Meeting Called to Order

Disclosure of Pecuniary Interest

Consideration of Matters in Closed Session

1. Shareholders of Energy Plus receive and consider information from legal counsel

Recommendation

THAT in accordance with Section s.239 of the Municipal Act, 2001, Council may convene in Closed Session to consider the following subject matters:

i. Advice that is subject to solicitor-client privilege, including communications necessary for that purpose;

ii. A trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence to the municipality or local board, which, if disclosed, could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization;

iii. A position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality or local board.

Council to Rise from Closed Session

Recommendation

THAT Council rise from closed session and reconvene in open session.
Confirmatory By-law

21-062 Being a by-law of the City of Cambridge and the Township of North Dumfries to confirm the proceedings of the Councils of the City of Cambridge and Township of North Dumfries at its joint meeting held in Cambridge on the 30th day of August, 2021.

3272-21 Being a by-law of the City of Cambridge and the Township of North Dumfries to confirm the proceedings of the Councils of the City of Cambridge and Township of North Dumfries at its joint meeting held in Cambridge on the 30th day of August, 2021.

PASSED AND ENACTED this 30th day of August, 2021.

Close of Meeting
Transaction Structure – Pre-Closing Organizational Charts

City of Cambridge 92.1%

Township of North Dumfries 7.9%

Cambridge and North Dumfries Energy Plus Inc.

Energy + Inc. (regulated entity)

Cambridge & North Dumfries Energy Solutions Inc.

Grand River Energy

City of Brantford 100%

Brantford Energy Corporation

Brantford Power Inc. (regulated entity)

Brantford Hydro Inc.

Streetlight maintenance services

NetOptiks and Enersure lines of business
Transaction Structure – Post-Closing Organizational Chart

City of Cambridge 54.339%

Township of North Dumfries 4.661% (C&ND together equal 59%)

Merged Holdco

Merged LDC (regulated entity) 33.3%

Cambridge and North Dumfries Energy Solution Inc.

Grand River Energy

Brantford Hydro Inc.

NetOptiks and Enersure lines of business

City of Brantford 41.00%
Merger Participation Agreement

- All municipalities, Holdcos and LDCs are party to the agreement
- Creates obligations to:
  - Implement amalgamation (subject primarily to OEB approval)
  - Divides ownership on 59%/41% basis
  - Provides for special dividends to implement post-closing adjustments
  - Execute Unanimous Shareholder Agreement on Closing
  - Execute Shared Services Agreement on Closing
  - Execute Amalgamation Agreement on Closing
MPA: Valuation and Post-Closing Adjustments

- Share percentages to be set out in Merger Participation Agreement
  - Based on audited financial statements, financial model and other factors negotiated between the parties
- Adjustment mechanism for differences between current financial position of parties and financial position at Closing
- C&ND or Brantford compensated by special dividends for net differences between targets and actual financial situation
- Compensation is in form of cash dividends, not adjustment in share percentage
MPA: Representations and Warranties

• Representations and indemnification by respective municipal shareholders (since E+ and BEC will be merged)

• Deal with:

  • Cybersecurity issues/Privacy
  • Employment matters
  • Litigation
  • Regulatory approvals
  • Corporate matters

  • Financial information
  • Tax matters
  • Assets and Real Property
  • Material Contracts
  • Environmental Liabilities
MPA: Indemnification Limits

- Limitations on Indemnification by Municipal Shareholders
  - Limit: $15m
  - Deductible: $250,000 min. aggregate claims
- Cambridge and North Dumfries grouped together
MPA: Covenants

• For Interim Period between MPA date and Closing/Amalgamation
• Includes the following:
  - Conduct business in the ordinary course/not make any major changes
  - Use commercially reasonable efforts to satisfy closing conditions
  - Allow access for due diligence purposes
  - Confidentiality and public statements/press releases
  - Declare and pay dividends consistent with previous practice
  - Ensure no additional equity issuances prior to closing
MPA: Closing Conditions

• To be met before amalgamation takes place:
  - Representations/warranties remain true
  - Parties have complied with all obligations, covenants and agreements
  - No material adverse effects since signing of MPA
  - MAADs approval
  - Competition Bureau “No-Action” Letter
  - Third party consents have been obtained
  - No transfer tax
  - No order of any Governmental Authority in force and no action or proceedings pending or threatened

• Parties can terminate if any closing condition not met (by other party or third party)

• **NB: Very unlikely that any event would occur to prevent Closing**
Unanimous Shareholder Agreement - Overview

• Both a contract and a governance document
• Governs relationships:
  - between shareholders
  - between shareholders and corporation
  - between shareholders and subsidiary corporations
Terms of USA: Governance

• Decision making:
  - Generally, simple majority vote of the directors
  - Generally, matters to be approved by shareholders to be decided by simple majority
  - Extensive list of fundamental matters required to be decided by two-thirds of votes
Terms of USA: Governance

• Holdco Board Composition
  - 10 directors.
    ▪ the 3 mayors or their alternates
    ▪ 7 independents
      o 4 of which will initially be current Chairs of BEC and BHI, Chair and Vice-Chair of CND Holdco
      o Nominating Committee proposes slate of independents
      o If Brantford or Cambridge do not approve the slate, Brantford would appoint 3 independents and Cambridge 4 independents
Terms of USA: Governance

- **LDC Board Composition**
  - 11 directors
  - At least 4 independent directors (not Holdco directors)
  - Remaining directors to be comprised of the 7 members of the Holdco Board who are **not** the Mayors (or Mayors’ Alternates)

- **Unregulated Affiliate Board Composition (BHI and E+ Solutions)**
  - 5 directors to be appointed by Holdco Board
    - 3 directors who are members of the Holdco Board and are **not** the Mayors or Mayor’s Alternates
    - 2 independent directors who do not serve on the Holdco Board or LDC Board
Terms of USA re Share Transfers

• Pre-emptive rights: if new shares will be issued, each municipal shareholder may purchase its proportionate interest
• General restriction on transfer of shares for 30 months
• Right of first refusal: if a shareholder wishes to sell to a third party, each other shareholder may purchase their proportionate share
• Piggyback rights: if right of first refusal not exercised, each other shareholder may require the third party to include the other shareholder’s shares in the sale
Terms of USA re Share Transfers

- Drag-along rights: if a potential purchaser wishes to purchase all of the shares of the holding corporation, then Cambridge may require North Dumfries to sell all of its shares to the potential purchaser.

- North Dumfries put right: ND to maintain its existing right whereby, if a shareholder decision requiring two-thirds approval is approved notwithstanding ND’s negative vote, ND may require Cambridge to purchase all of ND’s shares at fair market value.
Terms of USA

• Dividend Policy
  - Target dividend is:
    ▪ 50% of Net Income
    plus
    ▪ For initial 10 years, 50% of proceeds BPI debt redemption
Shared Services and Obligations Agreement

• Amends existing Shared Services Agreement under which Brantford provides services to BPI
• Brantford will provide services to LDC Mergeco
• Right to terminate agreement after one year (on 18 months notice)
• Continues arrangement whereby certain benefits provided by BPI to former Brantford HEC employees
  - Brantford to pay percentage of benefits
Timeline

• NOW:
  - Approval of MPA, USA and SSA Brantford Council meeting – also August 30
• MPA Execution – Shortly following Council approval
• MAADs Application – Early September
• MAADs approval by OEB – late 2021/early 2022
• Amalgamation/Closing – January 1, 2022 or April 1, 2022
• Post-Closing Adjustments – 3 or 4 months post-Closing
SPECIAL JOINT COUNCIL MEETING
JOINT COUNCILS OF THE CITY OF CAMBRIDGE & TOWNSHIP OF NORTH DUMFRIES
Monday August 30th, 2021

FRAMEWORK AND OVERVIEW OF A POTENTIAL MERGER
CAMBRIDGE AND NORTH DUMFRIES ENERGY PLUS INC. & BRANTFORD ENERGY CORP.

RECOMMENDATION

The City Manager and the Township Chief Administrative Officer jointly recommend:

1. THAT the Councils (the “Councils”) of the City of Cambridge and the Township of North Dumfries receive CAO Report No. 24-2021 and City Manager Report No. 21-257 (OCM);

2. AND THAT the respective Councils of the City of Cambridge and the Township of North Dumfries adopt the following Resolution following (acknowledging that Cambridge and North Dumfries Municipal Corporation Names would be exchanged) in support of the proposed merger of Cambridge and North Dumfries Energy Plus Inc. and Brantford Energy Corporation:

   Proposed Amalgamations Between (1) Cambridge and North Dumfries Energy Plus Inc. (“CNDE+”) and Brantford Energy Corporation (“BEC”), and (2) Energy+ Inc. (“E+”) and Brantford Power Inc. (“BPI”)

   WHEREAS The Corporation of the Township of North Dumfries (the “Municipality”) is, together with The Corporation of the City Cambridge (“Cambridge”), a shareholder of CNDE+;

   AND WHEREAS CNDE+ is the sole shareholder of E+;
AND WHEREAS CNDE+ and BEC intend to amalgamate (the “Holdco Amalgamation”) pursuant to section 174 of the Business Corporations Act (Ontario) (the “OBCA”) to form an amalgamated entity (“Merged Holdco”);

AND WHEREAS subsequent to the Holdco Amalgamation, E+ and BPI intend to amalgamate pursuant to section 174 of the OBCA (the “LDC Amalgamation”, and together with the Holdco Amalgamation, the “Amalgamations”) to form an amalgamated entity (“LDC Mergeco”);

AND WHEREAS in order to facilitate the Amalgamations, CDNE+, BEC, E+, BPI, the Municipality, Cambridge, and The Corporation of the City of Brantford (“Brantford”) intend to enter into a merger participation agreement (the “Merger Participation Agreement”), substantially in the form of a draft merger participation agreement (the “Draft Merger Participation Agreement”) previously presented to the Council of the Municipality for review;

AND WHEREAS pursuant to section 2.1 of the Merger Participation Agreement, CNDE+ would be required to enter into an amalgamation agreement with BEC (the “Holdco Amalgamation Agreement”);

AND WHEREAS subsection 176(4) of the OBCA provides that an amalgamation agreement is adopted when the shareholders of each amalgamating corporation have approved of the amalgamation by a special resolution of the holders of the shares of each class or series entitled to vote thereon;

AND WHEREAS pursuant to section 185 of the OBCA, a holder of shares of any class or series entitled to vote on the resolution approving an amalgamation may dissent, in which case such shareholder, in addition to any other right the shareholder may have, is entitled to be paid by the corporation the fair value of the shares held by the shareholder subject to compliance with the dissent procedure contained in section 185 of the OBCA;

AND WHEREAS the Municipality declares that it is not exercising such right of dissent in connection with the Amalgamations and waives its right to receive notice of a meeting of shareholders pursuant to subsection 176(2) of the OBCA in connection with the Amalgamations;

AND WHEREAS CNDE+ and E+ are subject to a Shareholders’ Agreement among the Municipality, Cambridge and CNDE+ (as successor to Cambridge and North Dumfries Hydro Inc.) dated January 1, 2000 (the “CNDE+ USA”) requiring shareholder approval of transactions such as the Amalgamations;
AND WHEREAS after the Amalgamations have taken place, Merged Holdco, LDC Mergeco, the Municipality, Cambridge and Brantford intend to enter into a unanimous shareholders’ agreement governing the affairs of Merged Holdco and LDC Mergeco (the “Unanimous Shareholders’ Agreement”), substantially in the form of a unanimous shareholders’ agreement (the “Draft Unanimous Shareholders’ Agreement”) previously presented to Council for review;

AND WHEREAS after the Amalgamations have taken place Brantford intends to enter into an Amended and Restated Shared Services and Obligations Agreement with LDC Mergeco and Brantford Hydro Inc. (the “Shared Services Agreement”), substantially in the form of an amended and restated shared services and obligations agreement (the “Draft Shared Services Agreement”) previously presented to Council for review the entry into which would require shareholder approval under the Unanimous Shareholder Agreement.

NOW THEREFORE BE IT RESOLVED THAT:

(a) The Municipality approves the Amalgamations;

(b) The terms and conditions of the Merger Participation Agreement, the Unanimous Shareholders’ Agreement and the transactions contemplated thereby are reasonable and fair to the Municipality;

(c) CNDE+ is authorized to enter into the Holdco Amalgamation Agreement and to approve the LDC Amalgamation;

(d) E+ is authorized to carry out the LDC Amalgamation;

(e) The Municipality is authorized to enter into the Merger Participation Agreement, substantially in the form of the Draft Merger Participation Agreement;

(f) The Municipality is authorized to enter into the Unanimous Shareholders’ Agreement, substantially in the form of the Draft Unanimous Shareholders’ Agreement;

(g) The entry by LDC Mergeco and Brantford Hydro Inc. into the Shared Services Agreement, substantially in the form of the Draft Shared Services Agreement is approved;

(h) The execution and delivery by the Municipality of the Merger Participation Agreement and the Unanimous Shareholders’ Agreement and the performance by it of its obligations thereunder, substantially in the form and on the terms set out in the Draft
Merger Participation Agreement and Draft Unanimous Shareholders’ Agreement, with such minor deletions, amendments or additions thereto as the Chief Administrative Officer, or other duly authorized representative, of the Municipality (the “Authorized Representative”) may determine, is authorized and approved, the execution of such agreements in accordance with the provisions of the paragraph immediately below being conclusive evidence of such determination;

(i) The Authorized Representative is authorized and directed, for and in the name of and on behalf of the Municipality, to execute and deliver the Merger Participation Agreement and the Unanimous Shareholders’ Agreement, substantially in the form and on the terms set out in the Draft Merger Participation Agreement and the Draft Unanimous Shareholders’ Agreement, with such minor deletions, amendments or additions thereto as the Authorized Representative may in his or her absolute discretion determine, the execution of such agreement in accordance with the provisions of this paragraph being conclusive evidence of such determination; and

(j) The Authorized Representative is authorized and directed, for and in the name of and on behalf of the Municipality, to execute and deliver all such other agreements, amendments, instruments, certificates, resolutions and other documents, including a resolution of the shareholders of CNDE+ approving the Amalgamations, and to do all such other acts and things as the Authorized Representative may determine to be necessary or advisable in connection with the Merger Participation Agreement, with the Unanimous Shareholders’ Agreement, the Shared Services Agreement and/or the Holdco Amalgamation Agreement or to carry out the intention of the foregoing resolution, the execution and delivery of any such agreement, amendment, instrument, certificate, resolution or other document or the doing of any such other act or thing by the Authorized Representative being conclusive evidence of such determination.

1. **PURPOSE**

The Purpose of this Report is to:

i) provide an overview or framework of the key elements associated with the proposed merger between Brantford Energy Corporation (“BEC”) and Cambridge and North Dumfries Energy Plus Inc. (“Energy Plus”) to form a corporation
Special Joint Meeting – City of Cambridge / Township of North Dumfries
CAO Report No. 24-2021 and Cambridge Report No. 21-257 (OCM)
August 30th, 2021

(“Merged Holdco”) and their respective regulated electricity distribution subsidiaries, Energy + Inc. ("E+") and Brantford Power Inc. ("BPI") to form a merged regulated electricity distribution utility ("Merged LDC") as set out in a draft Merger Participation Agreement; draft Unanimous Shareholders Agreement; and associated background information including the key elements from the public engagement strategy;

ii) provide Recommendations from both the Energy Plus Board of Directors and the Strategic Shareholders Advisory Committee ("SSAC") on the proposed merger to the respective municipal Councils in their roles as shareholders of Energy Plus; and,

iii) establish direction to Staff, legal counsel and the financial advisor as potential next steps associated with the on-going negotiation and process associated with the potential merger between BEC and Energy Plus.

Ron Clark, solicitor, Aird & Berlis LLP, and, John Rockx, financial advisor, KPMG, will be in attendance at the August 30th, 2021 Meeting. Mr. Clark and Mr. Rockx will also be available to answer questions arising from their presentations.

2. BACKGROUND

2.1 Context

At the Joint Council Meeting of March 4th, 2020 the following Resolution was adopted:


AND THAT the Councils of the City of Cambridge and the Township of North Dumfries in accordance with clause 3.9 of the Shareholders' Agreement, approves the Board of Directors of Energy Plus Inc. entering into amalgamation discussions with Brantford Energy Corporation;

AND THAT the Councils direct Aird & Berlis LLP to draft a Memorandum of Understanding (MOU) for approval at a future Council meeting of the City of Cambridge and the Township of North Dumfries;

AND FURTHER THAT the Councils of the City of Cambridge and the Township of North Dumfries directs staff to prepare Terms of Reference for a Shareholders Strategic Advisory Committee (SSAC).
This Report and the associated Attachments represent the summation of the work to date by legal counsel, the financial advisor and the SSAC on the proposed merger since work commenced in earnest in March 2020. The SSAC, the technical advisors and Staff are now at a point where an update can be made to the Joint Councils in their capacity as shareholders of Energy Plus on the framework of the merger proposal.

3. OPTIONS AND ANALYSIS

3.1 Financial Analysis / Business Case Assessment

KPMG, under the leadership of John Rockx, has undertaken a financial review of various models prepared by Grant Thornton and Senior Management of E+ and BPI, on behalf of the Utilities Steering Committee, whose members are comprised of Senior Management and Directors of BEC, Energy Plus and their respective subsidiaries, including E+ and BPI. In this role, KPMG has provided an independent peer review of financial aspects of the Merger Business Case on behalf of both Cambridge and North Dumfries.

Mr. Rockx’s Briefing Document is included as Attachment No. 1 to this Report.

John Rockx will be in attendance at the August 30th Joint Council Meeting and he will be available to answer any questions from members of Council on this material.

Staff, in the form of an Executive Summary, have listed below the key items contained within John Rockx’s Briefing Document. The summary overview includes:

- The municipal shareholders of Energy Plus would have, after the conversion of the City of Brantford’s promissory notes issued by certain BEC subsidiaries, a combined 59% common share ownership interest in the amalgamated entity formed by the merger of BEC and Energy Plus. This ownership ratio will reflect the current proportionate ownership in Energy Plus and is calculated, as follows:

  + 54.339% City of Cambridge
  + 4.661% Township of North Dumfries

- Consistent with the expectations of North Dumfries’ Council, the continuation of the existing $3.02 million promissory note payable to the Township. The current interest payment based on a rate of 4.99% remains in place through to at least December 31, 2023;
iii) The Energy Plus shareholders are projected to receive increased dividends of approximately $20.1 million over the first ten-year period of the merger. The increased dividends are attributed in part to:

+ projected synergies from the merger equivalent to $30.1 million (pre-tax). The dividends to be paid to Energy Plus shareholders would be equivalent to $7.9 million (at 50% of net income after tax synergies);

+ special dividends paid out annually for the first ten years of the merger resulting from the City of Brantford’s conversion of its promissory note in BPI ($24.2 million at 50% value). The payout of special dividends to the Energy Plus shareholders is $7.1 million or $0.714 million per year for the first 10 year period;

+ other dividends equivalent to $5.1 million paid based upon an investment model calculated by Grant Thornton which has assumed re-investment of Merged Holdco’s and Merged LDC’s excess cash and other incremental earnings; and

+ a “sit out” period for up to the first 10 years following the merger transaction, with an exemption from the usual requirement during such time to apply to the OEB for a new rate structure, that will allow synergies from the merger to be retained by the shareholders and used in part for dividends.

iv) The proposed merger does have risk associated with the outcome of BPI’s current cost of service application which has been submitted to the Ontario Energy Board ("OEB"). The BPI filing seeks an increase of approximately 13.36% effective January 1, 2022 to its distribution revenues. The risk to the Energy Plus shareholders is that if the rate increase approved by the OEB is below 9.93%, then Merged LDC will suffer a revenue shortfall over the first 10 years of the merger as compared with the Grant Thornton financial projection model. For the Energy Plus shareholders (at 59% of share ownership in the new Utility), this would mean a reduction in the projected synergies resulting from the merger (and would reduce the synergy-related dividends of $7.9 million noted above).

v) The proposed merger would create some stability on the distribution portion of customers’ monthly bills during the first 10 years of the merger.
Specifically, the only increases to distribution rates would be normal annual inflationary indexation as established by the OEB;

vi) After the initial 10 year sit out period, any savings resulting from the merger would be passed through to ratepayers;

vii) The merger would increase the scope and scale of non-regulated business operations for the shareholders of Merged Holdco. This would include a fibre and rental water heater / equipment business.

viii) The merger would establish the 7th largest Utility Corporation in the Province. Generally larger Utilities are better positioned to access capital financing to deliver upon program development and renewal projects. Moreover, larger Utilities have greater scale and scope of resources to address industry challenges and opportunities including more renewable energy and electric vehicle initiatives;

ix) After the 10 year sit-out period (i.e., by 2032), the dividends paid out to Energy Plus shareholders are projected to be materially the same as to what is projected on a stand-alone model for Energy Plus. The larger Merged Holdco may be better positioned to withstand changes occurring in the electricity distribution landscape which could influence this position.

Staff would note that the projected $30.1 million (pre-tax) synergies resulting from the merger are based upon financial projections prepared by Grant Thornton in conjunction with senior management of Energy Plus and BEC. To realize these operating synergies, the new Boards of Directors and the senior management teams for Merged Holdco and its subsidiaries will have to be thorough and aggressive in their workplans and recommended path of achieving overall savings.

3.2 Legal Context

Aird & Berlis, under the leadership of Ron Clark, has undertaken the legal review of Due Diligence documents, and, the framework of the Merger Participation Agreement ("MPA") and the Unanimous Shareholders Agreement ("USA") and the associated schedules to the respective Agreements. In this role, Aird & Berlis has provided an independent peer review of legal and risk aspects of the proposed merger on behalf of both Cambridge and North Dumfries.

Copies of the current drafts to both the Merger Participation Agreement and the Unanimous Shareholders Agreement are included as Attachment Nos. 2 and 3 respectively to this Report.
Ron Clark will be in attendance at the August 30th Joint Council Meeting and he will be available to answer any questions from members of Council on this material.

3.2.1 Merger Participation Agreement

The Merger Participation Agreement ("MPA") is a document executed by the three Municipal shareholders, Energy Plus, BEC, E+ and BPI. The MPA outlines the commitments of the parties through to the point of the establishment of the new utility corporation following merger approval by the OEB.

The MPA is a pivotal document in that it establishes the road map for the merger, and locks the parties into the merger subject only to a favourable OEB decision and the absence of other material adverse events.

Key aspects of the MPA include:

i) Future obligations:

- Implements the amalgamation (subject primarily to OEB approval)
- Divides ownership on a 59% / 41% basis (C & ND / Brantford)
- Provides for special dividends to implement post-closing adjustments
- Conversion of BPI and Brantford Hydro Inc. promissory notes into equity (shares) of Merged Holdco
- Execute Unanimous Shareholder Agreement on Closing
- Execute Shared Services Agreement on Closing (schedule to MPA)
- Execute Amalgamation Agreement on Closing (schedule to MPA)

ii) Post-Closing Adjustments and Valuations

- Share percentages are fixed in the Merger Participation Agreement. However, incremental value contributions to the merger between January 1, 2021 and the closing date will be calculated based on:
- audited financial statements, Grant Thornton financial model and other factors negotiated between the parties
- financial targets to be met at Closing

- Audited financial statements to be prepared for both existing utility corporations as of date of Closing
- Mechanism included to allow challenges re accuracy of audited statements etc.

- Closing financial statements and various metrics used to compare actual financial position of each utility at Closing compared to financial targets

- Cambridge and North Dumfries or Brantford compensated for net differences between targets and actual financial situation (taking into account share percentages)

- Final valuation and associated financial adjustment will not be available until some months after Closing

iii) Representation and Warranties

- Representations and warranties are given by both Energy Plus and BEC as to the accuracy of information, but the indemnification if there is an untrue misrepresentation is undertaken by the respective Municipal shareholders.

- The indemnification has to be provided by the Municipal shareholders as Energy Plus and BEC will no longer exist as separate corporate entities following the merger.

- Elements addressed through this process include:
  
  Cybersecurity / Privacy issues
  Employment matters, including Collective Bargaining Agreements
  Litigation
  Regulatory approvals
  Corporate matters, including financial information and tax matters
  Assets and real property
Material Contracts
Environmental Liabilities and associated legacies

- A due diligence review of BEC / BPI / BHI was undertaken by Aird & Berlis along with management of Energy Plus. Generally, there were no significant matters of concern identified and those that were have been addressed in the MPA (e.g. additional representations regarding cybersecurity matters)

iv) Covenants

- Includes the following:
  - Conduct business in the ordinary course/not make any major changes
  - Use commercially reasonable efforts to satisfy closing conditions
  - Allow access for due diligence purposes
  - Termination of parties’ respective shareholder agreements
  - Sign, deliver and file articles of amalgamation giving effect to the amalgamations
  - Notification of disclosure supplements
  - Confidentiality and public statements / press releases
  - Declare and pay dividends consistent with previous practice
  - Ensure no additional equity issuances prior to closing

v) Closing Conditions

- To be met before amalgamation takes place:
  - Representations/warranties remain true
  - Parties have complied with all obligations, covenants and agreements
  - No material adverse effects since signing of MPA
  - Mergers, Acquisitions, Amalgamations and Divestitures Application (“MAADs”) to be filed with OEB and approval received
  - Competition Bureau “No-Action” Letter
  - Third party consents have been obtained
  - No transfer tax
  - No order of any Governmental Authority in force and no action or proceedings pending or threatened
Parties can terminate if any closing condition not met (by the other party or a third party)

3.2.2 Unanimous Shareholders Agreement

The Unanimous Shareholders Agreement (“USA”) is a document executed by the three Municipal shareholders and Merged Holdco at Closing (which will follow a favourable OEB decision on the proposed merger).

In summary, the USA represents:

• Both a contract and a governance document
• Governs relationships:
  - between shareholders
  - between shareholders and corporation
  - between shareholders and subsidiary corporations

Key aspects of the USA include:

i) Decision making:

  - Generally, simple majority vote of the Board of Directors

  - Generally, matters to be approved by Municipal shareholders to be decided by simple majority

  - Certain matters to be required to be decided by two-thirds of votes of the Municipal shareholders as follows:
    - change the name of any of the Corporations
    - add, change or remove any restrictions on the business of the Corporation
    - create new classes of shares, amend the articles, issue or redeem shares
    - establish any requirement for capital contributions to the Corporation
    - acquisition or disposition of assets in excess of 10% of all assets of the Corporation
    - acquire assets/shares with a value in excess of 10% of all assets of the Corporation
increase the Debt/Equity Ratio to greater than 60:40
grant security exceeding 10% of book value of all assets of the Corporation
winding up, insolvency, bankruptcy, creditor protection, reorganization or dissolution;
any amalgamation, arrangement or consolidation;
apply to continue as a Corporation under the laws of another jurisdiction
make any decision that would materially adversely affect the tax or regulatory status of the Corporation or its Subsidiaries
materially alter the nature of or geographic extent of the business of the Corporation or a Subsidiary
enter into any joint venture, partnership, strategic alliance or other venture, which would have a financial impact, equal to or greater than 10% of the book value of all assets of the Corporation
adopt or amend the Dividend Policy
outsource all or substantially all of any core business of the Corporation or the Local Distribution Company
establish, enter into or acquire any new line of business which competes directly with products or services which a Shareholder could provide.
any transaction between the Corporation and a Shareholder that is material and outside of the ordinary course of business.

ii) Governance

Holdco Board Composition
  o 10 directors.
  o First 3 years:
    • the 3 mayors or their alternates
    • current Chairs of BEC and BHI, Chair and Vice-Chair of CND Holdco
    • 3 independents
      • Nominating Committee will propose a slate of 3 independents.
      • If Cambridge and Brantford do not approve the slate, Brantford could appoint one independent and Cambridge two.
  o After 3 years following closing:
    • The 3 mayors (or alternates) and 7 independents.
    • If Brantford and Cambridge did not approve the slate put forward by the nominating committee, Brantford
would appoint 3 independents and Cambridge 4 independents

- Local Distribution Company (LDC) Board Composition
  - 11 directors
  - At least 4 independent directors who do not serve on the Holdco Board or board of any affiliate
  - Remaining directors to be comprised of the 7 members of the Holdco Board who are not the Mayors (or Mayors’ Alternates)

- Unregulated Affiliate Board Composition (BHI and E+ Solutions)
  - 5 directors to be appointed by Holdco Board
    - 3 directors who are members of the Holdco Board and are not the Mayors or Mayor’s Alternates
    - 2 independent directors who do not serve on the Holdco Board or LDC Board

- Governance review to be completed every three years (the scope of which would be determined by the shareholders)

- Auditors to be appointed by the shareholders

- Officers of the Corporation(s) to be appointed by the Board of Directors

iii) Shareholders

- Cambridge is the majority shareholder at 54.339% North Dumfries controls 4.661% of shares and Brantford is a 41.000% shareholder

- General restriction on the sale / transfer of shares for 30 months following the establishment of Merged Holdco

- Pre-emptive rights: if new shares are to be issued, each municipal shareholder may purchase its proportionate interest (and if a shareholder does not exercise its pre-emptive right, the other shareholders may purchase their proportionate shares of the non-exercised portion)
iv) Dividend Policy

- Target annual dividend payable to the shareholders based upon their proportionate share in the utility corporation is:

  50% of Net Income

  plus

  For the initial 10 years, 50% of the proceeds ($12.2 M) of the redemption of BPI’s promissory note held by the City of Brantford. This redemption is payable on a pro rata basis to all shareholders.

v) Shared Services Agreement

- Presently the City of Brantford and BPI have an agreement whereby certain City Staff support BPI and BHI through a services arrangement

- As a schedule to the MPA the parties commit to execute an amended to the Shared Services Agreement continues to exist with some modifications
3.3 Public Engagement Strategy

Included as Attachment No. 4 to this Report is a summary presentation provided by Suzanne Hiller, Director of Communications, City of Cambridge, and, Barbara Shortreed, Vice-President, Customer Care and Communications, Energy Plus Inc. to the Strategic Shareholders Advisory Committee ("SSAC") at their meeting of August 19th, 2021.

