718"
- h) The Notices and Demand Letter

Schedule "B"

**Notices of Default, Reservation of Rights letters,
Demand Letter and Section 244 Notice**

- a) Notice of default dated May 12, 2022
- b) Notice of default dated July 12, 2022
- c) Notice of default dated November 16, 2022
- d) Notice of default and reservation of rights dated November 16, 2022
- e) Acknowledgement and reservation of rights agreement dated February 24, 2023
- f) Notice of default and reservation of rights dated April 16, 2023
- g) Acknowledgment and reservation of rights agreement no. 2 dated May 19, 2023
- h) Notice of default and reservation of rights dated June 2, 2023
- i) Demand Letter dated June 9, 2023
- j) Section 244 Notice dated June 9, 2023

July 24, 2023

VIA EMAIL

Iroquois Falls Power Corp.
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON
Canada M5J 2R2

Attention: Mr. Todd Shortt

Dear Sirs/Mesdames:

Re: Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023 (the “Lease”), between Macquarie Equipment Finance Ltd. (the “Lessor”) and Iroquois Falls Power Corp. (the “Lessee”); General Security Agreement made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023 (the “GSA”) by the Lessee in favour of the Lessor and the other documents listed in Schedule “A” (collectively, the “Security Documents”)
and
Notices of Default, Reservation of Rights letters, Demand Letter and Section 244 Notice set out in Schedule “B” (collectively, the “Notices and Demand Letter”)

We refer to the Security Documents and the Notices and Demand Letter. Unless otherwise defined, capitalized terms used herein have the meanings attributed to such terms in the Lease or the GSA.

As the Lessor advised under the Notices and Demand Letter, events of default and other similar events have occurred under the Security Documents. In addition, the Lessor has failed to pay three installments of Base Rent (and associated HST) due on May 31, June 7 and July 7, 2023. This is a non-exhaustive list of events of default and other similar events under the Security Documents. One or more of the foregoing events of default and other similar events are Lease Events of Default, Lease Defaults (as defined in the GSA) and/or other defaults or acceleration events under the Security Documents, have continued since the Notices and Demand Letter were delivered and are continuing as of the date hereof. Where notice of such events of default and other similar events is required under the Security Documents and has not previously been provided by the Lessor to the Lessee, this letter shall constitute such notice.

Pursuant to the Lease, upon the occurrence of a Lease Event of Default, the Lessor may in its sole and absolute discretion, among other things, enforce the rights and remedies set out in section 13.1 of the Lease.

Pursuant to the GSA, upon the occurrence of an Event of Acceleration, the Lessor may in its sole and absolute discretion, among other things, declare the Secured Liabilities to be immediately

due and payable and the Security Interests to be immediately enforceable, demand the amounts payable and/or demand possession of and realize upon all or any part of the Collateral pursuant to the Security Interests.

Pursuant to the relevant provisions of the Security Documents, including, without limitation, the Lease and the GSA, the Lessor hereby demands immediate payment of the overdue amounts owing. Payment should be made to our last notified bank account for payments.

As at July 24, 2023, the aggregate amount of the overdue Base Rent and associated HST owing pursuant to the Lease is \$9,605,000 (the “**Arrears**”). This amount is exclusive of legal and other adviser expenses and other amounts payable, including interest, costs, charges and fees accrued or incurred to such date, and the Lessor reserves the right to demand such amounts. The exact amount of the Obligations and/or the Secured Liabilities may be obtained at any time by contacting the Lessor.

[Remainder left intentionally blank]

Yours truly,

Macquarie Equipment Finance Ltd.

DocuSigned by:
Lisa Tarnowsky
2950D8D7E7E84A6...

Schedule "A"

Security Documents


- a) The Lease
- b) The GSA
- c) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the Lessee and the Guarantors
- d) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the Lessee
- e) Guarantee made as of April 7, 2022, as amended and restated pursuant to the Amended and Restated Guarantee dated February 24, 2023, in favour of the Lessor by the Lessee and the Guarantors
- f) Demand Debenture made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023, in favour of the Lessor by the Lessee
- g) Ontario PPSA Registration registered against the Lessee in favour of the Lessor and bearing Reference File Number "781679718"
- h) The Notices and Demand Letter

Schedule "B"

**Notices of Default, Reservation of Rights letters,
Demand Letter and Section 244 Notice**

- a) Notice of default dated May 12, 2022
- b) Notice of default dated July 12, 2022
- c) Notice of default dated November 16, 2022
- d) Notice of default and reservation of rights dated November 16, 2022
- e) Acknowledgement and reservation of rights agreement dated February 24, 2023
- f) Notice of default and reservation of rights dated April 16, 2023
- g) Acknowledgment and reservation of rights agreement no. 2 dated May 19, 2023
- h) Notice of default and reservation of rights dated June 2, 2023
- i) Demand Letter dated June 9, 2023
- j) Section 244 Notice dated June 9, 2023

THIS IS **EXHIBIT “ZZ”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,
THIS 31st DAY OF JULY, 2023.



Michael Noel

Commissioner for Taking Affidavits

July 24, 2023

VIA EMAIL

Bay Power Corp.
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON M5J 2R2
Canada

Attention: Mr. Todd Shortt

Dear Sirs/Mesdames:

**Re: Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023 (the “Lease”), between Macquarie Equipment Finance Ltd. (the “Lessor”) and Iroquois Falls Power Corp. (the “Lessee”); Guarantee made as of April 7, 2022, as amended and restated pursuant to the Amended and Restated Guarantee dated February 24, 2023 (the “Guarantee”), in favour of the Lessor by the Lessee, Bay Power Corp. (the “Guarantor”), Validus Power Corp., Kap Power Corp., Kingston CoGen GP Inc. and Kingston CoGen Limited Partnership (together, the “Other Guarantors”); General Security Agreement made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023 (the “GSA”) by the Guarantor in favour of the Lessor and the other documents listed in Schedule “A” (collectively, the “Security Documents”)
and
Notices of Default, Reservation of Rights letters, Demand Letter and Section 244 Notice set out in Schedule “B” (collectively, the “Notices and Demand Letter”)**

We refer to the Security Documents and the Notices and Demand Letter. Unless otherwise defined, capitalized terms used herein have the meanings attributed to such terms in the Guarantee or the GSA, as applicable.

Enclosed is the Lessor’s demand letter to the Lessee dated July 24, 2023, declaring the Accelerated Payment (as defined therein) immediately due and payable in full and demanding payment thereof by no later than the Default Payment Date specified therein. The Accelerated Payment includes the Obligations (as defined in the Guarantee) and the Secured Liabilities (as defined in the GSA). Where notice is required under the Security Documents and has not previously been provided by the Lender to the Guarantor, this letter shall constitute such notice.

Pursuant to the Guarantee, the Guarantor absolutely, unconditionally and irrevocably guaranteed to the Lessor the payment of the Obligations. The Guarantor’s liability to make payment under the Guarantee arises forthwith after demand for payment has been made.

Pursuant to the relevant provisions of the Security Documents, including, without limitation, the Guarantee and the GSA, the Lessor hereby declares the Accelerated Payment to be due and payable in full and demands payment thereof. Payment should be made to our last notified bank account for payments.

As at July 24, 2023, the aggregate amount of the Accelerated Payment owing pursuant to the Lease is \$55,595,133. The exact amount of the Accelerated Payment, Obligations and/or the Secured Liabilities may be obtained at any time by contacting the Lessor.

[Remainder left intentionally blank]

Yours truly,

Macquarie Equipment Finance Ltd.

DocuSigned by:

Lisa Tarnowsky

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Schedule "A"

Security Documents

- a) The Lease
- b) The Guarantee
- c) The GSA
- d) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the Lessee, the Guarantor and the Other Guarantors
- e) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the Lessee
- f) Demand Debenture made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023, in favour of the Lessor by the Guarantor
- g) Ontario PPSA Registration registered against the Guarantor in favour of the Lessor and bearing Reference File Number "781679817"
- h) The Notices and Demand Letter

Schedule "B"

**Notices of Default, Reservation of Rights Letters,
Demand Letter and Section 244 Notices**

- a) Notice of default dated May 12, 2022
- b) Notice of default dated July 12, 2022
- c) Notice of default dated November 16, 2022
- d) Notice of default and reservation of rights dated November 16, 2022
- e) Acknowledgement and reservation of rights agreement dated February 24, 2023
- f) Notice of default and reservation of rights dated April 16, 2023
- g) Acknowledgment and reservation of rights agreement no. 2 dated May 19, 2023
- h) Notice of default and reservation of rights dated June 2, 2023
- i) Demand Letter dated June 9, 2023
- j) Section 244 Notice dated June 9, 2023

July 24, 2023

VIA EMAIL

Iroquois Falls Power Corp.
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON
Canada M5J 2R2

Attention: Mr. Todd Shortt

Dear Sirs/Mesdames:

Re: Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023 (the “Lease”), between Macquarie Equipment Finance Ltd. (the “Lessor”) and Iroquois Falls Power Corp. (the “Lessee”); General Security Agreement made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023 (the “GSA”) by the Lessee in favour of the Lessor and the other documents listed in Schedule “A” (collectively, the “Security Documents”)
and
Notices of Default, Reservation of Rights letters, Demand Letter and Section 244 Notice set out in Schedule “B” (collectively, the “Notices and Demand Letter”)

We refer to the Security Documents and the Notices and Demand Letter. Unless otherwise defined, capitalized terms used herein have the meanings attributed to such terms in the Lease or the GSA.

As the Lessor advised under the Notices and Demand Letter, events of default and other similar events have occurred under the Security Documents. In addition, the Lessor has failed to pay three installments of Base Rent (and associated HST) due on May 31, June 7 and July 7, 2023. This is a non-exhaustive list of events of default and other similar events under the Security Documents. One or more of the foregoing events of default and other similar events are Lease Events of Default, Lease Defaults (as defined in the GSA) and/or other defaults or acceleration events under the Security Documents, have continued since the Notices and Demand Letter were delivered and are continuing as of the date hereof. Where notice of such events of default and other similar events is required under the Security Documents and has not previously been provided by the Lessor to the Lessee, this letter shall constitute such notice.

Pursuant to the Lease, upon the occurrence of a Lease Event of Default, the Lessor may in its sole and absolute discretion, among other things, enforce the rights and remedies set out in section 13.1 of the Lease, including that the Lessor may, by specifying a Default Payment Date, require that the Lessee pay to Lessor as a genuine pre-estimate of liquidated damages, the sum of (such sum, the “**Accelerated Payment**”): (i) any unpaid Base Rent and other amounts due before, and in arrears on, the Default Payment Date; *plus* (ii) the Stipulated Loss Value for the

Leased Property determined as of the date of the Lessor's written notice in respect thereof; *plus* (iii) interest on the sum of (i) and (ii) at the Late Rate from the Default Payment Date to the date of actual payment. Subject to the below, the Default Payment Date is specified as August 3, 2023.

Pursuant to the GSA, upon the occurrence of an Event of Acceleration, the Lessor may in its sole and absolute discretion, among other things, declare the Secured Liabilities to be immediately due and payable and the Security Interests to be immediately enforceable, demand the amounts payable and/or demand possession of and realize upon all or any part of the Collateral pursuant to the Security Interests. Pursuant to the GSA, the Lessor hereby declares that all Accelerated Payment is immediately due and payable.

Pursuant to the relevant provisions of the Security Documents, including, without limitation, the Lease and the GSA, the Lessor hereby demands immediate payment of the Accelerated Payment. Payment should be made to our last notified bank account for payments.

As at July 24, 2023, the aggregate amount of the Accelerated Payment owing pursuant to the Lease is \$55,595,133. The exact amount of the Accelerated Payment, Obligations and/or the Secured Liabilities may be obtained at any time by contacting the Lessor.

[Remainder left intentionally blank]

Yours truly,

Macquarie Equipment Finance Ltd.

DocuSigned by:

Lisa Tamowsky

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Schedule "A"

Security Documents

- a) The Lease
- b) The GSA
- c) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the Lessee and the Guarantors
- d) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the Lessee
- e) Guarantee made as of April 7, 2022, as amended and restated pursuant to the Amended and Restated Guarantee dated February 24, 2023, in favour of the Lessor by the Lessee and the Guarantors
- f) Demand Debenture made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023, in favour of the Lessor by the Lessee
- g) Ontario PPSA Registration registered against the Lessee in favour of the Lessor and bearing Reference File Number "781679718"
- h) The Notices and Demand Letter

Schedule "B"

**Notices of Default, Reservation of Rights letters,
Demand Letter and Section 244 Notice**

- a) Notice of default dated May 12, 2022
- b) Notice of default dated July 12, 2022
- c) Notice of default dated November 16, 2022
- d) Notice of default and reservation of rights dated November 16, 2022
- e) Acknowledgement and reservation of rights agreement dated February 24, 2023
- f) Notice of default and reservation of rights dated April 16, 2023
- g) Acknowledgment and reservation of rights agreement no. 2 dated May 19, 2023
- h) Notice of default and reservation of rights dated June 2, 2023
- i) Demand Letter dated June 9, 2023
- j) Section 244 Notice dated June 9, 2023

THIS IS **EXHIBIT “AAA”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,
THIS 31st DAY OF JULY, 2023.



Michael Noel
Commissioner for Taking Affidavits

July 24, 2023

VIA EMAIL

Kap Power Corp.
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON M5J 2R2
Canada

Attention: Mr. Todd Shortt

Dear Sirs/Mesdames:

**Re: Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023 (the “Lease”), between Macquarie Equipment Finance Ltd. (the “Lessor”) and Iroquois Falls Power Corp. (the “Lessee”); Guarantee made as of April 7, 2022, as amended and restated pursuant to the Amended and Restated Guarantee dated February 24, 2023 (the “Guarantee”), in favour of the Lessor by the Lessee, Kap Power Corp. (the “Guarantor”), Validus Power Corp., Bay Power Corp., Kingston CoGen GP Inc. and Kingston CoGen Limited Partnership (together, the “Other Guarantors”); General Security Agreement made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023 (the “GSA”) by the Guarantor in favour of the Lessor and the other documents listed in Schedule “A” (collectively, the “Security Documents”)
and
Notices of Default, Reservation of Rights letters, Demand Letter and Section 244 Notice set out in Schedule “B” (collectively, the “Notices and Demand Letter”)**

We refer to the Security Documents and the Notices and Demand Letter. Unless otherwise defined, capitalized terms used herein have the meanings attributed to such terms in the Guarantee or the GSA, as applicable.

Enclosed is the Lessor’s demand letter to the Lessee dated July 24, 2023, declaring the Accelerated Payment (as defined therein) immediately due and payable in full and demanding payment thereof by no later than the Default Payment Date specified therein. The Accelerated Payment includes the Obligations (as defined in the Guarantee) and the Secured Liabilities (as defined in the GSA). Where notice is required under the Security Documents and has not previously been provided by the Lender to the Guarantor, this letter shall constitute such notice.

Pursuant to the Guarantee, the Guarantor absolutely, unconditionally and irrevocably guaranteed to the Lessor the payment of the Obligations. The Guarantor’s liability to make payment under the Guarantee arises forthwith after demand for payment has been made.

Pursuant to the relevant provisions of the Security Documents, including, without limitation, the Guarantee and the GSA, the Lessor hereby declares the Accelerated Payment to be due and

payable in full and demands payment thereof. Payment should be made to our last notified bank account for payments.

As at July 24, 2023, the aggregate amount of the Accelerated Payment owing pursuant to the Lease is \$55,595,133. The exact amount of the Accelerated Payment, Obligations and/or the Secured Liabilities may be obtained at any time by contacting the Lessor.

[Remainder left intentionally blank]

Yours truly,

Macquarie Equipment Finance Ltd.

DocuSigned by:

Lisa Tarnowsky

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Schedule "A"

Security Documents

- a) The Lease
- b) The Guarantee
- c) The GSA
- d) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the Lessee, the Guarantor and the Other Guarantors
- e) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the Lessee
- f) Demand Debenture made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023, in favour of the Lessor by the Guarantor
- g) Ontario PPSA Registration registered against the Guarantor in favour of the Lessor and bearing Reference File Number "781679754"
- h) The Notices and Demand Letter

Schedule "B"

**Notices of Default, Reservation of Rights Letters,
Demand Letter and Section 244 Notices**

- a) Notice of default dated May 12, 2022
- b) Notice of default dated July 12, 2022
- c) Notice of default dated November 16, 2022
- d) Notice of default and reservation of rights dated November 16, 2022
- e) Acknowledgement and reservation of rights agreement dated February 24, 2023
- f) Notice of default and reservation of rights dated April 16, 2023
- g) Acknowledgment and reservation of rights agreement no. 2 dated May 19, 2023
- h) Notice of default and reservation of rights dated June 2, 2023
- i) Demand Letter dated June 9, 2023
- j) Section 244 Notice dated June 9, 2023

July 24, 2023

VIA EMAIL

Iroquois Falls Power Corp.
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON
Canada M5J 2R2

Attention: Mr. Todd Shortt

Dear Sirs/Mesdames:

Re: Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023 (the “Lease”), between Macquarie Equipment Finance Ltd. (the “Lessor”) and Iroquois Falls Power Corp. (the “Lessee”); General Security Agreement made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023 (the “GSA”) by the Lessee in favour of the Lessor and the other documents listed in Schedule “A” (collectively, the “Security Documents”)
and
Notices of Default, Reservation of Rights letters, Demand Letter and Section 244 Notice set out in Schedule “B” (collectively, the “Notices and Demand Letter”)

We refer to the Security Documents and the Notices and Demand Letter. Unless otherwise defined, capitalized terms used herein have the meanings attributed to such terms in the Lease or the GSA.

As the Lessor advised under the Notices and Demand Letter, events of default and other similar events have occurred under the Security Documents. In addition, the Lessor has failed to pay three installments of Base Rent (and associated HST) due on May 31, June 7 and July 7, 2023. This is a non-exhaustive list of events of default and other similar events under the Security Documents. One or more of the foregoing events of default and other similar events are Lease Events of Default, Lease Defaults (as defined in the GSA) and/or other defaults or acceleration events under the Security Documents, have continued since the Notices and Demand Letter were delivered and are continuing as of the date hereof. Where notice of such events of default and other similar events is required under the Security Documents and has not previously been provided by the Lessor to the Lessee, this letter shall constitute such notice.

Pursuant to the Lease, upon the occurrence of a Lease Event of Default, the Lessor may in its sole and absolute discretion, among other things, enforce the rights and remedies set out in section 13.1 of the Lease, including that the Lessor may, by specifying a Default Payment Date, require that the Lessee pay to Lessor as a genuine pre-estimate of liquidated damages, the sum of (such sum, the “**Accelerated Payment**”): (i) any unpaid Base Rent and other amounts due before, and in arrears on, the Default Payment Date; *plus* (ii) the Stipulated Loss Value for the

Leased Property determined as of the date of the Lessor's written notice in respect thereof; *plus* (iii) interest on the sum of (i) and (ii) at the Late Rate from the Default Payment Date to the date of actual payment. Subject to the below, the Default Payment Date is specified as August 3, 2023.

Pursuant to the GSA, upon the occurrence of an Event of Acceleration, the Lessor may in its sole and absolute discretion, among other things, declare the Secured Liabilities to be immediately due and payable and the Security Interests to be immediately enforceable, demand the amounts payable and/or demand possession of and realize upon all or any part of the Collateral pursuant to the Security Interests. Pursuant to the GSA, the Lessor hereby declares that all Accelerated Payment is immediately due and payable.

Pursuant to the relevant provisions of the Security Documents, including, without limitation, the Lease and the GSA, the Lessor hereby demands immediate payment of the Accelerated Payment. Payment should be made to our last notified bank account for payments.

As at July 24, 2023, the aggregate amount of the Accelerated Payment owing pursuant to the Lease is \$55,595,133. The exact amount of the Accelerated Payment, Obligations and/or the Secured Liabilities may be obtained at any time by contacting the Lessor.

[Remainder left intentionally blank]

Yours truly,

Macquarie Equipment Finance Ltd.

DocuSigned by:

Lisa Tamowsky

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Schedule "A"

Security Documents

- a) The Lease
- b) The GSA
- c) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the Lessee and the Guarantors
- d) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the Lessee
- e) Guarantee made as of April 7, 2022, as amended and restated pursuant to the Amended and Restated Guarantee dated February 24, 2023, in favour of the Lessor by the Lessee and the Guarantors
- f) Demand Debenture made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023, in favour of the Lessor by the Lessee
- g) Ontario PPSA Registration registered against the Lessee in favour of the Lessor and bearing Reference File Number "781679718"
- h) The Notices and Demand Letter

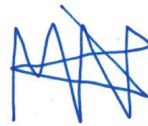
Schedule "B"

**Notices of Default, Reservation of Rights letters,
Demand Letter and Section 244 Notice**

- a) Notice of default dated May 12, 2022
- b) Notice of default dated July 12, 2022
- c) Notice of default dated November 16, 2022
- d) Notice of default and reservation of rights dated November 16, 2022
- e) Acknowledgement and reservation of rights agreement dated February 24, 2023
- f) Notice of default and reservation of rights dated April 16, 2023
- g) Acknowledgment and reservation of rights agreement no. 2 dated May 19, 2023
- h) Notice of default and reservation of rights dated June 2, 2023
- i) Demand Letter dated June 9, 2023
- j) Section 244 Notice dated June 9, 2023

THIS IS **EXHIBIT “BBB”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,

THIS 31st DAY OF JULY, 2023.



Michael Noel

Commissioner for Taking Affidavits

July 24, 2023

VIA EMAIL

Kingston CoGen GP Inc.
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON M5J 2R2
Canada

Attention: Mr. Todd Shortt

Dear Sirs/Mesdames:

Re: Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023 (the "Lease"), between Macquarie Equipment Finance Ltd. (the "Lessor") and Iroquois Falls Power Corp. (the "Lessee"); Amended and Restated Guarantee dated February 24, 2023 (the "Guarantee"), in favour of the Lessor by the Lessee, Kingston CoGen GP Inc. (the "Guarantor"), Validus Power Corp., Kap Power Corp., Bay Power Corp. and Kingston CoGen Limited Partnership (together, the "Other Guarantors"); General Security Agreement made as of February 24, 2023 (the "GSA") by the Guarantor in favour of the Lessor and the other documents listed in Schedule "A" (collectively, the "Security Documents")

and

Notices of Default, Reservation of Rights letters, Demand Letter and Section 244 Notice set out in Schedule "B" (collectively, the "Notices and Demand Letter")

We refer to the Security Documents and the Notices and Demand Letter. Unless otherwise defined, capitalized terms used herein have the meanings attributed to such terms in the Guarantee or the GSA, as applicable

Enclosed is the Lessor's demand letter to the Lessee dated July 24, 2023, declaring the Accelerated Payment (as defined therein) immediately due and payable in full and demanding payment thereof by no later than the Default Payment Date specified therein. The Accelerated Payment includes the Obligations (as defined in the Guarantee) and the Secured Liabilities (as defined in the GSA). Where notice is required under the Security Documents and has not previously been provided by the Lender to the Guarantor, this letter shall constitute such notice.

Pursuant to the Guarantee, the Guarantor absolutely, unconditionally and irrevocably guaranteed to the Lessor the payment of the Obligations. The Guarantor's liability to make payment under the Guarantee arises forthwith after demand for payment has been made.

Pursuant to the relevant provisions of the Security Documents, including, without limitation, the Guarantee and the GSA, the Lessor hereby declares the Accelerated Payment to be due and payable in full and demands payment thereof. Payment should be made to our last notified bank account for payments.

As at July 24, 2023, the aggregate amount of the Accelerated Payment owing pursuant to the Lease is \$55,595,133. The exact amount of the Accelerated Payment, Obligations and/or the Secured Liabilities may be obtained at any time by contacting the Lessor.

[Remainder left intentionally blank]

Yours truly,

Macquarie Equipment Finance Ltd.

DocuSigned by:

Lisa Tarnowsky

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Schedule "A"

Security Documents

- a) The Lease
- b) The Guarantee
- c) The GSA
- d) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the Lessee, the Guarantor and the Other Guarantors
- e) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the Lessee
- f) Demand Debenture made as of February 24, 2023, in favour of the Lessor by the Guarantor, in its own capacity and in its capacity as general partner of Kingston CoGen Limited Partnership
- g) Demand Debenture made as of February 24, 2023, in favour of the Lessor by the Guarantor
- h) Ontario PPSA Registration registered against the Guarantor in favour of the Lessor and bearing Reference File Number "790978779"
- i) The Notices and Demand Letter

Schedule "B"

**Notices of Default, Reservation of Rights Letters,
Demand Letter and Section 244 Notices**

- a) Notice of default dated May 12, 2022
- b) Notice of default dated July 12, 2022
- c) Notice of default dated November 16, 2022
- d) Notice of default and reservation of rights dated November 16, 2022
- e) Acknowledgement and reservation of rights agreement dated February 24, 2023
- f) Notice of default and reservation of rights dated April 16, 2023
- g) Acknowledgment and reservation of rights agreement no. 2 dated May 19, 2023
- h) Notice of default and reservation of rights dated June 2, 2023
- i) Demand Letter dated June 9, 2023
- j) Section 244 Notice dated June 9, 2023

July 24, 2023

VIA EMAIL

Iroquois Falls Power Corp.
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON
Canada M5J 2R2

Attention: Mr. Todd Shortt

Dear Sirs/Mesdames:

Re: Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023 (the “Lease”), between Macquarie Equipment Finance Ltd. (the “Lessor”) and Iroquois Falls Power Corp. (the “Lessee”); General Security Agreement made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023 (the “GSA”) by the Lessee in favour of the Lessor and the other documents listed in Schedule “A” (collectively, the “Security Documents”)
and
Notices of Default, Reservation of Rights letters, Demand Letter and Section 244 Notice set out in Schedule “B” (collectively, the “Notices and Demand Letter”)

We refer to the Security Documents and the Notices and Demand Letter. Unless otherwise defined, capitalized terms used herein have the meanings attributed to such terms in the Lease or the GSA.

As the Lessor advised under the Notices and Demand Letter, events of default and other similar events have occurred under the Security Documents. In addition, the Lessor has failed to pay three installments of Base Rent (and associated HST) due on May 31, June 7 and July 7, 2023. This is a non-exhaustive list of events of default and other similar events under the Security Documents. One or more of the foregoing events of default and other similar events are Lease Events of Default, Lease Defaults (as defined in the GSA) and/or other defaults or acceleration events under the Security Documents, have continued since the Notices and Demand Letter were delivered and are continuing as of the date hereof. Where notice of such events of default and other similar events is required under the Security Documents and has not previously been provided by the Lessor to the Lessee, this letter shall constitute such notice.

Pursuant to the Lease, upon the occurrence of a Lease Event of Default, the Lessor may in its sole and absolute discretion, among other things, enforce the rights and remedies set out in section 13.1 of the Lease, including that the Lessor may, by specifying a Default Payment Date, require that the Lessee pay to Lessor as a genuine pre-estimate of liquidated damages, the sum of (such sum, the “**Accelerated Payment**”): (i) any unpaid Base Rent and other amounts due before, and in arrears on, the Default Payment Date; *plus* (ii) the Stipulated Loss Value for the

Leased Property determined as of the date of the Lessor's written notice in respect thereof; *plus* (iii) interest on the sum of (i) and (ii) at the Late Rate from the Default Payment Date to the date of actual payment. Subject to the below, the Default Payment Date is specified as August 3, 2023.

Pursuant to the GSA, upon the occurrence of an Event of Acceleration, the Lessor may in its sole and absolute discretion, among other things, declare the Secured Liabilities to be immediately due and payable and the Security Interests to be immediately enforceable, demand the amounts payable and/or demand possession of and realize upon all or any part of the Collateral pursuant to the Security Interests. Pursuant to the GSA, the Lessor hereby declares that all Accelerated Payment is immediately due and payable.

Pursuant to the relevant provisions of the Security Documents, including, without limitation, the Lease and the GSA, the Lessor hereby demands immediate payment of the Accelerated Payment. Payment should be made to our last notified bank account for payments.

As at July 24, 2023, the aggregate amount of the Accelerated Payment owing pursuant to the Lease is \$55,595,133. The exact amount of the Accelerated Payment, Obligations and/or the Secured Liabilities may be obtained at any time by contacting the Lessor.

[Remainder left intentionally blank]

Yours truly,

Macquarie Equipment Finance Ltd.

DocuSigned by:

Lisa Tamowsky

2950D8D7E7E84A6...

Schedule "A"

Security Documents


- a) The Lease
- b) The GSA
- c) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the Lessee and the Guarantors
- d) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the Lessee
- e) Guarantee made as of April 7, 2022, as amended and restated pursuant to the Amended and Restated Guarantee dated February 24, 2023, in favour of the Lessor by the Lessee and the Guarantors
- f) Demand Debenture made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023, in favour of the Lessor by the Lessee
- g) Ontario PPSA Registration registered against the Lessee in favour of the Lessor and bearing Reference File Number "781679718"
- h) The Notices and Demand Letter

Schedule "B"

**Notices of Default, Reservation of Rights letters,
Demand Letter and Section 244 Notice**

- a) Notice of default dated May 12, 2022
- b) Notice of default dated July 12, 2022
- c) Notice of default dated November 16, 2022
- d) Notice of default and reservation of rights dated November 16, 2022
- e) Acknowledgement and reservation of rights agreement dated February 24, 2023
- f) Notice of default and reservation of rights dated April 16, 2023
- g) Acknowledgment and reservation of rights agreement no. 2 dated May 19, 2023
- h) Notice of default and reservation of rights dated June 2, 2023
- i) Demand Letter dated June 9, 2023
- j) Section 244 Notice dated June 9, 2023

THIS IS **EXHIBIT “CCC”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,
THIS 31st DAY OF JULY, 2023.



Michael Noel
Commissioner for Taking Affidavits

July 24, 2023

VIA EMAIL

Kingston CoGen Limited Partnership
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON M5J 2R2
Canada

Attention: Mr. Todd Shortt

Dear Sirs/Mesdames:

Re: Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023 (the “Lease”), between Macquarie Equipment Finance Ltd. (the “Lessor”) and Iroquois Falls Power Corp. (the “Lessee”); Amended and Restated Guarantee dated February 24, 2023 (the “Guarantee”), in favour of the Lessor by the Lessee, Kingston CoGen Limited Partnership (the “Guarantor”), Validus Power Corp., Kap Power Corp., Bay Power Corp. and Kingston CoGen GP Inc. (together, the “Other Guarantors”); General Security Agreement made as of February 24, 2023 (the “GSA”) by the Guarantor in favour of the Lessor and the other documents listed in Schedule “A” (collectively, the “Security Documents”)

and

Notices of Default, Reservation of Rights letters, Demand Letter and Section 244 Notice set out in Schedule “B” (collectively, the “Notices and Demand Letter”)

We refer to the Security Documents and the Notices and Demand Letter. Unless otherwise defined, capitalized terms used herein have the meanings attributed to such terms in the Guarantee or the GSA, as applicable

Enclosed is the Lessor’s demand letter to the Lessee dated July 24, 2023, declaring the Accelerated Payment (as defined therein) immediately due and payable in full and demanding payment thereof by no later than the Default Payment Date specified therein. The Accelerated Payment includes the Obligations (as defined in the Guarantee) and the Secured Liabilities (as defined in the GSA). Where notice is required under the Security Documents and has not previously been provided by the Lender to the Guarantor, this letter shall constitute such notice.

Pursuant to the Guarantee, the Guarantor absolutely, unconditionally and irrevocably guaranteed to the Lessor the payment of the Obligations. The Guarantor’s liability to make payment under the Guarantee arises forthwith after demand for payment has been made.

Pursuant to the relevant provisions of the Security Documents, including, without limitation, the Guarantee and the GSA, the Lessor hereby declares the Accelerated Payment to be due and payable in full and demands payment thereof. Payment should be made to our last notified bank account for payments.

As at July 24, 2023, the aggregate amount of the Accelerated Payment owing pursuant to the Lease is \$55,595,133. The exact amount of the Accelerated Payment, Obligations and/or the Secured Liabilities may be obtained at any time by contacting the Lessor.

[Remainder left intentionally blank]

Yours truly,

Macquarie Equipment Finance Ltd.