The summary presentation provided to the SSAC identifies the methods deployed to engage the communities of Brantford, Cambridge, North Dumfries and Brant County on the proposed merger, and, the comments received. Arising from the community engagement process, no significant issues or concerns were identified.

3.4 Board of Directors – Energy Plus Inc.

The Board of Directors of Energy Plus convened a Meeting on August 17th, 2021. At their meeting the Board heard presentations from their legal counsel, financial advisor and communications staff. At the conclusion of their Meeting, the Board adopted a Resolution which in part recommended to the Municipal shareholders of the Councils of Cambridge and North Dumfries to endorse the proposed merger.
The Board’s Resolution is as follows:

**WHEREAS:**

A. The Board has had extensive engagement with respect to proposed merger transactions between the Corporation and Brantford Enterprise Corporation ("Project Phoenix);

B. The Board has received and considered the final business case and due diligence reports with respect to Project Phoenix;

C. The Board has received and considered the final drafts of the Merger Participation Agreement ("MPA") and Unanimous Shareholders’ Agreement ("USA") with respect to Project Phoenix.

**BE IT RESOLVED THAT:**

1. The Board approves the MPA and USA as presented, subject to minor modifications as counsel may advise; and

2. The Board instructs Borden Ladner Gervais LLP to complete and file the MAAD’s Application with the Ontario Energy Board at its earliest opportunity after all municipal shareholder approvals with respect to Project Phoenix have been obtained and the MPA and USA have been duly executed.

### 3.5 Strategic Shareholders Advisory Committee (SSAC)

The SSAC met on August 19th, 2021. As a component of this Meeting, the SSAC heard presentations and received materials from legal counsel, the financial advisor, communications personnel, and the Chair / President & CEO of Energy Plus.

The City Manager and the Township Chief Administrative Officer did recommend to the SSAC the endorsement of the proposed merger.

As an outcome of the August 19th SSAC Meeting, the following Resolution was adopted for the consideration of the two Municipal shareholder Councils:

1. THAT the presentations by:

   i) Ron Clark, legal counsel, Aird & Berlis LLP;
   ii) John Rockx, financial advisor, KPMG;
   iii) Suzanne Hiller, Director of Communications, City of Cambridge and
Barbara Shortreed, VP Customer Care and Communications, Energy+ Inc.; and,
iv) Anita Davis, Chair, Board of Directors of Cambridge and North Dumfries Energy Plus Inc. and Ian Miles, President and CEO, Cambridge and North Dumfries Energy Plus Inc.,

be received with thanks;

2. AND THAT the Outcomes & Findings from the Public Engagement Strategy on the proposed mergers (the “Mergers”) between Brantford Energy Corporation and Cambridge and North Dumfries Energy Plus Inc. and Brantford Power Inc. and Energy + Inc. be received;

3. AND THAT the Resolution and the recommendation to advance forward with the Mergers received from the Board of Directors of Cambridge and North Dumfries Energy Plus Inc., arising from their meeting of August 17th, 2021, be received;

4. AND THAT the forms of Merger Participation Agreement and Unanimous Shareholders Agreement, copies of which have been provided to the SSAC, that would facilitate the Mergers be endorsed, subject to any minor revisions as required by the City Manager of Cambridge, the Chief Administrative Officer of the Township of North Dumfries or legal counsel;

5. AND THAT the SSAC recommend to the Joint Councils of the City of Cambridge and the Township of North Dumfries (the shareholders) that the proposed Mergers be pursued as the completion of these transactions will strengthen the new utility corporation in the marketplace and the financial and legal terms of the Mergers are fair and equitable to the shareholders and the ratepayers and meet the objectives set out in the Memorandum of Understanding with respect to the Mergers dated December 15, 2020;

6. AND THAT this Resolution be forward to the Joint Councils of the City of Cambridge and the Township of North Dumfries in their capacity as the Shareholders of Cambridge and North Dumfries Energy Plus Inc.

3.6 Next Steps / Timeline

Staff are of the opinion that City and the Township as shareholders of Energy Plus are at decision milestone point as it relates to the proposed merger. Extensive work has been undertaken over the past year assessing the merits of the proposal.
In this context there are several further steps associated with the process that the Joint Councils should understand. An overview summary of the key outstanding milestones is as follows:

<table>
<thead>
<tr>
<th>Date</th>
<th>Event Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>August 30th</td>
<td>Decision required or further direction to be provided to Staff as it relates to the approval of the MPA and the USA (subject to minor amendments).</td>
</tr>
<tr>
<td>August 30th</td>
<td>City of Brantford Council to meet and determine their next steps, including potentially ratification of the MPA and USA (subject to minor modifications).</td>
</tr>
<tr>
<td>August 31st</td>
<td>Subject to all three Municipal shareholders rendering a favourable decision, the MPA would be executed.</td>
</tr>
<tr>
<td>Early September</td>
<td>MAADs Application filed with the OEB in support of the merger.</td>
</tr>
<tr>
<td>Late 2021 / Early 2022</td>
<td>Projected timeline for an OEB decision on the merger.</td>
</tr>
<tr>
<td>January 1, 2022 or April 1, 2022</td>
<td>Amalgamation / Closing of the merger.</td>
</tr>
<tr>
<td>3 to 4 months post closing</td>
<td>Post-Closing Adjustments and final audit.</td>
</tr>
</tbody>
</table>

The City Manager and the Township Chief Administrative Officer are recommending the proposed merger to the respective Councils in their capacity as the shareholders to Energy Plus. This position is being stated in the context of the extensive technical work completed related to due diligence, legal review, financial opportunities, and, stability in the marketplace that would arise through the proposed merger. Staff believe that the proposed merger represents a sound business transaction and that the interests of the two Municipalities as shareholders in the new merged utility corporation have been protected.

5. **ATTACHMENTS**

1. Briefing Document, John Rockx, KPMG
2. Briefing Document, Ron Clark, Aird & Berlis and Draft Merger Participation Agreement
3. Aird & Berlis and Draft Unanimous Shareholders Agreement & Shared Services Agreement
4. Overview Presentation – Community Engagement Strategy

For further information on the contents of this Report, please contact David Calder, City Manager, City of Cambridge, via email at calderd@cambridge.ca and Andrew McNeely, Chief Administrative Officer, Township of North Dumfries, via email at amcneely@northdumfries.ca

Report Prepared By & Respectfully Submitted,

Andrew McNeely,
Chief Administrative Officer
Township of North Dumfries

David Calder,
City Manager
City of Cambridge
Project Phoenix

Joint Presentation to the Municipal Councils of the City of Cambridge and the Township of North Dumfries

Independent Peer Review of Financial Matters

August 30, 2021
Limitations

This report has been provided in accordance with the terms of our engagement letter dated February 27, 2020 (the “Engagement Letter”) wherein KPMG LLP (“KPMG”) was engaged by Aird & Berlis LLP (“Aird & Berlis”) on behalf of the Corporation of the City of Cambridge and the Township of North Dumfries (collectively the “Municipalities”) to conduct an independent peer review of the financial aspects of the Merger Business Case for Project Phoenix, the proposed merger of Cambridge and North Dumfries Energy Plus Inc. (“CND Energy Plus”) and Brantford Energy Corporation (“BEC”), collectively, the “Merging Companies”. This report is subject to the terms and conditions contained in the Engagement Letter and the qualifications and restrictions described herein.

In preparing this report, KPMG has necessarily relied upon financial and other information supplied to us by Grant Thornton LLP (“GT”) and management of the Merging Companies. KPMG has not independently verified the accuracy or completeness of the information or conducted an audit, nor are we providing any other form of assurance. The procedures we performed do not constitute an audit, examination, or review in accordance with the standards established by the Chartered Professional Accountants of Canada (“CPA Canada”), and we have not otherwise verified the information we obtained or presented in this report.

This report is provided as of the date hereof and KPMG disclaims any undertaking or obligation to advise any person of any change in any fact or matter affecting the information provided in this report that may come or be brought to KPMG’s attention after the date hereof. Without limiting the foregoing, in the event that there is a material change in any fact or matter affecting the content of this report after the date hereof, KPMG reserves the right to change, modify, or withdraw this report.

This report, together with all attachments, has been provided solely for the exclusive use of Aird & Berlis and the Municipalities and may not be used or relied upon by any other party. Neither KPMG, its affiliates, nor its respective partners, directors, officers, employees, counsel or agents will have any liability to Aird & Berlis and the Municipal Shareholders, their directors and partners, or to any other parties resulting from the use of this report by them in making any decisions in respect of Project Phoenix.

This report is private and confidential and is not intended for general circulation or publication, nor is it to be reproduced or used for any purpose, other than to assist the Municipalities with the specific matters discussed herein, without our prior written permission in each specific instance. We will not assume any responsibility or liability for damages or losses incurred by Aird & Berlis and/or the Municipal Shareholders, their respective partners, officers, directors or councillors, or by any other parties as a result of the circulation, publication, reproduction or use of this report contrary to the provisions outlined herein. Any use which a party makes of this report, or any reliance on or decisions to be based on it, are the responsibility of such party. KPMG does not accept any responsibility for damages, if any, suffered by any party as a result of decisions made or actions taken based on the contents of this report.
Agenda

1. Overview of Proposed Merger
2. Existing Ownership Structure
3. Merger Service Area
4. Merger Financial Model and Relative Valuations
5. Review of Operating Synergies
6. Projected Municipal Dividends
7. Impact on Customer Rates
8. Conclusions
Overview of Proposed Merger

Overview of the Proposed Merger

Key elements of the Proposed Merger include:

- **Target closing date of January 1, 2022** (although may close later in 2022 – April 1 or July 1, 2022)
- **59.00% ownership** in MergeCo to CND Energy Plus shareholders
  - 54.339% City of Cambridge (retains majority control); and,
  - 4.661% Township of North Dumfries
- Ownership ratio is after the conversion of the City of Brantford’s $25.5 million promissory notes into equity of MergeCo. In the MPA, 50% of the $24.2 million (i.e. $12.1 million) of converted City of Brantford promissory notes will be paid to the municipal shareholders over ten years as “additional” dividends.
- **Projected total pre-tax operating synergies of $30.1 million** that to be realized by MergeCo LDC during the first ten years of the Proposed Merger
- **Increased dividends of $20.1 million** to CND Energy Plus shareholders over the 10 year Sit Out period
- The continuation of the existing $3.02 million promissory note payable to the Township of North Dumfries
- **A reduction in the local distribution rates paid by the ratepayers of MergeCo LDC after ten years, once MergeCo LDC’s operational synergies are incorporated into harmonized rates for 2032 and beyond**
- **Increased scope and scale of both regulated and non-regulated operations**
  - **MergeCo includes Brantford Hydro Inc. (fibre and rental water heater business) and part of the 150 Savannah Oaks property**
- The Proposed Merger is consistent with the trend towards consolidation in the Ontario LDC sector
Existing Corporate Ownership Structure - CND Energy Plus

The current pre-merger corporate ownership structure of CND Energy Plus is presented below:

**Energy+ Inc. (LDC)**
- 66,521 customers
- 11th largest LDC in Ontario
- 562 km² total service territory
- 104 km² urban service territory
- Represents 99% of total value

**Cambridge and North Dumfries Energy Solutions Inc.**
- Streetlight maintenance company

**Grand River Energy Solutions Corporation (33.3% interest)**
- Equally owned with Kitchener Power Corp. and Waterloo North Hydro Holding Corp.
- Engaged in non-regulated power generation and renewable energy solutions projects

Source: CND Energy Plus
Existing Corporate Ownership Structure - Brantford Energy Corp.

The current pre-merger corporate ownership structure of BEC is presented below:

**Brantford Power Inc. (LDC)**
- 40,124 customers
- 20th largest LDC in Ontario
- 74 km² total service territory
- 74 km² urban service territory
- Represents over 90% of total value

**Brantford Hydro Inc.**
- Fibre-optic connectivity and related services (Net Optiks)
- Rental of water heaters, water treatment systems and other home comfort systems (Enersure)
- Customers located primarily in Brantford

Legend:
- Shareholder
- Holding Company
- Operating Company

Source: BEC
MergeCo LDC Service Area

A map of the combined service area of MergeCo LDC is presented below:

Energy+’s Service Area

- Energy+’s licensed service area comprises the City of Cambridge, the Township of North Dumfries, and parts of Brant County, including some areas that have recently been annexed by the City of Brantford.
- The service area of Energy+ completely encircles the City of Brantford.

BPI’s Service Area

- BPI’s licensed service area includes most of the City of Brantford, but excludes a portion of municipal area that was recently annexed from Brant County that is serviced by Energy+.
Overview of Proposed Merger - Number of Customers

The Proposed Merger of Energy+ and BPI into MergeCo LDC would create the seventh largest LDC in Ontario based on the number of customers at December 31, 2019, as presented below:

<table>
<thead>
<tr>
<th>Ontario LDCs by Number of Customers - December 31, 2019</th>
<th>Number of Customers</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rank</td>
<td>Entity Name</td>
<td>Number of Customers</td>
</tr>
<tr>
<td>1</td>
<td>Hydro One Networks Inc.</td>
<td>1,343,959</td>
</tr>
<tr>
<td>2</td>
<td>Alelecta Utilities Corporation</td>
<td>1,054,513</td>
</tr>
<tr>
<td>3</td>
<td>Toronto Hydro Electric System Limited</td>
<td>777,304</td>
</tr>
<tr>
<td>4</td>
<td>Hydro Ottawa Limited</td>
<td>339,771</td>
</tr>
<tr>
<td>5</td>
<td>Exelciron Energy Inc.</td>
<td>167,353</td>
</tr>
<tr>
<td>6</td>
<td>London Hydro Inc.</td>
<td>160,398</td>
</tr>
<tr>
<td>7</td>
<td>Merge Co (Energy+ Inc. + Brantford Power Inc.)</td>
<td>106,345</td>
</tr>
<tr>
<td>7</td>
<td>Kitchener-Wilmot Hydro Inc.</td>
<td>97,395</td>
</tr>
<tr>
<td>8</td>
<td>EnWin Utilities Ltd.</td>
<td>89,361</td>
</tr>
<tr>
<td>9</td>
<td>Oakville Hydro Electricity Distribution Inc.</td>
<td>73,133</td>
</tr>
<tr>
<td>10</td>
<td>Burlington Hydro Inc.</td>
<td>68,205</td>
</tr>
<tr>
<td>11</td>
<td>Energy+ Inc. (Cambridge / North Dumfries / Brant County)</td>
<td>66,521</td>
</tr>
<tr>
<td>12</td>
<td>Entegus Powerlines Inc.</td>
<td>59,310</td>
</tr>
<tr>
<td>13</td>
<td>Oshawa PUC Networks Inc.</td>
<td>59,183</td>
</tr>
<tr>
<td>14</td>
<td>Waterloo North Hydro Inc.</td>
<td>57,355</td>
</tr>
<tr>
<td>15</td>
<td>Synergy North Corporation (Thunder Bay and Kenora)</td>
<td>56,700</td>
</tr>
<tr>
<td>16</td>
<td>Niagara Peninsula Energy Inc.</td>
<td>56,367</td>
</tr>
<tr>
<td>17</td>
<td>Greater Sudbury Hydro Inc.</td>
<td>47,725</td>
</tr>
<tr>
<td>18</td>
<td>Newmarket-Tay Power Distribution Ltd.</td>
<td>43,331</td>
</tr>
<tr>
<td>19</td>
<td>Milton Hydro Distribution Inc.</td>
<td>40,388</td>
</tr>
<tr>
<td>20</td>
<td>Brantford Power Inc.</td>
<td>40,124</td>
</tr>
<tr>
<td>21</td>
<td>Peterborough Distribution Incorporated (sold in 2020)</td>
<td>37,250</td>
</tr>
<tr>
<td>22</td>
<td>Bluewater Power Distribution Corporation</td>
<td>36,743</td>
</tr>
<tr>
<td>23</td>
<td>PUC Distribution Inc.</td>
<td>33,547</td>
</tr>
<tr>
<td>24</td>
<td>Essex Powerlines Corporation</td>
<td>30,393</td>
</tr>
<tr>
<td></td>
<td>All other</td>
<td>413,723</td>
</tr>
<tr>
<td></td>
<td>Total (excluding MergeCo)</td>
<td>5,253,152</td>
</tr>
</tbody>
</table>

Source: OEB 2019 Yearbook of Electricity Distributors.

Energy+ is currently the 11th largest LDC in Ontario in terms of number of customers, whereas BPI is ranked as the 20th largest LDC in terms of number of customers.
Relative Valuation - Projected Ownership Structure

Overview of the Proposed Merger

The share ownership structure of MergeCo pursuant to the Proposed Merger would be as follows (*):

**MergeCo**
- Creates the 7th largest LDC in Ontario.
- MergeCo ownership of 59.0% for CND Energy Plus shareholders and 41.0% for the City of Brantford.
- Ownership percentages are after the conversion of $25.5 million of City of Brantford promissory notes into equity of MergeCo.
- City of Cambridge has a controlling interest.
- Ownership ratios determined through valuation models prepared by Grant Thornton.
- Values were calculated as at December 31, 2020.
- Over 94% of the total share value of MergeCo is derived from the two LDCs.
- Determined using a future-oriented discounted cash flow approach.
- The fixed ownership ratios incorporate the higher future growth prospects of the Energy+ service area relative to BPI.

(*) Closing adjustments for financial changes between January 1, 2021 and the closing date of the Proposed Merger will be captured through a separate calculation outlined in the MPA.
Merger Financial Model

- Grant Thornton, with the assistance of Senior Management of Energy+ and BPI, created a Merger Financial Model that projects the financial results of both the Energy Plus Group and the BEC Group for a period of approximately 15 years. The Merger Financial Model was used to determine:
  - The relative 59% / 41% equity ownership interest in MergeCo that will be held by the CND Energy Plus shareholders and the BEC shareholders, respectively,
    - the relative equity valuations were determined as at December 31, 2020,
    - the valuation of the equity of the CND Energy Plus Group includes the value of Energy+ (LDC) and its non-regulated affiliates,
    - the valuation of the BEC Group includes Brantford Power and its non-regulated affiliate and incorporates the conversion of the City of Brantford’s existing promissory notes into equity just prior to closing,
    - over 94% of total value is derived from the value of the two LDCs,
    - the valuation of the BEC Group excludes the value of two non-core properties (e.g. a portion of the Savannah Oaks property, the Empey property) that will be extracted by the City of Brantford prior to closing; and,
    - the relative equity valuations incorporate other matters including projected growth rates, existing debt levels, redundant assets etc.
  - The estimated operating synergies to be generated from the Proposed Merger,
  - The estimated impact on the future dividends paid to the municipal shareholders,
  - The estimated impact on customer distribution rates, and,
  - The impact of the merger on other key performance indicators.
Excluded Assets - 130-150 Savannah Oaks Drive, Brantford

Analysis – Savannah Oaks Property

BPI owns a large property located at 130-150 Savannah Oaks Drive in Brantford, situated along Highway 403, that was acquired in 2019. In the context of the Proposed Merger, this property has been divided into two segments as follows:

1. **Retained Portion** - that will be used for MergeCo’s active operations, including some excess building capacity that can be used for internal growth and/or rental to third parties.
   - This portion of the property was included in the valuation of BPI.

2. **Non-Core Land**
   - The City of Brantford will sever and sell/extract approximately 27.4 acres of surplus land from the Savannah Oaks property before the merger.
   - The value of this excess land is not included in the valuation of BPI in the Merger Financial Model.
   - A second smaller property (Empey property) will also be extracted by the City of Brantford before closing.
Timeline - Key Dates for Project Phoenix

A summary of key dates in the Proposed Merger is presented below, along with current OEB-approved rates of return on invested capital for Energy+ and BPI:

<table>
<thead>
<tr>
<th>Year</th>
<th>BPI Rates of Return</th>
<th>Energy+ Rates of Return</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017</td>
<td>3.72%</td>
<td>4.16%</td>
</tr>
<tr>
<td>2018</td>
<td>4.16%</td>
<td>4.13%</td>
</tr>
<tr>
<td>2019</td>
<td>4.13%</td>
<td>3.21%</td>
</tr>
<tr>
<td>2020</td>
<td>3.21%</td>
<td>2.85%</td>
</tr>
<tr>
<td>2021</td>
<td>2.85%</td>
<td>1.75%</td>
</tr>
<tr>
<td>2022</td>
<td>1.75%</td>
<td>1.75%</td>
</tr>
<tr>
<td>2023</td>
<td>1.75%</td>
<td>1.75%</td>
</tr>
<tr>
<td>2024</td>
<td>1.75%</td>
<td>1.75%</td>
</tr>
<tr>
<td>2025</td>
<td>1.75%</td>
<td>1.75%</td>
</tr>
<tr>
<td>2026</td>
<td>1.75%</td>
<td>1.75%</td>
</tr>
<tr>
<td>2027</td>
<td>1.75%</td>
<td>1.75%</td>
</tr>
<tr>
<td>2028</td>
<td>1.75%</td>
<td>1.75%</td>
</tr>
<tr>
<td>2029</td>
<td>1.75%</td>
<td>1.75%</td>
</tr>
<tr>
<td>2030</td>
<td>1.75%</td>
<td>1.75%</td>
</tr>
<tr>
<td>2031</td>
<td>1.75%</td>
<td>1.75%</td>
</tr>
<tr>
<td>2032</td>
<td>1.75%</td>
<td>1.75%</td>
</tr>
</tbody>
</table>

Current rebasing
Rebasing if no merger
Rebasing if merged
Rate filing cost of capital

Source: OEB filings

BPI is in the process of applying for new distribution rates through the OEB that will begin on or about January 1, 2022.
Review of Operating Synergies

Operating Synergies Summary

- **The Proposed Merger of Energy+ and BPI is projected to generate annual savings of $3.2 million (*) per annum once fully implemented, and $30.1 million of pre-tax net synergies over the first ten years of the merger.**

- **Annual synergies represent approximately 10% of the combined OM&A costs of the two LDCs in 2020.**

- These net savings would be shared primarily by the municipal shareholders of MergeCo during the first ten years of the merger, **and would solely benefit the ratepayers of MergeCo LDC after the ten year Sit Out Period through lower rates.**

- The pace of realizing full operating synergies is projected to take up to three years, which is considered to be reasonable.

- There are additional potential savings in capital spending (i.e. no duplicate purchases of future information technology systems, the sharing of specialized fleet vehicles) and potential reductions in working capital balances (e.g. reduction in combined inventory levels). These potential savings represent additional financial synergistic benefits of the Proposed Merger.

- If the Proposed Merger proceeds, Management will need to carefully implement and manage the proposed integration process in order to achieve projected operating synergies.

(*) Projected annual operating synergies in calendar 2020 before annual inflationary adjustments.
Projected Municipal Dividends - Incremental Dividends

The GT Financial Model projects that Cambridge and North Dumfries would receive an estimated $20.1 million of incremental dividends over the ten year Sit Out Period, comprised as follows:

**Synergy Dividends ($7.9 million to Energy+)**

- Represent the portion of projected operating synergies that would be paid to MergeCo’s shareholders as dividends (i.e., at 50% of total after-tax synergies).
- These dividends will stop after ten years.

**Special Dividends ($7.1 million to Energy+)**

- These dividends represent CND Energy Plus’s 59% ownership interest in 50% of BPI’s converted $24.2 million promissory note.
- Distributed to MergeCo’s shareholders over the first ten years of the merger at $1.21 million per year and then discontinues.

**Other Dividends ($5.1 million to Energy+)**

- Represent increased dividends as calculated by the GT Financial Model arising from:
  - assumed re-investment of MergeCo’s excess cash balances in new investments at estimated rates of return; and,
  - other projected incremental earnings of MergeCo.

<table>
<thead>
<tr>
<th>Dividend Stream</th>
<th>MergeCo 100%</th>
<th>Energy+ 59%</th>
</tr>
</thead>
<tbody>
<tr>
<td>In $000’s</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Synergies</td>
<td>$13,322</td>
<td>7,860</td>
</tr>
<tr>
<td>Special dividends</td>
<td>12,095</td>
<td>7,136</td>
</tr>
<tr>
<td>Other</td>
<td>5,056</td>
<td></td>
</tr>
<tr>
<td><strong>Increase in Energy+ dividends</strong></td>
<td><strong>$20,052</strong></td>
<td></td>
</tr>
</tbody>
</table>

Source: Merger Business Case Projections V7.2
Projected Municipal Dividends

Dividends Summary

- Cambridge and North Dumfries would participate in 59.0% of the operating synergies that are expected to be generated from the Proposed Merger during the first ten years of the Proposed Merger. This will result in higher dividends than under the stand-alone scenario for CND Energy Plus. After ten years, 100% of the economic benefit of operating synergies will flow to the benefit of MergeCo LDC’s ratepayers.

- The conversion of the City of Brantford’s promissory notes into equity will allow MergeCo to pay special dividends of $12.1 million (i.e. 50% of the $24.2 million promissory note in BPI) to shareholders during the Sit Out Period.

- In the long-term (i.e., after 2031 and the flow-through of merger cost savings to the ratepayers of MergeCo LDC), CND Energy Plus’s shareholders are projected to have no meaningful change in dividend payments under the merger scenario compared to the stand-alone scenario.

- The net income of MergeCo should be more stable than the net income of CND Energy Plus / Energy+ on a stand-alone basis due to the larger size, broader geographical footprint, and reduced risk profile of MergeCo.

- The borrowing capacity of MergeCo will be higher than that of CND Energy Plus / Energy+ on a stand-alone basis due to the larger size of MergeCo and the conversion of $25.5 million of City of Brantford promissory notes into equity.
MPA Roll-forward Mechanism

Overview

- The relative share ownership positions in MergeCo (59% / 41%) were negotiated between the parties based on calculations contained in Grant Thornton’s Merger Financial Model V7.2.

- The relative share ownership percentages in MergeCo were calculated as at December 31, 2020 and will not be adjusted, whereas the target merger date is January 1, 2022 (or later in 2022).

- Changes that occur in the values of both the CND Energy Plus Group and the BEC Group between December 31, 2020 and the actual closing date (i.e. sometime in 2022) are not captured in the December 31, 2020 valuations.

- A roll-forward mechanism in the Merger Participation Agreement (“MPA”) was designed to capture any changes in relative financial value between January 1, 2021 and the actual closing date of the Merger. The net difference (“Net Adjustment Amount”) in the interim period financial value contributions to MergeCo will be paid by MergeCo after closing to one of the two municipal shareholder groups as a special one-time payment.
Impact on Customer Distribution Rates

Overview

A summary of the projected average monthly distribution costs to ratepayers of both Energy+ and BPI under MergeCo LDC is presented in the table below. These amounts are derived from the Merger Financial Model.

<table>
<thead>
<tr>
<th>Rate harmonization - Average monthly distribution charges per customer ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
</tr>
<tr>
<td>------</td>
</tr>
<tr>
<td>35.00</td>
</tr>
</tbody>
</table>

Ten Year Sit Out Period

Harmonization: 2032

Source: Merger Business Case

As noted above, under the Proposed Merger scenario, the average annual distribution rates per customer of both Energy+ and BPI are projected to increase by annual inflation-based increases from 2023 to 2031. The distribution rates of both LDCs will decrease in 2032 when the rates of MergeCo LDC are harmonized and 100% of the benefit of merger operating synergies flows through to ratepayers.
Impact on Customer Rates

Customer Rates Summary

- Based upon the documents reviewed and GT’s Merger Financial Model V7.2, the Proposed Merger will result in lower distribution rates for the ratepayers of Energy+ and BPI in the long-term compared to the stand-alone scenario. **Two separate rate zones (i.e., Energy+ and BPI) will continue during the initial ten year Sit Out Period, with customers receiving annual inflation-based increases to distribution rates over this period.** However, for the period after ten years, lower customer rates would result from the harmonization of MergeCo LDC’s local distribution rates and from the allocation of annual merger-related operating synergies to the sole benefit of the ratepayers of MergeCo LDC.