DocuSigned by:

Lisa Tarnowsky

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Schedule "A"

Security Documents

- a) The Lease
- b) The Guarantee
- c) The GSA
- d) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the Lessee, the Guarantor and the Other Guarantors
- e) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the Lessee
- f) Demand Debenture made as of February 24, 2023, in favour of the Lessor by the Guarantor
- g) Ontario PPSA Registration registered against the Guarantor in favour of the Lessor and bearing Reference File Number "790978752"
- h) The Notices and Demand Letter

Schedule "B"

**Notices of Default, Reservation of Rights Letters,
Demand Letter and Section 244 Notices**

- a) Notice of default dated May 12, 2022
- b) Notice of default dated July 12, 2022
- c) Notice of default dated November 16, 2022
- d) Notice of default and reservation of rights dated November 16, 2022
- e) Acknowledgement and reservation of rights agreement dated February 24, 2023
- f) Notice of default and reservation of rights dated April 16, 2023
- g) Acknowledgment and reservation of rights agreement no. 2 dated May 19, 2023
- h) Notice of default and reservation of rights dated June 2, 2023
- i) Demand Letter dated June 9, 2023
- j) Section 244 Notice dated June 9, 2023

July 24, 2023

VIA EMAIL

Iroquois Falls Power Corp.
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON
Canada M5J 2R2

Attention: Mr. Todd Shortt

Dear Sirs/Mesdames:

Re: Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023 (the “Lease”), between Macquarie Equipment Finance Ltd. (the “Lessor”) and Iroquois Falls Power Corp. (the “Lessee”); General Security Agreement made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023 (the “GSA”) by the Lessee in favour of the Lessor and the other documents listed in Schedule “A” (collectively, the “Security Documents”)
and
Notices of Default, Reservation of Rights letters, Demand Letter and Section 244 Notice set out in Schedule “B” (collectively, the “Notices and Demand Letter”)

We refer to the Security Documents and the Notices and Demand Letter. Unless otherwise defined, capitalized terms used herein have the meanings attributed to such terms in the Lease or the GSA.

As the Lessor advised under the Notices and Demand Letter, events of default and other similar events have occurred under the Security Documents. In addition, the Lessor has failed to pay three installments of Base Rent (and associated HST) due on May 31, June 7 and July 7, 2023. This is a non-exhaustive list of events of default and other similar events under the Security Documents. One or more of the foregoing events of default and other similar events are Lease Events of Default, Lease Defaults (as defined in the GSA) and/or other defaults or acceleration events under the Security Documents, have continued since the Notices and Demand Letter were delivered and are continuing as of the date hereof. Where notice of such events of default and other similar events is required under the Security Documents and has not previously been provided by the Lessor to the Lessee, this letter shall constitute such notice.

Pursuant to the Lease, upon the occurrence of a Lease Event of Default, the Lessor may in its sole and absolute discretion, among other things, enforce the rights and remedies set out in section 13.1 of the Lease, including that the Lessor may, by specifying a Default Payment Date, require that the Lessee pay to Lessor as a genuine pre-estimate of liquidated damages, the sum of (such sum, the “**Accelerated Payment**”): (i) any unpaid Base Rent and other amounts due before, and in arrears on, the Default Payment Date; *plus* (ii) the Stipulated Loss Value for the

Leased Property determined as of the date of the Lessor's written notice in respect thereof; *plus* (iii) interest on the sum of (i) and (ii) at the Late Rate from the Default Payment Date to the date of actual payment. Subject to the below, the Default Payment Date is specified as August 3, 2023.

Pursuant to the GSA, upon the occurrence of an Event of Acceleration, the Lessor may in its sole and absolute discretion, among other things, declare the Secured Liabilities to be immediately due and payable and the Security Interests to be immediately enforceable, demand the amounts payable and/or demand possession of and realize upon all or any part of the Collateral pursuant to the Security Interests. Pursuant to the GSA, the Lessor hereby declares that all Accelerated Payment is immediately due and payable.

Pursuant to the relevant provisions of the Security Documents, including, without limitation, the Lease and the GSA, the Lessor hereby demands immediate payment of the Accelerated Payment. Payment should be made to our last notified bank account for payments.

As at July 24, 2023, the aggregate amount of the Accelerated Payment owing pursuant to the Lease is \$55,595,133. The exact amount of the Accelerated Payment, Obligations and/or the Secured Liabilities may be obtained at any time by contacting the Lessor.

[Remainder left intentionally blank]

Yours truly,

Macquarie Equipment Finance Ltd.

DocuSigned by:

Lisa Tamowsky

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Schedule "A"

Security Documents

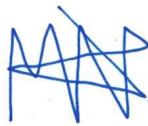
- a) The Lease
- b) The GSA
- c) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the Lessee and the Guarantors
- d) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the Lessee
- e) Guarantee made as of April 7, 2022, as amended and restated pursuant to the Amended and Restated Guarantee dated February 24, 2023, in favour of the Lessor by the Lessee and the Guarantors
- f) Demand Debenture made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023, in favour of the Lessor by the Lessee
- g) Ontario PPSA Registration registered against the Lessee in favour of the Lessor and bearing Reference File Number "781679718"
- h) The Notices and Demand Letter

Schedule "B"

**Notices of Default, Reservation of Rights letters,
Demand Letter and Section 244 Notice**

- a) Notice of default dated May 12, 2022
- b) Notice of default dated July 12, 2022
- c) Notice of default dated November 16, 2022
- d) Notice of default and reservation of rights dated November 16, 2022
- e) Acknowledgement and reservation of rights agreement dated February 24, 2023
- f) Notice of default and reservation of rights dated April 16, 2023
- g) Acknowledgment and reservation of rights agreement no. 2 dated May 19, 2023
- h) Notice of default and reservation of rights dated June 2, 2023
- i) Demand Letter dated June 9, 2023
- j) Section 244 Notice dated June 9, 2023

THIS IS **EXHIBIT “DDD”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,
THIS 31st DAY OF JULY, 2023.



Michael Noel

Commissioner for Taking Affidavits

July 24, 2023

VIA EMAIL

Validus Hosting Inc
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON M5J 2R2
Canada

Attention: Mr. Todd Shortt

Dear Sirs/Mesdames:

**Re: Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023 (the “Lease”), between Macquarie Equipment Finance Ltd. (the “Lessor”) and Iroquois Falls Power Corp. (the “Lessee”); Limited Recourse Guarantee made as of April 7, 2022, as amended and restated pursuant to the Amended and Restated Limited Recourse Guarantee dated February 24, 2023 (the “Guarantee”), in favour of the Lessor by Validus Hosting Inc. (the “Guarantor”); Assignment of Material Project Documents made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023 (the “Assignment Agreement”) by the Guarantor in favour of the Lessor and the other documents listed in Schedule “A” (collectively, the “Security Documents”) and
Notices of Default, Reservation of Rights letters, Demand Letter and Section 244 Notice set out in Schedule “B” (collectively, the “Notices and Demand Letter”)**

We refer to the Security Documents and the Notices and Demand Letter. Unless otherwise defined, capitalized terms used herein have the meanings attributed to such terms in the Guarantee or the Assignment Agreement, as applicable

Enclosed is the Lessor’s demand letter to the Lessee dated July 24, 2023, declaring the Accelerated Payment (as defined therein) immediately due and payable in full and demanding payment thereof by no later than the Default Payment Date specified therein. The Accelerated Payment includes the Obligations (as defined in the Guarantee) and the Secured Liabilities (as defined in the Assignment Agreement). Where notice is required under the Security Documents and has not previously been provided by the Lender to the Guarantor, this letter shall constitute such notice.

Pursuant to the Guarantee, the Guarantor absolutely, unconditionally and irrevocably guaranteed to the Lessor the payment of the Obligations. The Guarantor’s liability to make payment under the Guarantee arises forthwith after demand for payment has been made.

Pursuant to the relevant provisions of the Security Documents, including, without limitation, the Guarantee and the Assignment Agreement, the Lessor hereby declares the Accelerated Payment to be due and payable in full and demands payment thereof. Payment should be made

to our last notified bank account for payments.

As at July 24, 2023, the aggregate amount of the Accelerated Payment owing pursuant to the Lease is \$55,595,133. The exact amount of the Accelerated Payment, Obligations and/or the Secured Liabilities may be obtained at any time by contacting the Lessor.

[Remainder left intentionally blank]

Yours truly,

Macquarie Equipment Finance Ltd.

DocuSigned by:
Lisa Tarnowsky
2950D8D7E7E84A6...

Schedule "A"

Security Documents

- a) The Lease
- b) The Guarantee
- c) The Assignment Agreement
- d) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the Lessee, the Guarantor and the Other Guarantors
- e) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the Lessee
- f) Ontario PPSA Registration registered against the Guarantor in favour of the Lessor and bearing Reference File Number "781711695"
- g) The Notices and Demand Letter

Schedule "B"

**Notices of Default, Reservation of Rights Letters,
Demand Letter and Section 244 Notices**

- a) Notice of default dated May 12, 2022
- b) Notice of default dated July 12, 2022
- c) Notice of default dated November 16, 2022
- d) Notice of default and reservation of rights dated November 16, 2022
- e) Acknowledgement and reservation of rights agreement dated February 24, 2023
- f) Notice of default and reservation of rights dated April 16, 2023
- g) Acknowledgment and reservation of rights agreement no. 2 dated May 19, 2023
- h) Notice of default and reservation of rights dated June 2, 2023
- i) Demand Letter dated June 9, 2023
- j) Section 244 Notice dated June 9, 2023

July 24, 2023

VIA EMAIL

Iroquois Falls Power Corp.
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON
Canada M5J 2R2

Attention: Mr. Todd Shortt

Dear Sirs/Mesdames:

Re: Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023 (the “Lease”), between Macquarie Equipment Finance Ltd. (the “Lessor”) and Iroquois Falls Power Corp. (the “Lessee”); General Security Agreement made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023 (the “GSA”) by the Lessee in favour of the Lessor and the other documents listed in Schedule “A” (collectively, the “Security Documents”)
and
Notices of Default, Reservation of Rights letters, Demand Letter and Section 244 Notice set out in Schedule “B” (collectively, the “Notices and Demand Letter”)

We refer to the Security Documents and the Notices and Demand Letter. Unless otherwise defined, capitalized terms used herein have the meanings attributed to such terms in the Lease or the GSA.

As the Lessor advised under the Notices and Demand Letter, events of default and other similar events have occurred under the Security Documents. In addition, the Lessor has failed to pay three installments of Base Rent (and associated HST) due on May 31, June 7 and July 7, 2023. This is a non-exhaustive list of events of default and other similar events under the Security Documents. One or more of the foregoing events of default and other similar events are Lease Events of Default, Lease Defaults (as defined in the GSA) and/or other defaults or acceleration events under the Security Documents, have continued since the Notices and Demand Letter were delivered and are continuing as of the date hereof. Where notice of such events of default and other similar events is required under the Security Documents and has not previously been provided by the Lessor to the Lessee, this letter shall constitute such notice.

Pursuant to the Lease, upon the occurrence of a Lease Event of Default, the Lessor may in its sole and absolute discretion, among other things, enforce the rights and remedies set out in section 13.1 of the Lease, including that the Lessor may, by specifying a Default Payment Date, require that the Lessee pay to Lessor as a genuine pre-estimate of liquidated damages, the sum of (such sum, the “**Accelerated Payment**”): (i) any unpaid Base Rent and other amounts due before, and in arrears on, the Default Payment Date; *plus* (ii) the Stipulated Loss Value for the

Leased Property determined as of the date of the Lessor's written notice in respect thereof; *plus* (iii) interest on the sum of (i) and (ii) at the Late Rate from the Default Payment Date to the date of actual payment. Subject to the below, the Default Payment Date is specified as August 3, 2023.

Pursuant to the GSA, upon the occurrence of an Event of Acceleration, the Lessor may in its sole and absolute discretion, among other things, declare the Secured Liabilities to be immediately due and payable and the Security Interests to be immediately enforceable, demand the amounts payable and/or demand possession of and realize upon all or any part of the Collateral pursuant to the Security Interests. Pursuant to the GSA, the Lessor hereby declares that all Accelerated Payment is immediately due and payable.

Pursuant to the relevant provisions of the Security Documents, including, without limitation, the Lease and the GSA, the Lessor hereby demands immediate payment of the Accelerated Payment. Payment should be made to our last notified bank account for payments.

As at July 24, 2023, the aggregate amount of the Accelerated Payment owing pursuant to the Lease is \$55,595,133. The exact amount of the Accelerated Payment, Obligations and/or the Secured Liabilities may be obtained at any time by contacting the Lessor.

[Remainder left intentionally blank]

Yours truly,

Macquarie Equipment Finance Ltd.

DocuSigned by:

Lisa Tamowsky

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Schedule "A"

Security Documents

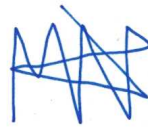
- a) The Lease
- b) The GSA
- c) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the Lessee and the Guarantors
- d) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the Lessee
- e) Guarantee made as of April 7, 2022, as amended and restated pursuant to the Amended and Restated Guarantee dated February 24, 2023, in favour of the Lessor by the Lessee and the Guarantors
- f) Demand Debenture made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023, in favour of the Lessor by the Lessee
- g) Ontario PPSA Registration registered against the Lessee in favour of the Lessor and bearing Reference File Number "781679718"
- h) The Notices and Demand Letter

Schedule "B"

**Notices of Default, Reservation of Rights letters,
Demand Letter and Section 244 Notice**

- a) Notice of default dated May 12, 2022
- b) Notice of default dated July 12, 2022
- c) Notice of default dated November 16, 2022
- d) Notice of default and reservation of rights dated November 16, 2022
- e) Acknowledgement and reservation of rights agreement dated February 24, 2023
- f) Notice of default and reservation of rights dated April 16, 2023
- g) Acknowledgment and reservation of rights agreement no. 2 dated May 19, 2023
- h) Notice of default and reservation of rights dated June 2, 2023
- i) Demand Letter dated June 9, 2023
- j) Section 244 Notice dated June 9, 2023

THIS IS **EXHIBIT “EEE”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,
THIS 31st DAY OF JULY, 2023.



Michael Noel
Commissioner for Taking Affidavits

July 24, 2023

VIA EMAIL

Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON M5J 2R2
Canada

Attention: Mr. Todd Shortt

Dear Sirs/Mesdames:

Re: Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023 (the “Lease”), between Macquarie Equipment Finance Ltd. (the “Lessor”) and Iroquois Falls Power Corp. (the “Lessee”); Guarantee made as of April 7, 2022, as amended and restated pursuant to the Amended and Restated Guarantee dated February 24, 2023 (the “Guarantee”), in favour of the Lessor by the Lessee, Validus Power Corp. (the “Guarantor”), Bay Power Corp., Kap Power Corp., Kingston CoGen GP Inc. and Kingston CoGen Limited Partnership (together, the “Other Guarantors”); Securities Pledge Agreement made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023 (the “Pledge Agreement”) by the Guarantor in favour of the Lessor and the other documents listed in Schedule “A” (collectively, the “Security Documents”)

and

Notices of Default, Reservation of Rights letters, Demand Letter and Section 244 Notice set out in Schedule “B” (collectively, the “Notices and Demand Letter”)

We refer to the Security Documents and the Notices and Demand Letter. Unless otherwise defined, capitalized terms used herein have the meanings attributed to such terms in the Guarantee or the Pledge Agreement, as applicable.

Enclosed is the Lessor’s demand letter to the Lessee dated July 24, 2023, declaring the Accelerated Payment (as defined therein) immediately due and payable in full and demanding payment thereof by no later than the Default Payment Date specified therein. The Accelerated Payment includes the Obligations (as defined in the Guarantee) and the Secured Liabilities (as defined in the Pledge Agreement). Where notice is required under the Security Documents and has not previously been provided by the Lender to the Guarantor, this letter shall constitute such notice.

Pursuant to the Guarantee, the Guarantor absolutely, unconditionally and irrevocably guaranteed to the Lessor the payment of the Obligations. The Guarantor’s liability to make payment under the Guarantee arises forthwith after demand for payment has been made.

Pursuant to the relevant provisions of the Security Documents, including, without limitation, the Guarantee and the Pledge Agreement, the Lessor hereby declares the Accelerated Payment

to be due and payable in full and demands payment thereof. Payment should be made to our last notified bank account for payments.

As at July 24, 2023, the aggregate amount of the Accelerated Payment Owing pursuant to the Lease is \$55,595,133. The exact amount of the Accelerated Payment, Obligations and/or the Secured Liabilities may be obtained at any time by contacting the Lessor.

[Remainder left intentionally blank]

Yours truly,

Macquarie Equipment Finance Ltd.

DocuSigned by:
Lisa Tamowsky
2950D8D7E7E84A6...