- We note that **local distribution rates represent only 20% to 30% of the total residential hydro bill**, and that MergeCo LDC has no control over the remaining 70% to 80% of the total hydro bill (which represents flow-through energy, transmission and regulatory costs).

- The OEB’s “no harms” test will review the terms of the Proposed Merger to ensure that no stakeholders, primarily the ratepayers of Energy+ and BPI, **are harmed through higher distribution rates or reduced customer service levels** as a result of the Proposed Merger.

- We also note that further refinement of the customer rate strategy for the Proposed Merger will continue to be performed by Management of MergeCo LDC to reflect normal course industry changes and other adjustments in rate design and cost allocations between customer classes.
## Conclusions - Analysis of Pros and Cons (1)

<table>
<thead>
<tr>
<th>Pros</th>
<th>Cons</th>
</tr>
</thead>
<tbody>
<tr>
<td>The City of Cambridge and the Township of North Dumfries will continue to have an ownership interest in an LDC – albeit a 59.0% share interest in a larger merged LDC. The City of Cambridge will continue to retain a majority interest (54.34%) in the shares of MergeCo.</td>
<td>The Municipalities will have diminished influence and control over MergeCo, and reduced governance responsibilities.</td>
</tr>
<tr>
<td>Projected incremental dividends of approximately $20.1 million would be received by the Municipalities through the realization of operating synergies and the payment of $12.1 million of special dividends during the ten year Sit Out Period. Net income and dividends should become more stable over time due to the larger size and reduced risk of MergeCo.</td>
<td>Reduced control and flexibility over the amount of dividend distributions paid to the Municipalities due to the harmonization of the dividend policy of MergeCo.</td>
</tr>
<tr>
<td>Projected pre-tax merger synergies of $30.1 million would flow to the municipal shareholders of MergeCo during the first ten years after the merger. The benefit of these savings will reduce customer rates after the initial 10-year Sit Out period.</td>
<td>The increased size of MergeCo may further limit the number of potential municipally-owned purchasers should the municipal shareholders decide to sell MergeCo at a future date. This could result in increased transfer taxes and departure taxes if an exit strategy is contemplated in the future.</td>
</tr>
<tr>
<td>The Proposed Merger may result in additional transaction potential due to the larger regional footprint and reduced influence by any one municipality.</td>
<td>Reduced ability to unilaterally control the timing of a sale of the LDC, if so desired in the future.</td>
</tr>
<tr>
<td>Significant customer base of approximately 107,000 customers. The Proposed Merger would create the 7th largest LDC in Ontario, and would make MergeCo better positioned to take advantage of economies of scale and scope.</td>
<td></td>
</tr>
</tbody>
</table>
Conclusions - Analysis of Pros and Cons (2)

<table>
<thead>
<tr>
<th>Pros</th>
<th>Cons</th>
</tr>
</thead>
<tbody>
<tr>
<td>The merger is projected to result in lower long-term distribution rates for both Energy+ and BPI ratepayers when rates are harmonized in 2032 and 100% of operating synergies are allocated to MergeCo LDC’s customers.</td>
<td>Some risk / upside exists over the amount of rate increase that the OEB will approve for BPI’s 2022 distribution rates.</td>
</tr>
<tr>
<td>A merger is consistent with the voluntary merger policy of the Government of Ontario.</td>
<td>Potential challenges associated with cultural integration and alignment.</td>
</tr>
<tr>
<td>The two LDCs have contiguous service areas that should provide greater opportunities for generating operating cost savings.</td>
<td></td>
</tr>
<tr>
<td>The scale and scope of the merged entity would likely mitigate a number of operational and human resources issues.</td>
<td></td>
</tr>
<tr>
<td>The merger should enhance the low-cost profile of the merging LDCs, mitigating cost pressures post-merger, potentially producing regional economic development benefits.</td>
<td></td>
</tr>
<tr>
<td>Customer service and reliability metrics are likely to be maintained or improved post-merger.</td>
<td></td>
</tr>
<tr>
<td>The merger would result in the indirect acquisition of a 59.0% ownership interest in BEC’s non-regulated business operations (i.e., BHI and the non-regulated portion of the Savannah Oaks property). MergeCo may provide the ability to better pursue other non-regulated business opportunities.</td>
<td></td>
</tr>
</tbody>
</table>
Project Phoenix: Key Legal Agreements

Presentation to Joint Council Meeting
City of Cambridge
Township of North Dumfries

Ron Clark
Partner, Energy Group
Aird & Berlis

August 30, 2021
Transaction Structure – Pre-Closing Organizational Charts

City of Cambridge 92.1%

Township of North Dumfries 7.9%

Cambridge and North Dumfries Energy Plus Inc.

Energy + Inc. (regulated entity)

Cambridge & North Dumfries Energy Solutions Inc.

Grand River Energy

City of Brantford 100%

Brantford Energy Corporation

Brantford Power Inc. (regulated entity)

Brantford Hydro Inc.

Streetlight maintenance services

NetOptiks and Enersure lines of business
Transaction Structure – Post-Closing Organizational Chart

City of Cambridge
54.339%

Township of North Dumfries
4.661%
(C&AD together equal 59%)

City of Brantford
41.00%

Merged Holdco

Merged LDC (regulated entity)

Cambridge and North Dumfries Energy Solution Inc.
33.3%

Brantford Hydro Inc.

Grand River Energy

NetOptiks and Enersure lines of business
Merger Participation Agreement

- All municipalities, Holdcos and LDCs are party to the agreement
- Creates obligations to:
  - Implement amalgamation (subject primarily to OEB approval)
  - Divides ownership on 59%/41% basis
  - Provides for special dividends to implement post-closing adjustments
  - Execute Unanimous Shareholder Agreement on Closing
  - Execute Shared Services Agreement on Closing
  - Execute Amalgamation Agreement on Closing
MPA: Valuation and Post-Closing Adjustments

- Share percentages to be set out in Merger Participation Agreement
  - Based on audited financial statements, financial model and other factors negotiated between the parties
- Adjustment mechanism for differences between current financial position of parties and financial position at Closing
- C&ND or Brantford compensated by special dividends for net differences between targets and actual financial situation
- Compensation is in form of cash dividends, not adjustment in share percentage
MPA: Representations and Warranties

- Representations and indemnification by respective municipal shareholders (since E+ and BEC will be merged)
- Deal with:
  - Cybersecurity issues/Privacy
  - Employment matters
  - Litigation
  - Regulatory approvals
  - Corporate matters
  - Financial information
  - Tax matters
  - Assets and Real Property
  - Material Contracts
  - Environmental Liabilities
MPA: Indemnification Limits

- Limitations on Indemnification by Municipal Shareholders
  - Limit: $15m
  - Deductible: $250,000 min. aggregate claims
- Cambridge and North Dumfries grouped together
MPA: Covenants

- For Interim Period between MPA date and Closing/Amalgamation
- Includes the following:
  - Conduct business in the ordinary course/not make any major changes
  - Use commercially reasonable efforts to satisfy closing conditions
  - Allow access for due diligence purposes
  - Confidentiality and public statements/press releases
  - Declare and pay dividends consistent with previous practice
  - Ensure no additional equity issuances prior to closing
MPA: Closing Conditions

- To be met before amalgamation takes place:
  - Representations/warranties remain true
  - Parties have complied with all obligations, covenants and agreements
  - No material adverse effects since signing of MPA
  - MAADs approval
  - Competition Bureau “No-Action” Letter
  - Third party consents have been obtained
  - No transfer tax
  - No order of any Governmental Authority in force and no action or proceedings pending or threatened

- Parties can terminate if any closing condition not met (by other party or third party)

- **NB: Very unlikely that any event would occur to prevent Closing**
Unanimous Shareholder Agreement - Overview

- Both a contract and a governance document
- Governs relationships:
  - between shareholders
  - between shareholders and corporation
  - between shareholders and subsidiary corporations
Terms of USA: Governance

- Decision making:
  - Generally, simple majority vote of the directors
  - Generally, matters to be approved by shareholders to be decided by simple majority
  - Extensive list of fundamental matters required to be decided by two-thirds of votes
Terms of USA: Governance

• Holdco Board Composition
  - 10 directors.
    • the 3 mayors or their alternates
    • 7 independents
      o 4 of which will initially be current Chairs of BEC and BHI, Chair and Vice-Chair of CND Holdco
      o Nominating Committee proposes slate of independents
      o If Brantford or Cambridge do not approve the slate, Brantford would appoint 3 independents and Cambridge 4 independents
Terms of USA: Governance

- LDC Board Composition
  - 11 directors
  - At least 4 independent directors (not Holdco directors)
  - Remaining directors to be comprised of the 7 members of the Holdco Board who are **not** the Mayors (or Mayors’ Alternates)

- Unregulated Affiliate Board Composition (BHI and E+ Solutions)
  - 5 directors to be appointed by Holdco Board
    - 3 directors who are members of the Holdco Board and are **not** the Mayors or Mayor’s Alternates
    - 2 independent directors who do not serve on the Holdco Board or LDC Board
Terms of USA re Share Transfers

- Pre-emptive rights: if new shares will be issued, each municipal shareholder may purchase its proportionate interest
- General restriction on transfer of shares for 30 months
- Right of first refusal: if a shareholder wishes to sell to a third party, each other shareholder may purchase their proportionate share
- Piggyback rights: if right of first refusal not exercised, each other shareholder may require the third party to include the other shareholder’s shares in the sale
Terms of USA re Share Transfers

- Drag-along rights: if a potential purchaser wishes to purchase all of the shares of the holding corporation, then Cambridge may require North Dumfries to sell all of its shares to the potential purchaser.
- North Dumfries put right: ND to maintain its existing right whereby, if a shareholder decision requiring two-thirds approval is approved notwithstanding ND's negative vote, ND may require Cambridge to purchase all of ND's shares at fair market value.
Terms of USA

- Dividend Policy
  - Target dividend is:
    - 50% of Net Income
  plus
  - For initial 10 years, 50% of proceeds BPI debt redemption
Shared Services and Obligations Agreement

• Amends existing Shared Services Agreement under which Brantford provides services to BPI
• Brantford will provide services to LDC Mergeco
• Right to terminate agreement after one year (on 18 months notice)
• Continues arrangement whereby certain benefits provided by BPI to former Brantford HEC employees
  - Brantford to pay percentage of benefits
Timeline

• NOW:
  - Approval of MPA, USA and SSA Brantford Council meeting – also August 30

• MPA Execution – Shortly following Council approval

• MAADs Application – Early September

• MAADs approval by OEB – late 2021/early 2022

• Amalgamation/Closing – January 1, 2022 or April 1, 2022

• Post-Closing Adjustments – 3 or 4 months post-Closing
MERGER PARTICIPATION AGREEMENT

BETWEEN

THE CORPORATION OF THE CITY OF BRANTFORD

– and –

THE CORPORATION OF THE CITY OF CAMBRIDGE

– and –

THE CORPORATION OF THE TOWNSHIP OF NORTH DUMFRIES

– and –

BRANTFORD ENERGY CORPORATION

– and –

CAMBRIDGE AND NORTH DUMFRIES ENERGY PLUS INC.

– and –

BRANTFORD POWER INC.

– and –

ENERGY+ INC.

– and –

CAMBRIDGE AND NORTH DUMFRIES ENERGY SOLUTIONS INC.

– and –

BRANTFORD HYDRO INC.

[●], 2021
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MERGER PARTICIPATION AGREEMENT

THIS AGREEMENT is dated as of [●], 2021

BETWEEN:

THE CORPORATION OF THE CITY OF BRANTFORD, a municipal corporation incorporated under the laws of Ontario

(“Brantford”)

– and –

THE CORPORATION OF THE CITY OF CAMBRIDGE, a municipal corporation incorporated under the laws of Ontario

(“Cambridge”)

– and –

THE CORPORATION OF THE TOWNSHIP OF NORTH DUMFRIES, a municipal corporation incorporated under the laws of Ontario

(“North Dumfries”)

– and –

BRANTFORD ENERGY CORPORATION, a corporation incorporated under the laws of Ontario

(“BEC”)

– and –

CAMBRIDGE AND NORTH DUMFRIES ENERGY PLUS INC., a corporation incorporated under the laws of Ontario

(“Energy Plus Holdings”)

– and –

BRANTFORD POWER INC., a corporation incorporated under the laws of Ontario

(“BPI”)

– and –
BRANTFORD HYDRO INC., a corporation incorporated under the laws of Ontario

(“BHI”)

– and –

ENERGY+ INC., a corporation incorporated under the laws of Ontario

(“Energy+”)

– and –

CAMBRIDGE AND NORTH DUMFRIES ENERGY SOLUTIONS INC., a corporation incorporated under the laws of Ontario

(“Energy Plus Solutions”)

RECITALS:

A. Cambridge, North Dumfries, Brantford, BEC and Energy Plus Holdings are party to a memorandum of understanding dated December 15, 2020 (the “MOU”) and a confidentiality agreement dated December 15, 2020 (the “Confidentiality Agreement”) in connection with the transactions contemplated by this Agreement.

B. BPI is licensed by the OEB to distribute electricity in Ontario.

C. Energy+ is licensed by the OEB to distribute electricity in Ontario.

D. Brantford is the beneficial and registered owner of all of the issued and outstanding shares in the capital of BEC.

E. Cambridge is the beneficial and registered owner of 92.1% of the issued and outstanding shares in the capital of Energy Plus Holdings and North Dumfries is the beneficial and registered owner of 7.9% of the issued and outstanding shares in the capital of Energy Plus Holdings.

F. BEC is the legal and beneficial owner of all the issued and outstanding shares in the capital of BPI and BHI.

G. Energy Plus Holdings is the legal and beneficial owner of all the issued and outstanding shares in the capital of Energy+ and Energy Plus Solutions.

H. The Parties wish to have BEC and Energy Plus Holdings amalgamate to form Amalco Holdco.

I. The Parties wish to have BPI and Energy+ amalgamate to form LDC Amalco.
NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

ARTICLE 1
INTERPRETATION

1.1 Definitions

In this Agreement (including the recitals, Schedules and Exhibit hereto), the following terms have the following meanings:

“Accounts Receivable” means the aggregate sum of all accounts receivable and other amounts due, owing or accruing due, including amounts due from Affiliates, net of an allowance for doubtful accounts calculated in accordance with IFRS.

“Adverse Determination” is defined in Section 9.3.

“Affiliate” has the meaning set forth in the OBCA.

“Affiliate Relationships Code” means the Affiliate Relationships Code for Electricity Distributors and Transmitters issued by the OEB as amended from time to time and any replacement code or directive;

“Agreement” means this merger participation agreement, including all Schedules and Exhibits, as it may be confirmed, amended, modified, supplemented or restated by written agreement between the Parties.

“Amalco Holdco” is defined in Section 2.1(a).

“Amalgamation Agreement” means the forms of amalgamation agreement to be entered into by the applicable Parties together with all other documents, instruments and certificates required under the OBCA to give effect to the Holdco Amalgamation and the LDC Amalgamation, respectively.

“Amalgamations” means the Holdco Amalgamation and the LDC Amalgamation.

“Anti-Spam Laws” means CASL, together with all other Laws that are applicable to each member of the BEC Group and the Energy Plus Group relating to the delivering, sending, sharing or transmitting Electronic Messages, and/or using Electronic Addresses;

“BEC” is defined in the preamble to this Agreement.

“BEC Business” means, (a) in the case of BEC, the business of serving as a holding company for all of the issued and outstanding shares in the capital of BPI and BHI, (b) in the case of BPI, the business of distributing electricity to third parties within the geographic boundaries as permitted by its OEB distribution license and related services and activities, and (c) in the case of BHI, the NetOptiks Business and the Enersure Business.

“BEC Environmental Approvals” is defined in Section 4.24(b).
"BEC Financial Statements" means the audited, consolidated balance sheet and audited, consolidated statement of income of BEC for the financial year ended December 31, 2020 including notes to the financial statements.

"BEC Group" means, collectively, BEC, BPI and BHI.

"BEC Group Adjustment Amount" is defined in Section 2.5(a).

"BEC Group Employees" means all personnel employed, engaged or retained by a member of the BEC Group in connection with the BEC Business, including any that are on medical or long-term disability leave, or other statutory or authorized leave or absence, but excluding independent contractors.

"BEC Group Systems" means all computer software, and computer hardware, servers, networks, platforms, peripherals, data communication lines and other information technology equipment and related systems that are owned or used by each member of the BEC Group in the conduct of the BEC Business.

"BEC Group Valuation Amount" means the numerical value set forth in cell E10 of the spreadsheet entitled "Closing Adjustment Calc" within the excel file named "Final Financial Model – Project Phoenix_August 13, 2021" prepared by Grant Thornton LLP.

"BHI" is defined in the preamble to this Agreement.

"BHI Financial Statements" means the audited balance sheet and audited statement of income of BHI for the financial year ended December 31, 2020 including notes to the financial statements.

"Books and Records" means the books, ledgers, files, lists, reports, plans, logs, deeds, surveys, correspondence, operating records, Tax Returns and other data and information, including all data and information stored on computer-related or other electronic media, maintained with respect to, as applicable, the BEC Business and the Energy Plus Business.

"BPI" is defined in the preamble to this Agreement.

"BPI Financial Statements" means the audited balance sheet and audited statement of income of BPI for the financial year ended December 31, 2020 including notes to the financial statements.

"BPI Shareholder Declaration" means the shareholder direction made by Brantford as sole shareholder of BEC in relation to BEC dated February 1, 2000, as amended.

"Brantford" is defined in the preamble to this Agreement.

"Brantford Closing Financial Statements" is defined in Section 2.4(a).

"Brantford Disclosure Schedule" is defined in Article 4.
"Brantford Failure" is defined in Section 8.3(b).

"Business Day" means any day excluding a Saturday, Sunday or statutory holiday in the Province of Ontario, and also excluding any day on which the principal chartered banks located in the City of Toronto are not open for business during normal banking hours.

"Cambridge" is defined in the preamble to this Agreement.

"CASL" means An Act to promote the efficiency and adaptability of the Canadian economy by regulating certain activities that discourage reliance on electronic means of carrying out commercial activities, and to amend the Canadian Radio-television and Telecommunications Commission Act, the Competition Act, the Personal Information Protection and Electronic Documents Act and the Telecommunications Act and all of its implementing regulations, as amended from time to time.

"Claim" means any claim, demand, action, cause of action, suit, arbitration, investigation, proceeding, complaint, grievance, charge, prosecution, assessment or reassessment, including any appeal or application for review.

"Class A Special Shares" means the non-voting, convertible, redeemable, Class A Special shares in the capital stock of Amalco Holdco.

"Class B Special Shares" means the non-voting, convertible, redeemable, Class B Special shares in the capital stock of Amalco Holdco.

"Class C Special Shares" means the non-voting, convertible, redeemable, Class C Special shares in the capital stock of Amalco Holdco.

"Class D Special Shares" means the non-voting, convertible, redeemable, Class D Special shares in the capital stock of Amalco Holdco.

"Closing" means the completion of the Amalgamations pursuant to this Agreement.

"Closing Date" means the later of:

(a) December 31, 2021, subject to receipt of the OEB Approval and Competition Act Approval; or

(b) the first Business Day of the applicable fiscal quarter receipt of the OEB Approval and Competition Act Approval (e.g., April 1, July 2, October 1 or January 2), provided; however, that if the OEB Approval and Competition Act Approval is received within 14 days prior to December 31, 2021 or the end of the applicable fiscal quarter, as the case may be, the Closing Date shall be the first Business Day of the subsequent fiscal quarter.

“Closing Time” means 9:00 a.m. (Eastern time) on the Closing Date or any other time on the Closing Date as may be agreed by the Parties in writing.

“Commissioner” means the Commissioner of Competition under the Competition Act.

“Common Shares” means the voting common shares in the capital stock of Amalco Holdco.

“Communication” means any notice, demand, request, consent, approval or other communication which is required or permitted by this Agreement to be given or made by a Party.

“Competition Act” means the Competition Act (Canada).

“Competition Act Approval” means: (a) the issuance of an advance ruling certificate under section 102(1) of the Competition Act with respect to the transactions contemplated by this Agreement without such advance ruling certificate having been modified or withdrawn before Closing; (b) the Parties having given the notice required under section 114 of the Competition Act with respect to the transactions contemplated by this Agreement and the applicable waiting periods under section 123 of the Competition Act having expired or been terminated in accordance with the Competition Act; or (c) the obligation to give the requisite notice having been waived under section 113(c) of the Competition Act and, in the case of (b) or (c), the Parties having been advised in writing by the Commissioner that the Commissioner does not, at that time, intent to make an application under section 92 of the Competition Act in respect of the transactions contemplated by this Agreement (a “No-Action Letter”) with any terms and conditions attached to such No-Action Letter being acceptable to the Parties, acting reasonably, and without such No-Action Letter having been withdrawn or modified before Closing.

“Confidentiality Agreement” is defined in the recitals of the Parties above.

“Contract” means any agreement, understanding, undertaking, commitment, licence, or lease, whether written or oral.

“Corporate Articles” means, as applicable, the certificate and articles of incorporation amalgamation of the applicable corporation and the certificates and articles of amendment of such corporation.

“COVID-19” means the global pandemic known as coronavirus disease as identified in COVID-19 Legislation and Emergency Orders.


“CTA” means the Corporations Tax Act (Ontario).
“Current Assets” means the aggregate sum of, Accounts Receivable, plus unbilled revenue, Taxes receivable, Inventories and Current Prepaid Amounts.

“Current Liabilities” means the aggregate sum of (a) accounts payable and accrued liabilities, owing or accruing due, and all other amounts owed that are payable within one year of the Closing Date, (b) all liabilities for Taxes, including all Taxes required to withheld and remitted to an applicable Governmental Authority in respect of any period ending prior to the Closing Date which have not been remitted, and (c) current amounts due to Affiliates.

“Current Prepaid Amounts” means the aggregate sum of all current prepaid expenses, other current assets of ongoing benefit and deposits, including all current prepaid Taxes, all current prepaid charges for water, gas, oil, hydro and other utilities, the current portion of all current prepaid lease payments and prepaid insurance premiums.

“Customer Contract” means an individual Contract in respect of which:

(a) Energy Plus Solutions is a party (excluding any Contracts between Energy Plus Solutions and any of its Affiliates) which Contract generates gross revenue for Energy Plus Solutions in excess of $250,000 per year;

(b) GRE is a party (excluding any Contracts between GRE and any of its Affiliates) which Contract generates gross revenue for GRE in excess of $750,000 per year; and

(c) BHI is a party (excluding any Contracts between BHI and any of its Affiliates) which Contract generates gross revenue for BHI in excess of $250,000 per year.

“Data Room” means the virtual data room as at the date of this Agreement managed by Grant Thornton LLP to which each Party obliged to provide documents or information for due diligence purposes has posted the same and to which each Party relying thereupon has access.

“Direct Claim” is defined in Section 8.6.

“EA” means the Electricity Act, 1998 (Ontario).

“Easements” means all of the following real property interests: (a) all easements and rights of way, registered and unregistered; (b) the right to use, traverse, enjoy or have access to, over, in or under any real property, whether public or private; and (c) all permits, licences and permissions received, used or enjoyed in respect of any of the foregoing and any right or benefit in the nature or character of any of the foregoing.

“Electronic Address” has the meaning ascribed thereto in CASL;

“Electronic Message” has the meaning ascribed thereto in CASL;
“Employee Benefits” means:

(a) bonuses, vacation entitlements, commissions, fees, stock option plans, incentive plans, deferred compensation plans, profit-sharing plans, severance plans, termination pay plans, supplementary employment insurance plans and other similar benefits, plans or arrangements; and

(b) insurance, health, welfare, disability, pension, retirement, hospitalization, medical, prescription drug, dental, eye care and other similar benefits, plans or arrangements.

“Encumbrance” means any security interest, mortgage, charge, pledge, hypothec, lien, encumbrance, restriction, option, adverse claim, right of others or other encumbrance of any kind.

“Energy+” is defined in the preamble to this Agreement

“Energy+ Financial Statements” means the audited balance sheet and audited and statement of income of Energy+ for the financial year ended December 31, 2020 including notes to the financial statements.

“Energy Plus Business” (a) in the case of Energy Plus Holdings, the business of serving as a holding company for all of the issued and outstanding shares in the capital of Energy+ and Energy Plus Solutions, (b) in the case of Energy+, the business of distributing electricity to third parties within the geographic boundaries as permitted by its OEB distribution license and related services and activities, and (c) in the case of Energy Plus Solutions, streetlight maintenance, business development activities and holding securities in the capital of GRE.

“Energy Plus Closing Financial Statements” is defined in Section 2.4(b).

“Energy Plus Disclosure Schedule” is defined in Article 5.

“Energy Plus Failure” is defined in Section 8.3(a).


“Energy Plus Group Adjustment Amount” is defined in Section 2.5(b).

“Energy Plus Group Employees” means all personnel employed, engaged or retained by the Energy Plus Group in connection with the Energy Plus Business, including any that are on medical or long-term disability leave, or other statutory or authorized leave or absence, but excluding independent contractors.

“Energy Plus Group Systems” means all computer software, and computer hardware, servers, networks, platforms, peripherals, data communication lines and other information technology equipment and related systems that are owned or used by each member of the Energy Plus Group in the conduct of the Energy Plus Business.
“Energy Plus Group Valuation Amount” means the numerical value set forth in cell D10 of the spreadsheet entitled “Closing Adjustment Cale” within the excel file named “Final Financial Model – Project Phoenix_August 13, 2021” prepared by Grant Thornton LLP.

“Energy Plus Holdings” is defined in the preamble to this Agreement.


“Enersure Business” means the business of renting heating, ventilation, and air conditioning systems, water softeners, water heaters, furnaces, and central air conditioning systems.

“Environment” means the ambient air, all layers of the atmosphere, all water including surface water and underground water, all land, all living organisms and the interacting natural systems that include components of air, land, water, living organisms and organic and inorganic matter, and includes indoor spaces.

“Environmental Laws” means any Laws relating to the Environment and protection of the Environment, the regulation of chemical substances or products, health and safety including occupational health and safety, and the transportation of dangerous goods.

“ETA” means Part IX of the Excise Tax Act (Canada).

“Expert” is defined in Section 2.4(j).
“Fixed Assets” means the aggregate sum of property, plant and equipment, net of deferred revenues. Property, plant and equipment includes, but is not limited to furniture, furnishings, parts, tools, personal property fixtures, plants, land, buildings, transformer stations and equipment, right of use assets, finance lease receivables, intangible assets, structures, ercations, improvements, appurtenances, machinery, equipment, substations, transformers, vaults, vehicles, distribution lines, transmission lines, conduits, ducts, pipes, wires, rods, cables, fibre optic network and electronics, water heater units, water treatment systems, devices, appliances, material, poles, pipelines, fittings, major spare parts, and any other similar or related item, including work-in-progress, but excluding the Excluded Assets.

“Governmental Authority” means:
(a) any federal, provincial, state, local, municipal, regional, territorial, aboriginal, or other government, governmental or public department, branch, ministry, or court, domestic or foreign, including any district, agency, commission, board, arbitration panel or authority and any subdivision of any of them exercising or entitled to exercise any administrative, executive, judicial, ministerial, prerogative, legislative, regulatory, or taxing authority or power of any nature; and
(b) any quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under or for the account of any of them, and any subdivision of any of them.

“GRE” means Grand River Energy Solutions Corporation, a corporation incorporated under the laws of the Province of Ontario.

“GRE Financial Statements” means the audited balance sheet and audited statement of income of GRE for the financial year ended December 31, 2020 including notes to the financial statements.

“Hazardous Substance” means any substance, waste, liquid, gaseous or solid matter, fuel, micro-organism, sound, vibration, ray, heat, odour, radiation, energy vector, plasma, organic or inorganic matter which is or is deemed to be, alone or in any combination, hazardous, hazardous waste, solid or liquid waste, toxic, a pollutant, a deleterious substance, a contaminant or a source of pollution or contamination, regulated by any Environmental Laws.

“Holdco Amalgamation” is defined in Section 2.1(a).
“IFRS” means the International Financial Reporting Standards in effect from time to time, which include standards and interpretations adopted by the Canadian Accounting Standards Board.

“Indemnified Party” is defined in Section 8.3.

“Indemnifying Party” is defined in Section 8.3.

“Indemnity Claim” is defined in Section 8.6.

“Indemnity Notice” is defined in Section 8.6.

“Insurance Policies” means, as applicable, the insurance policies maintained with respect to the Energy Plus Business and/or the BEC Business.

“Intellectual Property” means trade-marks and trade-mark applications, trade names, certification marks, patents and patent applications, copyrights, domain names, industrial designs, trade secrets, know-how, formulae, processes, inventions, technical expertise, research data and other similar property, all associated registrations and applications for registration, and all associated rights, including moral rights.

“Inventories” means the aggregate of all parts and supplies recorded as inventory on the audited financial statements excluding work-in-progress or other spare parts and supplies that have otherwise been capitalized as part of Fixed Assets.