Schedule "A"

Security Documents

- a) The Lease
- b) The Guarantee
- c) The Pledge Agreement
- d) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the Lessee, the Guarantor and the Other Guarantors
- e) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the Lessee
- f) Ontario PPSA Registration registered against the Guarantor in favour of the Lessor and bearing Reference File Number "781679745"
- g) The Notices and Demand Letter

Schedule "B"

**Notices of Default, Reservation of Rights Letters,
Demand Letter and Section 244 Notices**

- a) Notice of default dated May 12, 2022
- b) Notice of default dated July 12, 2022
- c) Notice of default dated November 16, 2022
- d) Notice of default and reservation of rights dated November 16, 2022
- e) Acknowledgement and reservation of rights agreement dated February 24, 2023
- f) Notice of default and reservation of rights dated April 16, 2023
- g) Acknowledgment and reservation of rights agreement no. 2 dated May 19, 2023
- h) Notice of default and reservation of rights dated June 2, 2023
- i) Demand Letter dated June 9, 2023
- j) Section 244 Notice dated June 9, 2023

THIS IS **EXHIBIT “FFF”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,

THIS 31st DAY OF JULY, 2023.



Michael Noel

Commissioner for Taking Affidavits

July 24, 2023

VIA EMAIL

Iroquois Falls Power Corp.
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON
Canada M5J 2R2

Attention: Mr. Todd Shortt

Dear Sirs/Mesdames:

Re: Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023 (the “Lease”), between Macquarie Equipment Finance Ltd. (the “Lessor”) and Iroquois Falls Power Corp. (the “Lessee”); General Security Agreement made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023 (the “GSA”) by the Lessee in favour of the Lessor and the other documents listed in Schedule “A” (collectively, the “Security Documents”)
and
Notices of Default, Reservation of Rights letters, Demand Letter and Section 244 Notice set out in Schedule “B” (collectively, the “Notices and Demand Letter”)

We refer to the Security Documents and the Notices and Demand Letter. Unless otherwise defined, capitalized terms used herein have the meanings attributed to such terms in the Lease or the GSA.

As the Lessor advised under the Notices and Demand Letter, events of default and other similar events have occurred under the Security Documents. In addition, the Lessor has failed to pay three installments of Base Rent (and associated HST) due on May 31, June 7 and July 7, 2023. This is a non-exhaustive list of events of default and other similar events under the Security Documents. One or more of the foregoing events of default and other similar events are Lease Events of Default, Lease Defaults (as defined in the GSA) and/or other defaults or acceleration events under the Security Documents, have continued since the Notices and Demand Letter were delivered and are continuing as of the date hereof. Where notice of such events of default and other similar events is required under the Security Documents and has not previously been provided by the Lessor to the Lessee, this letter shall constitute such notice.

Pursuant to the Lease, upon the occurrence of a Lease Event of Default, the Lessor may in its sole and absolute discretion, among other things, enforce the rights and remedies set out in section 13.1 of the Lease, including that the Lessor may, by specifying a Default Payment Date, require that the Lessee pay to Lessor as a genuine pre-estimate of liquidated damages, the sum of (such sum, the “**Accelerated Payment**”): (i) any unpaid Base Rent and other amounts due before, and in arrears on, the Default Payment Date; *plus* (ii) the Stipulated Loss Value for the

Leased Property determined as of the date of the Lessor's written notice in respect thereof; *plus* (iii) interest on the sum of (i) and (ii) at the Late Rate from the Default Payment Date to the date of actual payment. Subject to the below, the Default Payment Date is specified as August 3, 2023.

Pursuant to the GSA, upon the occurrence of an Event of Acceleration, the Lessor may in its sole and absolute discretion, among other things, declare the Secured Liabilities to be immediately due and payable and the Security Interests to be immediately enforceable, demand the amounts payable and/or demand possession of and realize upon all or any part of the Collateral pursuant to the Security Interests. Pursuant to the GSA, the Lessor hereby declares that all Accelerated Payment is immediately due and payable.

Pursuant to the relevant provisions of the Security Documents, including, without limitation, the Lease and the GSA, the Lessor hereby demands immediate payment of the Accelerated Payment. Payment should be made to our last notified bank account for payments.

As at July 24, 2023, the aggregate amount of the Accelerated Payment owing pursuant to the Lease is \$55,595,133. The exact amount of the Accelerated Payment, Obligations and/or the Secured Liabilities may be obtained at any time by contacting the Lessor.

[Remainder left intentionally blank]

Yours truly,

Macquarie Equipment Finance Ltd.

DocuSigned by:

Lisa Tamowsky

2950D8D7E7E84A6...

Schedule "A"

Security Documents

- a) The Lease
- b) The GSA
- c) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the Lessee and the Guarantors
- d) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the Lessee
- e) Guarantee made as of April 7, 2022, as amended and restated pursuant to the Amended and Restated Guarantee dated February 24, 2023, in favour of the Lessor by the Lessee and the Guarantors
- f) Demand Debenture made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023, in favour of the Lessor by the Lessee
- g) Ontario PPSA Registration registered against the Lessee in favour of the Lessor and bearing Reference File Number "781679718"
- h) The Notices and Demand Letter

Schedule "B"

**Notices of Default, Reservation of Rights letters,
Demand Letter and Section 244 Notice**

- a) Notice of default dated May 12, 2022
- b) Notice of default dated July 12, 2022
- c) Notice of default dated November 16, 2022
- d) Notice of default and reservation of rights dated November 16, 2022
- e) Acknowledgement and reservation of rights agreement dated February 24, 2023
- f) Notice of default and reservation of rights dated April 16, 2023
- g) Acknowledgment and reservation of rights agreement no. 2 dated May 19, 2023
- h) Notice of default and reservation of rights dated June 2, 2023
- i) Demand Letter dated June 9, 2023
- j) Section 244 Notice dated June 9, 2023

July 24, 2023

VIA EMAIL

Iroquois Falls Power Corp.
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON
Canada M5J 2R2

Attention: Mr. Todd Shortt

Dear Sirs/Mesdames:

Re: Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023 (the “Lease”), between Macquarie Equipment Finance Ltd. (the “Lessor”) and Iroquois Falls Power Corp. (the “Lessee”); General Security Agreement made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023 (the “GSA”) by the Lessee in favour of the Lessor and the other documents listed in Schedule “A” (collectively, the “Security Documents”)
and
Notices of Default, Reservation of Rights letters, Demand Letter and Section 244 Notice set out in Schedule “B” (collectively, the “Notices and Demand Letter”)

We refer to the Security Documents and the Notices and Demand Letter. Unless otherwise defined, capitalized terms used herein have the meanings attributed to such terms in the Lease or the GSA.

As the Lessor advised under the Notices and Demand Letter, events of default and other similar events have occurred under the Security Documents. In addition, the Lessor has failed to pay three installments of Base Rent (and associated HST) due on May 31, June 7 and July 7, 2023. This is a non-exhaustive list of events of default and other similar events under the Security Documents. One or more of the foregoing events of default and other similar events are Lease Events of Default, Lease Defaults (as defined in the GSA) and/or other defaults or acceleration events under the Security Documents, have continued since the Notices and Demand Letter were delivered and are continuing as of the date hereof. Where notice of such events of default and other similar events is required under the Security Documents and has not previously been provided by the Lessor to the Lessee, this letter shall constitute such notice.

Pursuant to the Lease, upon the occurrence of a Lease Event of Default, the Lessor may in its sole and absolute discretion, among other things, enforce the rights and remedies set out in section 13.1 of the Lease, including that the Lessor may, by specifying a Default Payment Date, require that the Lessee pay to Lessor as a genuine pre-estimate of liquidated damages, the sum of (such sum, the “**Accelerated Payment**”): (i) any unpaid Base Rent and other amounts due before, and in arrears on, the Default Payment Date; *plus* (ii) the Stipulated Loss Value for the

Leased Property determined as of the date of the Lessor's written notice in respect thereof; *plus* (iii) interest on the sum of (i) and (ii) at the Late Rate from the Default Payment Date to the date of actual payment. Subject to the below, the Default Payment Date is specified as August 3, 2023.

Pursuant to the GSA, upon the occurrence of an Event of Acceleration, the Lessor may in its sole and absolute discretion, among other things, declare the Secured Liabilities to be immediately due and payable and the Security Interests to be immediately enforceable, demand the amounts payable and/or demand possession of and realize upon all or any part of the Collateral pursuant to the Security Interests. Pursuant to the GSA, the Lessor hereby declares that all Accelerated Payment is immediately due and payable.

Pursuant to the relevant provisions of the Security Documents, including, without limitation, the Lease and the GSA, the Lessor hereby demands immediate payment of the Accelerated Payment. Payment should be made to our last notified bank account for payments.

As at July 24, 2023, the aggregate amount of the Accelerated Payment owing pursuant to the Lease is \$55,595,133. The exact amount of the Accelerated Payment, Obligations and/or the Secured Liabilities may be obtained at any time by contacting the Lessor.

[Remainder left intentionally blank]

Yours truly,

Macquarie Equipment Finance Ltd.

DocuSigned by:
Lisa Tamowsky
2950D8D7E7E84A6...

Schedule "A"

Security Documents

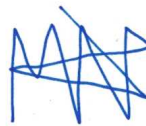
- a) The Lease
- b) The GSA
- c) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the Lessee and the Guarantors
- d) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the Lessee
- e) Guarantee made as of April 7, 2022, as amended and restated pursuant to the Amended and Restated Guarantee dated February 24, 2023, in favour of the Lessor by the Lessee and the Guarantors
- f) Demand Debenture made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023, in favour of the Lessor by the Lessee
- g) Ontario PPSA Registration registered against the Lessee in favour of the Lessor and bearing Reference File Number "781679718"
- h) The Notices and Demand Letter

Schedule "B"

**Notices of Default, Reservation of Rights letters,
Demand Letter and Section 244 Notice**

- a) Notice of default dated May 12, 2022
- b) Notice of default dated July 12, 2022
- c) Notice of default dated November 16, 2022
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- e) Acknowledgement and reservation of rights agreement dated February 24, 2023
- f) Notice of default and reservation of rights dated April 16, 2023
- g) Acknowledgment and reservation of rights agreement no. 2 dated May 19, 2023
- h) Notice of default and reservation of rights dated June 2, 2023
- i) Demand Letter dated June 9, 2023
- j) Section 244 Notice dated June 9, 2023

THIS IS **EXHIBIT “GGG”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,
THIS 31st DAY OF JULY, 2023.



Michael Noel

Commissioner for Taking Affidavits

From: Ronnie Alam <Ronnie.Alam@macquarie.com>

Sent: Monday, July 24, 2023 8:20 PM

To: Craig Tavares <craig.tavares@validuspower.com>; Ryan Chua <ryan.chua@validuspower.com>; Shelley Goertz <shelley.goertz@validuspower.com>; Todd Shortt <todd.shortt@validuspower.com>

Subject: Validus - Demand Packages

All

Please see the attached letters and notices



Ronnie Alam | Legal Counsel | Division Director
Commodities and Global Markets | Macquarie Group Limited
Level 6, 50 Martin Place, Sydney NSW 2000 Australia
M +61 424 504 672 | [macquarie.com](https://www.macquarie.com)

Member of the
Legal and Governance Group

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THIS IS **EXHIBIT “HHH”** REFERRED TO IN THE
AFFIDAVIT OF JOSHUA HAMILTON STEVENS,
AFFIRMED REMOTELY BY JOSHUA HAMILTON
STEVENS BEFORE ME *BY VIDEO CONFERENCE*,
THIS 31st DAY OF JULY, 2023.



Michael Noel
Commissioner for Taking Affidavits

July 24, 2023

VIA EMAIL

Iroquois Falls Power Corp.
Kingston Cogen Limited Partnership
c/o Validus Power Corp.
2300-100 Wellington Street West
Toronto, ON
Canada M5J 2R2

Attention: Mr. Todd Shortt

Dear Sirs/Mesdames:

Re: Lease Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Lease Agreement dated February 24, 2023 (the “Lease”), between Macquarie Equipment Finance Ltd. (the “Lessor”) and Iroquois Falls Power Corp. (the “Lessee”); General Security Agreement made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023 (the “GSA”) by the Lessee in favour of the Lessor and the other documents listed in Schedule “A” (collectively, the “Security Documents”)
and
Notices of Default, Reservation of Rights letters, Demand Letter and Section 244 Notice set out in Schedule “B” (collectively, the “Notices and Demand Letter”)

We refer to the Security Documents and the Notices and Demand Letter. Unless otherwise defined, capitalized terms used herein have the meanings attributed to such terms in the Lease or the GSA.

Pursuant to section 9.3 of the Participation Agreement (as defined in Schedule “A”), the Lessor is entitled to set off, appropriate and apply any and all deposits at any time held and other obligations at any time owing by Lessor or its Affiliates to or for the credit or the account of Lessee or any Obligor against any and all of the Obligations. We hereby notify you that on July 21, 2023, at the direction of the Lessor, the following amounts were transferred to the Lessor’s account from the following Obligor’s account and such amount has been set-off against the Obligations:

Obligor’s Account	
Iroquois Falls Power Corp.	\$1,583,578.00
Kingston Cogen Limited Partnership	\$ 429,372.00

The Lessor hereby retains and reserves all of its rights and remedies, powers or privileges under the Lease and Security Documents.

Yours truly,

Macquarie Equipment Finance Ltd.

DocuSigned by:

Lisa Tarnowsky

2950D8D7E7E84A6...

Schedule "A"

Security Documents

- a) The Lease
- b) The GSA
- c) Participation Agreement dated April 7, 2022, as amended and restated pursuant to the Amended and Restated Participation Agreement dated February 24, 2023, between the Lessor, the Lessee and the Guarantors (the "Participation Agreement")
- d) Lease Supplement No. 1 dated April 7, 2022 and Lease Supplement No. 1 to Amended and Restated Lease Agreement dated February 24, 2023, each between the Lessor and the Lessee
- e) Guarantee made as of April 7, 2022, as amended and restated pursuant to the Amended and Restated Guarantee dated February 24, 2023, in favour of the Lessor by the Lessee and the Guarantors
- f) Demand Debenture made as of April 7, 2022, as amended and confirmed by the Acknowledgement, Confirmation and Amendment Agreement dated February 24, 2023, in favour of the Lessor by the Lessee
- g) Ontario PPSA Registration registered against the Lessee in favour of the Lessor and bearing Reference File Number "781679718"
- h) The Notices and Demand Letter

Schedule "B"

**Notices of Default, Reservation of Rights letters,
Demand Letter and Section 244 Notice**

- a) Notice of default dated May 12, 2022
- b) Notice of default dated July 12, 2022
- c) Notice of default dated November 16, 2022
- d) Notice of default and reservation of rights dated November 16, 2022
- e) Acknowledgement and reservation of rights agreement dated February 24, 2023
- f) Notice of default and reservation of rights dated April 16, 2023
- g) Acknowledgment and reservation of rights agreement no. 2 dated May 19, 2023
- h) Notice of default and reservation of rights dated June 2, 2023
- i) Demand Letter dated June 9, 2023
- j) Section 244 Notice dated June 9, 2023

MACQUARIE EQUIPMENT FINANCE LIMITED v VALIDUS POWER CORP. et. al.

Court File No. CV-23-00703754-00CL

IN THE MATTER OF AN APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED; AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, C. C.43, AS AMENDED

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at TORONTO

**AFFIDAVIT OF JOSHUA HAMILTON STEVENS
(Sworn July 31, 2023)**

Torys LLP

79 Wellington St. W., 30th Floor
Box 270, TD South Tower
Toronto, ON M5K 1N2
Fax: 416.865.7380

Scott A. Bomhof (LSO#: 37006F)
Tel: 416.865.7370 | sbomhof@torys.com

Jeremy Opolsky (LSO#: 60813N)
Tel: 416.865.8117 | jopolsky@torys.com

Mike Noel (LSO#: 80130F)
Tel: 416.865.7378 | mnoel@torys.com

Alina Butt (LSO#: 84168W)
Tel: 416.865.7973 | abutt@torys.com

Lawyers for Macquarie Equipment Finance Limited,
the Applicant



TAB3

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE) WEDNESDAY, THE 2nd
JUSTICE KIMMEL) DAY OF AUGUST, 2023

B E T W E E N:

MACQUARIE EQUIPMENT FINANCE LIMITED

Applicant

- and -

**VALIDUS POWER CORP., IROQUOIS FALLS POWER CORP., BAY
POWER CORP., KAP POWER CORP., VALIDUS HOSTING INC.,
KINGSTON COGEN LIMITED PARTNERSHIP AND
KINGSTON COGEN GP INC.**

Respondents

APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND
INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED; AND SECTION 101 OF
THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED

ORDER
(Appointing Receiver)

THIS APPLICATION made by Macquarie Equipment Finance Ltd. (the “**Applicant**”) for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “**CJA**”) appointing KSV Restructuring Inc. (“**KSV**”) as receiver and manager (in such capacities, the “**Receiver**”) without security, of all of the assets, undertakings and properties

of Validus Power Corp., Iroquois Falls Power Corp., Bay Power Corp., Kap Power Corp., Validus Hosting Inc., Kingston Cogen Limited Partnership and Kingston Cogen GP Inc. (collectively, the “**Debtors**”, and each a “**Debtor**”) acquired for, or used in relation to a business carried on by the Debtors, or any of them, including, without limitation, the real property described in Schedule “A” hereto, was heard this day by judicial video conference via Zoom in Toronto, Ontario.

ON READING the Notice of Application of the Applicant, dated July 31, 2023, filed; the affidavit of Joshua Hamilton Stevens, sworn July 31, 2023 (the “**Stevens Affidavit**”) and the exhibits thereto, filed; factum of the Applicant, dated July 31, 2023, filed; and consent of KSV to act as Receiver, dated July 24, 2023, filed;

AND UPON hearing the submissions of counsel for the Receiver, counsel for the Applicant, counsel for the Debtors, and such other counsel who were present, no one else appearing although duly served as appears from the lawyer’s certificate of service of Mike Noel sworn July 31, 2023 and the affidavit of service of Siva Sivaperuman sworn July 31, 2023, filed.

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application is hereby abridged and validated so that this application is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT

2. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, KSV is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtors acquired for, or used in relation to a business carried on by the Debtors, or any of them, including, without limitation, the real property known described in Schedule “A” hereto (the “**Property**”).

RECEIVER'S POWERS

3. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property, including, without limitation the Debtors' bank accounts wherever located;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Debtors, or any of them, including the powers to enter into any agreements, incur any obligations in the ordinary course of business in connection with the Property, cease to carry on all or any part of the business, reject or cease to perform any contracts of the Debtors, or any of them, or in respect of the Property;
- (d) to engage construction managers, project managers, contractors, subcontractors, consultants, appraisers, agents, real estate brokers, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtors, or any of them, or any part or parts thereof;

- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtors, or any of them, and to exercise all remedies of the Debtors, or any of them, in collecting such monies or accounts, including, without limitation, to enforce any security held by the Debtors, or any of them;
- (g) to settle, extend or compromise any indebtedness owing to the Debtors, or any of them;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, including, without limitation, in respect of construction permits and any requirements related thereto, whether in the Receiver's name or in the name and on behalf of the Debtors, or any of them, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtors, or any of them, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (j) to investigate, and report to this Court on, intercompany payments, transactions and other arrangements between any of the Debtors and other Persons (as defined below), including without limitation the Validus Group (as defined below), that appear to the Receiver to be out of the ordinary course of business. All Persons shall be required to provide any and all information and documents related to the Debtors requested by the Receiver in connection with such investigations;
- (k) to market any or all of the Property, including advertising and soliciting offers in respect of any and all such Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion, and with the Applicant's consent, may deem appropriate;

- (l) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
 - (i) without the approval of this Court in respect of any transaction not exceeding \$500,000, provided that the aggregate consideration for all such transactions does not exceed \$1,000,000; and
 - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required;
- (m) to apply for an initial order in respect of the Debtors pursuant to the *Companies' Creditors Arrangement Act* ("CCAA") and to bring such motions in its discretion in the context of such CCAA proceedings;
- (n) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property in these proceedings, or any CCAA proceedings in respect of the Debtors;
- (o) to report to, meet with and discuss with such affected Persons as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (p) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;

- (q) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority, including, without limitation, the Independent Electricity System Operator and the Ontario Energy Board, and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtors, or any of them, or any person that the Receiver engages pursuant to paragraph 3(d), and to meet with and discuss with such governmental authority and execute any agreements, or provide any notices, required in connection with or as a result of such permits, licenses, approvals or permissions (but solely in its capacity as Receiver and not in its personal or corporate capacity);
- (r) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtors, or any of them, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtors, or any of them;
- (s) to undertake any investigations deemed appropriate by the Receiver with respect to the location and/or disposition of assets reasonably believed to be, or to have been, Property;
- (t) to apply to this Court for such further relief, advice and directions as the Receiver may determine as necessary or desirable;
- (u) to exercise any shareholder, partnership, joint venture or other rights which the Debtors, or any of them, may have; and
- (v) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations, including opening any mail or other correspondence addressed to any of the Debtors.

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons, including the Debtors, or any of them, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. **THIS COURT ORDERS** that: (i) the Debtors; (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel, equity holders, including, without limitation, investors and shareholders, and all other persons acting on their instructions or behalf; (iii) all construction managers, project managers, contractors, subcontractors and service providers, and all other persons acting on their instructions or behalf; and (iv) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being “**Persons**” and each being a “**Person**”) shall forthwith advise the Receiver of the existence of any Property in such Person’s possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver’s request.

5. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records, information and cloud-based data of any kind related to the business or affairs of the Debtors, and any computer programs, computer tapes, computer disks, cloud or other data storage media containing any such information (the foregoing, collectively, the “**Records**”) in that Person’s possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software, cloud and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

6. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer, in the cloud or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the

information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer, cloud or other system and providing the Receiver with any and all access codes, account names, account numbers, account creating credentials that may be required to gain access to the information.

7. **THIS COURT ORDERS** that all Persons, including, without limitation, Validus Power Services Inc., other entities within the Validus group of companies and entities and any other affiliates of the Debtors (collectively, the “**Validus Group**”), and each of them, shall be required to cooperate, and share information, with the Receiver in connection with all books and records, contracts, agreements, permits, licenses and insurance policies and other documents in respect of the Debtors, or any of them, and/or the Property. In addition to the foregoing general cooperation and information sharing requirements, the Validus Group, or any of them, shall be required to do the following things: (a) in respect of any and all such contracts, agreements, permits, licenses and insurance policies and other documents: (1) maintain them in good standing and provide immediate notice and copies to the Receiver of any communications received from regulators or providers in respect thereof; (2) provide immediate notice to the Receiver of any material change and/or pending material change to the status quo in respect thereof; and (3) provide thirty (30) days’ notice of any renewal date, termination date, election date or similar date in respect thereof; and (b) assist, and cooperate with, the Receiver in obtaining any further permits and licenses that may be required.

8. **THIS COURT ORDERS** that the Receiver shall provide each of the relevant landlords with notice of the Receiver’s intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver’s entitlement to remove any such fixture under the provisions of

the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

NO PROCEEDINGS AGAINST THE RECEIVER

9. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTORS OR THE PROPERTY

10. **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtors, or any of them, or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtors, or any of them, or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

11. **THIS COURT ORDERS** that all rights and remedies against the Debtors, or any of them, the Receiver, or affecting the Property, including, without limitation, licences and permits, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any “eligible financial contract” as defined in the BIA, and further provided that nothing in this paragraph shall: (i) empower the Receiver or the Debtors, or any of them, to carry on any business which the Debtors, or any of them, is not lawfully entitled to carry on; (ii) exempt the Receiver or the Debtors, or any of them, from compliance with statutory or regulatory provisions relating to health, safety or the environment; (iii) prevent the filing of any registration to preserve or perfect a security interest; or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

12. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtors, or any of them, without written consent of the Receiver or leave of this Court.

ACCELERATED LEASE PAYMENTS

13. **THIS COURT ORDERS** that notwithstanding anything in this Order to the contrary, nothing in this Order shall prohibit, restrict, pause or interfere with the running of the notice period in respect of the Accelerated Payments (as defined in the Stevens Affidavit), and the Debtors' respective obligations therefor, pursuant to the July Demand Letters (as defined in the Stevens Affidavit) delivered by the Applicant to the Debtors.

CONTINUATION OF SERVICES

14. **THIS COURT ORDERS** that all Persons, including, without limitation, the Validus Group, having oral or written agreements with the Debtors, or any of them, or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, construction management services, project management services, permit and planning management services, accounting services, centralized banking services, payroll services, insurance, employee benefits, transportation services, utility or other services to the Debtors, or any of them, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver (including, where a notice of termination may have been given with an effective date after the date of this Order), and that the Receiver shall be entitled to the continued use of the Debtors' current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtors or such other practices

as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

15. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the “**Post Receivership Accounts**”) and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

16. **THIS COURT ORDERS** that all employees of the Debtors, or any of them, shall remain the employees of the applicable Debtor until such time as the Receiver, on behalf of the applicable Debtor, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA

17. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a “**Sale**”). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such

information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtors, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

18. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, “**Possession**”) of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver’s duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER’S LIABILITY

19. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in

this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

20. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the “**Receiver’s Charge**”) on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver’s Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

21. **THIS COURT ORDERS** that the Receiver and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

22. **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

23. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow from the Applicant by way of a credit facility, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$1,000,000 (or such greater amount that is acceptable to the Applicant and as this Court may by

further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the “**Receiver’s Borrowings Charge**”) as security for the payment of the monies borrowed, together with interest, fees and charges thereon, in priority to all security interests, trusts (including, without limitation, deemed trusts), liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver’s Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

24. **THIS COURT ORDERS** that neither the Receiver’s Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

25. **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule “B” hereto (the “**Receiver’s Certificates**”), as modified to reflect the terms of the credit facility between the Receiver and Applicant referred to in paragraph 23, for any amount borrowed by it pursuant to this Order.

26. **THIS COURT ORDERS** that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver’s Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver’s Certificates.

SERVICE AND NOTICE

27. **THIS COURT ORDERS** that The Guide Concerning Commercial List E-Service (the “**Protocol**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <https://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure.

Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: <https://www.ksvadvisory.com/experience/case/validus-power-corp>.

28. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to any creditors of the Debtors, or any of them, or other interested parties at their respective addresses as last shown on the records of the Debtors, or any of them, and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

29. **THIS COURT ORDERS** that the Applicant, the Receiver and their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Debtors' creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 8100-2-175 (SOR/DORS).

CRITICAL PAYMENTS

30. **THIS COURT ORDERS** that the Receiver may make payments owing by the Debtors, or any of them, to suppliers, contractors, subcontractors and other creditors in respect of amounts owing prior to the date of this Order where such payments are deemed by the Receiver critical to the operation of the Debtors and/or for any matter concerning safe care and operation of the

Debtors; provided that any such payment that exceeds \$25,000, or where the aggregate of all such payments exceeds \$200,000 shall require the prior written consent of the Applicant.

GENERAL

31. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

32. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy or monitor of the Debtors, or any of them.

33. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

34. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

35. **THIS COURT ORDERS** that the Applicant shall have its costs of this motion, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the estates of the Debtors, or any of them, with such priority and at such time as this Court may determine.

36. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

37. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Prevailing Eastern Time on the date hereof without any need for entry and/or filing.

SCHEDULE "A"

DESCRIPTION OF REAL PROPERTY

Iroquois Falls Power Corp.

Firstly:

PIN 65337-0369 (LT)

PCL 9012 SEC NEC SRO; PT LT 11 CON 5 TEEFY PT 1, 6R6645 T/W PT 1 TO 4, 6R6644 & 1 TO 6, 6R6626 AS IN C447208 AMENDED BY C470222 T/W PT 2 TO 7 & 13 TO 16, 6R6645 AS IN C447209 AMENDED BY C470223 T/W PT 2, 6 TO 12, 6R6645 AS IN C447211 AMENDED BY C470225 T/W PT 17 TO 19, 6R6645 AS IN C447212 AMENDED BY C470226 T/W PT 1, 6R6898 AS IN C469024 AMENDED BY C470227 T/W PT 4 & 5, 6R6896 AS IN C469025 AMENDED BY C470228 T/W C469026 AMENDED BY C470229 T/W PT 1 & 2, 6R6853 AS IN C474890 AMENDED BY C521180 ; TOWN OF IROQUOIS FALLS

Secondly:

PIN 65337-0456 (LT)

SURFACE RIGHTS ONLY; PT S 1/2 LT 12 CON 3 TEEFY PT 1, 6R5962 EXCEPT PT 1, 6R8283 S/T PT 2, 6R6832 AS IN C469070 AMENDED BY C470222, C470223, C470224, C470225, C470226, C470227, C470228, C470229 & C470230; DISTRICT OF COCHRANE

Thirdly:

PIN 65337-0458 (LT)

SURFACE RIGHTS ONLY; S 1/2 LT 12 CON 3 TEEFY EXCEPT PT 1, 6R5962, PTS 2 & 3, 6R8283 & PT 1, 6R8318, S/T PT 1, 3 & 4, 6R6832 AS IN C469070 AMENDED BY C470222, C470223, C470224, C470225, C470226, C470227, C470228, C470229 & C470230 ; DISTRICT OF COCHRANE

Fourthly:

PIN 65337-0372 (LT)

PCL 9070 SEC NEC; LOCATION RY 357 TEEFY COMPOSED OF THOSE PARTS OF THE BED OF THE ABITIBI RIVER LYING IN FRONT OF LT 11, CON 5, PT 2, 6R6853; DISTRICT OF COCHRANE

Fifthly:

PIN 65337-0373 (LT)

PCL 9070 SEC NEC; LOCATION RY 357 TEEFY COMPOSED OF THOSE PARTS OF THE BED OF THE ABITIBI RIVER LYING IN FRONT OF LT 11, CON 3, PT 1, 6R6853; DISTRICT OF COCHRANE

Kap Power Corp.

Firstly:

PIN 65095-0051 (LT)

PCL 12700 SEC CC; PT LT 24 CON 11 O'BRIEN PT 2, 6R6749 T/W PT 3, CR548 AS IN C478024; TOWN OF KAPUSKASING

Secondly:

PIN 65095-0052 (LT)

PCL 12927 SEC CC; PT LT 23 CON 10 O'BRIEN PT 1, 6R5800 T/W PARTS 1 & 2, 6R6731 AS IN C452347 T/W PT 3, 6R6731 AS IN C451853 T/W PARTS 4 & 5, 6R6731 AS IN C451851 T/W PARTS 3 TO 7, 6R6749 AS IN C453701 T/W PT 3, CR548 AS IN C478024; TOWN OF KAPUSKASING

Bay Power Corp.

PIN 49127-0021 (LT)

PCL 18734 SEC WF; PT LT 21 CON 2 WIDDIFIELD PT 7 & 8, 36R9382 T/W PT 1, 36R9384 AS IN LT332823, PT 1, 36R9381 AS IN LT332824, PT 2, 36R9381 AS IN LT332826, PT 2, 36R9384 AS IN LT332902, PT 3 & 9, 36R9381 AS IN LT332885, PT 7 & 8, 36R9381 AS IN LT333337, PT 4-6, 36R9381 AS IN LT339664, PT 2, 36R9382 & PT 1, 2, 3 & 5, 36R10374 AS IN LT366707, PT 1-3, 36R10375 AS IN LT366710; T/W LT366708 & LT366709; NORTH BAY ; DISTRICT OF NIPISSING

Kingston Cogen GP Inc.