“ITA” means the Income Tax Act (Canada).

“Knowledge of Brantford” means the knowledge that Brantford either has, or would have obtained, after having made or caused to be made all reasonable inquiries necessary to obtain informed knowledge, including inquiries of the records and management employees of Brantford or management of BEC Group who are reasonably likely to have knowledge of the relevant matter.

“Knowledge of Cambridge and North Dumfries” means the knowledge that Cambridge or Energy+ either has, or would have obtained, after having made or caused to be made all reasonable inquiries necessary to obtain informed knowledge, including inquiries of the records and management employees of Cambridge and North Dumfries or management of the Energy Plus Group who are reasonably likely to have knowledge of the relevant matter.

“Law” or “Laws” means all laws, statutes, codes, ordinances, decrees, rules, regulations, by-laws, statutory rules, principles of law, published policies and guidelines, judicial or arbitral or administrative or ministerial or departmental or regulatory judgments, orders, decisions, rulings or awards, including general principles of common and civil law, and the terms and conditions of any grant of approval, permission, authority or licence of any Governmental Authority, and the term “applicable” with respect to Laws and in a context that refers to one or more Persons, means that the Laws apply to the Person or Persons, or its or their business, undertaking, property or Securities, and emanate from a Governmental Authority having jurisdiction over the Person or Persons or its or their business,
undertaking, property or Securities, including COVID-19 Legislation and Emergency Orders.

“LDC Amaleo” is defined in Section 2.2.

“LDC Amalgamation” is defined in Section 2.2.

“Leased Premises” means all of the lands and premises which are leased by any member of the BEC Group, as applicable or by any member of the Energy Plus Group, as applicable.

“Loss” means any loss, liability, damage, cost, expense, charge, fine, penalty or assessment including the costs and expenses of any action, suit, proceeding, demand, assessment, judgment, settlement or compromise and all interest, punitive damages, fines, penalties and reasonable professional fees and disbursements.

“Material Adverse Effect” means a material adverse effect on the Energy Plus Business or the BEC Business, taken as a whole, or the operations, assets, liabilities, capital, property, condition (financial or otherwise) or results of operation of the Energy Plus Group or the BEC Group, all taken as a whole, excluding any effects of COVID-19 and/or COVID-19 Legislation and Emergency Orders.

“Material Contract” means a Contract in respect of the Energy Plus Business or the BEC Business, as applicable:

(a) that involves or may result in the payment of money or money’s worth in an amount in excess of $250,000 (excluding any collective bargaining agreements or employment agreements), including any Customer Contracts; or

(b) the termination of which, or under which the loss of rights, would constitute a Material Adverse Effect.

“MOU” is defined in the recitals of the Parties above.

“MTS Property” means the real property owned by Energy+ described in the Energy Plus Disclosure Schedule as LRO 58 - PIN 22740-0164 LT - Block 3, Plan 58M663; together with an easement as in 1350771; subject to an easement as in WR1276173; subject to an easement for entry as in WR1291080; City of Cambridge.

“Net Adjustment Amount” means the numerical value set forth in cell F29 of the spreadsheet entitled “Closing Adjustment Calc” within the excel file named “Final Financial Model – Project Phoenix_August 13, 2021” prepared by Grant Thornton LLP.

“NetOptiks Business” means BHI’s business of the provision of high-speed, high bandwidth telecommunications services to businesses, institutions and organizations,
primarily in and around Brantford, by means of the installation operation and maintenance of a high-speed, digital, community-wide fibre-optic network, such services including:

(a) Wholesale and Retail Business Internet Services;
(b) Point to Point Transparent LAN Services (TLS);
(c) Point to Multi-point Connectivity;
(d) Wide Area Network Design;
(e) Videoconferencing;
(f) Voice Over IP;
(g) Corporate domain, web, e-mail and e-commerce hosting services; and
(h) Offsite data storage services.

"OBCA" means the Business Corporations Act (Ontario).

"OEB" means the Ontario Energy Board.


"OEB Approval" means the approval of the OEB pursuant to section 86(1)(c) of the OEB Act in respect of the LDC Amalgamation.

"OMERS" means the Ontario Municipal Employees Retirement System.

"Owned Lands" means all of the lands and premises which are owned by any member of the BEC Group, as applicable or by any member of the Energy Plus Group, as applicable.


"PCBs" is defined in Section 4.24(k).

"Permits" means the authorizations, registrations, permits, certificates of approval, approvals, grants, licences, quotas, consents, commitments, rights or privileges (other than those relating to the Intellectual Property) issued or granted by any Governmental Authority to any member of the BEC Group or Energy Plus Group, as applicable.

"Permitted Encumbrances" means:

(a) unregistered liens for municipal Taxes, assessments or similar charges incurred in the ordinary course of business that are not yet due and payable;
(b) inchoate mechanic’s, construction and carrier’s liens and other similar liens arising by operation of law or statute in the ordinary course of business for obligations which are not delinquent and will be paid or discharged in the ordinary course of business;

(c) unregistered Encumbrances of any nature claimed or held by Her Majesty The Queen in Right of Canada, Her Majesty The Queen in right of the Province of Ontario or by any Governmental Authority under any applicable Law, except for unregistered liens for unpaid realty Taxes, assessments and public utilities;

(d) title defects which are of a minor nature and in the aggregate, do not materially impair the value or use of any of the Owned Lands;

(e) any right of expropriation conferred upon, reserved to or vested in Her Majesty The Queen in Right of Canada, Her Majesty The Queen in right of the Province of Ontario or any Governmental Authority under any applicable Law;

(f) zoning restrictions, easements and rights of way or other similar Encumbrances or privileges in respect of real property which in the aggregate, do not materially impair the value or use of any of the Owned Lands, Leased Premises or Easements;

(g) Encumbrances created by others upon other lands over which there are easements, rights-of-way, licences or other rights of user in favour of the Owned Lands, Leased Premises or Easements and which do not materially impede the use of the easements, rights-of-way, licences or other rights of user for the purposes for which they are held;

(h) the reservations, limitations, provisos, conditions, restrictions and exceptions in the letters patent or grant, as the case may be, from the Crown and statutory exceptions to title; and

(i) those instruments registered on title to the Owned Lands or against the leasehold interest in the Leased Premises and described in the Brantford Disclosure Schedule or the Energy Plus Disclosure Schedule.

“Person” will be broadly interpreted and includes:

(a) a natural person, whether acting in his or her own capacity, or in his or her capacity as executor, administrator, estate trustee, trustee or personal or

(b) legal representative, and the heirs, executors, administrators, estate trustees, trustees or other personal or legal representatives of a natural person;

(c) a corporation or a company of any kind, a partnership of any kind, a sole proprietorship, a trust, a joint venture, an association, an unincorporated association, an unincorporated syndicate, an unincorporated organization or any other association, organization or entity of any kind; and

(d) a Governmental Authority.
"Personal Information" means information about an individual who can be identified by the Person who holds that information.

"PILs" means payment in lieu of corporate taxes required to be made under section 93 of the EA.

"Prime Rate" means the annual rate of interest which the Amalco Holdco’s bank establishes as the reference rate for the determination of interest rates it will charge for loans of varying maturities in Canadian dollars, and which it may refer to as its "prime rate" or "prime lending rate".

"Privacy Laws" means Laws relating to the privacy rights of individuals and/or the collection, use, disclosure and safeguarding of information about an identifiable individual including, without limitation, the Personal Information Protection and Electronic Documents Act (Canada) and any similar law of any jurisdiction, including without limitation, any province or territory of Canada, all findings and/or orders reached by any Governmental Authority, as well as privacy policies and privacy statements adopted and/or published by each member of the BEC Group and the Energy Plus Group, as applicable, together with all codes of conduct and/or standards to which each member of the BEC Group and the Energy Plus Group is subject or voluntarily agrees to be bound.

"Privacy Statements" means, collectively, any and all of privacy policies of each member of the BEC Group or the Energy Plus Group made available to Brantford, Cambridge and North Dumfries, as applicable, regarding the collection, retention, use, disclosure and distribution of the personal information of individuals.

"Real Property Leases" means the leases between any member of the BEC Group, as applicable, or between any member of the Energy Plus Group, as applicable, and each landlord party thereto, and all amendments to those leases, relating to the leasing of Leased Premises.

"Release" means to release, spill, leak, pump, pour, emit, empty, discharge, deposit, inject, leach, dispose, dump or permit to escape.

"Remedial Order" means any remedial order, including any notice of non-compliance, order, other complaint, direction or sanction issued, filed or imposed by any Governmental Authority pursuant to Environmental Laws, with respect to the existence of Hazardous Substances on, in or under Owned Lands or Leased Premises, or neighbouring or adjoining properties, or the Release of any Hazardous Substance from, at or on the Owned Lands or Leased Premises or with respect to any failure or neglect to comply with Environmental Laws.

"Representatives" means the Affiliates of any Person, and the advisors, agents, consultants, directors, officers, management, employees, subcontractors, and other representatives, including accountants, auditors, financial advisors, lenders and lawyers of any Person and of that Person’s Affiliates.

"Securities" has the meaning given to that term in the Securities Act (Ontario).
“Shared Services Agreement” means the Shared Services Agreement between Brantford and BPI dated January 1, 2017.

“Shareholders Agreement” means the unanimous shareholders agreement for Amalco Holdco to be entered into and effective on Closing and that will be substantially in the form attached as Exhibit A.

“Special Shares” means the Class A Special Shares, the Class B Special Shares, Class C Special Shares and Class D Special Shares, as the case may be.

“Subsidiary” means subsidiary within the meaning of the OBCA.

“TA” means the Taxation Act, 2007 (Ontario).

“Tallgrass Property” means the real property of approximately 3.956 acres owned by BPI described as being located at the municipal address of 29 Tallgrass Court and depicted in the Brantford Disclosure Schedule, which, for clarity, excludes the real property described at the municipal address of 130 Savannah Oaks Dr. and 150 Savannah Oaks Dr., respectively.

“Tax” means PILs, Transfer Tax, and all taxes, duties, fees, premiums, assessments, imposts, levies, rates, withholdings, dues, government contributions and other charges of any kind whatsoever, whether direct or indirect (including all income, capital gains, excise, use, property, capital, goods and services, business transfer and value added taxes, all customs and import duties, workers’ compensation premiums, Canada Pension Plan premiums, Employment Insurance premiums, and debt retirement charges pursuant to Part V.1 of the EA and special payments pursuant to Part VI of the EA), together with all interest, penalties, fines, additions to tax or other additional amounts, imposed by any Governmental Authority.

“Tax Return” means any return, report, declaration, designation, election, undertaking, waiver, notice, filing, information return, statement, form, certificate or any other document or materials relating to Taxes, including any related or supporting information with respect to any of those documents or materials listed above in this definition, filed or to be filed with any Governmental Authority in connection with the determination, assessment, collection or administration of Taxes, including those required pursuant to Parts V.1 and VI of the EA.

“Third Party Claim” is defined in Section 8.6.

“Total Debt” means for each member of the BEC Group or the Energy Plus Group, as applicable, the aggregate amount of all long and short term interest-bearing liabilities for borrowed money and long and short term amounts owing to related parties, including without limitation amounts for bank debt, short-term debt, current portion of long-term borrowings, long-term borrowings, short-term and long-term portion of capital leases, the short-term and long-term portion of lease liabilities, employee future benefit liabilities, related party loans and notes payable.
“Transfer Tax” means the tax payable pursuant to section 94 of the EA.

1.2 Certain Rules of Interpretation

(a) In this Agreement, words signifying the singular number include the plural and vice versa, and words signifying gender include all genders. Every use of the words “including” or “includes” in this Agreement is to be construed as meaning “including, without limitation” or “includes, without limitation”, respectively.

(b) The division of this Agreement into Articles and Sections, the insertion of headings and the inclusion of a table of contents are for convenience of reference only and do not affect the construction or interpretation of this Agreement.

(c) References in this Agreement to an Article, Section, Schedule or Exhibit are to be construed as references to an Article, Section, Schedule or Exhibit of or to this Agreement unless otherwise specified.

(d) Unless otherwise specified in this Agreement, time periods within which or following which any calculation or payment is to be made, or action is to be taken, will be calculated by excluding the day on which the period begins and including the day on which the period ends. If the last day of a time period is not a Business Day, the time period will end on the next Business Day.

(e) Unless otherwise specified, any reference in this Agreement to any statute includes all regulations and subordinate legislation made under or in connection with that statute at any time, and is to be construed as a reference to that statute as amended, modified, restated, supplemented, extended, re-enacted, replaced or superseded at any time.

1.3 Governing Law

This Agreement is governed by, and is to be construed and interpreted in accordance with, the Laws of the Province of Ontario and the Laws of Canada applicable in that Province.

1.4 Entire Agreement

This Agreement and any other agreements and documents to be delivered pursuant to this Agreement constitute the entire agreement between the Parties pertaining to the subject matter of this Agreement and supersede all prior agreements, the MOU, understandings, negotiations and discussions, whether oral or written, of the Parties, but other than the provisions of the Confidentiality Agreement, and there are no representations, warranties or other agreements between the Parties in connection with the subject matter of this Agreement except as specifically set out in this Agreement, the Confidentiality Agreement or in any of the other agreements and documents delivered pursuant to this Agreement. No Party has been induced to enter into this Agreement in reliance on, and there will be no liability assessed, either in tort or contract, with respect to, any warranty, representation, opinion, advice or assertion of fact, except to the extent it has been reduced to writing and included as a term in this Agreement or in any of the other agreements and documents delivered pursuant to this Agreement.
1.5 Schedules and Exhibits

The following is a list of Schedules and Exhibits attached to and forming an integral part of this Agreement:

**Schedules**

Schedule A  
Brantford Disclosure Schedule
Schedule B  
Energy Plus Disclosure Schedule
Schedule C  
Share Capital Provisions
Schedule D  
Location of Amalco Holdco Facilities & Functions

**Exhibits**

Exhibit A  
Amalco Holdco Shareholder Agreement
Exhibit B  
Amended and Restated Shared Services and Obligations Agreement

**ARTICLE 2**

**AMALGAMATIONS**

2.1 Holdco Amalgamation

(a) Subject to and conditional upon the terms and conditions of this Agreement, the Parties agree that BEC and Energy Plus Holdings shall amalgamate on the Closing Date (the "Holdco Amalgamation") and continue as a corporation amalgamated under the laws of Ontario (and such amalgamated corporation is referred to herein as "Amalco Holdco").

(b) Amalco Holdco will issue the following fully paid and non-assessable Common Shares and Special Shares in the capital of Amalco Holdco upon completion of the Holdco Amalgamation in accordance with the terms of the Amalgamation Agreement:

<table>
<thead>
<tr>
<th>Party</th>
<th>Amalco Holdco</th>
<th>Equity &amp; Voting Percentage Interest</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brantford</td>
<td>41,000,000 Common Shares</td>
<td>41.000%</td>
</tr>
<tr>
<td></td>
<td>1 Class B Special Shares</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1 Class D Special Shares</td>
<td></td>
</tr>
<tr>
<td>Party</td>
<td>Amalco Holdco</td>
<td>Equity &amp; Voting Percentage Interest</td>
</tr>
<tr>
<td>-------------</td>
<td>--------------------------------------------------</td>
<td>-------------------------------------</td>
</tr>
<tr>
<td>Cambridge</td>
<td>54,339,000 Common Shares 921 Class A Special Shares 921 Class C Special Shares</td>
<td>54.339%</td>
</tr>
<tr>
<td>North Dumfries</td>
<td>4,661,000 Common Shares 79 Class A Special Shares 79 Class C Special Shares</td>
<td>4.661%</td>
</tr>
</tbody>
</table>

### 2.2 LDC Amalgamation

As soon as practicable after the Holdco Amalgamation and subject to and conditional upon the terms and conditions of this Agreement, BPI and Energy+ shall amalgamate with each other on the Closing Date (the “LDC Amalgamation”) and continue as a corporation amalgamated under the laws of Ontario (and such amalgamated corporation is referred to herein as “LDC Amalco”), and shall file articles of amalgamation giving effect to the in accordance with the OBCA.

### 2.3 Target Closing Amounts

(a) Before Closing, BEC shall take reasonable steps to ensure that on Closing it has BEC Holdco Closing Net Asset Value equal to BEC Holdco Target Closing Net Asset Value.

(b) Before Closing, BPI shall take reasonable steps to ensure that on Closing it has:

(i) BPI Closing Working Capital equal to BPI Target Closing Working Capital;

(ii) BPI Closing Net Fixed Assets equal to BPI Target Closing Net Fixed Assets;

(iii) BPI Closing Net Regulatory Balance equal to BPI Target Closing Net Regulatory Balance;

(iv) BPI Closing Net Other Assets and Liabilities equal to BPI Target Closing Net Other Assets and Liabilities; and

(v) BPI Closing Total Net Debt equal to BPI Target Closing Total Net Debt.

(c) Before Closing, BHI shall take reasonable steps to ensure that on Closing it has BHI Adjusted Closing Net Income/(Loss) excluding Other Comprehensive
Income/(Loss) equal to BHI Target Closing Adjusted Net Income/(Loss) excluding Other Comprehensive Income/(Loss).

(d) Before Closing, Energy Plus Holdings shall take reasonable steps to ensure that on Closing it has Energy Plus Holdings Closing Net Asset Value equal to Energy Plus Holdings Target Closing Net Asset Value.

(e) Before Closing, Energy+ shall take reasonable steps to ensure that on Closing it has:

(i) Energy+ Closing Working Capital equal to Energy+ Target Closing Working Capital;

(ii) Energy+ Closing Net Fixed Assets equal to Energy+ Target Closing Net Fixed Assets;

(iii) Energy+ Closing Net Regulatory Balance equal to Energy+ Target Closing Net Regulatory Balance;

(iv) Energy+ Closing Net Other Assets and Liabilities equal to Energy+ Target Closing Net Other Assets and Liabilities; and

(v) Energy+ Closing Total Net Debt equal to Energy+ Target Closing Total Net Debt.

(f) Before Closing, Energy Plus Solutions shall take reasonable steps to ensure that on Closing it has:

(i) Energy Plus Solutions Closing Net Asset Value equal to Energy Plus Solutions Target Closing Net Asset Value; and

(ii) GRE Closing Adjusted Net Income/(Loss) and Other Comprehensive Income/(Loss) equal to the GRE Target Closing Adjusted Net Income/(Loss) and Other Comprehensive Income/(Loss).

2.4 Closing Financial Statements, Contracts Valuation and Brantford Real Property Valuation

(a) Brantford shall cause the auditors for the BEC Group to complete the audit procedures and distribute to Brantford, Cambridge and North Dumfries the audited financial statements for each member of the BEC Group as at the end of business on the day immediately prior to the Closing Date (including the audited financial statements of BEC on a consolidated basis) within 120 days following the Closing Date (collectively the “Brantford Closing Financial Statements”).

(b) Cambridge and North Dumfries shall cause the auditors for the Energy Plus Group to complete the audit procedures and distribute to Cambridge, North Dumfries and Brantford the audited financial statements for each member of the Energy Plus
Group as at the end of business on the day immediately prior to the Closing Date (including the audited financial statements of Energy Plus Holdings on a consolidated basis) within 120 days following the Closing Date (collectively the "Energy Plus Closing Financial Statements").

(c) Brantford, Cambridge and North Dumfries shall cause a valuation by a Chartered Business Valuator (to be agreed between BEC and Energy Plus Holdings prior to the Closing Date) utilizing a discounted cash flow analysis method of the following:

(i) each new Customer Contract entered into and not terminated by a member of the BEC Group (excluding BPI) or by a member of the Energy Plus Group (including GRE but excluding Energy+) during the period from and including the date of this Agreement to and including the Closing Date,

(ii) any amendment with revenue in excess of $250,000 or $750,000 per year, as applicable, to any new or existing Customer Contract to which a member of the BEC Group (excluding BPI) or the Energy Plus Group (including GRE but excluding Energy+) is a party made during the period from and including the date of this Agreement to and including the Closing Date existing at the date hereof; and

(iii) each Customer Contract that may be terminated by a member of the BEC Group (excluding BPI) or by a member of the Energy Plus Group (including GRE but excluding Energy+) or by a counterparty to any such Material Contract during the period from and including the date of this Agreement to and including the Closing Date,

(each such valuation by Brantford, on the one hand, and Cambridge and North Dumfries, on the other hand, a "Customer Contracts Valuation").

(d) Brantford shall engage an independent, accredited appraiser acceptable to Cambridge and North Dumfries, each acting reasonably, to determine the fair market value of the Tallgrass Property within 60 days prior to the Closing Date (the "Tallgrass Appraisal").

(e) Cambridge and North Dumfries shall engage an independent, accredited appraiser acceptable to Brantford, acting reasonably, to determine the fair market value of the MTS Property within 60 days prior to the Closing Date (the "MTS Appraisal").

(f) All Closing Financial Statements shall be prepared in accordance with IFRS applied on a basis consistent with the preparation of the BEC Financial Statements, the BPI Financial Statements, BHI Financial Statements, the Energy Plus Holdings Financial Statements, Energy+ Financial Statements and the Energy Plus Solutions Financial Statements, as applicable. The Closing Financial Statements shall be accompanied by a report thereon by such auditors. For the purposes of preparing and reviewing the applicable Closing Financial Statements, each Party shall grant such auditors and the other authorized Representatives of the other Parties reasonable access to all relevant records, facilities and personnel in its possession.
or within its control. Brantford will pay all costs and expenses in connection with the preparation of the Brantford Closing Financial Statements in respect of the BEC Group and Cambridge and North Dumfries shall pay all costs and expenses in connection with the preparation of the Energy Plus Closing Financial Statements for the Energy Plus Group.

(g) Brantford shall have a period of 30 days from the date it receives the Energy Plus Closing Financial Statements, the reports of the auditor thereon and the Customer Contracts Valuation in respect of each applicable member of the Energy Plus Group and the MTS Appraisal during which to review such Energy Plus Closing Financial Statements and the Customer Contracts Valuation in respect of each applicable member of the Energy Plus Group and the MTS Appraisal. For the purpose of such review, Brantford and each member of the BEC Group and their authorized Representatives shall be given full access by Cambridge, North Dumfries and each member of the Energy Plus Group to examine the working papers, schedules and other documentation used or prepared by the auditors to the Energy Plus Group or Chartered Business Valuator or appraiser in respect of the MTS Appraisal, as applicable. If no written objection to such Energy Plus Closing Financial Statements or Customer Contracts Valuation in respect of each applicable member of the Energy Plus Group or the MTS Appraisal is given to Cambridge and North Dumfries by Brantford within such 30-day period, such Energy Plus Closing Financial Statements, the Customer Contracts Valuation in respect of each applicable member of the Energy Plus Group and the MTS Appraisal shall be deemed to have been approved by Brantford as of the last day of such 30-day period.

(h) Cambridge and North Dumfries shall have a period of 30 days from the date they receive the Brantford Closing Financial Statements, the reports of the auditor thereon, the Customer Contracts Valuation in respect of each applicable member of the BEC Group and the Tallgrass Appraisal during which to review such Brantford Closing Financial Statements, the Customer Contracts Valuation in respect of each applicable member of the BEC Group and the Tallgrass Appraisal. For the purpose of such review, Cambridge and North Dumfries and each member of the Energy Plus Group and their authorized Representatives shall be given full access by Brantford and each member of the BEC Group to examine the working papers, schedules and other documentation used or prepared by the auditors to the Energy Plus Group, Chartered Business Valuator or appraiser in respect of the Tallgrass Appraisal, as applicable. If no written objection to such Energy Plus Closing Financial Statements, the Customer Contracts Valuation in respect of each applicable member of the BEC Group or Tallgrass Appraisal is given to Brantford by Cambridge and North Dumfries within such 30-day period, such Brantford Closing Financial Statements, the Customer Contracts Valuation in respect of each applicable member of the BEC Group and the Tallgrass Appraisal shall be deemed to have been approved by Cambridge and North Dumfries as of the last day of such 30-day period.
Brantford may object to the Energy Plus Closing Financial Statements, the Customer Contracts Valuation in respect of any applicable member of the Energy Plus Group and/or the MTS Appraisal within the 30-day period set out in Section 2.4(h) by giving written notice to Cambridge and North Dumfries setting out in reasonable detail the nature of such objection (a “Brantford Objection”). Cambridge and North Dumfries (acting jointly) may object to the Brantford Closing Financial Statements, the Customer Contracts Valuation in respect of the applicable member of the BEC Group and/or the Tallgrass Appraisal within the 30-day period set out in Section 2.4(h) by giving written notice to Brantford setting out in reasonable detail the nature of such objection (a “Cambridge and North Dumfries Objection”). Brantford, Cambridge and North Dumfries (acting jointly) agree to attempt to resolve the matters in dispute set out in a Brantford Objection and/or Cambridge and North Dumfries Objection within 15 days from the date on which such notice is given. If all matters in dispute are resolved by Brantford, Cambridge and North Dumfries, the applicable Closing Financial Statements(s), Customer Contracts Valuation, Tallgrass Appraisal and/or MTS Appraisal, as applicable, shall be modified to the extent required to give effect to such resolution and shall be deemed to have been approved as of the date of such resolution.

If Brantford and Cambridge and North Dumfries (acting jointly) cannot resolve all matters in dispute in a Brantford Objection and/or Cambridge and North Dumfries Objection a within such 15-day period, all unresolved matters shall be submitted to a mutually agreed, independent, nationally recognized accounting firm (the “Expert”) for resolution. The Expert shall be given access to all materials and information reasonably requested by it for such purpose. The rules and procedures to be followed in connection therewith shall be determined by the Expert in its discretion but the Expert shall be instructed to proceed as quickly as possible. Notwithstanding the foregoing, the final determination of the Expert shall be limited to the strict parameters of the dispute submitted to it and the Expert shall limit its review to the matters specifically set out in the Brantford Objection and/or Cambridge and North Dumfries Objection and shall not assign a value to any item that is higher than the highest value for such item or lower than the lowest value for such item claimed by any Party. The Expert’s determination of all such matters shall be final and binding on all Parties and shall not be subject to appeal by Brantford, Cambridge, North Dumfries or any other Party. The fees and expenses of the Expert shall be borne by Amalco Holdco. The applicable Closing Financial Statements, Customer Contracts Valuation in respect the applicable member(s) of the BEC Group and/or Energy Plus Group, MTS Appraisal and/or Tallgrass Appraisal shall be modified to the extent required to give effect to the Expert’s determination and shall be deemed to have been approved as of the date of such determination.

2.5 Calculation of Adjustments

(a) Upon the approval or deemed approval pursuant to Section 2.4 of the Closing Financial Statements for each member of the BEC Group,
(i) BEC shall calculate the sum of:

(A) the BEC Holdco Closing Net Asset Value less the BEC Holdco Target Closing Net Asset Value (which sum may be positive or negative),

(ii) BPI shall calculate the sum of:

(A) the BPI Closing Working Capital less the BPI Target Closing Working Capital (which sum may be positive or negative), plus

(B) the BPI Closing Net Fixed Assets less the BPI Target Closing Net Fixed Assets (which sum may be positive or negative), plus

(C) the BPI Closing Net Regulatory Balance less the BPI Target Closing Net Regulatory Balance (which sum may be positive or negative), plus

(D) the BPI Closing Net Other Assets and Liabilities less the BPI Target Closing Net Other Assets and Liabilities; plus

(E) the BPI Closing Total Net Debt less the BPI Target Closing Total Net Debt (which sum may be positive or negative); plus

(F) the value of the Tallgrass Appraisal; plus

(iii) BHI shall calculate the sum of:

(A) the BHI Adjusted Closing Net Income/(Loss) excluding Other Comprehensive Income/(Loss) for calendar 2021 and the period to the Closing Date less the BHI Target Closing Adjusted Net Income/(Loss) excluding Other Comprehensive Income/(Loss) (which sum may be positive or negative), less

(B) the BHI dividends paid during fiscal 2021 and the period to the Closing Date less the budgeted BHI dividends of $400,000 (which sum may be positive or negative), plus

(C) the value of any Customer Contracts Valuation to which BHI is a party pursuant to the applicable Customer Contracts Valuation (which sum may be positive or negative);

(the sum of all the amounts referred to in this Section 2.5(a) as the "BEC Group Adjustment Amount").
(b) Upon the approval or deemed approval pursuant to Section 2.4 of the Closing Financial Statements for each member of the Energy Plus Group,

(i) Energy Plus Holdings shall calculate the sum of:

(A) the Energy Plus Holdings Closing Net Asset Value less the Energy Plus Holdings Target Closing Net Asset Value (which sum may be positive or negative).

(ii) Energy+ shall calculate the sum of:

(A) the Energy+ Closing Working Capital less the Energy+ Target Closing Working Capital (which sum may be positive or negative), plus

(B) the Energy+ Closing Net Fixed Assets less the Energy+ Target Closing Net Fixed Assets (which sum may be positive or negative), plus

(C) the Energy+ Closing Net Regulatory Balance less the Energy+ Target Closing Net Regulatory Balance (which sum may be positive or negative), plus

(D) the Energy+ Closing Net Other Assets and Liabilities less the Energy+ Target Closing Net Other Assets and Liabilities; plus

(E) the Energy+ Closing Total Net Debt less the Energy+ Target Closing Total Net Debt (which sum may be positive or negative), plus

(F) the value of the MTS Appraisal,

(iii) Energy Plus Solutions shall calculate the sum of:

(A) the Energy Plus Solutions Closing Net Asset Value less the Energy Plus Solutions Target Closing Net Asset Value (which sum may be positive or negative), plus

(B) the value of any Customer Contracts Valuation to which Energy Plus Solutions or GRE is a party pursuant to the applicable Customer Contracts Valuation (which sum may be positive or negative); plus

(C) the GRE Closing Adjusted Net Income/(Loss) and Other Comprehensive Income/(Loss) less the GRE Target Closing Adjusted Net Income/(Loss) and Other Comprehensive Income/(Loss) (which sum may be positive or negative).
(the sum of all the amounts referred to in this Section 2.5(b) as the “Energy Plus Group Adjustment Amount”).

(c) For the purposes of this Article 2:

(i) “BEC Holdco Closing Net Asset Value” means the sum of (i) total non-consolidated shareholder’s equity; (ii) less the intercompany debt owing from subsidiaries; and (iii) less investments in subsidiaries as at the Closing Date;

(ii) “BEC Holdco Target Closing Net Asset Value” means [redacted];

(iii) “BHI Adjusted Closing Net Income/(Loss) excluding Other Comprehensive Income/(Loss)” means the Net Income/(Loss) and Other Comprehensive Income/(Loss) as determined in accordance with IFRS consistently applied, and as shown on the BHI Financial Statements for the fiscal year ended December 31, 2021 plus the fiscal period up to the Closing Date;

(iv) “BHI Target Closing Adjusted Net Income/(Loss) excluding Other Comprehensive Income/(Loss)” means [redacted];

(v) “BPI Closing Net Fixed Assets” means the value of the Fixed Assets as defined and based on the applicable Brantford Closing Financial Statements, excluding the Excluded Assets;

(vi) “BPI Closing Net Other Assets and Liabilities” means any current or long term assets or liabilities not included within the BPI Closing Working Capital, BPI Closing Net Fixed Assets, BPI Closing Net Regulatory Balance or BPI Closing Total Net Debt. For greater certainty, other assets and liabilities will: (a) include current and long-term customer deposits payable, and (b) exclude the Excluded Debt, the Excluded Assets and any derivative assets or liabilities, net of any associated deferred tax; all as determined in accordance with IFRS, consistently applied and based on the applicable Brantford Closing Financial Statements;

(vii) “BPI Closing Net Regulatory Balance” means the asset regulatory balances net of deferred tax component, if any, less liability regulatory balances net of deferred tax component, if any, in each case as determined in accordance with IFRS, consistently applied and as shown on the applicable Brantford Closing Financial Statements, excluding the BPI COVID-19 Deferral and Variance Amount if the whole or any portion of such BPI COVID-19 Deferral and Variance Amount is not approved by the OEB for recovery by BPI prior to the Closing Date;

(viii) “BPI Closing Total Net Debt” means the sum of the Total Debt of BPI, cash and cash equivalents and net deferred tax assets (excluding the deferred
tax asset relating to the derivative liability) or liabilities in each case based on the applicable Brantford Closing Financial Statements;

(ix) “BPI Closing Working Capital” means the sum of the Current Assets of BPI less the Current Liabilities of BPI, in each case as determined in accordance with IFRS, consistently applied and as shown on the applicable Brantford Closing Financial Statements;

(x) “BPI COVID-19 Deferral and Variance Amount” means the deferral and variance amounts claimed by BPI for recovery on account of the costs and expenses incurred by it related to COVID-19;

(xi) “BPI Target Closing Net Fixed Assets” means

(xii) “BPI Target Closing Net Other Assets and Liabilities” means

(xiii) “BPI Target Closing Net Regulatory Balance” means

(xiv) “BPI Target Closing Total Net Debt” means

(xv) “BPI Target Closing Working Capital” means

(xvi) “Brantford Objection” is defined in Section 2.4(i).

(xvii) “Cambridge and North Dumfries Objection” is defined in Section 2.4(i).

(xviii) “Customer Contracts Valuation” is defined in Section 2.4(c).

(xix) “Energy Plus Holdings Closing Net Asset Value” means the sum of (i) total non-consolidated shareholder’s equity; (ii) less the intercompany debt owing from Energy Plus Solutions; and (iii) less investments in subsidiaries as at the Closing Date;

(xx) “Energy Plus Holdings Target Closing Net Asset Value” means

(xxi) “Energy Plus Solutions Closing Net Asset Value” means the sum of (i) total shareholder’s equity; (ii) plus the intercompany debt owing to Energy Plus Holdings; and (iii) less investments in Affiliates as at the Closing Date;

(xxii) “Energy Plus Solutions Target Closing Net Asset Value” means

(xxiii) “Energy+ Closing Net Fixed Assets” means the value of the Fixed Assets as defined and as included on the applicable Energy Plus Closing Financial Statements;
“Energy+ Closing Net Other Assets and Liabilities” means any current or long term assets or liabilities not included within the Energy+ Closing Working Capital, Energy+ Closing Net Fixed Assets, Energy+ Closing Net Regulatory Balance or Energy+ Closing Total Net Debt. For greater certainty, other assets and liabilities will: (a) include current and long-term customer deposits payable, (b) include goodwill, and (c) exclude any derivative assets or liabilities, net of any associated deferred tax; all as determined in accordance with IFRS, consistently applied and based on the applicable Energy Plus Closing Financial Statements;

“Energy+ Closing Net Regulatory Balance” means the asset regulatory balances net of deferred tax component, if any, less liability regulatory balances net of deferred tax component, if any, in each case as determined in accordance with IFRS, consistently applied and as shown on applicable Energy Plus Closing Financial Statements;

“Energy+ Closing Total Net Debt” means the sum of the Total Debt of Energy+, cash and cash equivalents and net deferred tax assets or liabilities, based on the applicable Energy Plus Closing Financial Statements;

“Energy+ Closing Working Capital” means the sum of the Current Assets of Energy+ less the Current Liabilities of Energy+, in each case as determined in accordance with IFRS, consistently applied and as shown on the applicable Energy Plus Closing Financial Statements;

“Energy+ Target Closing Net Fixed Assets” means

“Energy+ Target Closing Net Other Assets and Liabilities” means

“Energy+ Target Closing Net Regulatory Balance” means

“Energy+ Target Closing Total Net Debt” means

“Energy+ Target Closing Working Capital” means

“GRE Closing Adjusted Net Income/(Loss) and Other Comprehensive Income/(Loss)” means: 1/3 of the aggregate of (i) the net income/(loss) and comprehensive (loss) as determined in accordance with IFRS, consistently applied, and as shown on the GRE Financial Statements for the fiscal year ended December 31, 2021 plus the fiscal period up to the Closing Date, and (ii) adjusted to exclude any unrealized gains or losses on derivatives for the same periods, net of any related deferred taxes; and

“GRE Target Closing Adjusted Net Income/(Loss) and Other Comprehensive Income/(Loss)” means, representing one-third of the total GRE Closing Adjusted Net Income/(Loss) and Other Comprehensive Income/(Loss).
(xxxv) “MTS Appraisal” is defined in Section 2.4(e).

(xxxvi) “Tallgrass Appraisal” is defined in Section 2.4(d).

2.6 Implementation of Adjustments

(a) As soon as practicable following the final determination of the BEC Group Adjustment Amount and the Energy Plus Group Adjustment Amount:

(i) Brantford shall send a redemption notice to Amalco Holdco in accordance with the redemption terms attached to its Class B Special Shares (excluding its Class D Special Shares, the redemption of which shall be governed by Section 2.6(a)(iv)) if the BEC Group Adjustment Amount as a percentage of the BEC Group Valuation Amount is higher than the Energy Plus Group Adjustment Amount as a percentage of the Energy Plus Group Valuation Amount. Such redemption notice shall notify Amalco Holdco of Brantford’s intention to redeem the Class B Special Shares it holds in Amalco Holdco. Amalco Holdco, in accordance with the redemption terms applicable to the Class B Special Shares, shall pay to Brantford, and Brantford shall be entitled to receive from Amalco Holdco, the Net Adjustment Amount. In this situation, Cambridge and North Dumfries shall each send a redemption notice to Amalco Holdco in accordance with the redemption terms applicable to the Class A Special Shares, notifying Amalco Holdco of their intention to have their Class A Special Shares redeemed for the price of $1.00, in the aggregate.

(ii) Cambridge and North Dumfries shall send a redemption notice to Amalco Holdco in accordance with the redemption terms attached to their Class A Special Shares (excluding their Class C Special Shares, the redemption of which shall be governed by Section 2.6(a)(iii)) if the Energy Plus Group Adjustment Amount as a percentage of the Energy Plus Group Valuation Amount is higher than the BEC Group Adjustment Amount as a percentage of the BEC Group Valuation Amount. Such redemption notice shall notify Amalco Holdco of Cambridge and North Dumfries’ intention to redeem the Class A Special Shares each holds in Amalco Holdco. Amalco Holdco, in accordance with the redemption terms applicable to the Class A Special Shares, shall pay to Cambridge and North Dumfries, and Cambridge and North Dumfries shall be entitled to receive from Amalco Holdco, the Net Adjustment Amount. In this situation, Brantford shall send a redemption notice to Amalco Holdco in accordance with the redemption terms applicable to the Class B Special Shares, notifying Amalco Holdco of its intention to have its Class B Special Shares redeemed for the price of $1.00, in the aggregate.
(iv) Brantford shall send a redemption notice to Amalco Holdco in accordance with the redemption terms attached to its Class D Special Shares if the whole BPI COVID-19 Deferral and Variance Amount is approved for recovery by the OEB prior to the Closing Date notifying Amalco Holdco of its intention to have its Class D Special Shares redeemed for the price of $1.00 in the aggregate. Brantford shall send a redemption notice to Amalco Holdco in accordance with the redemption terms attached to its Class D Special Shares if the whole or any portion of the BPI COVID-19 Deferral and Variance Amount is received by LDC Amalco at any point following the Closing Date, following which Amalco Holdco, shall in accordance with the redemption terms applicable to the Class D Special Shares, pay to Brantford the redemption amount equal to the BPI COVID-19 Deferral and Variance Amount approved for recovery by the OEB, net of taxes.

(v) Each of Brantford, Cambridge and North Dumfries shall send a redemption notice to Amalco Holdco in accordance with the redemption terms applicable to the Class A Special Shares and Class B Special Shares held by each of them notifying Amalco Holdco of their intention to have their respective Special Shares redeemed for the price of $1.00, in the aggregate if the Net Adjustment Amount is zero.

(b) The redemption terms applicable to the Special Shares shall provide, among other things, that Amalco Holdco shall pay the aggregate redemption amount to the redeeming shareholder as follows:

(i) up to a maximum of $2,000,000 within 10 Business Days following receipt of the redemption notices; and

(ii) for any amounts in excess of $2,000,000 (the "Unpaid Redemption Amount"), upon the following terms:
(A) the Unpaid Redemption Amount will be payable in annual instalments not to exceed $2,000,000 per year commencing on one year after the Closing Date and bear interest at the Prime Rate; and

(B) Amalco Holdco shall be entitled, at its option and on two Business Days’ notice, to prepay all or any portion of the Unpaid Redemption Amount and any accrued and unpaid interest without bonus or penalty.

(c) Subject to Section 2.6(d), each of LDC Amalco, Energy Plus Solutions and BHI, as applicable, will declare dividends in such amounts as may be required by Amalco Holdco to fund the payment of the redemption of any Special Shares.

(d) If the declaration of any dividend by LDC Amalco, Energy Plus Solutions and/or BHI pursuant to Section 2.6(c) and/or the payment of any redemption amount payable to a shareholder under Section 2.6(b) would result in a breach by Amalco Holdco, LDC Amalco, Energy Plus Solutions and/or BHI of applicable Law (including the solvency requirements of the OBCA) or would breach a covenant under Amalco Holdco, LDC Amalco, Energy Plus Solutions and/or BHI’s respective financing arrangements, such payment shall not be paid but will be held in abeyance until such time that it can be paid without any such breach.

2.7 COVID-19 Acknowledgement Re. Target Balances

Each of the Parties acknowledges and agrees that the establishment of the target closing amounts set forth in Section 2.5 represent the good faith estimates of the Parties to account for the financial impacts to each member of the BEC Group and each member of the Energy Plus Group, as applicable, in connection with the effects of COVID-19 and COVID-19 Legislation and Emergency Orders on the BEC Business and the Energy Plus Business.

2.8 Nature and Intent of Adjustments (No Double Counting)

Each of the Parties acknowledges and agrees that the calculations performed pursuant to this Article 2 including the determination of the BEC Group Adjustment Amount and the Energy Plus Group Adjustment Amount, as applicable, shall be calculated without duplication or double counting of amounts. Without limiting the generality of the foregoing, no net adjustment gains or losses are intended to be created from the conversion of the Brantford Promissory Note pursuant to Section 6.1(f).

ARTICLE 3
GENERAL REPRESENTATIONS AND WARRANTIES

Each of Parties hereby severally represents and warrants as follows to each other that, the representations and warranties set out below with respect to itself are true and correct on the date hereof and acknowledge that each such other Party is relying on such representations and warranties:
3.1 Corporate Existence

It is a corporation (in the case of Cambridge, North Dumfries and Brantford, a municipal corporation), duly incorporated and validly existing under the laws of Ontario.

3.2 Capacity to Enter Agreement

It has all necessary corporate power, authority and capacity to enter into and perform its obligations under this Agreement and each of the other documents and agreements to be entered into by it pursuant to this Agreement.

3.3 Binding Obligation

The execution and delivery of this Agreement and each of the other documents and agreements to be entered into by it pursuant to this Agreement and the completion of the transactions contemplated by this Agreement and such other documents and agreements by it have been duly authorized by all necessary corporate action on its part. This Agreement has been duly executed and delivered by such entity and constitutes a valid and binding obligation of such entity, enforceable against it in accordance with the terms hereof, subject to applicable bankruptcy, insolvency and other Laws of general application limiting the enforcement of creditors' rights generally and to the fact that equitable remedies, including specific performance, are discretionary and may not be ordered in respect of certain defaults.

3.4 Absence of Conflict

None of the execution and delivery of this Agreement and each of the other documents and agreements to be entered into by it pursuant to this Agreement, the performance by it of its obligations hereunder and thereunder or the completion of the transactions contemplated hereunder and thereunder will:

(a) result in or constitute a breach of any term or provision of, or constitute a default under, the Corporate Articles, by-laws or other constating documents of such entity, or any Contract to which such entity is a party or by which such entity's undertakings, property or assets are bound or affected;

(b) result in the creation or imposition of any Encumbrance on any of the assets of such entity;

(c) subject to obtaining the regulatory approvals set forth in Article 9, contravene any applicable Law; or

(d) contravene any judgment, order, writ, injunction or decree of any Governmental Authority.
ARTICLE 4
REPRESENTATIONS AND WARRANTIES OF BRANTFORD

Brantford represents and warrants to Cambridge and North Dumfries as follows, and acknowledges that each of Cambridge and North Dumfries are relying upon these representations and warranties in connection with the Amalgamations. Each exception to the following representations and warranties that is set out in the disclosure schedule attached as Schedule A (the “Brantford Disclosure Schedule”).

4.1 Residence

No member of the BEC Group is a non-resident of Canada for purposes of the ITA.

4.2 Regulatory Approvals

Except as set out in Article 9 and except as has already been obtained, no authorization, approval, order, consent of, or filing with, any Governmental Authority is required on the part of Brantford or the BEC Group in connection with the execution, delivery and performance by any of them of this Agreement or any other documents and agreements to be delivered under this Agreement or in connection with the completion of the transactions contemplated hereby or thereby.

4.3 Consents

Except as disclosed in the Brantford Disclosure Schedule, there is no requirement to obtain any consent, approval or waiver of a party under any Material Contract to which Brantford or the BEC Group is a party in order to complete the transactions contemplated by this Agreement.

4.4 Share Ownership, Etc.

(a) As at the date hereof, Brantford is the legal and beneficial owner of 2,001 common shares of BEC with good and marketable title thereto, free and clear of all Encumbrances, being in aggregate all of the issued and outstanding shares of BEC. Immediately prior to Closing, Brantford will be the legal and beneficial owner of all of the issued and outstanding common shares of BEC with good and marketable title thereto, free and clear of all Encumbrances.

(b) Brantford is the legal and beneficial owner of a promissory note issued by BPI with the principal sum of $24,189,168 due February 1, 2026 and an interest rate of 3.95% and a promissory note issued by BHI in the amount with the principal sum of $1,303,335 due February 1, 2026 and an interest rate of 3.95% (together, the “Brantford Promissory Notes”).

(c) Bli:C is the legal and beneficial owner of 1,001 common shares of BPI with good and marketable title thereto, free and clear of all Encumbrances (other than Permitted Encumbrances), being in aggregate all of the issued and outstanding shares of BPI.
(d) BEC is the legal and beneficial owner of 1,001 common shares of BHI with good and marketable title thereto, free and clear of all Encumbrances (other than Permitted Encumbrances), being in aggregate all of the issued and outstanding shares of BHI.

(e) Except as disclosed in the Brantford Disclosure Schedule, the BEC Group does not own or hold, directly or indirectly, any Securities of, or have any other interest in, any Person, and no member of the BEC Group has entered into any agreement to acquire any such interests.

4.5 Corporate Existence of the BEC Group

Each member of the BEC Group has been duly incorporated and organized and are validly existing and in good standing as a corporation under the laws of the Province of Ontario. No proceedings have been taken or authorized by any member of the BEC Group in respect of the bankruptcy, insolvency, liquidation, dissolution or winding up of such member of the BEC Group.

4.6 Corporate Articles

Their respective Corporate Articles constitute all of the charter documents of each member of the BEC Group and are in full force and effect; no action has been taken to amend any Corporate Articles and no changes to such Corporate Articles are planned other than as contemplated in this Agreement.

4.7 Capacity and Powers of the BEC Group

Each member of the BEC Group has all necessary corporate power, authority and capacity to own or lease its respective assets and to carry on the BEC Business as currently being conducted by the applicable member of the BEC Group.

4.8 Jurisdictions

Ontario is the only jurisdiction in which the members of the BEC Group are qualified to do business. Neither the character nor location of the BEC Owned Lands or BEC Leased Premises, nor the nature of the BEC Business requires qualification to do business in any other jurisdiction.

4.9 Options, Etc.

Except as provided in this Agreement, no Person has any written or oral agreement or option or any right or privilege (whether by Law, pre-emptive, contractual or otherwise) capable of becoming an agreement or option, including Securities, warrants or convertible obligations of any nature, for:

(a) the purchase of any Securities of any member of the BEC Group; or

(b) the purchase of any of the assets of any member of the BEC Group other than in the ordinary course of the BEC Business.
4.10 Corporate Records/Directors

(a) The corporate records and minute books of the BEC Group which have been made available contain in all material respects complete and accurate minutes of all meetings of, and all written resolutions passed by, the directors and shareholders of the BEC Group, held or passed since incorporation. All those meetings were held, all those resolutions were passed, and the share certificate books, registers of shareholders, registers of transfers and registers of directors of the applicable member of the BEC Group are complete and accurate in all material respects.

(b) The Brantford Disclosure Schedule contains the name of each director of the applicable member of the BEC Group, including the date on which each of such director was most recently elected as a director, and each such individual has been duly elected a director of the respective member of the BEC Group.

4.11 Books and Records

The Books and Records of the BEC Group fairly and correctly set out and disclose in accordance with IFRS in all material respects the financial position of the BEC Group, and all material financial transactions of the BEC Group have been accurately recorded in such Books and Records.

4.12 Financial Statements

Copies of the BEC Financial Statements, BPI Financial Statements and BHI Financial Statements are attached to the Brantford Disclosure Schedule. Such BEC Financial Statements, BPI Financial Statements and BHI Financial Statements have been prepared in accordance with IFRS and present fairly:

(a) the assets, liabilities (whether accrued, absolute, contingent or otherwise) and the financial condition of each member of the BEC Group as at the respective dates thereof; and

(b) the sales, earnings and results of the operations of the applicable member of the BEC Group during the periods covered by such BEC Financial Statements, BPI Financial Statements and BHI Financial Statements;

but the unaudited interim financial statements:

(c) do not contain all notes required under IFRS; and

(d) are subject to normal year-end audit adjustments.

4.13 Tax Matters

(a) The members of the BEC Group are exempt from Tax under the ITA, CTA and TA but each of them is required to make PILs payments under the EA in an amount equal to the Tax that it would be liable to pay under the ITA, CTA and TA if it were not exempt from Tax under those statutes.
(b) The members of the BEC Group have filed in the prescribed manner and within the prescribed times all Tax Returns required to be filed by it in all applicable jurisdictions on a timely basis. All such Tax Returns are complete and correct and disclose all Taxes required to be paid for the periods covered thereby. No member of the BEC Group has been required to file any Tax Returns with, and have never been liable to pay or remit Taxes to, any Governmental Authority outside Canada. The BEC Group have paid all Taxes and all instalments of Taxes due on or before the date hereof. Brantford has furnished to Cambridge and North Dumfries true, complete and accurate copies of all Tax Returns and any amendments thereto filed by the members of the BEC Group since December 31, 2013 and all notices of assessment (up to December 31, 2019) and reassessment and all correspondence with Governmental Authorities relating thereto.

(c) Assessments under the EA have been issued to the BEC Group covering all periods up to and including its fiscal year ended December 31, 2020.

(d) There are no audits, assessments, reassessments or other Claims in progress or, to the Knowledge of Brantford, threatened against any member of the BEC Group, in respect of any Taxes and, in particular, there are no currently outstanding reassessments or written enquiries which have been issued or raised by any Governmental Authority relating to any such Taxes. To the Knowledge of Brantford, there is no contingent liability of any member of the BEC Group for Taxes or any grounds that could prompt an assessment or reassessment for Taxes. No member of the BEC Group has received any indication from any Governmental Authority that any assessment or reassessment is proposed.

(e) No member of the BEC Group has entered into any transactions with any non-resident of Canada (for the purposes of the ITA) with whom such member of the BEC Group was not dealing at arm’s length (within the meaning of the ITA). No member of the BEC Group has acquired property from any Person in circumstances where such member of the BEC Group did or could have become liable for any Taxes payable by that Person.

(f) No member of the BEC Group will be required to include in a taxable period ending after the Closing Date any material taxable income attributable to income that accrued in a taxable period prior to the Closing Date but was not recognized for Tax purposes in such prior taxable period (or to exclude from taxable income in a taxable period ending after the Closing Date any material deduction the recognition of which was accelerated from such taxable period to a taxable period prior to the Closing Date).

(g) There are no circumstances existing which could result in, or which have existed and resulted in, the application of section 78 of the ITA, as it applies for purposes of the EA, in respect of an amount owing by a member of the BEC Group on the Closing Date.
(h) No member of the BEC Group has entered into any agreements, waivers or other arrangements with any Governmental Authority providing for an extension of time with respect to the issuance of any assessment or reassessment, the filing of any Tax Return, or the payment of any Taxes by or in respect of such member of the BEC Group except with respect to the 2015 Tax year in respect of BPI and BHI. Neither BEC nor BPI is party to any agreements or undertakings with respect to Taxes.

(i) The BEC Group are registrants for purposes of the ETA and BEC’s registration number is 875041329 RT0001, BPI’s registration number is 865858773 RT0001 and BHI’s registration number is 875041121 RT0001. All input tax credits claimed by each member of the BEC Group pursuant to the ETA have been proper, correctly calculated and documented. Each member of the BEC Group has collected, paid and remitted when due all Taxes, including goods and services tax, harmonized sales tax and retail sales tax, collectible, payable or remittable by them.

(j) Each member of the BEC Group has remitted to the appropriate Governmental Authority when required by Law to do so all amounts collected by it on account of sales taxes including goods and services tax and harmonized sales tax imposed under the ETA.

(k) Each member of the BEC Group maintains its Books and Records in compliance with section 230 of the ITA.

4.14 Absence of Changes

Except as disclosed in the Brantford Disclosure Schedule, the transfer of the Excluded Assets and repayment of the Excluded Debt, since December 31, 2020, there has not been:

(a) any change in the financial condition, operations, results of operations, or business of any member of the BEC Group which has had a Material Adverse Effect, nor has there been any occurrence or circumstances which, to the Knowledge of Brantford, with the passage of time might reasonably be expected to have a Material Adverse Effect; or

(b) any Loss, labour trouble, or other event, development or condition of any character (whether or not covered by insurance) suffered by the BEC Group which, to the Knowledge of Brantford, has had, or may reasonably be expected to have, a Material Adverse Effect.

4.15 Absence of Undisclosed Liabilities

Except to the extent reflected or reserved in the BEC Financial Statements, BPI Financial Statements and BHI Financial Statements, or incurred subsequent to December 31, 2020 and:

(a) disclosed in the Brantford Disclosure Schedule; or

(b) incurred in the ordinary course of the BEC Business;
no member of the BEC Group has any material outstanding indebtedness or any liabilities or obligations (whether accrued, absolute, contingent or otherwise, including under any guarantee of any debt) of a nature customarily reflected or reserved against in a balance sheet (including the notes to the BEC Financial Statements, BPI Financial Statements and BHI Financial Statements) in accordance with IFRS. For the purposes of this Section 4.15 only, indebtedness, liabilities or obligations owing to any third party in excess of $250,000 will be deemed to be material.

4.16 Absence of Unusual Transactions

Except as disclosed or referred to in the Brantford Disclosure Schedule, the transfer of the Excluded Assets and repayment of the Excluded Debt, since December 31, 2020 no member of the BEC Group has:

(a) given any guarantee of any debt, liability or obligation of any Person;
(b) subjected any of its assets, or permitted any of its assets to be subjected, to any Encumbrance other than the Permitted Encumbrances;
(c) acquired, sold, leased or otherwise disposed of or transferred any assets other than in the ordinary course of the BEC Business;
(d) made or committed to any capital expenditures other than in the ordinary course of the BEC Business;
(e) declared or paid any dividend or otherwise made any distribution or other payment of any kind or nature to its shareholder or any other non-arm’s length Person except as set forth in Section 6.3(e) or taken any corporate proceedings for that purpose;
(f) redeemed, purchased or otherwise retired any of its shares or otherwise reduced its stated capital;
(g) entered into or become bound by any Contract except in the ordinary course of the BEC Business (other than this Agreement);
(h) modified, amended or terminated any Contract (except for Contracts which expire by the passage of time) resulting in a Material Adverse Effect;
(i) waived or released any right or rights which it has or had, or a debt or debts owed to it resulting, collectively or individually, in a Material Adverse Effect;
(j) made any change in any compensation arrangement or agreement with any BEC Group Employee except for annual merit pay increases and incentive payments consistent with the ordinary course of the BEC Business;
(k) made any change in any method of accounting or auditing practice (other than as disclosed in the BEC Financial Statements, BPI Financial Statements or BHI Financial Statements and/or in order to make its financial disclosure consistent with
the financial disclosure of the BEC Group as regards to accrued CDM bonus or as regards to loss revenue adjustment mechanism recoveries); or

(l) agreed or offered to do any of the things described in this Section 4.16.

4.17 Title to and Condition of Assets

Each member of the BEC Group owns, possesses and has good and marketable title to all of its undertakings, property and assets not otherwise the subject of specific representations and warranties in this Article 4, including all the undertakings, property and assets reflected in the most recent balance sheet included in the BEC Financial Statements, BPI Financial Statements or the BHI Financial Statements (as applicable), free and clear of all Encumbrances other than Permitted Encumbrances. The undertakings, property and assets of each member of the BEC Group comprise all of the undertakings, property and assets necessary for it to carry on the BEC Business as it is currently operated by such member of the BEC Group. All facilities, machinery, equipment, fixtures, vehicles and other properties owned, leased or used by each member of the BEC Group are in good operating condition and repair, ordinary wear and tear excepted, and are reasonably fit and usable for the purposes for which they are being used.

4.18 Real Property

(a) The Brantford Disclosure Schedule contains a complete and accurate list of the BEC Owned Lands, including complete legal descriptions, and the particulars of the BEC Leased Premises and BEC Real Property Leases. No member of the BEC Group owns any real property and does not lease and has not agreed to acquire or lease any real property other than as listed in the Brantford Disclosure Schedule.

(b) Each member of the BEC Group has all Easements that are necessary for it to carry on the BEC Business as it is currently operated by it.

(c) No member of the BEC Group has received any, nor to the Knowledge of Brantford are there any pending or threatened, notices of violation or alleged violation of any Laws against or affecting any BEC Owned Lands or BEC Leased Premises or BEC Easements.