Firstly:

PIN 45132-0375 (LT)

PT LT 23 CON 1 ERNESTOWN PT 1 29R6737,; TOGETHER WITH AN EASEMENT AS IN LA69824; TOGETHER WITH AN EASEMENT AS IN LA208637; TOGETHER WITH AN EASEMENT AS IN LA208644; TOGETHER WITH AN EASEMENT AS IN LA210426; TOGETHER WITH AN EASEMENT AS IN LA210734; TOGETHER WITH AN EASEMENT AS IN LA210736; TOGETHER WITH AN EASEMENT AS IN LA210738; TOGETHER WITH AN EASEMENT OVER PTS 1 - 49 29R9849 UNTIL 2025/12/31 AS IN LX37160; TOGETHER WITH AN EASEMENT OVER PTS 1,3,4 29R6966 UNTIL 2025/12/31 AS IN

LX37161; TOGETHER WITH AN EASEMENT OVER PTS 1 - 50 29R9850 UNTIL 2025/12/31 AS IN LX37162; TOGETHER WITH AN EASEMENT OVER PTS 1 - 11 29R9845 UNTIL 2030/12/31 AS IN LX37163; TOGETHER WITH AN EASEMENT OVER PTS 1 - 71 29R9851 UNTIL 2025/12/31 AS IN LX37164; TOGETHER WITH AN EASEMENT OVER PTS 1 - 14 29R9846 UNTIL 2025/12/31 AS IN LX37165; TOGETHER WITH AN EASEMENT OVER PTS 1 - 16 29R9847 AS IN LX37166; TOGETHER WITH AN EASEMENT OVER PTS 1 - 7 29R6860, PTS 1 & 2 29R7373, PTS 1 - 13 29R7650 AS IN LX37167; LOYALIST TOWNSHIP

Secondly:

PIN 45132-0377 (LT)

PT LT 24 CON BROKEN FRONT ERNESTOWN, PTS 1 TO 12 29R9843; T/W LA69824;; TOGETHER WITH AN EASEMENT OVER PTS 1 - 49 29R9849 UNTIL 2025/12/31 AS IN LX37160; TOGETHER WITH AN EASEMENT OVER PTS 1,3,4 29R6966 UNTIL 2025/12/31 AS IN LX37161; TOGETHER WITH AN EASEMENT OVER PTS 1 - 50 29R9850 UNTIL 2025/12/31 AS IN LX37162; TOGETHER WITH AN EASEMENT OVER PTS 1 - 11 29R9845 UNTIL 2030/12/31 AS IN LX37163; TOGETHER WITH AN EASEMENT OVER PTS 1 - 4 29R9844 AS IN LX37168; TOGETHER WITH AN EASEMENT OVER PTS 1 - 12 29R9843 AS IN LX37169; SUBJECT TO AN EASEMENT OVER PTS 1 - 12 29R9843 IN FAVOUR OF LA285539 (PARCELS 1,2,3); EXCEPT PTS 1 - 12 29R9843 & LA285539 (PARCEL 4) AS IN LX37170; LOYALIST TOWNSHIP

Thirdly:

PIN 45132-0362 (LT) – (Registered Owner: Invista (Canada) Company)

LOC. CL14116, BEING PT OF THE BED OF LAKE ONTARIO IN FRONT OF LT 24, BROKEN FRONT CON. ERNESTOWN, PT 1 29R9227; LOYALIST

Pursuant to Instrument No. LX37609 registered on October 26, 2011, being an Application General (Sublease).

SCHEDULE "B"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that KSV Restructuring Inc., the receiver (the "**Receiver**") of the assets, undertakings and properties of Validus Power Corp., Iroquois Falls Power Corp., Bay Power Corp., Kap Power Corp., Validus Hosting Inc., Kingston Cogen Limited Partnership and Kingston Cogen GP Inc. acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the ___ day of July, 2023 (the "**Order**") made in an action having Court file number _____, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$ _____, being part of the total principal sum of \$ _____, which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the ___ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the ____ day of _____, 2023.

KSV RESTRUCTURING INC., solely in its capacity as Receiver of the Property, and not in its personal capacity

Per: _____
Name:
Title:

IN THE MATTER OF AN APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED; AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, C. C.43, AS AMENDED

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at TORONTO

**ORDER
(Appointing Receiver)**

Torys LLP

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Lawyers for Macquarie Equipment Finance Limited,
the Applicant



TAB4

Revised: January 21, 2014
~~s.243(1) BIA (National Receiver) and s. 101 CJA (Ontario) Receiver~~

Court File No. —

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE) ~~WEEKDAY~~WEDNESDAY, THE #
JUSTICE —KIMMEL) 2nd
)
) DAY OF ~~MONTH~~AUGUST,
20YR2023

BETWEEN:

PLAINTIFF[†]

Plaintiff

MACQUARIE EQUIPMENT FINANCE LIMITED

Applicant

- and -

DEFENDANT

Defendant

VALIDUS POWER CORP., IROQUOIS FALLS POWER CORP., BAY
POWER CORP., KAP POWER CORP., VALIDUS HOSTING INC.,
KINGSTON COGEN LIMITED PARTNERSHIP AND
KINGSTON COGEN GP INC.

Respondents

~~†—The Model Order Subcommittee notes that a receivership proceeding may be commenced by action or by application. This model order is drafted on the basis that the receivership proceeding is commenced by way of an action.~~

APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED; AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED

ORDER

~~(appointing~~Appointing Receiver)

THIS ~~MOTION~~APPLICATION made by ~~the Plaintiff~~²Macquarie Equipment Finance Ltd. (the "Applicant") for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "CJA") appointing ~~[RECEIVER'S NAME]~~KSV Restructuring Inc. ("KSV") as receiver ~~[and manager]~~ (in such capacities, the "Receiver") without security, of all of the assets, undertakings and properties of ~~[DEBTOR'S NAME]~~ (the "Validus Power Corp., Iroquois Falls Power Corp., Bay Power Corp., Kap Power Corp., Validus Hosting Inc., Kingston Cogen Limited Partnership and Kingston Cogen GP Inc. (collectively, the "Debtors", and each a "Debtor")) acquired for, or used in relation to a business carried on by the ~~Debtor~~Debtors, or any of them, including, without limitation, the real property described in Schedule "A" hereto, was heard this day ~~at 330 University Avenue,~~by judicial video conference via Zoom in Toronto, Ontario.

ON READING the Notice of Application of the Applicant, dated July 31, 2023, filed; the affidavit of ~~[NAME]~~Joshua Hamilton Stevens, sworn ~~[DATE]~~July 31, 2023 (the "Stevens Affidavit") and the ~~Exhibits~~exhibits thereto ~~and on, filed;~~ factum of the Applicant, dated July 31, 2023, filed; and consent of KSV to act as Receiver, dated July 24, 2023, filed;

AND UPON hearing the submissions of counsel for ~~[NAMES]~~the Receiver, counsel for the Applicant, counsel for the Debtors, and such other counsel who were present, no one else appearing ~~for [NAME]~~ although duly served as appears from the lawyer's certificate of service of Mike Noel sworn July 31, 2023 and the affidavit of service of ~~[NAME]~~Siva Sivaperuman sworn ~~[DATE]~~ and on reading the consent of [RECEIVER'S NAME] to act as the Receiver, July 31, 2023, filed.

²~~Section 243(1) of the BIA provides that the Court may appoint a receiver "on application by a secured creditor".~~

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of ~~Motion~~Application and the ~~Motion~~Application is hereby abridged and validated³ so that this ~~motion~~application is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT

2. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, ~~[RECEIVER'S NAME]~~KSV is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the ~~Debtor~~Debtors acquired for, or used in relation to a business carried on by the ~~Debtor~~Debtors, or any of them, including ~~all proceeds thereof,~~ without limitation, the real property known described in Schedule "A" hereto (the "Property").

RECEIVER'S POWERS

3. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property, including, without limitation the Debtors' bank accounts wherever located;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security

³~~If service is effected in a manner other than as authorized by the Ontario Rules of Civil Procedure, an order validating irregular service is required pursuant to Rule 16.08 of the Rules of Civil Procedure and may be granted in appropriate circumstances.~~

personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;

- (c) to manage, operate, and carry on the business of the ~~Debtor~~Debtors, or any of them, including the powers to enter into any agreements, incur any obligations in the ordinary course of business in connection with the Property, cease to carry on all or any part of the business, reject or cease to perform any contracts of the ~~Debtor~~Debtors, or any of them, or in respect of the Property;
- (d) to engage construction managers, project managers, contractors, subcontractors, consultants, appraisers, agents, real estate brokers, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the ~~Debtor~~Debtors, or any of them, or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the ~~Debtor~~Debtors, or any of them, and to exercise all remedies of the ~~Debtor~~Debtors, or any of them, in collecting such monies or accounts, including, without limitation, to enforce any security held by the ~~Debtor~~Debtors, or any of them;
- (g) to settle, extend or compromise any indebtedness owing to the ~~Debtor~~Debtors, or any of them;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, including, without limitation, in respect of construction permits and any requirements related thereto, whether in the Receiver's name

or in the name and on behalf of the ~~Debtor~~Debtors, or any of them, for any purpose pursuant to this Order;

- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the ~~Debtor~~Debtors, or any of them, the Property or the Receiver, and to settle or compromise any such proceedings.⁴ The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;

(j) to investigate, and report to this Court on, intercompany payments, transactions and other arrangements between any of the Debtors and other Persons (as defined below), including without limitation the Validus Group (as defined below), that appear to the Receiver to be out of the ordinary course of business. All Persons shall be required to provide any and all information and documents related to the Debtors requested by the Receiver in connection with such investigations;

(k) ~~(j)~~ to market any or all of the Property, including advertising and soliciting offers in respect of ~~the~~any and all such Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion, and with the Applicant's consent, may deem appropriate;

(l) ~~(k)~~ to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,

⁴ ~~This model order does not include specific authority permitting the Receiver to either file an assignment in bankruptcy on behalf of the Debtor, or to consent to the making of a bankruptcy order against the Debtor. A bankruptcy may have the effect of altering the priorities among creditors, and therefore the specific authority of the Court should be sought if the Receiver wishes to take one of these steps.~~

- (i) without the approval of this Court in respect of any transaction not exceeding \$~~_____~~500,000, provided that the aggregate consideration for all such transactions does not exceed \$~~_____~~1,000,000; and
- (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, ~~for~~ section 31 of the Ontario *Mortgages Act*, as the case may be,⁵ shall not be required, ~~and in each case the Ontario Bulk Sales Act shall not apply;~~

(m) to apply for an initial order in respect of the Debtors pursuant to the Companies' Creditors Arrangement Act ("CCAA") and to bring such motions in its discretion in the context of such CCAA proceedings;

(n) ~~(+)~~ to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property in these proceedings, or any CCAA proceedings in respect of the Debtors;

(o) ~~(m)~~ to report to, meet with and discuss with such affected Persons ~~(as defined below)~~ as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;

⁵ ~~If the Receiver will be dealing with assets in other provinces, consider adding references to applicable statutes in other provinces. If this is done, those statutes must be reviewed to ensure that the Receiver is exempt from or can be exempted from such notice periods, and further that the Ontario Court has the jurisdiction to grant such an exemption.~~

- (p) ~~(h)~~ to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (q) ~~(e)~~ to apply for any permits, licences, approvals or permissions as may be required by any governmental authority, including, without limitation, the Independent Electricity System Operator and the Ontario Energy Board, and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the ~~Debtor~~ Debtors, or any of them, or any person that the Receiver engages pursuant to paragraph 3(d), and to meet with and discuss with such governmental authority and execute any agreements, or provide any notices, required in connection with or as a result of such permits, licenses, approvals or permissions (but solely in its capacity as Receiver and not in its personal or corporate capacity);
- (r) ~~(f)~~ to enter into agreements with any trustee in bankruptcy appointed in respect of the ~~Debtor~~ Debtors, or any of them, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the ~~Debtor~~ Debtors, or any of them;
- (s) to undertake any investigations deemed appropriate by the Receiver with respect to the location and/or disposition of assets reasonably believed to be, or to have been, Property;
- (t) to apply to this Court for such further relief, advice and directions as the Receiver may determine as necessary or desirable;
- (u) ~~(g)~~ to exercise any shareholder, partnership, joint venture or other rights which the ~~Debtor~~ Debtors, or any of them, may have; and
- (v) ~~(i)~~ to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations, including opening any mail or other correspondence addressed to any of the Debtors.

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons ~~(as defined below)~~, including the ~~Debtor~~ Debtors, or any of them, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. **THIS COURT ORDERS** that: (i) the ~~Debtor~~ Debtors; (ii) all of ~~its~~ their current and former directors, officers, employees, agents, accountants, legal counsel, equity holders, including, without limitation, investors and shareholders, and all other persons acting on ~~its~~ their instructions or behalf; ~~and~~; (iii) all construction managers, project managers, contractors, subcontractors and service providers, and all other persons acting on their instructions or behalf; and (iv) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

5. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records ~~and~~, information and cloud-based data of any kind related to the business or affairs of the ~~Debtor~~ Debtors, and any computer programs, computer tapes, computer disks, cloud or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software, cloud and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

6. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer, in the cloud or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer, cloud or other system and providing the Receiver with any and all access codes, account names ~~and~~, account numbers, account creating credentials that may be required to gain access to the information.

7. THIS COURT ORDERS that all Persons, including, without limitation, Validus Power Services Inc., other entities within the Validus group of companies and entities and any other affiliates of the Debtors (collectively, the “Validus Group”), and each of them, shall be required to cooperate, and share information, with the Receiver in connection with all books and records, contracts, agreements, permits, licenses and insurance policies and other documents in respect of the Debtors, or any of them, and/or the Property. In addition to the foregoing general cooperation and information sharing requirements, the Validus Group, or any of them, shall be required to do the following things: (a) in respect of any and all such contracts, agreements, permits, licenses and insurance policies and other documents: (1) maintain them in good standing and provide immediate notice and copies to the Receiver of any communications received from regulators or providers in respect thereof; (2) provide immediate notice to the Receiver of any material change and/or pending material change to the status quo in respect thereof; and (3) provide thirty (30) days’ notice of any renewal date, termination date, election date or similar date in respect

thereof; and (b) assist, and cooperate with, the Receiver in obtaining any further permits and licenses that may be required.

8. ~~7.~~ **THIS COURT ORDERS** that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

NO PROCEEDINGS AGAINST THE RECEIVER

9. ~~8.~~ **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE ~~DEBTOR~~DEBTORS OR THE PROPERTY

10. ~~9.~~ **THIS COURT ORDERS** that no Proceeding against or in respect of the ~~Debtor~~Debtors, or any of them, or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the ~~Debtor~~Debtors, or any of them, or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

11. ~~10.~~ **THIS COURT ORDERS** that all rights and remedies against the ~~Debtor~~Debtors, or any of them, the Receiver, or affecting the Property, including, without limitation, licences and permits, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of

any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall: (i) empower the Receiver or the ~~Debtor~~Debtors, or any of them, to carry on any business which the ~~Debtor~~Debtors, or any of them, is not lawfully entitled to carry on; (ii) exempt the Receiver or the ~~Debtor~~Debtors, or any of them, from compliance with statutory or regulatory provisions relating to health, safety or the environment; (iii) prevent the filing of any registration to preserve or perfect a security interest; or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

12. ~~11.~~ **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the ~~Debtor~~Debtors, or any of them, without written consent of the Receiver or leave of this Court.

ACCELERATED LEASE PAYMENTS

13. **THIS COURT ORDERS that notwithstanding anything in this Order to the contrary, nothing in this Order shall prohibit, restrict, pause or interfere with the running of the notice period in respect of the Accelerated Payments (as defined in the Stevens Affidavit), and the Debtors' respective obligations therefor, pursuant to the July Demand Letters (as defined in the Stevens Affidavit) delivered by the Applicant to the Debtors.**

CONTINUATION OF SERVICES

14. ~~12.~~ **THIS COURT ORDERS** that all Persons, including, without limitation, the Validus Group, having oral or written agreements with the ~~Debtor~~Debtors, or any of them, or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, construction management services, project management services, permit and planning management services, accounting services, centralized banking services, payroll services, insurance, employee benefits, transportation services, utility or other services to the ~~Debtor~~Debtors, or

any of them, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver (including, where a notice of termination may have been given with an effective date after the date of this Order), and that the Receiver shall be entitled to the continued use of the ~~Debtor's~~Debtors' current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the ~~Debtor~~Debtors or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

15. ~~13.~~ **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "Post Receivership Accounts") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

16. ~~14.~~ **THIS COURT ORDERS** that all employees of the ~~Debtor~~Debtors, or any of them, shall remain the employees of the applicable Debtor until such time as the Receiver, on behalf of the applicable Debtor's ~~behalf~~, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

~~17.~~ **PIPEDA** ~~15.~~ **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a **“Sale”**). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the ~~Debtor~~ **Debtors**, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

~~18.~~ ~~16.~~ **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, **“Possession”**) of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the **“Environmental Legislation”**), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

19. ~~17.~~ **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

20. ~~18.~~ **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "Receiver's Charge") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.⁶

21. ~~19.~~ **THIS COURT ORDERS** that the Receiver and its legal counsel shall pass ~~its~~their accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

22. ~~20.~~ **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands,

⁶ ~~Note that subsection 243(6) of the BIA provides that the Court may not make such an order "unless it is satisfied that the secured creditors who would be materially affected by the order were given reasonable notice and an opportunity to make representations".~~

against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

23. ~~21.~~ **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow from the Applicant by way of a ~~revolving credit or otherwise~~ facility, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$~~_____~~ 1,000,000 (or such greater amount that is acceptable to the Applicant and as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "Receiver's Borrowings Charge") as security for the payment of the monies borrowed, together with interest, fees and charges thereon, in priority to all security interests, trusts (including, without limitation, deemed trusts), liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

24. ~~22.~~ **THIS COURT ORDERS** that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

25. ~~23.~~ **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule ~~"A"~~ "B" hereto (the "Receiver's Certificates"), as modified to reflect the terms of the credit facility between the Receiver and Applicant referred to in paragraph 23, for any amount borrowed by it pursuant to this Order.

26. ~~24.~~ **THIS COURT ORDERS** that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

SERVICE AND NOTICE

27. ~~25.~~ **THIS COURT ORDERS** that ~~the E-Service Protocol of the~~ The Guide Concerning Commercial List E-Service (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at ~~<http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>~~ <https://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: ~~@~~ <https://www.ksvadvisory.com/experience/case/validus-power-corp.>

28. ~~26.~~ **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to ~~the Debtor's~~ any creditors of the Debtors, or any of them, or other interested parties at their respective addresses as last shown on the records of the ~~Debtor~~ Debtors, or any of them, and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

29. THIS COURT ORDERS that the Applicant, the Receiver and their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Debtors' creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 8100-2-175 (SOR/DORS).

CRITICAL PAYMENTS

30. THIS COURT ORDERS that the Receiver may make payments owing by the Debtors, or any of them, to suppliers, contractors, subcontractors and other creditors in respect of amounts owing prior to the date of this Order where such payments are deemed by the Receiver critical to the operation of the Debtors and/or for any matter concerning safe care and operation of the Debtors; provided that any such payment that exceeds \$25,000, or where the aggregate of all such payments exceeds \$200,000 shall require the prior written consent of the Applicant.

GENERAL

31. ~~27.~~ **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

32. ~~28.~~ **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy or monitor of the ~~Debtor~~ Debtors, or any of them.

33. ~~29.~~ **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of

this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

34. ~~30.~~ **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

35. ~~31.~~ **THIS COURT ORDERS** that the ~~Plaintiff~~Applicant shall have its costs of this motion, up to and including entry and service of this Order, provided for by the terms of the ~~Plaintiff~~Applicant's security or, if not so provided by the ~~Plaintiff~~Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the ~~Debtor's estate~~estates of the Debtors, or any of them, with such priority and at such time as this Court may determine.

36. ~~32.~~ **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

37. **THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01 a.m. Prevailing Eastern Time on the date hereof without any need for entry and/or filing.**

SCHEDULE "A"

DESCRIPTION OF REAL PROPERTY

Iroquois Falls Power Corp.

Firstly:

PIN 65337-0369 (LT)

PCL 9012 SEC NEC SRO; PT LT 11 CON 5 TEEFY PT 1, 6R6645 T/W PT 1 TO 4, 6R6644 & 1 TO 6, 6R6626 AS IN C447208 AMENDED BY C470222 T/W PT 2 TO 7 & 13 TO 16, 6R6645 AS IN C447209 AMENDED BY C470223 T/W PT 2, 6 TO 12, 6R6645 AS IN C447211 AMENDED BY C470225 T/W PT 17 TO 19, 6R6645 AS IN C447212 AMENDED BY C470226 T/W PT 1, 6R6898 AS IN C469024 AMENDED BY C470227 T/W PT 4 & 5, 6R6896 AS IN C469025 AMENDED BY C470228 T/W C469026 AMENDED BY C470229 T/W PT 1 & 2, 6R6853 AS IN C474890 AMENDED BY C521180 ; TOWN OF IROQUOIS FALLS

Secondly:

PIN 65337-0456 (LT)

SURFACE RIGHTS ONLY; PT S 1/2 LT 12 CON 3 TEEFY PT 1, 6R5962 EXCEPT PT 1, 6R8283 S/T PT 2, 6R6832 AS IN C469070 AMENDED BY C470222, C470223, C470224, C470225, C470226, C470227, C470228, C470229 & C470230; DISTRICT OF COCHRANE

Thirdly:

PIN 65337-0458 (LT)

SURFACE RIGHTS ONLY; S 1/2 LT 12 CON 3 TEEFY EXCEPT PT 1, 6R5962, PTS 2 & 3, 6R8283 & PT 1, 6R8318, S/T PT 1, 3 & 4, 6R6832 AS IN C469070 AMENDED BY C470222, C470223, C470224, C470225, C470226, C470227, C470228, C470229 & C470230 ; DISTRICT OF COCHRANE

Fourthly:

PIN 65337-0372 (LT)

PCL 9070 SEC NEC; LOCATION RY 357 TEEFY COMPOSED OF THOSE PARTS OF THE BED OF THE ABITIBI RIVER LYING IN FRONT OF LT 11, CON 5, PT 2, 6R6853; DISTRICT OF COCHRANE

Fifthly:

PIN 65337-0373 (LT)

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DOCSTOR:1771742\9**

PCL 9070 SEC NEC; LOCATION RY 357 TEEFY COMPOSED OF THOSE PARTS OF THE BED OF THE ABITIBI RIVER LYING IN FRONT OF LT 11, CON 3, PT 1, 6R6853; DISTRICT OF COCHRANE

Kap Power Corp.

Firstly:

PIN 65095-0051 (LT)

PCL 12700 SEC CC; PT LT 24 CON 11 O'BRIEN PT 2, 6R6749 T/W PT 3, CR548 AS IN C478024; TOWN OF KAPUSKASING

Secondly:

PIN 65095-0052 (LT)

PCL 12927 SEC CC; PT LT 23 CON 10 O'BRIEN PT 1, 6R5800 T/W PARTS 1 & 2, 6R6731 AS IN C452347 T/W PT 3, 6R6731 AS IN C451853 T/W PARTS 4 & 5, 6R6731 AS IN C451851 T/W PARTS 3 TO 7, 6R6749 AS IN C453701 T/W PT 3, CR548 AS IN C478024; TOWN OF KAPUSKASING

Bay Power Corp.

PIN 49127-0021 (LT)

PCL 18734 SEC WF; PT LT 21 CON 2 WIDDIFIELD PT 7 & 8, 36R9382 T/W PT 1, 36R9384 AS IN LT332823, PT 1, 36R9381 AS IN LT332824, PT 2, 36R9381 AS IN LT332826, PT 2, 36R9384 AS IN LT332902, PT 3 & 9, 36R9381 AS IN LT332885, PT 7 & 8, 36R9381 AS IN LT333337, PT 4-6, 36R9381 AS IN LT339664, PT 2, 36R9382 & PT 1, 2, 3 & 5, 36R10374 AS IN LT366707, PT 1-3, 36R10375 AS IN LT366710; T/W LT366708 & LT366709; NORTH BAY ; DISTRICT OF NIPISSING

Kingston Cogen GP Inc.

Firstly:

PIN 45132-0375 (LT)

PT LT 23 CON 1 ERNESTOWN PT 1 29R6737.; TOGETHER WITH AN EASEMENT AS IN LA69824; TOGETHER WITH AN EASEMENT AS IN LA208637; TOGETHER WITH AN EASEMENT AS IN LA208644; TOGETHER WITH AN EASEMENT AS IN LA210426; TOGETHER WITH AN EASEMENT AS IN LA210734; TOGETHER WITH AN EASEMENT AS IN LA210736; TOGETHER WITH AN EASEMENT AS IN LA210738; TOGETHER WITH AN EASEMENT OVER PTS 1 - 49 29R9849 UNTIL 2025/12/31 AS IN LX37160; TOGETHER WITH AN EASEMENT OVER PTS 1,3,4

29R6966 UNTIL 2025/12/31 AS IN LX37161; TOGETHER WITH AN EASEMENT OVER PTS 1 - 50 29R9850 UNTIL 2025/12/31 AS IN LX37162; TOGETHER WITH AN EASEMENT OVER PTS 1 - 11 29R9845 UNTIL 2030/12/31 AS IN LX37163; TOGETHER WITH AN EASEMENT OVER PTS 1 - 71 29R9851 UNTIL 2025/12/31 AS IN LX37164; TOGETHER WITH AN EASEMENT OVER PTS 1 - 14 29R9846 UNTIL 2025/12/31 AS IN LX37165; TOGETHER WITH AN EASEMENT OVER PTS 1 - 16 29R9847 AS IN LX37166; TOGETHER WITH AN EASEMENT OVER PTS 1 - 7 29R6860, PTS 1 & 2 29R7373, PTS 1 - 13 29R7650 AS IN LX37167; LOYALIST TOWNSHIP

Secondly:

PIN 45132-0377 (LT)

PT LT 24 CON BROKEN FRONT ERNESTOWN, PTS 1 TO 12 29R9843; T/W LA69824;; TOGETHER WITH AN EASEMENT OVER PTS 1 - 49 29R9849 UNTIL 2025/12/31 AS IN LX37160; TOGETHER WITH AN EASEMENT OVER PTS 1,3,4 29R6966 UNTIL 2025/12/31 AS IN LX37161; TOGETHER WITH AN EASEMENT OVER PTS 1 - 50 29R9850 UNTIL 2025/12/31 AS IN LX37162; TOGETHER WITH AN EASEMENT OVER PTS 1 - 11 29R9845 UNTIL 2030/12/31 AS IN LX37163; TOGETHER WITH AN EASEMENT OVER PTS 1 - 4 29R9844 AS IN LX37168; TOGETHER WITH AN EASEMENT OVER PTS 1 - 12 29R9843 AS IN LX37169; SUBJECT TO AN EASEMENT OVER PTS 1 - 12 29R9843 IN FAVOUR OF LA285539 (PARCELS 1,2,3); EXCEPT PTS 1 - 12 29R9843 & LA285539 (PARCEL 4) AS IN LX37170; LOYALIST TOWNSHIP

Thirdly:

PIN 45132-0362 (LT) – (Registered Owner: Invista (Canada) Company)

LOC. CL14116, BEING PT OF THE BED OF LAKE ONTARIO IN FRONT OF LT 24, BROKEN FRONT CON. ERNESTOWN, PT 1 29R9227; LOYALIST

Pursuant to Instrument No. LX37609 registered on October 26, 2011, being an Application General (Sublease).

SCHEDULE "B"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that ~~[RECEIVER'S NAME]~~ KSV Restructuring Inc., the receiver (the "Receiver") of the assets, undertakings and properties ~~[DEBTOR'S NAME]~~ of Validus Power Corp., Iroquois Falls Power Corp., Bay Power Corp., Kap Power Corp., Validus Hosting Inc., Kingston Cogen Limited Partnership and Kingston Cogen GP Inc. acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the ___ day of ~~_____~~ July, 20__2023 (the "Order") made in an action having Court file number ~~__CL__~~ _____, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$ _____, being part of the total principal sum of \$ _____, which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the _____ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the ____ day of _____, ~~20~~2023.

~~[RECEIVER'S NAME]~~KSV
RESTRUCTURING INC., solely in its
capacity as Receiver of the Property, and not in
its personal capacity

Per: _____
Name:
Title:

MACQUARIE EQUIPMENT FINANCE LIMITED v VALIDUS POWER CORP. et al.

Court File No.

IN THE MATTER OF AN APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED; AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, C. C.43, AS AMENDED

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at TORONTO

ORDER
(Appointing Receiver)

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Box 270, TD South Tower
Toronto, ON M5K 1N2
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Lawyers for Macquarie Equipment Finance
Limited, the Applicant



TAB5

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

BETWEEN

MACQUARIE EQUIPMENT FINANCE LIMITED

Applicant

- and -

**VALIDUS POWER CORP., IROQUOIS FALLS POWER CORP., BAY
POWER CORP., KAP POWER CORP., VALIDUS HOSTING INC.,
KINGSTON COGEN LIMITED PARTNERSHIP AND
KINGSTON COGEN GP INC.**

Respondents

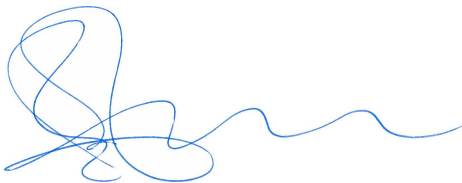
IN THE MATTER OF AN APPLICATION UNDER SECTION 243(1)
OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3,
AS AMENDED; AND SECTION 101 OF THE *COURTS OF JUSTICE
ACT*, R.S.O. 1990, c. C.43, AS AMENDED

CONSENT TO ACT AS RECEIVER

KSV Restructuring Inc. (“**KSV**”) hereby consents to act as receiver and manager without security, of all of the assets, undertakings and properties of Validus Power Corp., Iroquois Falls Power Corp., Bay Power Corp., Kap Power Corp., Validus Hosting Inc., Kingston Cogen Limited Partnership and Kingston Cogen GP Inc. (collectively, the “**Debtors**”), in connection with an order substantially in the form of the order attached hereto as Schedule “A”, as such order may be amended in a manner satisfactory to KSV.

DATED this 24th day of July, 2023.

KSV RESTRUCTURING INC.



Bobby Kofman, President

SCHEDULE "A"

Draft Order

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE) WEDNESDAY, THE 2nd
JUSTICE KIMMEL) DAY OF AUGUST, 2023

B E T W E E N:

MACQUARIE EQUIPMENT FINANCE LIMITED

Applicant

- and -

**VALIDUS POWER CORP., IROQUOIS FALLS POWER CORP., BAY
POWER CORP., KAP POWER CORP., VALIDUS HOSTING INC.,
KINGSTON COGEN LIMITED PARTNERSHIP AND
KINGSTON COGEN GP INC.**

Respondents

APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND
INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED; AND SECTION 101 OF
THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED

ORDER
(Appointing Receiver)

THIS APPLICATION made by Macquarie Equipment Finance Ltd. (the “**Applicant**”) for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “**CJA**”) appointing KSV Restructuring Inc. (“**KSV**”) as receiver and manager (in such capacities, the “**Receiver**”) without security, of all of the assets, undertakings and properties

of Validus Power Corp., Iroquois Falls Power Corp., Bay Power Corp., Kap Power Corp., Validus Hosting Inc., Kingston Cogen Limited Partnership and Kingston Cogen GP Inc. (collectively, the “**Debtors**”, and each a “**Debtor**”) acquired for, or used in relation to a business carried on by the Debtors, or any of them, including, without limitation, the real property described in Schedule “A” hereto, was heard this day by judicial video conference via Zoom in Toronto, Ontario.

ON READING the Notice of Application of the Applicant, dated July 31, 2023, filed; the affidavit of Joshua Hamilton Stevens, sworn July 31, 2023 (the “**Stevens Affidavit**”) and the exhibits thereto, filed; factum of the Applicant, dated July 31, 2023, filed; and consent of KSV to act as Receiver, dated July 24, 2023, filed;

AND UPON hearing the submissions of counsel for the Receiver, counsel for the Applicant, counsel for the Debtors, and such other counsel who were present, no one else appearing although duly served as appears from the lawyer’s certificate of service of Mike Noel sworn July 31, 2023 and the affidavit of service of Siva Sivaperuman sworn July 31, 2023, filed.

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application is hereby abridged and validated so that this application is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT

2. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, KSV is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtors acquired for, or used in relation to a business carried on by the Debtors, or any of them, including, without limitation, the real property known described in Schedule “A” hereto (the “**Property**”).

RECEIVER'S POWERS

3. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property, including, without limitation the Debtors' bank accounts wherever located;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Debtors, or any of them, including the powers to enter into any agreements, incur any obligations in the ordinary course of business in connection with the Property, cease to carry on all or any part of the business, reject or cease to perform any contracts of the Debtors, or any of them, or in respect of the Property;
- (d) to engage construction managers, project managers, contractors, subcontractors, consultants, appraisers, agents, real estate brokers, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtors, or any of them, or any part or parts thereof;

- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtors, or any of them, and to exercise all remedies of the Debtors, or any of them, in collecting such monies or accounts, including, without limitation, to enforce any security held by the Debtors, or any of them;
- (g) to settle, extend or compromise any indebtedness owing to the Debtors, or any of them;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, including, without limitation, in respect of construction permits and any requirements related thereto, whether in the Receiver's name or in the name and on behalf of the Debtors, or any of them, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtors, or any of them, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (j) to investigate, and report to this Court on, intercompany payments, transactions and other arrangements between any of the Debtors and other Persons (as defined below), including without limitation the Validus Group (as defined below), that appear to the Receiver to be out of the ordinary course of business. All Persons shall be required to provide any and all information and documents related to the Debtors requested by the Receiver in connection with such investigations;
- (k) to market any or all of the Property, including advertising and soliciting offers in respect of any and all such Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion, and with the Applicant's consent, may deem appropriate;

- (l) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
 - (i) without the approval of this Court in respect of any transaction not exceeding \$500,000, provided that the aggregate consideration for all such transactions does not exceed \$1,000,000; and
 - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required;
- (m) to apply for an initial order in respect of the Debtors pursuant to the *Companies' Creditors Arrangement Act* ("CCAA") and to bring such motions in its discretion in the context of such CCAA proceedings;
- (n) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property in these proceedings, or any CCAA proceedings in respect of the Debtors;
- (o) to report to, meet with and discuss with such affected Persons as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (p) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;

- (q) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority, including, without limitation, the Independent Electricity System Operator and the Ontario Energy Board, and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtors, or any of them, or any person that the Receiver engages pursuant to paragraph 3(d), and to meet with and discuss with such governmental authority and execute any agreements, or provide any notices, required in connection with or as a result of such permits, licenses, approvals or permissions (but solely in its capacity as Receiver and not in its personal or corporate capacity);
- (r) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtors, or any of them, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtors, or any of them;
- (s) to undertake any investigations deemed appropriate by the Receiver with respect to the location and/or disposition of assets reasonably believed to be, or to have been, Property;
- (t) to apply to this Court for such further relief, advice and directions as the Receiver may determine as necessary or desirable;
- (u) to exercise any shareholder, partnership, joint venture or other rights which the Debtors, or any of them, may have; and
- (v) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations, including opening any mail or other correspondence addressed to any of the Debtors.