(d) The buildings and other structures and improvements located on the BEC Owned Lands or forming part of the BEC Leased Premises, and their operation and maintenance, comply with all applicable Laws, and none of those buildings or structures or improvements encroaches upon any land not owned or leased by the applicable member of the BEC Group.

(e) There are no restrictive covenants or Laws which in any way restrict or prohibit any part of the present use of the BEC Owned Lands or BEC Leased Premises or BEC Easements, other than the Permitted Encumbrances. Each member of the BEC Group has such rights of entry and exit to and from the BEC Owned Lands and the BEC Leased Premises and the BEC Easements as are reasonably necessarily to carry on the BEC Business.
(f) Except as disclosed in the Brantford Disclosure Schedule, no Person has any right to purchase any of the BEC Owned Lands and no Person other than BPI is using or has any right to use, is in possession or occupancy, of any part of the BEC Owned Lands. There exists no option, right of first refusal or other contractual rights with respect to any of the BEC Owned Lands.

(g) There are no expropriation or similar proceedings, actual or threatened, of which any member of the BEC Group or Brantford have received notice, against any of the BEC Owned Lands or BEC Leased Premises or BEC Easements.

(h) The BEC Owned Lands are owned in fee simple, free and clear of all Encumbrances, except Permitted Encumbrances. No member of the BEC Group has entered into any contract to sell, transfer, encumber, or otherwise dispose of or impair the right, title and interest of such member of the BEC Group in and to the BEC Owned Lands or the air, density and easement rights relating to such BEC Owned Lands.

(i) All of the BEC Real Property Leases are in full force and effect, unamended, and none of them are, to the Knowledge of Brantford, under any threat of termination.

(j) All of the BEC Easements are in full force and effect and none of them are, to the Knowledge of Brantford, under any threat of termination.

(k) Neither Brantford nor any member of the BEC Group has received any notification of, nor are there any outstanding or incomplete work orders in respect of any Fixed Assets on the BEC Owned Lands, BEC Leased Premises or BEC Easements, or of any current noncompliance (other than non-compliances which are legal non-conforming under relevant zoning by-laws) with applicable statutes and regulations or building and zoning by-laws and regulations.

(l) All accounts for work and services performed or materials placed or furnished upon or in respect of the construction and completion of any Fixed Assets constructed on the BEC Owned Lands or the BEC Leased Premises or the BEC Easements have been fully paid to the extent due and no Person is entitled to claim a lien under the Construction Act (Ontario) or other similar legislation for such work.

(m) To the Knowledge of Brantford, there are no matters affecting the right, title and interest of any member of the BEC Group in and to the BEC Owned Lands or the BEC Leased Premises or the BEC Easements (other than the Permitted Encumbrances) or which, in the aggregate, would materially and adversely affect the ability of such member of the BEC Group to carry on the BEC Business upon such BEC Owned Lands or the BEC Leased Premises or the BEC Easements, as applicable.

4.19 Intellectual Property

(a) The Brantford Disclosure Schedule includes a list of all Intellectual Property that is registered with any Governmental Authority and that is used in connection with the
conduct of the BEC Business, including all trade-marks and trade-mark applications, trade names, certification marks, patents and patent applications, copyrights, domain names, industrial designs, trade secrets, know-how, formulae, processes, inventions, technical expertise, research data and other similar property, all associated registrations and applications for registration, and all associated rights, including moral rights, the jurisdictions (if any) in which that Intellectual Property is registered (or in which application for registration has been made) and the applicable expiry dates of all listed registrations.

(b) All necessary legal steps have been taken by the BEC Group to preserve their respective rights to the Intellectual Property listed in the Brantford Disclosure Schedule. The Brantford Disclosure Schedule also includes a list of all licence agreements pursuant to which BEC Group have been granted a right to use, or otherwise exploit Intellectual Property owned by third parties, other than “off-the-shelf” software license agreements.

(c) The Intellectual Property that is owned by the members of the BEC Group (as applicable) is owned free and clear of any Encumbrances other than Permitted Encumbrances, and no Person other than the applicable member of the BEC Group has any right to use that Intellectual Property except as disclosed in the Brantford Disclosure Schedule.

(d) The use by the members of the BEC Group of any Intellectual Property owned by third parties is valid, and the BEC Group is not in default or breach of any licence agreement relating to that Intellectual Property, and there exists no state of facts which, after notice or lapse of time or both, would constitute a default or breach.

(e) The conduct by the members of the BEC Group of the BEC Business does not infringe the Intellectual Property of any Person.

4.20 Accounts Receivable

All Accounts Receivable reflected in the BEC Financial Statements, BPI Financial Statements and the BHI Financial Statements, as applicable, or which have come into existence since the date of the most recent BEC Financial Statements, BPI Financial Statements and BHI Financial Statements, were created in the ordinary and customary course of the BEC Business from bona fide arm’s length transactions, and, except to the extent that they have been paid in the ordinary course of such BEC Business since the date of the BEC Financial Statements, BPI Financial Statements and the BHI Financial Statements, are valid and enforceable and collectible in full, without, to the Knowledge of Brantford, any right of set-off or counterclaim or any reduction for any credit or allowance made or given, except to the extent of the allowance for doubtful accounts which will be included in the Brantford Closing Financial Statements.

4.21 Material Contracts

(a) The Brantford Disclosure Schedule contains a list of all Material Contracts to which each member of the BEC Group is a party. Brantford has previously delivered or made available true and complete copies of such Material Contracts, all of which
are in full force and effect, unamended (except for amendments which have previously been disclosed or made available).

(b) No counterparty to any Material Contract to which any member of the BEC Group is a party is in default of any of its obligations under such Material Contract in any material respect. Each member of the BEC Group is entitled to all benefits under each Material Contract, and no member of the BEC Group has received any notice of termination of any Material Contract, and there are no current or pending negotiations with respect to the renewal, repudiation or amendment of any such Material Contract.

4.22 Accounts and Powers of Attorney

Each member of the BEC Group has previously disclosed:

(a) the name of each bank or other depository in which such member of the BEC Group maintains any bank account, trust account or safety deposit box and the names of all individuals authorized to draw on them or who have access to them; and

(b) the name of each Person holding a general or special power of attorney from BEC Group and a summary of its terms.

4.23 Compliance with Laws, Permits

(a) Each member of the BEC Group is conducting the BEC Business in compliance with all applicable Laws where the failure to do so (either individually or in the aggregate) would have a Material Adverse Effect.

(b) All Permits held by or granted to each member of the BEC Group are listed in the Brantford Disclosure Schedule. Such Permits are the only authorizations, registrations, permits, approvals, grants, licences, quotas, consents, commitments, rights or privileges (other than those relating to Intellectual Property) required to enable each member of the BEC Group to carry on the BEC Business as currently conducted and to enable each member of the BEC Group to own, lease and operate its assets. All such Permits are valid, subsisting, in full force and effect and unamended, and no member of the BEC Group is in default or breach of any such Permit; no proceeding is pending or, to the Knowledge of Brantford, threatened to revoke or limit any such Permit, and the completion of the transactions contemplated by this Agreement will not result in the revocation of any such Permit or the breach of any term, provision, condition or limitation affecting the ongoing validity of any such Permit.
4.24 Environmental Conditions

Without limiting the generality of Section 4.23, and except as disclosed in the Brantford Disclosure Schedule:

(a) the conduct of the BEC Business by the members of the BEC Group, and the current use and condition of each of the BEC Leased Premises and BEC Owned Lands have been and are in compliance with all applicable Environmental Laws in all material respects, and, to the Knowledge of Brantford, there are no facts which would give rise to any such non-compliance of any member of the BEC Group with any Environmental Laws either in the conduct of the BEC Business or in the current uses and condition of each of the BEC Leased Premises and the BEC Owned Lands;

(b) each member of the BEC Group has all Permits required by all Environmental Laws for the conduct by the BEC Group of the BEC Business ("BEC Environmental Approvals"), which BEC Environmental Approvals are valid and in full force and effect and listed in the Brantford Disclosure Schedule. Each member of the BEC Group is in compliance with all those BEC Environmental Approvals, and there have not been and there are no proceedings commenced or threatened to revoke or amend any such BEC Environmental Approvals in a manner that could reasonably be expected to have a Material Adverse Effect;

(c) each member of the BEC Group and each Person for whom such members of the BEC Group are responsible pursuant to all Environmental Laws, have imported, manufactured, processed, distributed, used, treated, stored, disposed of, transported, exported or handled Hazardous Substances in compliance with all Environmental Laws;

(d) to the Knowledge of Brantford, no Hazardous Substances have been disposed of on any of the BEC Leased Premises or the BEC Owned Lands, and there are no underground storage tanks on the BEC Leased Premises or the BEC Owned Lands and any underground storage tanks formerly on the BEC Leased Premises or the BEC Owned Lands have been removed and any affected soil, surface water or ground water has been remediated in compliance with all applicable Laws including Environmental Laws;

(e) no part of the BEC Owned Lands has ever been used as a landfill or for the disposal of waste;

(f) there has been no Release of any Hazardous Substance in the course of the BEC Business from, at, on, or under the BEC Leased Premises or the BEC Owned Lands or, to the Knowledge of Brantford, from or on to any other properties, except in compliance with all Environmental Laws;

(g) no member of the BEC Group has received any notice of any kind of any Release or possible Release of any Hazardous Substance from, at, on, or under any of the BEC Leased Premises or BEC Owned Lands, or from or on to any other properties;
(h) to the Knowledge of Brantford, there are no Hazardous Substances on any adjoining properties to any of the BEC Leased Premises or BEC Owned Lands which may adversely affect the BEC Business, or any of the BEC Leased Premises or BEC Owned Lands;

(i) there has been no Remedial Order issued to any member of the BEC Group in respect of the BEC Business, or with respect to any of the BEC Leased Premises or the BEC Owned Lands and, to the Knowledge of Brantford, no Remedial Orders are threatened, and there are no facts which could reasonably be expected to give rise to any Remedial Orders;

(j) no member of the BEC Group hast received any notice of Claim, summons, order, direction or other communication relating to non-compliance with any Environmental Laws from any Governmental Authority or other third party, and to the Knowledge of Brantford, there is no pending or threatened matter, act or fact which could cause the members of the BEC Group, the conduct of the BEC Business, or any of the BEC Leased Premises or BEC Owned Lands to no longer be in compliance with all applicable Environmental Laws; and

(k) no asbestos, asbestos containing materials, polychlorinated biphenyls ("PCBs") and PCB wastes are used, stored or otherwise present in or on the BEC Owned Lands except for PCBs contained in the electrical transformers which are in service and which form an integral part of, and are necessary for the operation of, the BEC Business. Brantford has disclosed or made available all inspection reports received from the Ministry of the Environment in connection with the handling, transportation and storage of PCBs by the applicable members of the BEC Group.

4.25 Suppliers and Customers

The Brantford Disclosure Schedule lists the 15 largest suppliers of goods and services from whom each member of the BEC Group has purchased goods or services (other than power) during the fiscal year ended December 31, 2020. No such supplier sold goods and services to the applicable member of the BEC Group which represented more than 20% of its annual purchases during such period. None of the suppliers listed in the Brantford Disclosure Schedule has advised the BEC Group, either orally or in writing, that it is terminating or considering terminating its relationship with such member of the BEC Group, or considering negotiating its relationship with such member of the BEC Group on terms that would result in a Material Adverse Effect, whether as a result of the completion of the transactions contemplated by this Agreement or otherwise.

4.26 Rights to Use Personal Information

(a) All Personal Information in the possession of the BEC Group has been collected, used and disclosed in compliance with all applicable Privacy Laws in those jurisdictions in which the BEC Group conducts, or is deemed by operation of law in those jurisdictions to conduct, the BEC Business.

(b) Brantford has disclosed or made available all Contracts and facts concerning the collection, use, retention, destruction and disclosure of Personal Information by the
applicable members of the BEC Group and there are no other Contracts, or facts which, on completion of the transactions contemplated by this Agreement, would restrict or interfere with the use of any Personal Information by the applicable members of the BEC Group in the continued operation of the BEC Business as conducted before the Closing.

(c) Except as disclosed in the Brantford Disclosure Schedule, there are no Claims pending or, to the Knowledge of Brantford, threatened, with respect to the collection, use or disclosure of Personal Information by the applicable members of the BEC Group.

4.27 Employees and Employment Contracts

(a) Brantford has made available in the Data Room the names, titles and status (active or non-active, and if not active, reason why and period of time not active) of all BEC Group Employees together with particulars of the material terms and conditions of their employment or engagement, including current rates of remuneration, perquisites, commissions, bonus or other incentive compensation (monetary or otherwise), most recent hire date, cumulative years of service, start and end dates of all previous periods of service, benefits, vacation or personal time off entitlements, current positions held and, if available, projected rates of remuneration, and whether the employee is a member of a collective bargaining union or agency and whether the employee is subject to the BEC Collective Agreement.

(b) To the Knowledge of Brantford, no BEC Group Employee nor any consultant with whom the applicable members of the BEC Group has contracted, is in violation of any term of any employment contract, contract of engagement, services agreement, proprietary information agreement or any other agreement relating to the right of that individual to be employed, engaged or retained by the applicable members of the BEC Group in any material respect, and, to the Knowledge of Brantford, the continued employment or engagement by the members of the BEC Group of the BEC Group Employees will not result in any such violation. No member of the BEC Group has received any notice alleging that any such violation has occurred.

(c) Except as disclosed in the Data Room, all of the BEC Group Employees are employed, engaged or retained for an indefinite term and none are subject to written employment agreements, contracts of engagement or services agreements. Brantford has made available in the Data Room true and complete copies of any written employment agreements, contracts of engagement or services agreements of all BEC Group Employees. No officer has given notice, oral or written, of an intention to cease being employed with the BEC Group (other than the pending employee retirements disclosed in the Brantford Disclosure Schedule), and no member of the BEC Group intends to terminate the employment of any officer.

(d) The members of the BEC Group have operated in compliance with all Laws relating to employees in all material respects, including employment standards and all Laws
relating in whole or in part to the protection of employee health and safety, human rights, labour relations and pay equity. Except as disclosed or referred to in the Brantford Disclosure Schedule, there have been no Claims within the past three years nor, to the Knowledge of Brantford, are there any threatened complaints, under such Laws against the members of the BEC Group. To the Knowledge of Brantford, nothing has occurred which might lead to a Claim or complaint against the members of the BEC Group under any such Laws. There are no outstanding decisions or settlements or pending settlements which place any obligation upon the members of the BEC Group to do or refrain from doing any act.

(c) There is no strike or lockout occurring or affecting, or to the Knowledge of Brantford, threatened against any member of the BEC Group.

4.28 Unions

(a) Except as disclosed in the Brantford Disclosure Schedule, there are no apparent or, to the Knowledge of Brantford, threatened union organizing activities involving BEC Group Employees.

(b) No member of the BEC Group has any labour problems that would reasonably be expected to result in a Material Adverse Effect, or lead to any interruption of operations at any location.

(c) No member of the BEC Group has engaged in any lay-off or other activities within the last three years in respect of the BEC Business that would violate or in any way subject the members of the BEC Group to the group termination or lay-off requirements of the Laws of any jurisdiction that apply to the members of the BEC Group.

(d) Except as disclosed in the Brantford Disclosure Schedule, no member of the BEC Group is bound by or a party to, either directly or by operation of law, any collective bargaining agreement (the “BEC Collective Agreement”) with any trade union or association which might qualify as a trade union, and no trade union, association, council of trade unions, employee bargaining agency or affiliated bargaining agent:

(i) holds bargaining rights with respect to any of the BEC Group Employees by way of certification, interim certification, voluntary recognition, designation or successor rights;

(ii) has, to the Knowledge of Brantford, applied to be certified or requested to be voluntarily recognized as the bargaining agent of any of the BEC Group Employees;

(iii) has, to the Knowledge of Brantford, applied to have any member of the BEC Group declared a related or successor employer under applicable provincial labour or employment Law; or
has, to the Knowledge of Brantford, filed a complaint or charge under applicable provincial labour or employment Law within the last three years.

4.29 Employee Benefits Matters

(a) Except as disclosed in the Brantford Disclosure Schedule, the members of the BEC Group are not:

(i) a party to, bound by or subject to, and do not have any liability or contingent liability relating to, any employment agreement or any other agreement or arrangement relating to Employee Benefits;

(ii) in arrears in the payment of any contribution or assessment required to be made by them pursuant to any agreements or arrangements relating to Employee Benefits; or

(iii) a party to or bound by or subject to any agreement or arrangement with any labour union or employee association in respect of Employee Benefits and has not made any commitment to or conducted any negotiation or discussion with any labour union or employee association with respect to any future agreement or arrangement in respect of Employee Benefits.

(b) All agreements and arrangements relating to Employee Benefits in respect of BEC Group Employees set forth in the Brantford Disclosure Schedule (other than OMERS, with respect to which Brantford makes no representation under this Section 4.29(b)) are, and have been, established, registered (where required), and administered without default, in material compliance with (i) the terms thereof; and (ii) all applicable Laws; and no member of the BEC Group has received, in the last four years, any notice from any Person questioning or challenging such compliance (other than in respect of any claim related solely to that Person), nor does Brantford have any Knowledge of any such notice from any Person questioning or challenging such compliance beyond the last four years. Except as disclosed in the Brantford Disclosure Schedule or the BEC Collective Agreement, there have been no improvements, increases or changes to, or promised improvements, increases or changes to, the benefits provided under any such agreement or arrangement within the last four years, nor does any such agreement or arrangement provide for benefit increases or the acceleration of funding obligations that are contingent upon or will be triggered by the execution of this Agreement or the Closing.

(c) Except as disclosed in Brantford Disclosure Schedule, no BEC Group Employee is on long-term disability leave, extended absence or receiving benefits pursuant to the Workplace Safety and Insurance Act, 1997 (Ontario).

(d) Except as disclosed in the Brantford Disclosure Schedule, no agreement or arrangement, other than OMERS, provides benefits beyond retirement or other termination of service to employees or former employees of any member of the BEC Group or to the beneficiaries or dependants of such employees or former
employees. Other than OMERS, no such agreement or arrangement requires or permits a retroactive increase in premiums or payments.

(e) All assessments under the *Workplace Safety and Insurance Act, 1997* (Ontario) in relation to the BEC Business have been paid or accrued and no member of the BEC Group is subject to any special or penalty assessment under such legislation which has not been paid.

4.30 Pension Plans

(a) Except as disclosed in the Brantford Disclosure Schedule, OMERS is the only pension or retirement plan or arrangement in which BEC Group Employees participate and/or to which the BEC Group contributes as a participating employer.

(b) All obligations of the BEC Group to or under OMERS (whether pursuant to the terms thereof or any applicable Laws) have been satisfied, and there are no outstanding defaults or violations thereunder by any member of the BEC Group or by any predecessor thereof.

(c) There are no going concerns with respect to unfunded actuarial liabilities, past service unfunded liabilities or solvency deficiencies respecting the BEC Group’s participation in OMERS.

(d) All employee data necessary to administer the BEC Group’s participation in OMERS and any other agreement or arrangement listed in the Brantford Disclosure Schedule is in the possession of the BEC Group and is complete, correct and in a form which is sufficient for the proper administration of the BEC Group’s participation in OMERS in accordance with the terms thereof and all applicable Laws.

(e) All employer or employee payments, contributions or premiums required to be remitted or paid by the BEC Group to or in respect of OMERS have been paid or remitted in a timely fashion in accordance with the terms thereof and all Laws, and no Taxes, penalties or fees are owing or exigible on any member of the BEC Group under OMERS.

4.31 Insurance Policies

The Brantford Disclosure Schedule lists all Insurance Policies, and also specifies the insurer, the amount of the coverage, the type of insurance, the policy number and any pending Claims with respect to each such Insurance Policy. The Insurance Policies insure all the property and assets of the BEC Group against Loss by all insurable hazards of risk commonly insured against in the industry. All Insurance Policies are in full force and effect and no member of the BEC Group:

(a) is in default, whether as to the payment of premiums or otherwise, under any material term or condition of any of the Insurance Policies; or
(b) has failed to give notice or present any Claim under any of the Insurance Policies in a due and timely fashion.

4.32 Litigation

(a) Except as disclosed or referred to in the Brantford Disclosure Schedule, there are no Claims, whether or not purportedly on behalf of BEC Group, pending, commenced, or, to the Knowledge of Brantford, threatened, which might reasonably be expected to have a Material Adverse Effect on any member of the BEC Group or which might involve the possibility of an Encumbrance against the assets of any member of the BEC Group.

(b) There is no outstanding judgment, decree, order, ruling or injunction involving any member of the BEC Group or relating in any way to the transactions contemplated by this Agreement.

4.33 Withholding

Each member of the BEC Group has withheld from each payment made to any of its past or present employees, officers or directors, and to any non-resident of Canada, the amount of all Taxes and other deductions required to be withheld therefrom, including all employee and employer portions for Workers’ Compensation, Canada Pension Plan, Employer Health Tax and Employment Insurance and has paid the same to the proper Governmental Authority within the time required under any applicable Laws.

4.34 No Expropriation

No property or asset of any member of the BEC Group has been taken or expropriated by any Governmental Authority within the last five years, and no notice or proceeding in respect of any such expropriation has been given or commenced or, to the Knowledge of Brantford, is there any intent or proposal to give any notice or commence any proceeding in respect of any such expropriation.

4.35 Absence of Conflict

None of the execution and delivery of this Agreement, the performance of any member of the BEC Group’s obligations under this Agreement, or the completion of the transactions contemplated by this Agreement will:

(a) result in or constitute a breach of any term or provision of, or constitute a default under, the Corporate Articles or the by-laws of such entity, or any Contract to which such entity is a party or by which any of such entity’s undertakings, property or assets is bound or affected;

(b) subject to obtaining the third party consents contemplated by Section 7.1(c), constitute an event which would permit any party to any Material Contract with BEC Group to terminate or sue for damages with respect to that Material Contract,
or to accelerate the maturity of any indebtedness of BEC Group, or other obligation of BEC Group under that Material Contract;

(c) subject to obtaining the regulatory approvals set forth in Article 9, contravene any applicable Law; or

(d) contravene any judgment, order, writ, injunction or decree of any Governmental Authority.

4.36 Restrictive Covenants

No member of the BEC Group is a party to, or bound or affected by, any Contract containing any covenant expressly limiting its ability to compete in any line of business or to transfer or move any of its assets or operations, or which could reasonably be expected to have a Material Adverse Effect on the BEC Business carried on by the applicable member of the BEC Group.

4.37 BEC Group Business

The business of the BEC Group is limited to the BEC Business.

4.38 Compliance with Privacy Laws

With respect to the BEC Business:

(a) Each member of the BEC Group has made available to Cambridge and North Dumfries the Privacy Statements contained in the Brantford Disclosure Schedule.

(b) Each member of the BEC Group: (i) complies with the Privacy Statements with respect to all personal information collected, used and/or disclosed by each member of the BEC Group; (ii) complies with all applicable Privacy Laws; and (iii) takes appropriate measures to protect and maintain the security of the personal information in the possession of each member of the BEC Group and/or which each member of the BEC Group has access.

(c) The change of control of each member of the BEC Group pursuant to the terms of this Agreement and the transactions contemplated hereunder (including the disclosures made by each member of the BEC Group in the course of the due diligence in anticipation of the transactions contemplated by this Agreement), is in compliance with the terms of the Privacy Statement and all applicable Privacy Laws.

(d) All Personal Information disclosed to each member of the Energy Plus Group pursuant to the transaction contemplated by this Agreement relates directly to the part of BEC Business that is covered by the transactions contemplated by this Agreement.

(e) No member of the BEC Group is aware of any complaint made or any audit, investigation, claim or proceeding including court proceeding against any member
of the BEC Group by the Office of the Privacy Commissioner of Canada or any other Governmental Authority, or by any Person in respect of the collection, retention, use, disclosure, safeguarding or distribution of Personal Information by any Person in connection with the BEC Business, nor is any member of the BEC Group aware of any facts which may give rise to any such complaint or audit, proceeding, investigation or claim.

(f) All Electronic Addresses have been acquired, maintained, updated (including operationalizing opt-out requests) and stored, and all Electronic Messages sent and/or delivered by or on behalf of each member of the BEC Group have been sent and/or delivered, in accordance with all applicable Laws, including but not limited to Anti-Spam Laws and Privacy Laws.

(g) In the last five years, there has been no unauthorized access, use, intrusion or breach of security, or failure, breakdown, performance reduction or other adverse event affecting any BEC Group Systems, that has caused or could reasonably be expected to cause any: (i) substantial disruption of or interruption in or to the use of such BEC Group Systems or the conduct of the BEC Business; (ii) loss, destruction, damage or harm of or to any member of the BEC Group or its respective operations, personnel, property or other assets; or (iii) liability of any kind to the applicable member of the BEC Group. Each member of the BEC Group has taken reasonable actions, consistent with applicable industry practices, to protect the integrity and security of BEC Group Systems and the data and other information stored thereon.

(h) Each member of the BEC Group maintains commercially reasonable back-up and data recovery, disaster recovery and business continuity plans, procedures and facilities, acts in material compliance therewith, and tests such plans and procedures on a regular basis, and such plans and procedures have been proven effective upon such testing.

(i) Each member of the BEC Group maintains policies and procedures regarding data security and privacy that are intended to ensure that each member of the BEC Group is in compliance with all applicable Laws and that are consistent with or exceed customary industry practices. Each member of the BEC Group is, and has been, in compliance in all material respects with (i) such foregoing policies and procedures, and (ii) all applicable data protection laws or Privacy Laws governing the use, collection, storage, disclosure and transfer of any personally identifiable information of third parties collected by each member of the BEC Group. There have not been any (1) losses or thefts of data or security breaches relating to data used or stored in the BEC Business, (2) violations of any security policy regarding any such data, (3) unauthorized access or unauthorized use of any such data, or (4) unintended or improper disclosure of any personally identifiable information in the possession, custody or control of each member of the BEC Group or a contractor or agent acting on behalf of each member of the BEC Group. There have not been any written complaints, written notices or legal proceedings or other written claims related to any of the foregoing in clauses (ii) or (i) through (4) above. Without limiting the foregoing, each member of the BEC Group and its operation of the
BEC Business complies in all material respects with all Privacy Laws applicable thereto, and there is no action, suit, claim, proceeding or investigation pending, or, nor to the Knowledge of Brantford, threatened against each member of the BEC Group alleging any failure by each member of the BEC Group to comply with any such Laws.

ARTICLE 5
REPRESENTATIONS AND WARRANTIES OF CAMBRIDGE AND NORTH DUMFRIES

Cambridge and North Dumfries jointly and severally represent and warrant to Brantford as follows, and acknowledge that Brantford is relying upon these representations and warranties in connection with the transactions contemplated by this Agreement, despite any investigation made by or on behalf of Brantford. Each exception to the following representations and warranties that is set out in the disclosure schedule attached as Schedule B (the "Energy Plus Disclosure Schedule").

5.1 Residence

No member of the Energy Plus Group is a non-resident of Canada for purposes of the ITA.

5.2 Regulatory Approvals

Except as set out in Article 9 and except as has already been obtained, no authorization, approval, order, consent of, or filing with, any Governmental Authority is required on the part of Cambridge and North Dumfries or the Energy Plus Group in connection with the execution, delivery and performance by any of them of this Agreement or any other documents and agreements to be delivered under this Agreement or in connection with the completion of the transactions contemplated hereby or thereby.

5.3 Consents

Except as disclosed in the Energy Plus Disclosure Schedule, there is no requirement to obtain any consent, approval or waiver of a party under any Material Contract to which Cambridge and North Dumfries or the Energy Plus Group is a party in order to complete the transactions contemplated by this Agreement.

5.4 Share Ownership, Etc.

(a) As at the date hereof, Cambridge is the legal and beneficial owner of 2,763 common shares of Energy Plus Holdings with good and marketable title thereto, free and clear of all Encumbrances.

(b) As at the date hereof, North Dumfries is the legal and beneficial owner of 237 common shares of Energy Plus Holdings with good and marketable title thereto, free and clear of all Encumbrances.
(c) The common shares held by Cambridge and North Dumfries pursuant to Section 5.4(a) and Section 5.4(b) constitute all of the issued and outstanding shares of Energy Plus Holdings. Immediately prior to Closing, Cambridge and North Dumfries will be the legal and beneficial owner of all of the issued and outstanding common shares of Energy Plus Holdings with good and marketable title thereto, free and clear of all Encumbrances.

(d) Energy Plus Holdings is the legal and beneficial owner of 1,001 common shares of Energy+ with good and marketable title thereto, free and clear of all Encumbrances (other than Permitted Encumbrances), being in aggregate all of the issued and outstanding shares of Energy+.

(e) Energy Plus Holdings is the legal and beneficial owner of 1,001 common shares of Energy Plus Solutions with good and marketable title thereto, free and clear of all Encumbrances (other than Permitted Encumbrances), being in aggregate all of the issued and outstanding shares of Energy Plus Solutions.