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons, including the Debtors, or any of them, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. **THIS COURT ORDERS** that: (i) the Debtors; (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel, equity holders, including, without limitation, investors and shareholders, and all other persons acting on their instructions or behalf; (iii) all construction managers, project managers, contractors, subcontractors and service providers, and all other persons acting on their instructions or behalf; and (iv) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being “**Persons**” and each being a “**Person**”) shall forthwith advise the Receiver of the existence of any Property in such Person’s possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver’s request.

5. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records, information and cloud-based data of any kind related to the business or affairs of the Debtors, and any computer programs, computer tapes, computer disks, cloud or other data storage media containing any such information (the foregoing, collectively, the “**Records**”) in that Person’s possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software, cloud and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

6. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer, in the cloud or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the

information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer, cloud or other system and providing the Receiver with any and all access codes, account names, account numbers, account creating credentials that may be required to gain access to the information.

7. **THIS COURT ORDERS** that all Persons, including, without limitation, Validus Power Services Inc., other entities within the Validus group of companies and entities and any other affiliates of the Debtors (collectively, the “**Validus Group**”), and each of them, shall be required to cooperate, and share information, with the Receiver in connection with all books and records, contracts, agreements, permits, licenses and insurance policies and other documents in respect of the Debtors, or any of them, and/or the Property. In addition to the foregoing general cooperation and information sharing requirements, the Validus Group, or any of them, shall be required to do the following things: (a) in respect of any and all such contracts, agreements, permits, licenses and insurance policies and other documents: (1) maintain them in good standing and provide immediate notice and copies to the Receiver of any communications received from regulators or providers in respect thereof; (2) provide immediate notice to the Receiver of any material change and/or pending material change to the status quo in respect thereof; and (3) provide thirty (30) days’ notice of any renewal date, termination date, election date or similar date in respect thereof; and (b) assist, and cooperate with, the Receiver in obtaining any further permits and licenses that may be required.

8. **THIS COURT ORDERS** that the Receiver shall provide each of the relevant landlords with notice of the Receiver’s intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver’s entitlement to remove any such fixture under the provisions of

the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

NO PROCEEDINGS AGAINST THE RECEIVER

9. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTORS OR THE PROPERTY

10. **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtors, or any of them, or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtors, or any of them, or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

11. **THIS COURT ORDERS** that all rights and remedies against the Debtors, or any of them, the Receiver, or affecting the Property, including, without limitation, licences and permits, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any “eligible financial contract” as defined in the BIA, and further provided that nothing in this paragraph shall: (i) empower the Receiver or the Debtors, or any of them, to carry on any business which the Debtors, or any of them, is not lawfully entitled to carry on; (ii) exempt the Receiver or the Debtors, or any of them, from compliance with statutory or regulatory provisions relating to health, safety or the environment; (iii) prevent the filing of any registration to preserve or perfect a security interest; or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

12. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtors, or any of them, without written consent of the Receiver or leave of this Court.

ACCELERATED LEASE PAYMENTS

13. **THIS COURT ORDERS** that notwithstanding anything in this Order to the contrary, nothing in this Order shall prohibit, restrict, pause or interfere with the running of the notice period in respect of the Accelerated Payments (as defined in the Stevens Affidavit), and the Debtors' respective obligations therefor, pursuant to the July Demand Letters (as defined in the Stevens Affidavit) delivered by the Applicant to the Debtors.

CONTINUATION OF SERVICES

14. **THIS COURT ORDERS** that all Persons, including, without limitation, the Validus Group, having oral or written agreements with the Debtors, or any of them, or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, construction management services, project management services, permit and planning management services, accounting services, centralized banking services, payroll services, insurance, employee benefits, transportation services, utility or other services to the Debtors, or any of them, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver (including, where a notice of termination may have been given with an effective date after the date of this Order), and that the Receiver shall be entitled to the continued use of the Debtors' current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtors or such other practices

as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

15. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the “**Post Receivership Accounts**”) and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

16. **THIS COURT ORDERS** that all employees of the Debtors, or any of them, shall remain the employees of the applicable Debtor until such time as the Receiver, on behalf of the applicable Debtor, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA

17. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a “**Sale**”). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such

information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtors, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

18. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, “**Possession**”) of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver’s duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER’S LIABILITY

19. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in

this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

20. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the “**Receiver’s Charge**”) on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver’s Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

21. **THIS COURT ORDERS** that the Receiver and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

22. **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

23. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow from the Applicant by way of a credit facility, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$1,000,000 (or such greater amount that is acceptable to the Applicant and as this Court may by

further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the “**Receiver’s Borrowings Charge**”) as security for the payment of the monies borrowed, together with interest, fees and charges thereon, in priority to all security interests, trusts (including, without limitation, deemed trusts), liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver’s Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

24. **THIS COURT ORDERS** that neither the Receiver’s Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

25. **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule “B” hereto (the “**Receiver’s Certificates**”), as modified to reflect the terms of the credit facility between the Receiver and Applicant referred to in paragraph 23, for any amount borrowed by it pursuant to this Order.

26. **THIS COURT ORDERS** that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver’s Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver’s Certificates.

SERVICE AND NOTICE

27. **THIS COURT ORDERS** that The Guide Concerning Commercial List E-Service (the “**Protocol**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <https://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure.

Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: <https://www.ksvadvisory.com/experience/case/validus-power-corp>.

28. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to any creditors of the Debtors, or any of them, or other interested parties at their respective addresses as last shown on the records of the Debtors, or any of them, and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

29. **THIS COURT ORDERS** that the Applicant, the Receiver and their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Debtors' creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 8100-2-175 (SOR/DORS).

CRITICAL PAYMENTS

30. **THIS COURT ORDERS** that the Receiver may make payments owing by the Debtors, or any of them, to suppliers, contractors, subcontractors and other creditors in respect of amounts owing prior to the date of this Order where such payments are deemed by the Receiver critical to the operation of the Debtors and/or for any matter concerning safe care and operation of the

Debtors; provided that any such payment that exceeds \$25,000, or where the aggregate of all such payments exceeds \$200,000 shall require the prior written consent of the Applicant.

GENERAL

31. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

32. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy or monitor of the Debtors, or any of them.

33. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

34. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

35. **THIS COURT ORDERS** that the Applicant shall have its costs of this motion, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the estates of the Debtors, or any of them, with such priority and at such time as this Court may determine.

36. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

37. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Prevailing Eastern Time on the date hereof without any need for entry and/or filing.

SCHEDULE "A"

DESCRIPTION OF REAL PROPERTY

Iroquois Falls Power Corp.

Firstly:

PIN 65337-0369 (LT)

PCL 9012 SEC NEC SRO; PT LT 11 CON 5 TEEFY PT 1, 6R6645 T/W PT 1 TO 4, 6R6644 & 1 TO 6, 6R6626 AS IN C447208 AMENDED BY C470222 T/W PT 2 TO 7 & 13 TO 16, 6R6645 AS IN C447209 AMENDED BY C470223 T/W PT 2, 6 TO 12, 6R6645 AS IN C447211 AMENDED BY C470225 T/W PT 17 TO 19, 6R6645 AS IN C447212 AMENDED BY C470226 T/W PT 1, 6R6898 AS IN C469024 AMENDED BY C470227 T/W PT 4 & 5, 6R6896 AS IN C469025 AMENDED BY C470228 T/W C469026 AMENDED BY C470229 T/W PT 1 & 2, 6R6853 AS IN C474890 AMENDED BY C521180 ; TOWN OF IROQUOIS FALLS

Secondly:

PIN 65337-0456 (LT)

SURFACE RIGHTS ONLY; PT S 1/2 LT 12 CON 3 TEEFY PT 1, 6R5962 EXCEPT PT 1, 6R8283 S/T PT 2, 6R6832 AS IN C469070 AMENDED BY C470222, C470223, C470224, C470225, C470226, C470227, C470228, C470229 & C470230; DISTRICT OF COCHRANE

Thirdly:

PIN 65337-0458 (LT)

SURFACE RIGHTS ONLY; S 1/2 LT 12 CON 3 TEEFY EXCEPT PT 1, 6R5962, PTS 2 & 3, 6R8283 & PT 1, 6R8318, S/T PT 1, 3 & 4, 6R6832 AS IN C469070 AMENDED BY C470222, C470223, C470224, C470225, C470226, C470227, C470228, C470229 & C470230 ; DISTRICT OF COCHRANE

Fourthly:

PIN 65337-0372 (LT)

PCL 9070 SEC NEC; LOCATION RY 357 TEEFY COMPOSED OF THOSE PARTS OF THE BED OF THE ABITIBI RIVER LYING IN FRONT OF LT 11, CON 5, PT 2, 6R6853; DISTRICT OF COCHRANE

Fifthly:

PIN 65337-0373 (LT)

PCL 9070 SEC NEC; LOCATION RY 357 TEEFY COMPOSED OF THOSE PARTS OF THE BED OF THE ABITIBI RIVER LYING IN FRONT OF LT 11, CON 3, PT 1, 6R6853; DISTRICT OF COCHRANE

Kap Power Corp.

Firstly:

PIN 65095-0051 (LT)

PCL 12700 SEC CC; PT LT 24 CON 11 O'BRIEN PT 2, 6R6749 T/W PT 3, CR548 AS IN C478024; TOWN OF KAPUSKASING

Secondly:

PIN 65095-0052 (LT)

PCL 12927 SEC CC; PT LT 23 CON 10 O'BRIEN PT 1, 6R5800 T/W PARTS 1 & 2, 6R6731 AS IN C452347 T/W PT 3, 6R6731 AS IN C451853 T/W PARTS 4 & 5, 6R6731 AS IN C451851 T/W PARTS 3 TO 7, 6R6749 AS IN C453701 T/W PT 3, CR548 AS IN C478024; TOWN OF KAPUSKASING

Bay Power Corp.

PIN 49127-0021 (LT)

PCL 18734 SEC WF; PT LT 21 CON 2 WIDDIFIELD PT 7 & 8, 36R9382 T/W PT 1, 36R9384 AS IN LT332823, PT 1, 36R9381 AS IN LT332824, PT 2, 36R9381 AS IN LT332826, PT 2, 36R9384 AS IN LT332902, PT 3 & 9, 36R9381 AS IN LT332885, PT 7 & 8, 36R9381 AS IN LT333337, PT 4-6, 36R9381 AS IN LT339664, PT 2, 36R9382 & PT 1, 2, 3 & 5, 36R10374 AS IN LT366707, PT 1-3, 36R10375 AS IN LT366710; T/W LT366708 & LT366709; NORTH BAY ; DISTRICT OF NIPISSING

Kingston Cogen GP Inc.

Firstly:

PIN 45132-0375 (LT)

PT LT 23 CON 1 ERNESTOWN PT 1 29R6737,; TOGETHER WITH AN EASEMENT AS IN LA69824; TOGETHER WITH AN EASEMENT AS IN LA208637; TOGETHER WITH AN EASEMENT AS IN LA208644; TOGETHER WITH AN EASEMENT AS IN LA210426; TOGETHER WITH AN EASEMENT AS IN LA210734; TOGETHER WITH AN EASEMENT AS IN LA210736; TOGETHER WITH AN EASEMENT AS IN LA210738; TOGETHER WITH AN EASEMENT OVER PTS 1 - 49 29R9849 UNTIL 2025/12/31 AS IN LX37160; TOGETHER WITH AN EASEMENT OVER PTS 1,3,4 29R6966 UNTIL 2025/12/31 AS IN

LX37161; TOGETHER WITH AN EASEMENT OVER PTS 1 - 50 29R9850 UNTIL 2025/12/31 AS IN LX37162; TOGETHER WITH AN EASEMENT OVER PTS 1 - 11 29R9845 UNTIL 2030/12/31 AS IN LX37163; TOGETHER WITH AN EASEMENT OVER PTS 1 - 71 29R9851 UNTIL 2025/12/31 AS IN LX37164; TOGETHER WITH AN EASEMENT OVER PTS 1 - 14 29R9846 UNTIL 2025/12/31 AS IN LX37165; TOGETHER WITH AN EASEMENT OVER PTS 1 - 16 29R9847 AS IN LX37166; TOGETHER WITH AN EASEMENT OVER PTS 1 - 7 29R6860, PTS 1 & 2 29R7373, PTS 1 - 13 29R7650 AS IN LX37167; LOYALIST TOWNSHIP

Secondly:

PIN 45132-0377 (LT)

PT LT 24 CON BROKEN FRONT ERNESTOWN, PTS 1 TO 12 29R9843; T/W LA69824;; TOGETHER WITH AN EASEMENT OVER PTS 1 - 49 29R9849 UNTIL 2025/12/31 AS IN LX37160; TOGETHER WITH AN EASEMENT OVER PTS 1,3,4 29R6966 UNTIL 2025/12/31 AS IN LX37161; TOGETHER WITH AN EASEMENT OVER PTS 1 - 50 29R9850 UNTIL 2025/12/31 AS IN LX37162; TOGETHER WITH AN EASEMENT OVER PTS 1 - 11 29R9845 UNTIL 2030/12/31 AS IN LX37163; TOGETHER WITH AN EASEMENT OVER PTS 1 - 4 29R9844 AS IN LX37168; TOGETHER WITH AN EASEMENT OVER PTS 1 - 12 29R9843 AS IN LX37169; SUBJECT TO AN EASEMENT OVER PTS 1 - 12 29R9843 IN FAVOUR OF LA285539 (PARCELS 1,2,3); EXCEPT PTS 1 - 12 29R9843 & LA285539 (PARCEL 4) AS IN LX37170; LOYALIST TOWNSHIP

Thirdly:

PIN 45132-0362 (LT) – (Registered Owner: Invista (Canada) Company)

LOC. CL14116, BEING PT OF THE BED OF LAKE ONTARIO IN FRONT OF LT 24, BROKEN FRONT CON. ERNESTOWN, PT 1 29R9227; LOYALIST

Pursuant to Instrument No. LX37609 registered on October 26, 2011, being an Application General (Sublease).

SCHEDULE "B"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that KSV Restructuring Inc., the receiver (the "**Receiver**") of the assets, undertakings and properties of Validus Power Corp., Iroquois Falls Power Corp., Bay Power Corp., Kap Power Corp., Validus Hosting Inc., Kingston Cogen Limited Partnership and Kingston Cogen GP Inc. acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the ___ day of July, 2023 (the "**Order**") made in an action having Court file number _____, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$ _____, being part of the total principal sum of \$ _____, which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the ___ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the ____ day of _____, 2023.

KSV RESTRUCTURING INC., solely in its capacity as Receiver of the Property, and not in its personal capacity

Per: _____
Name:
Title:

IN THE MATTER OF AN APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED; AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, C. C.43, AS AMENDED

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at TORONTO

**ORDER
(Appointing Receiver)**

Torys LLP

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Lawyers for Macquarie Equipment Finance Limited,
the Applicant

MACQUARIE EQUIPMENT FINANCE LIMITED v VALIDUS POWER CORP. et. al.

Court File No. CV-23-00703754-00CL

IN THE MATTER OF AN APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED; AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, C. C.43, AS AMENDED

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at TORONTO

APPLICATION RECORD

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