(f) Energy Plus Solutions is the legal and beneficial owner of 1,600,000 common shares in the capital of GRE with good and marketable title thereto, free and clear of all Encumbrances (other than Permitted Encumbrances), being in aggregate a 1/3 equity interest in GRE.

(g) Except as disclosed in the Energy Plus Disclosure Schedule, the Energy Plus Group does not own or hold, directly or indirectly, any Securities of, or have any other interest in, any Person, and no member of the Energy Plus Group has entered into any agreement to acquire any such interests.

5.5 Corporate Existence of the Energy Plus Group

Each member of the Energy Plus Group has been duly incorporated and organized and are validly existing and in good standing as a corporation under the laws of the Province of Ontario. No proceedings have been taken or authorized by any member of the Energy Plus Group in respect of the bankruptcy, insolvency, liquidation, dissolution or winding up of such member of the Energy Plus Group.

5.6 Corporate Articles

Their respective Corporate Articles constitute all of the charter documents of each member of the Energy Plus Group and are in full force and effect; no action has been taken to amend any Corporate Articles and no changes to such Corporate Articles are planned other than as contemplated in this Agreement.

5.7 Capacity and Powers of the Energy Plus Group

Each member of the Energy Plus Group has all necessary corporate power, authority and capacity to own or lease its respective assets and to carry on the Energy Plus Business as currently being conducted by the applicable member of the Energy Plus Group.
5.8 Jurisdictions

Ontario is the only jurisdiction in which the members of the Energy Plus Group are qualified to do business. Neither the character nor location of the Energy Plus Group Owned Lands or Energy Plus Group Leased Premises nor the nature of the Energy Plus Business requires qualification to do business in any other jurisdiction.

5.9 Options, Etc.

Except as provided in this Agreement, no Person has any written or oral agreement or option or any right or privilege (whether by Law, pre-emptive, contractual or otherwise) capable of becoming an agreement or option, including Securities, warrants or convertible obligations of any nature, for:

(a) the purchase of any Securities of any member of the Energy Plus Group; or

(b) the purchase of any of the assets of any member of the Energy Plus Group other than in the ordinary course of the Energy Plus Business.

5.10 Corporate Records/Directors

(a) The corporate records and minute books of the Energy Plus Group which have been made available contain in all material respects complete and accurate minutes of all meetings of, and all written resolutions passed by, the directors and shareholders of the Energy Plus Group, held or passed since incorporation. All those meetings were held, all those resolutions were passed, and the share certificate books, registers of shareholders, registers of transfers and registers of directors of the applicable member of the Energy Plus Group are complete and accurate in all material respects.

(b) The Energy Plus Disclosure Schedule contains the name of each director of the applicable member of the Energy Plus Group, including the date on which each of such director was most recently elected as a director, and each such individual has been duly elected a director of the respective member of the Energy Plus Group.

5.11 Books and Records

The Books and Records of the Energy Plus Group fairly and correctly set out and disclose in accordance with IFRS in all material respects the financial position of the Energy Plus Group, and all material financial transactions of the Energy Plus Group have been accurately recorded in such Books and Records.

5.12 Financial Statements

(a) the assets, liabilities (whether accrued, absolute, contingent or otherwise) and the financial condition of each member of the Energy Plus Group as at the respective dates thereof; and

(b) the sales, earnings and results of the operations of the applicable member of the Energy Plus Group during the periods covered by such Energy Plus Holdings Financial Statements, Energy+ Financial Statements, and Energy Plus Solutions Financial Statements;

but the unaudited interim financial statements:

(c) do not contain all notes required under IFRS; and

(d) are subject to normal year-end audit adjustments.

5.13 Tax Matters

(a) The members of the Energy Plus Group are exempt from Tax under the ITA, CTA and TA but each of them is required to make PILs payments under the EA in an amount equal to the Tax that it would be liable to pay under the ITA, CTA and TA if it were not exempt from Tax under those statutes.

(b) The members of the Energy Plus Group have filed in the prescribed manner and within the prescribed times all Tax Returns required to be filed by it in all applicable jurisdictions on a timely basis. All such Tax Returns are complete and correct and disclose all Taxes required to be paid for the periods covered thereby. No member of the Energy Plus Group has been required to file any Tax Returns with, and have never been liable to pay or remit Taxes to, any Governmental Authority outside Canada. The Energy Plus Group have paid all Taxes and all instalments of Taxes due on or before the date hereof. Cambridge and North Dumfries has furnished to Brantford true, complete and accurate copies of all Tax Returns and any amendments thereto filed by the Energy Plus Group since December 31, 2013 and all notices of assessment and reassessment and all correspondence with Governmental Authorities relating thereto.

(c) Assessments under the EA have been issued to the Energy Plus Group covering all periods up to and including its fiscal year ended December 31, 2020.

(d) There are no audits, assessments, reassessments or other Claims in progress or, to the Knowledge of Cambridge and North Dumfries, threatened against any member of the Energy Plus Group, in respect of any Taxes and, in particular, there are no currently outstanding reassessments or written enquiries which have been issued or raised by any Governmental Authority relating to any such Taxes. To the Knowledge of Cambridge and North Dumfries, there is no contingent liability of any member of the Energy Plus Group for Taxes or any grounds that could prompt an assessment or reassessment for Taxes. No member of the Energy Plus Group has received any indication from any Governmental Authority that any assessment or reassessment is proposed.
(e) No member of the Energy Plus Group has entered into any transactions with any non-resident of Canada (for the purposes of the ITA) with whom such member of the Energy Plus Group was not dealing at arm’s length (within the meaning of the ITA). No member of Energy Plus Group has acquired property from any Person in circumstances where such member of the Energy Plus Group did or could have become liable for any Taxes payable by that Person.

(f) No member of the Energy Plus Group will be required to include in a taxable period ending after the Closing Date any material taxable income attributable to income that accrued in a taxable period prior to the Closing Date but was not recognized for Tax purposes in such prior taxable period (or to exclude from taxable income in a taxable period ending after the Closing Date any material deduction the recognition of which was accelerated from such taxable period to a taxable period prior to the Closing Date).

(g) There are no circumstances existing which could result in, or which have existed and resulted in, the application of section 78 of the ITA, as it applies for purposes of the EA, in respect of an amount owing by a member of the Energy Plus Group on the Closing Date.

(h) No member of the Energy Plus Group has entered into any agreements, waivers or other arrangements with any Governmental Authority providing for an extension of time with respect to the issuance of any assessment or reassessment, the filing of any Tax Return, or the payment of any Taxes by or in respect of such member of the Energy Plus Group. No member of the Energy Plus Group is party to any agreements or undertakings with respect to Taxes.

(i) The Energy Plus Group are registrants for purposes of the ETA and Energy Plus Holdings registration number is 88102 0127 RT0001, Energy Plus Solutions’ registration number is 88102 0325 RT0001 and Energy+ registration number is 86569 7585 RT0001. All input tax credits claimed by each member of the Energy Plus Group pursuant to the ETA have been proper, correctly calculated and documented. Each member of the Energy Plus Group has collected, paid and remitted when due all Taxes, including goods and services tax, harmonized sales tax and retail sales tax, collectible, payable or remittable by them.

(j) Each member of the Energy Plus Group has remitted to the appropriate Governmental Authority when required by Law to do so all amounts collected by it on account of sales taxes including goods and services tax and harmonized sales tax imposed under the ETA.

(k) Each member of the Energy Plus Group maintains its Books and Records in compliance with section 230 of the ITA.
5.14 Absence of Changes

Except as disclosed in the Energy Plus Disclosure Schedule, since December 31, 2020 there has not been:

(a) any change in the financial condition, operations, results of operations, or business of any member of the Energy Plus Group which has had a Material Adverse Effect, nor has there been any occurrence or circumstances which, to the Knowledge of Cambridge and North Dumfries, with the passage of time might reasonably be expected to have a Material Adverse Effect; or

(b) any Loss, labour trouble, or other event, development or condition of any character (whether or not covered by insurance) suffered by Energy Plus Group which, to the Knowledge of Cambridge and North Dumfries, has had, or may reasonably be expected to have, a Material Adverse Effect.

5.15 Absence of Undisclosed Liabilities

Except to the extent reflected or reserved in the Energy Plus Holdings Financial Statements, Energy+ Financial Statements, and Energy Plus Solutions Financial Statements, or incurred subsequent to December 31, 2020 and:

(a) disclosed in the Energy Plus Disclosure Schedule; or

(b) incurred in the ordinary course of the Energy Plus Business;

no member of the Energy Plus Group has any material outstanding indebtedness or any liabilities or obligations (whether accrued, absolute, contingent or otherwise, including under any guarantee of any debt) of a nature customarily reflected or reserved against in a balance sheet (including the notes to the Energy Plus Holdings Financial Statements, Energy+ Financial Statements and the Energy Plus Solutions Financial Statements) in accordance with IFRS. For the purposes of this Section 5.15 only, indebtedness, liabilities or obligations owing to any third party in excess of $250,000 will be deemed to be material.

5.16 Absence of Unusual Transactions

Except as disclosed or referred to in the Energy Plus Disclosure Schedule, since December 31, 2020 no member of the Energy Plus Group has:

(a) given any guarantee of any debt, liability or obligation of any Person;

(b) subjected any of its assets, or permitted any of its assets to be subjected, to any Encumbrance other than the Permitted Encumbrances;

(c) acquired, sold, leased or otherwise disposed of or transferred any assets other than, in the case of Energy+, in the ordinary course of the Energy Plus Business;
made or committed to any capital expenditures, except, in the case of Energy+, in the ordinary course of the Energy Plus Business;

(e) declared or paid any dividend or otherwise made any distribution or other payment of any kind or nature to any of its shareholders or any other non-arm’s length Person except as set forth in Section 6.3(e) or taken any corporate proceedings for that purpose;

(f) redeemed, purchased or otherwise retired any of its shares or otherwise reduced its stated capital;

(g) entered into or become bound by any Contract, except, in the case of Energy+, in the ordinary course of the Energy Plus Business (other than this Agreement);

(h) modified, amended or terminated any Contract (except for Contracts which expire by the passage of time) resulting in a Material Adverse Effect;

(i) waived or released any right or rights which it has or had, or a debt or debts owed to it resulting, collectively or individually, in a Material Adverse Effect;

(j) except for annual merit pay increases and incentive payments consistent with the ordinary course of the Energy Plus Business;

(k) made any change in any method of accounting or auditing practice (other than as disclosed in the Energy Plus Holdings Financial Statements, Energy+ Financial Statements, or the Energy Plus Solutions Financial Statements and/or in order to make its financial disclosure consistent with the financial disclosure of Energy Plus Group as regards to accrued CDM bonus or as regards to loss revenue adjustment mechanism recoveries); or

(l) agreed or offered to do any of the things described in this Section 5.16.

5.17 Title to and Condition of Assets

Each member of the Energy Plus Group owns, possesses and has good and marketable title to all of its undertakings, property and assets not otherwise the subject of specific representations and warranties in this Article 5, including all the undertakings, property and assets reflected in the most recent balance sheet included in the Energy Plus Holdings Financial Statements, Energy+ Financial Statements, or the Energy Plus Solutions Financial Statements (as applicable), free and clear of all Encumbrances other than Permitted Encumbrances. The undertakings, property and assets of each member of the Energy Plus Group comprise all of the undertakings, property and assets necessary for it to carry on the Energy Plus Business as it is currently operated by such member of the Energy Plus Group. All facilities, machinery, equipment, fixtures, vehicles and other properties owned, leased or used by each member of the Energy Plus Group are in good operating condition and repair, ordinary wear and tear excepted, and are reasonably fit and usable for the purposes for which they are being used.
5.18 Real Property

(a) The Energy Plus Disclosure Schedule contains a complete and accurate list of the Energy Plus Group Owned Lands, including complete legal descriptions, and the particulars of the Energy Plus Group Leased Premises and Energy Plus Group Real Property Leases. Energy+ does not own any real property and does not lease and has not agreed to acquire or lease any real property other than as listed in the Energy Plus Disclosure Schedule.

(b) Each member of the Energy Plus Group has all Easements that are necessary for it to carry on the Energy Plus Business as it is currently operated by such member of the Energy Plus Group.

(c) No member of the Energy Plus Group has received any, nor to the Knowledge of Cambridge and North Dumfries are there any pending or threatened, notices of violation or alleged violation of any Laws against or affecting any Energy Plus Group Owned Lands or Energy Plus Group Leased Premises or Energy Plus Group Easements.

(d) The buildings and other structures and improvements located on the Energy Plus Group Owned Lands or forming part of the Energy Plus Group Leased Premises, and their operation and maintenance, comply with all applicable Laws, and none of those buildings or structures or improvements encroaches upon any land not owned or leased by the applicable member of the Energy Plus Group.

(e) There are no restrictive covenants or Laws which in any way restrict or prohibit any part of the present use of the Energy Plus Group Owned Lands or Energy Plus Group Leased Premises or Energy Plus Group Easements, other than the Permitted Encumbrances. Each member of the Energy Plus Group has such rights of entry and exit to and from the Energy Plus Group Owned Lands and the Energy Plus Group Leased Premises and the Energy Plus Group Easements as are reasonably necessarily to carry on the Energy Plus Business.

(f) Except as disclosed in the Energy Plus Disclosure Schedule, no Person has any right to purchase any of the Energy Plus Group Owned Lands and no Person other than Energy+ is using or has any right to use, is in possession or occupancy, of any part of the Energy Plus Group Owned Lands. There exists no option, right of first refusal or other contractual rights with respect to any of the Energy Plus Group Owned Lands.

(g) There are no expropriation or similar proceedings, actual or threatened, of which any member of the Energy Plus Group or Cambridge and North Dumfries have received notice, against any of the Energy Plus Group Owned Lands or Energy Plus Group Leased Premises or Energy Plus Group Easements.

(h) The Energy Plus Group Owned Lands are owned in fee simple, free and clear of all Encumbrances, except Permitted Encumbrances. No member of the Energy Plus Group has entered into any contract to sell, transfer, encumber, or otherwise dispose
of or impair the right, title and interest of such member of the Energy Plus Group in and to the Energy Plus Group Owned Lands or the air, density and easement rights relating to such Energy Plus Group Owned Lands.

(i) All of the Energy Plus Group Real Property Leases are in full force and effect, unamended, and none of them are, to the Knowledge of Cambridge and North Dumfries, under any threat of termination.

(j) All of the Energy Plus Group Easements are in full force and effect and none of them are, to the Knowledge of Cambridge and North Dumfries, under any threat of termination.

(k) Neither Cambridge and North Dumfries nor any member of the Energy Plus Group has received any notification of, nor are there any outstanding or incomplete work orders in respect of any Fixed Assets on the Energy Plus Group Owned Lands, Energy Plus Group Leased Premises or Energy Plus Group Easements, or of any current noncompliance (other than non-compliances which are legal non-conforming under relevant zoning by-laws) with applicable statutes and regulations or building and zoning by-laws and regulations.

(l) All accounts for work and services performed or materials placed or furnished upon or in respect of the construction and completion of any Fixed Assets constructed on the Energy Plus Group Owned Lands or the Energy Plus Group Leased Premises or the Energy Plus Group Easements have been fully paid to the extent due and no Person is entitled to claim a lien under the Construction Act (Ontario) or other similar legislation for such work.

(m) To the Knowledge of Cambridge and North Dumfries, there are no matters affecting the right, title and interest of any member of the Energy Plus Group in and to the Energy Plus Group Owned Lands or the Energy Plus Group Leased Premises or the Energy Plus Group Easements (other than the Permitted Encumbrances) or which, in the aggregate, would materially and adversely affect the ability of such member of the Energy Plus Group to carry on the Energy Plus Business upon such Energy Plus Group Owned Lands or the Energy Plus Group Leased Premises or the Energy Plus Group Easements, as applicable.

5.19 Intellectual Property

(a) The Energy Plus Disclosure Schedule includes a list of all Intellectual Property that is registered with any Governmental Authority and that is used in connection with the conduct of the Energy Plus Business, including all trade-marks and trade-mark applications, trade names, certification marks, patents and patent applications, copyrights, domain names, industrial designs, trade secrets, know-how, formulae, processes, inventions, technical expertise, research data and other similar property, all associated registrations and applications for registration, and all associated rights, including moral rights, the jurisdictions (if any) in which that Intellectual
Property is registered (or in which application for registration has been made) and the applicable expiry dates of all listed registrations.

(b) All necessary legal steps have been taken by the Energy Plus Group to preserve their respective rights to the Intellectual Property listed in the Energy Plus Disclosure Schedule. The Energy Plus Disclosure Schedule also includes a list of all licence agreements pursuant to which Energy Plus Group have been granted a right to use, or otherwise exploit Intellectual Property owned by third parties, other than “off-the-shelf” software license agreements.

(c) The Intellectual Property that is owned by the members of the Energy Plus Group (as applicable) is owned free and clear of any Encumbrances other than Permitted Encumbrances, and no Person other than the applicable member of the Energy Plus Group has any right to use that Intellectual Property except as disclosed in the Energy Plus Disclosure Schedule.

(d) The use by the members of the Energy Plus Group of any Intellectual Property owned by third parties is valid, and the Energy Plus Group is not in default or breach of any licence agreement relating to that Intellectual Property, and there exists no state of facts which, after notice or lapse of time or both, would constitute a default or breach.

(e) The conduct by the members of the Energy Plus Group of the Energy Plus Business does not infringe the Intellectual Property of any Person.

5.20 Accounts Receivable

All Accounts Receivable reflected in the Energy Plus Holdings Financial Statements, Energy+ Financial Statements, and Energy Plus Solutions Financial Statements, as applicable, or which have come into existence since the date of the most recent Energy Plus Holdings Financial Statements, Energy+ Financial Statements, and Energy Plus Solutions Financial Statements, were created in the ordinary and customary course of the Energy Plus Business from bona fide arm’s length transactions, and, except to the extent that they have been paid in the ordinary course of such Energy Plus Business since the date of the Energy Plus Holdings Financial Statements, Energy+ Financial Statements, and Energy Plus Solutions Financial Statements, are valid and enforceable and collectible in full, without, to the Knowledge of Cambridge and North Dumfries, any right of set-off or counterclaim or any reduction for any credit or allowance made or given, except to the extent of the allowance for doubtful accounts which will be included in the Closing Financial Statements for Energy Plus Holdings.

5.21 Material Contracts

(a) The Energy Plus Disclosure Schedule contains a list of all Material Contracts to which each member of the Energy Plus Group is a party. Cambridge and North Dumfries have previously delivered or made available true and complete copies of such Material Contracts, all of which are in full force and effect, unamended (except for amendments which have previously been disclosed or made available).
(b) No counterparty to any Material Contract to which any member of the Energy Plus Group is a party is in default of any of its obligations under such Material Contract in any material respect. Each member of the Energy Plus Group is entitled to all benefits under each Material Contract, and no member of the Energy Plus Group has received any notice of termination of any Material Contract, and there are no current or pending negotiations with respect to the renewal, repudiation or amendment of any such Material Contract.

5.22 Accounts and Powers of Attorney

Each member of the Energy Plus Group has previously disclosed:

(a) the name of each bank or other depository in which such member of the Energy Plus Group maintains any bank account, trust account or safety deposit box and the names of all individuals authorized to draw on them or who have access to them; and

(b) the name of each Person holding a general or special power of attorney from Energy Plus Group and a summary of its terms.

5.23 Compliance with Laws, Permits

(a) Each member of the Energy Plus Group is conducting the Energy Plus Business in compliance with all applicable Laws where the failure to do so (either individually or in the aggregate) would have a Material Adverse Effect.

(b) All Permits held by or granted to each member of the Energy Plus Group are listed in the Energy Plus Disclosure Schedule. Such Permits are the only authorizations, registrations, permits, approvals, grants, licences, quotas, consents, commitments, rights or privileges (other than those relating to Intellectual Property) required to enable each member of the Energy Plus Group to carry on the Energy Plus Business as currently conducted and to enable each member of the Energy Plus Group to own, lease and operate its assets. All such Permits are valid, subsisting, in full force and effect and unamended, and Energy+ is not in default or breach of any such Permit; no proceeding is pending or, to the Knowledge of Cambridge and North Dumfries, threatened to revoke or limit any such Permit, and the completion of the transactions contemplated by this Agreement will not result in the revocation of any such Permit or the breach of any term, provision, condition or limitation affecting the ongoing validity of any such Permit.

5.24 Environmental Conditions

Without limiting the generality of Section 5.23, and except as disclosed in the Energy Plus Disclosure Schedule:

(a) the conduct of the Energy Plus Business by the members of the Energy Plus Group, and the current use and condition of each of the Energy Plus Group Leased Premises and Energy Plus Group Owned Lands have been and are in compliance
with all applicable Environmental Laws in all material respects, and, to the
Knowledge of Cambridge and North Dumfries, there are no facts which would give
rise to any such non-compliance of any member of the Energy Plus Group with any
Environmental Laws either in the conduct of the Energy Plus Business or in the
current uses and condition of each of the Energy Plus Group Leased Premises and
the Energy Plus Group Owned Lands;

(b) each member of the Energy Plus Group has all Permits required by all
Environmental Laws for the conduct by the Energy Plus Group of the Energy Plus
Business ("Energy Plus Environmental Approvals"), which Energy Plus
Environmental Approvals are valid and in full force and effect and listed in the
Energy Plus Disclosure Schedule. Each member of the Energy Plus Group is in
compliance with all those Energy Plus Environmental Approvals, and there have
not been and there are no proceedings commenced or threatened to revoke or amend
any such Energy Plus Environmental Approvals in a manner that could reasonably
be expected to have a Material Adverse Effect;

(c) each member of the Energy Plus Group and each Person for whom such members
of the Energy Plus Group are responsible pursuant to all Environmental Laws, have
imported, manufactured, processed, distributed, used, treated, stored, disposed of,
transported, exported or handled Hazardous Substances in compliance with all
Environmental Laws;

(d) to the Knowledge of Cambridge and North Dumfries, no Hazardous Substances
have been disposed of on any of the Energy Plus Group Leased Premises or the
Energy Plus Group Owned Lands, and there are no underground storage tanks on
the Energy Plus Group Leased Premises or the Energy Plus Group Owned Lands
and any underground storage tanks formerly on the Energy Plus Group Leased
Premises or the Energy Plus Group Owned Lands have been removed and any
affected soil, surface water or ground water has been remediated in compliance
with all applicable Laws including Environmental Laws;

(e) no part of the Energy Plus Group Owned Lands has ever been used as a landfill or
for the disposal of waste;

(f) there has been no Release of any Hazardous Substance in the course of the Energy
Plus Business from, at, on, or under the Energy Plus Group Leased Premises or the
Energy Plus Group Owned Lands or, to the Knowledge of Cambridge and North
Dumfries, from or on to any other properties, except in compliance with all
Environmental Laws;

(g) Energy+ has not received any notice of any kind of any Release or possible Release
of any Hazardous Substance from, at, on, or under any of the Energy Plus Group
Leased Premises or Energy Plus Group Owned Lands, or from or on to any other
properties;
(h) to the Knowledge of Cambridge and North Dumfries, there are no Hazardous Substances on any adjoining properties to any of the Energy Plus Group Leased Premises or Energy Plus Group Owned Lands which may adversely affect the Energy Plus Business, or any of the Energy Plus Group Leased Premises or Energy Plus Group Owned Lands;

(i) there has been no Remedial Order issued to any member of the Energy Plus Group in respect of the Energy Plus Business, or with respect to any of the Energy Plus Group Leased Premises or the Energy Plus Group Owned Lands and, to the Knowledge of Cambridge and North Dumfries, no Remedial Orders are threatened, and there are no facts which could reasonably be expected to give rise to any Remedial Orders;

(j) no member of the Energy Plus Group has received any notice of Claim, summons, order, direction or other communication relating to non-compliance with any Environmental Laws from any Governmental Authority or other third party, and to the Knowledge of Cambridge and North Dumfries, there is no pending or threatened matter, act or fact which could cause the members of the Energy Plus Group, the conduct of the Energy Plus Business, or any of the Energy Plus Group Leased Premises or Energy Plus Group Owned Lands to no longer be in compliance with all applicable Environmental Laws; and

(k) no asbestos, asbestos containing materials, PCBs and PCB wastes are used, stored or otherwise present in or on the Energy Plus Group Owned Lands except for PCBs contained in the electrical transformers which are in service and which form an integral part of, and are necessary for the operation of, the Energy Plus Business. Cambridge and North Dumfries has disclosed or made available all inspection reports received from the Ministry of the Environment in connection with the handling, transportation and storage of PCBs by the applicable members of the Energy Plus Group.

5.25 Suppliers and Customers

The Energy Plus Disclosure Schedule lists the 15 largest suppliers of goods and services from whom each member of the Energy Plus Group has purchased goods or services (other than power) during the fiscal year ended December 31, 2020. No such supplier sold goods and services to the applicable member of the Energy Plus Group which represented more than 20% of its annual purchases during such period. None of the suppliers listed in the Energy Plus Disclosure Schedule has advised the Energy Plus Group, either orally or in writing, that it is terminating or considering terminating its relationship with such member of the Energy Plus Group, or considering negotiating its relationship with such member of the Energy Plus Group on terms that would result in a Material Adverse Effect, whether as a result of the completion of the transactions contemplated by this Agreement or otherwise.
5.26 Rights to Use Personal Information

(a) All Personal Information in the possession of the Energy Plus Group has been collected, used and disclosed in compliance with all applicable Privacy Laws in those jurisdictions in which the Energy Plus Group conducts, or is deemed by operation of law in those jurisdictions to conduct, the Energy Plus Business.

(b) Cambridge and North Dumfries has disclosed or made available all Contracts and facts concerning the collection, use, retention, destruction and disclosure of Personal Information by the applicable members of the Energy Plus Group and there are no other Contracts, or facts which, on completion of the transactions contemplated by this Agreement, would restrict or interfere with the use of any Personal Information by the applicable members of the Energy Plus Group in the continued operation of the Energy Plus Business as conducted before the Closing.

(c) Except as disclosed in the Energy Plus Disclosure Schedule, there are no Claims pending or, to the Knowledge of Cambridge and North Dumfries, threatened, with respect to the collection, use or disclosure of Personal Information by the applicable members of the Energy Plus Group.

5.27 Employees and Employment Contracts

(a) Cambridge and North Dumfries has made available in the Data Room the names, titles and status (active or non-active, and if not active, reason why and period of time not active) of all Energy Plus Group Employees together with particulars of the material terms and conditions of their employment or engagement, including current rates of remuneration, perquisites, commissions, bonus or other incentive compensation (monetary or otherwise), most recent hire date, cumulative years of service, start and end dates of all previous periods of service, benefits, vacation or personal time off entitlements, current positions held and, if available, projected rates of remuneration, and whether the employee is a member of a collective bargaining union or agency and whether the employee is subject to the Energy Plus Collective Agreement.

(b) To the Knowledge of Cambridge and North Dumfries, no Energy Plus Group Employee nor any consultant with whom the applicable members of the Energy Plus Group has contracted, is in violation of any term of any employment contract, contract of engagement, services agreement, proprietary information agreement or any other agreement relating to the right of that individual to be employed, engaged or retained by the applicable members of the Energy Plus Group in any material respect, and, to the Knowledge of Cambridge and North Dumfries, the continued employment or engagement by the members of the Energy Plus Group of the Energy Plus Group Employees will not result in any such violation. No member of the Energy Plus Group has received any notice alleging that any such violation has occurred.
(c) Except as disclosed in the Data Room, all of the Energy Plus Group Employees are employed, engaged or retained for an indefinite term and none are subject to written employment agreements, contracts of engagement or services agreements. Cambridge and North Dumfries has made available in the Data Room true and complete copies of any written employment agreements, contracts of engagement or services agreements of all Energy Plus Group Employees. No officer has given notice, oral or written, of an intention to cease being employed with the Energy Plus Group (other than the pending employee retirements disclosed in the Energy Plus Disclosure Schedule), and no members of the Energy Plus Group intends to terminate the employment of any officer.

(d) The members of the Energy Plus Group have operated in compliance with all Laws relating to employees in all material respects, including employment standards and all Laws relating in whole or in part to the protection of employee health and safety, human rights, labour relations and pay equity. Except as disclosed or referred to in the Energy Plus Disclosure Schedule, there have been no Claims within the past three years nor, to the Knowledge of Cambridge and North Dumfries, are there any threatened complaints, under such Laws against the members of the Energy Plus Group. To the Knowledge of Cambridge and North Dumfries, nothing has occurred which might lead to a Claim or complaint against the members of the Energy Plus Group under any such Laws. There are no outstanding decisions or settlements or pending settlements which place any obligation upon the members of the Energy Plus Group to do or refrain from doing any act.

(e) There is no strike or lockout occurring or affecting, or to the Knowledge of Cambridge and North Dumfries, threatened against any member of the Energy Plus Group.

5.28 Unions

(a) Except as disclosed in the Energy Plus Disclosure Schedule, there are no apparent or, to the Knowledge of Cambridge and North Dumfries, threatened union organizing activities involving Energy Plus Group Employees.

(b) No member of the Energy Plus Group has any labour problems that would reasonably be expected to result in a Material Adverse Effect, or lead to any interruption of operations at any location.

(c) No member of the Energy Plus Group has engaged in any lay-off or other activities within the last three years in respect of the Energy Plus Business that would violate or in any way subject the members of the Energy Plus Group to the group termination or lay-off requirements of the Laws of any jurisdiction that apply to the members of the Energy Plus Group.

(d) Except as disclosed in the Energy Plus Disclosure Schedule, no member of the Energy Plus Group is bound by or a party to, either directly or by operation of law, any collective bargaining agreement (the “Energy Plus Collective Agreement”)
with any trade union or association which might qualify as a trade union, and no trade union, association, council of trade unions, employee bargaining agency or affiliated bargaining agent:

(i) holds bargaining rights with respect to any of the Energy Plus Group Employees by way of certification, interim certification, voluntary recognition, designation or successor rights;

(ii) has, to the Knowledge of Cambridge and North Dumfries, applied to be certified or requested to be voluntarily recognized as the bargaining agent of any of the Energy Plus Group Employees;

(iii) has, to the Knowledge of Cambridge and North Dumfries, applied to have any member of the Energy Plus Group declared a related or successor employer under applicable provincial labour or employment Law; or

(iv) has, to the Knowledge of Cambridge and North Dumfries, filed a complaint or charge under applicable provincial labour or employment Law within the last three years.

5.29 Employee Benefits Matters

(a) Except as disclosed in the Energy Plus Disclosure Schedule, the members of the Energy Plus Group are not:

(i) a party to, bound by or subject to, and do not have any liability or contingent liability relating to, any employment agreement or any other agreement or arrangement relating to Employee Benefits;

(ii) in arrears in the payment of any contribution or assessment required to be made by them pursuant to any agreements or arrangements relating to Employee Benefits; or

(iii) a party to or bound by or subject to any agreement or arrangement with any labour union or employee association in respect of Employee Benefits and has not made any commitment to or conducted any negotiation or discussion with any labour union or employee association with respect to any future agreement or arrangement in respect of Employee Benefits.

(b) All agreements and arrangements relating to Employee Benefits in respect of Energy Plus Group Employees set forth in the Energy Plus Disclosure Schedule (other than OMERS, with respect to which Cambridge and North Dumfries makes no representation under this Section 5.29(b)) are, and have been, established, registered (where required), and administered without default, in material compliance with (i) the terms thereof; and (ii) all applicable Laws; and no member of the Energy Plus Group has received, in the last four years, any notice from any Person questioning or challenging such compliance (other than in respect of any claim related solely to that Person), nor does Cambridge and North Dumfries
have any Knowledge of any such notice from any Person questioning or challenging such compliance beyond the last four years. Except as disclosed in the Energy Plus Disclosure Schedule or the Energy Plus Collective Agreement, there have been no improvements, increases or changes to, or promised improvements, increases or changes to, the benefits provided under any such agreement or arrangement within the last four years, nor does any such agreement or arrangement provide for benefit increases or the acceleration of funding obligations that are contingent upon or will be triggered by the execution of this Agreement or the Closing.

(c) Except as disclosed in Energy Plus Disclosure Schedule, no Energy Plus Group Employee is on long-term disability leave, extended absence or receiving benefits pursuant to the Workplace Safety and Insurance Act, 1997 (Ontario).

(d) Except as disclosed in the Energy Plus Disclosure Schedule, no agreement or arrangement, other than OMERS, provides benefits beyond retirement or other termination of service to employees or former employees of any member of the Energy Plus Group or to the beneficiaries or dependants of such employees or former employees. Other than OMERS, no such agreement or arrangement requires or permits a retroactive increase in premiums or payments.

(e) All assessments under the Workplace Safety and Insurance Act, 1997 (Ontario) in relation to the Energy Plus Business have been paid or accrued and no member of the Energy Plus Group is subject to any special or penalty assessment under such legislation which has not been paid.

5.30 Pension Plans

(a) Except as disclosed in the Energy Plus Disclosure Schedule, OMERS is the only pension or retirement plan or arrangement in which Energy Plus Group Employees participate and/or to which the Energy Plus Group contributes as a participating employer.

(b) All obligations of the Energy Plus Group to or under OMERS (whether pursuant to the terms thereof or any applicable Laws) have been satisfied, and there are no outstanding defaults or violations thereunder by any member of the Energy Plus Group or by any predecessor thereof.

(c) There are no going concerns with respect to unfunded actuarial liabilities, past service unfunded liabilities or solvency deficiencies respecting the Energy Plus Group’s participation in OMERS.

(d) All employee data necessary to administer the Energy Plus Group’s participation in OMERS and any other agreement or arrangement listed in the Energy Plus Disclosure Schedule is in the possession of the Energy Plus Group and is complete, correct and in a form which is sufficient for the proper administration of the Energy Plus Group’s participation in OMERS in accordance with the terms thereof and all applicable Laws.
(e) All employer or employee payments, contributions or premiums required to be remitted or paid by the Energy Plus Group to or in respect of OMERS have been paid or remitted in a timely fashion in accordance with the terms thereof and all Laws, and no Taxes, penalties or fees are owing or exigible on any member of the Energy Plus Group under OMERS.

5.31 Insurance Policies

The Energy Plus Disclosure Schedule lists all Insurance Policies, and also specifies the insurer, the amount of the coverage, the type of insurance, the policy number and any pending Claims with respect to each such Insurance Policy. The Insurance Policies insure all the property and assets of the Energy Plus Group against Loss by all insurable hazards of risk commonly insured against in the industry. All Insurance Policies are in full force and effect and no member of the Energy Plus Group:

(a) is in default, whether as to the payment of premiums or otherwise, under any material term or condition of any of the Insurance Policies; or

(b) has failed to give notice or present any Claim under any of the Insurance Policies in a due and timely fashion.

5.32 Litigation

(a) Except as disclosed or referred to in the Energy Plus Disclosure Schedule, there are no Claims, whether or not purportedly on behalf of Energy Plus Group, pending, commenced, or, to the Knowledge of Cambridge and North Dumfries, threatened, which might reasonably be expected to have a Material Adverse Effect on any member of the Energy Plus Group or which might involve the possibility of an Encumbrance against the assets of any member of the Energy Plus Group.

(b) There is no outstanding judgment, decree, order, ruling or injunction involving any member of the Energy Plus Group or relating in any way to the transactions contemplated by this Agreement.

5.33 Withholding

Each member of the Energy Plus Group has withheld from each payment made to any of its past or present employees, officers or directors, and to any non-resident of Canada, the amount of all Taxes and other deductions required to be withheld therefrom, including all employee and employer portions for Workers' Compensation, Canada Pension Plan, Employer Health Tax and Employment Insurance and has paid the same to the proper Governmental Authority within the time required under any applicable Laws.

5.34 No Expropriation

No property or asset of any member of the Energy Plus Group has been taken or expropriated by any Governmental Authority within the last five years, and no notice or proceeding in respect of any such expropriation has been given or commenced or, to the Knowledge of Cambridge and
North Dumfries, is there any intent or proposal to give any notice or commence any proceeding in respect of any such expropriation.

5.35 Absence of Conflict

None of the execution and delivery of this Agreement, the performance of any member of the Energy Plus Group's obligations under this Agreement, or the completion of the transactions contemplated by this Agreement will:

(a) result in or constitute a breach of any term or provision of, or constitute a default under, the Corporate Articles or the by-laws of such entity, or any Contract to which such entity is a party or by which any of such entity’s undertakings, property or assets is bound or affected;

(b) subject to obtaining the third party consents contemplated by Section 7.3(c), constitute an event which would permit any party to any Material Contract with Energy Plus Group to terminate or sue for damages with respect to that Material Contract, or to accelerate the maturity of any indebtedness of Energy Plus Group, or other obligation of Energy Plus Group under that Material Contract;

(c) subject to obtaining the regulatory approvals set forth in Article 9, contravene any applicable Law; or

(d) contravene any judgment, order, writ, injunction or decree of any Governmental Authority.

5.36 Restrictive Covenants

No member of the Energy Plus Group is a party to, or bound or affected by, any Contract containing any covenant expressly limiting its ability to compete in any line of business or to transfer or move any of its assets or operations, or which could reasonably be expected to have a Material Adverse Effect on the Energy Plus Business carried on by the applicable member of the Energy Plus Group.

5.37 Energy Plus Group Business

The business of the Energy Plus Group is limited to the Energy Plus Business.

5.38 Compliance with Privacy Laws

With respect to the Energy Plus Business:

(a) Each member of the Energy Plus Group has made available to Brantford the Privacy Statements contained in the Energy Plus Disclosure Schedule.

(b) Each member of the Energy Plus Group: (i) complies with the Privacy Statements with respect to all personal information collected, used and/or disclosed by each member of the Energy Plus Group; (ii) complies with all applicable Privacy Laws;
and (iii) takes appropriate measures to protect and maintain the security of the personal information in the possession of each member of the Energy Plus Group and/or which each member of the Energy Plus Group has access.

(c) The change of control of each member of the Energy Plus Group pursuant to the terms of this Agreement and the transactions contemplated hereunder (including the disclosures made by each member of the Energy Plus Group in the course of the due diligence in anticipation of the transactions contemplated by this Agreement), is in compliance with the terms of the Privacy Statement and all applicable Privacy Laws.

(d) All Personal Information disclosed to each member of the Energy Plus Group pursuant to the transaction contemplated by this Agreement relates directly to the part of Energy Plus Business that is covered by the transactions contemplated by this Agreement.

(e) No member of the Energy Plus Group is aware of any complaint made or any audit, investigation, claim or proceeding including court proceeding against any member of the Energy Plus Group by the Office of the Privacy Commissioner of Canada or any other Governmental Authority, or by any Person in respect of the collection, retention, use, disclosure, safeguarding or distribution of Personal Information by any Person in connection with the Energy Plus Business, nor is any member of the Energy Plus Group aware of any facts which may give rise to any such complaint or audit, proceeding, investigation or claim.

(f) All Electronic Addresses have been acquired, maintained, updated (including operationalizing opt-out requests) and stored, and (ii) all Electronic Messages sent and/or delivered by or on behalf of each member of the Energy Plus Group have been sent and/or delivered, in accordance with all applicable Laws, including but not limited to Anti-Spam Laws and Privacy Laws.

(g) In the last five years, there has been no unauthorized access, use, intrusion or breach of security, or failure, breakdown, performance reduction or other adverse event affecting any Energy Plus Group Systems, that has caused or could reasonably be expected to cause any; (i) substantial disruption of or interruption in or to the use of such Energy Plus Group Systems or the conduct of the Energy Plus Business; (ii) loss, destruction, damage or harm of or to any member of the Energy Plus Group or its respective operations, personnel, property or other assets; or (iii) liability of any kind to the applicable member of the Energy Plus Group. Each member of the Energy Plus Group has taken reasonable actions, consistent with applicable industry practices, to protect the integrity and security of Energy Plus Group Systems and the data and other information stored thereon.

(h) Each member of the Energy Plus Group maintains commercially reasonable back-up and data recovery, disaster recovery and business continuity plans, procedures and facilities, acts in material compliance therewith, and tests such plans
and procedures on a regular basis, and such plans and procedures have been proven effective upon such testing.

(i) Each member of the Energy Plus Group maintains policies and procedures regarding data security and privacy that are intended to ensure that each member of the Energy Plus Group is in compliance with all applicable Laws and that are consistent with or exceed customary industry practices. Each member of the Energy Plus Group is, and has been, in compliance in all material respects with (i) such foregoing policies and procedures, and (ii) all applicable data protection laws or Privacy Laws governing the use, collection, storage, disclosure and transfer of any personally identifiable information of third parties collected by each member of the Energy Plus Group. There have not been any (1) losses or thefts of data or security breaches relating to data used or stored in the Energy Plus Business, (2) violations of any security policy regarding any such data, (3) unauthorized access or unauthorized use of any such data, or (4) unintended or improper disclosure of any personally identifiable information in the possession, custody or control of each member of the Energy Plus Group or a contractor or agent acting on behalf of each member of the Energy Plus Group. There have not been any written complaints, written notices or legal proceedings or other written claims related to any of the foregoing in clauses (ii) or (1) through (4) above. Without limiting the foregoing, each member of the Energy Plus Group and its operation of the Energy Plus Business complies in all material respects with all Privacy Laws applicable thereto, and there is no action, suit, claim, proceeding or investigation pending, or, nor to the Knowledge of Cambridge and North Dumfries, threatened against each member of the Energy Plus Group alleging any failure by each member of the Energy Plus Group to comply with any such Laws.

5.39 Matters with Respect to GRE

To the actual knowledge of management of Energy Plus Solutions, without any duty of further inquiry, the representations and warranties contained in Sections 5.1 (Residence), 5.2 (Regulatory Approvals), 5.3 (Consents), 5.5 (Corporate Existence), 5.7 (Capacity and Powers), 5.8 (Jurisdictions), 5.9 (Options, Etc.), 5.13 (Tax Matters), 5.17 (Title to and Condition of Assets), 5.18(g) (Real Property), 5.23 (Compliance with Laws, Permits), 5.24 (Environmental Conditions), 5.26 (Rights to Use Personal Information), 5.32 (Litigation), 5.33 (Withholding), 5.34 (No Expropriation), 5.35(Absence of Conflict), 5.36 (Restrictive Covenants) and 5.38 (Compliance with Privacy Laws) would, if made with respect GRE, with references in such representations and warranties to the Energy Plus Business being deemed for such purpose to be references to GRE’s business, mutatis mutandis, be true and correct.
ARTICLE 6
COVENANTS

6.1 Covenants of Brantford

(a) **Conduct of Business Before Closing.** During the period beginning on the date of this Agreement and ending at the Closing Time, Brantford will cause the BEC Group:

(i) to conduct the BEC Business in the ordinary course substantially consistent with past practice (except as may be otherwise required or contemplated by the provisions of this Agreement or with the prior written consent of Cambridge and North Dumfries, which shall not be unreasonably withheld);

(ii) except as required by the terms of and in accordance with the BEC Collective Agreement (including as may be required in connection with the renewal of the BEC Collective Agreement) or applicable Law, or with the prior written consent of Cambridge and North Dumfries, which shall not be unreasonably withheld, to refrain from:

(A) hiring, engaging or retaining any new employees or independent contractors to be employed, engaged or retained in connection with the BEC Business except for the engagement of new independent contractors with a term of no greater than 9 months and compensation that does not exceed an aggregate of $75,000 per independent contractor;

(B) terminating any BEC Group Employees or transferring any BEC Group Employees to any other position;

(C) increasing remuneration of BEC Group Employees before the Closing Date, except as consistent with its past practice; and

(D) taking any action to materially amend any Contract with any BEC Group Employee;

(iii) except with the prior written consent of Cambridge and North Dumfries (which shall not be unreasonably withheld), to refrain from entering into any Material Contract;

(iv) to continue in full force the Insurance Policies;

(v) to comply in all material respects with all Laws applicable the BEC Business; and

(vi) to apply for, maintain in good standing and renew all Permits.
(b) **Access for Investigation**

(i) Brantford will, and will cause the BEC Group to, permit Cambridge and North Dumfries through its authorized Representatives, until the Closing Date, to have reasonable access during normal business hours to the BEC Owned Lands and the BEC Leased Premises and to all the Books and Records of the BEC Group and to the properties and assets of the BEC Group.

(ii) Brantford and the BEC Group will co-operate in good faith in arranging any such meetings as Cambridge and North Dumfries may reasonably request with:

(A) management of the BEC Group employed in the BEC Business; and

(B) suppliers, distributors, service providers or others who have a business relationship with the BEC Group in respect of the BEC Business.

(iii) Brantford will also furnish to Cambridge and North Dumfries any financial and operating data and other information with respect to the BEC Business as Cambridge and North Dumfries reasonably requests to enable confirmation of the accuracy of the matters represented and warranted in Article 4.

(iv) Cambridge and North Dumfries will be provided ample opportunity to make a full investigation of all aspects of the financial affairs of the BEC Group.

(v) The exercise of any rights of inspection by or on behalf of Cambridge and North Dumfries under this Section 6.1(b) shall not mitigate or otherwise affect any of the representations and warranties of Brantford hereunder, which will continue in full force and effect as provided in Article 8.

(c) **Termination of BPI Shareholder Declaration.** Before Closing, Brantford shall terminate the BPI Shareholder Declaration.

(d) **Articles of Amalgamation.** Immediately before Closing, Brantford shall cause the applicable members of the BEC Group to execute, deliver and duly file under the OBCA the articles of amalgamation that give effect to the Amalgamations.

(e) **Disclosure Supplements.** During the period beginning on the date of this Agreement and ending at the Closing Time, Brantford will promptly notify Cambridge and North Dumfries with respect to any matter, condition or occurrence arising which, if existing at or occurring before or on the date of this Agreement, would have been required to be set out or described in the Brantford Disclosure Schedule. The Parties will use commercially reasonable efforts to resolve any issues arising from any such notification, including if necessary amending this Agreement. Where the Parties fail to resolve any such issues and where the effect
of such notification would reasonably be expected to cause a Material Adverse Effect in respect of Amalco Holdco, then at the option of any Party, exercisable by written notice to each of the other Parties, this Agreement will terminate and be of no further force and effect with no liability to any of the Parties. Notification under this Section 6.1(e) will not, in any case, be deemed to cure any breach of any representation or warranty made in this Agreement or have any effect on the right of Cambridge and North Dumfries to indemnity provided for in under this Agreement or have any effect for the purpose of determining the satisfaction of the conditions set out in Article 7 or the compliance by Brantford with any covenants or agreements contained in this Agreement.

(f) **Brantford Promissory Notes.** Immediately prior to Closing: (i) BEC will, with the approval of Brantford, and in consideration of the issuance by BPI and BHI to BEC of additional common shares in such corporations, assume BHI’s and BPI’s liabilities under the Brantford Promissory Notes; (ii) Brantford will commit to BEC by way of subscription agreement to invest an amount equal to all outstanding principal under the Brantford Promissory Notes in additional common shares of BEC; and (iii) the amount of Brantford’s committed investment under the subscription agreement shall be set off against the outstanding principal under the Brantford Promissory Notes, and the additional common shares of BEC referred to in clause (ii) shall be issued to Brantford and the Brantford Promissory Notes shall be cancelled.
6.2 Covenants of Cambridge and North Dumfries

(a) **Conduct of Business Before Closing.** During the period beginning on the date of this Agreement and ending at the Closing Time, Cambridge and North Dumfries will cause the Energy Plus Group:

(i) to conduct the Energy Plus Business in the ordinary course substantially consistent with past practice (except as may be otherwise required or contemplated by the provisions of this Agreement or with the prior written consent of Brantford, which shall not be unreasonably withheld);

(ii) except as required by the terms of and in accordance with the Energy Plus Collective Agreement (including as may be required in connection with the renewal of the Energy Plus Collective Agreement) or applicable Law, or with the prior written consent of Brantford, which shall not be unreasonably withheld, to refrain from:

(A) hiring, engaging or retaining any new employees or independent contractors to be employed, engaged or retained in connection with the Energy Plus Business except for new independent contractors with a term of no greater than 9 months and compensation that does not exceed an aggregate of $75,000 per independent contractor;

(B) terminating any Energy Plus Group Employees or transferring any Energy Plus Group Employees to any other position;

(C) increasing remuneration of Energy Plus Group Employees before the Closing Date, except as consistent with its past practice; and

(D) taking any action to materially amend any Contract with any Energy Plus Group Employee;

(iii) except with the prior written consent of Cambridge and North Dumfries (which shall not be unreasonably withheld), to refrain from entering into any Material Contract;

(iv) to continue in full force the Insurance Policies;

(v) to comply in all material respects with all Laws applicable the Energy Plus Business; and

(vi) to apply for, maintain in good standing and renew all Permits.

(b) **Access for Investigation.**

(i) Cambridge and North Dumfries will, and will cause the Energy Plus Group to, permit Brantford through its authorized Representatives, until the Closing Date, to have reasonable access during normal business hours to

(ii) Cambridge and North Dumfries and the Energy Plus Group will co-operate in good faith in arranging any such meetings as Brantford may reasonably request with:

(A) management of the Energy Plus Group employed in the Energy Plus Business; and

(B) suppliers, distributors, service providers or others who have a business relationship with the Energy Plus Group in respect of the Energy Plus Business.

(iii) Cambridge and North Dumfries will also furnish to Brantford any financial and operating data and other information with respect to the Energy Plus Business as Brantford reasonably requests to enable confirmation of the accuracy of the matters represented and warranted in Article 5.

(iv) Brantford will be provided ample opportunity to make a full investigation of all aspects of the financial affairs of the Energy Plus Group.

(v) The exercise of any rights of inspection by or on behalf of Brantford under this Section 6.2(b) shall not mitigate or otherwise affect any of the representations and warranties of Cambridge and North Dumfries hereunder, which will continue in full force and effect as provided in Article 8.

(c) **Termination of Energy Plus Shareholder Agreement.** Before Closing, Cambridge and North Dumfries shall terminate the Energy Plus Shareholder Agreement.

(d) **Articles of Amalgamation.** Immediately before Closing, Cambridge and North Dumfries shall cause the applicable members of the Energy Plus Group to execute, deliver and duly file under the OBCA the articles of amalgamation that give effect to the Amalgamations.

(e) **Disclosure Supplements.** During the period beginning on the date of this Agreement and ending at the Closing Time, Cambridge and North Dumfries will promptly notify Brantford with respect to any matter, condition or occurrence arising which, if existing at or occurring before or on the date of this Agreement, would have been required to be set out or described in the Energy Plus Disclosure Schedule. The Parties will use commercially reasonable efforts to resolve any issues arising from any such notification, including if necessary amending this Agreement. Where the Parties fail to resolve any such issues and where the effect of such notification would reasonably be expected to cause a Material Adverse Effect in respect of Amalco Holdco, then at the option of any Party, exercisable by
written notice to each of the other Parties, this Agreement will terminate and be of no further force and effect with no liability to any of the Parties. Notification under this Section 6.2(e) will not, in any case, be deemed to cure any breach of any representation or warranty made in this Agreement or have any effect on the right of Cambridge and North Dumfries to indemnity provided for in under this Agreement or have any effect for the purpose of determining the satisfaction of the conditions set out in Article 7 or the compliance by Cambridge and North Dumfries with any covenants or agreements contained in this Agreement.

6.3 Mutual Covenants

(a) Actions to Satisfy Closing Conditions. Each Party will take or cause to be taken all actions that are within its power to control, and will make all commercially reasonable best efforts to cause other actions to be taken which are not within its power to control, so as to ensure its compliance with, and satisfaction of, all conditions in Article 7 that are for the benefit of the other Parties.

(b) Personal Information. The collection, use and disclosure of Personal Information by any of the Parties before the Closing is restricted to those purposes that relate to the transactions contemplated by this Agreement or to other purposes as may be permitted by applicable Law.

(c) Confidentiality.

(i) The Parties shall treat as confidential this Agreement, the terms and conditions set out herein and all information provided to one another in accordance with this Agreement. All such information shall be deemed received pursuant to the terms of the Confidentiality Agreement, be kept in the strictest confidence and not divulged to any unrelated third party or used by any Party other than in accordance with the Confidentiality Agreement.

(ii) Each Party that is not a party to or bound by the Confidentiality Agreement hereby agrees, covenants and acknowledges to be bound by the terms and conditions of the Confidentiality Agreement as if it was an original signatory thereto and acknowledges having received a copy of the Confidentiality Agreement on or before the date of this Agreement. Notwithstanding any other provision of this Agreement, nothing shall prevent the disclosure of any agreement or information, and no party shall be held liable for the disclosure of any agreement or information, if and to the extent that any such disclosure is required by applicable Law, including the Municipal Act, 2001 (Ontario) and the Municipal Freedom of Information and Protection of Privacy Act (Ontario).

(d) Amalco Holdco Shareholders Agreement and Amended and Restated Shared Services and Obligations Agreement. On Closing each of Brantford, Cambridge, North Dumfries, Amalco Holdco and LDC Amalco shall execute and deliver the Shareholders Agreement and Brantford and LDC Amalco shall enter into an
Amended and Restated Shared Services and Obligations Agreement in the form of Exhibit B which shall replace and supersede the Shared Services Agreement.

(e) **Equity Issuances/Dividends.**

(i) Except as contemplated by Section 6.1(f), Brantford shall ensure that no member of the BEC Group issues any additional equity at any time prior to the Closing Time.

(ii) Cambridge and North Dumfries shall ensure that no member of the Energy Plus Group issues any additional equity at any time prior to the Closing Time.

(iii) Cambridge and North Dumfries shall continue to accept payment of all dividends declared by Energy Plus Holdings in the ordinary course in accordance with past practice (and shall not defer payment of same) or dividends declared for the purpose of meeting the target closing amounts set forth in Section 2.5.

(iv) Brantford shall continue to accept payment of all dividends declared by BEC in the ordinary course in accordance with past practice (and shall not defer payment of same) or dividends declared for the purpose of meeting the target closing amounts set forth in Section 2.5.

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**ARTICLE 7**

**CLOSING CONDITIONS**

7.1 **Conditions for the Benefit of Cambridge and North Dumfries**

The obligation of Cambridge and North Dumfries to complete the Amalgamations is subject to the fulfilment of the following conditions at or before the Closing Time:

(a) **Representations, Warranties and Covenants.** The representations and warranties of Brantford made in this Agreement or in any other agreement or document delivered pursuant to this Agreement will be true and accurate at the Closing Time.
with the same force and effect as though those representations and warranties had been made as of the Closing Time. At Closing, Brantford and the members of the BEC Group will have performed or complied with all covenants and agreements agreed to be performed or complied with by them under this Agreement and any other agreement or document delivered pursuant to this Agreement at or before the Closing Time. In addition, each of Brantford and each of the members of the BEC Group will have delivered to Cambridge and North Dumfries a certificate of a senior officer confirming the same. The receipt of those certificates and the completion of the Closing will not be deemed to constitute a waiver of any of the representations, warranties or covenants of Brantford or the members of the BEC Group contained in this Agreement or in any other agreement or document delivered pursuant to this Agreement. Those representations, warranties and covenants will continue in full force and effect as provided in Article 8, or, if Article 8 does not apply, the terms of the agreement or document in which they are made.

(b) **No Material Adverse Effect.** Since the date of this Agreement there will not have been any change in any of the assets, financial condition, earnings, results of operations or prospects of the BEC Group, or in the BEC Business (whether or not covered by insurance) that has had, or might reasonably be expected to have, a Material Adverse Effect.

(c) **Consents and Regulatory Approvals.** All filings, notifications, approvals and consents with, to or from Governmental Authorities and third parties, including the parties to the Material Contracts and the lessors of the BEC Leased Premises, will have been made, given or obtained on terms acceptable to BEC, acting reasonably, so that the transactions contemplated by this Agreement may be completed without resulting in the violation of, or a default under, or any termination, amendment or acceleration of any obligation under any Permit, BEC Real Property Lease, or Material Contract or affecting the BEC Business, including the OEB Approval and the Competition Act Approval.

(d) **No Transfer Tax.** No Transfer Tax shall be payable by any Party to the Ontario Electricity Financial Corporation in connection with transactions contemplated by this Agreement.

7.2 **Waiver or Termination by Cambridge and North Dumfries**

The conditions contained in Section 7.1 are inserted for the exclusive benefit of Cambridge and North Dumfries and may be waived in whole or in part by them at any time without prejudice to any of their rights of termination in the event of non-performance of any other condition in whole or in part. If any of the conditions contained in Section 7.1 are not fulfilled or complied with by the time that is required under this Agreement, Cambridge and North Dumfries (acting jointly) may, at or before the Closing Time, terminate this Agreement by notice in writing after that time to Brantford. In that event, all Parties will be released from all obligations under this Agreement (except as set out in Section 8.3).
7.3 Conditions for the Benefit of Brantford

The obligation of Brantford to complete the Amalgamations and the other transactions contemplated by this Agreement is subject to the fulfilment of the following conditions at or before the Closing Time:

(a) **Representations, Warranties and Covenants.** The representations and warranties of Cambridge and North Dumfries made in this Agreement or in any other agreement or document delivered pursuant to this Agreement will be true and accurate at the Closing Time with the same force and effect as though those representations and warranties had been made as of the Closing Time. At Closing, Cambridge, North Dumfries and the members of the Energy Plus Group will have performed or complied with all covenants and agreements agreed to be performed or complied with by them under this Agreement and any other agreement or document delivered pursuant to this Agreement at or before the Closing Time. In addition, each of Cambridge, North Dumfries and the applicable members of the Energy Plus Group will have delivered to Brantford a certificate of a senior officer of Cambridge, North Dumfries and the members of the Energy Plus Group confirming the same. The receipt of those certificates and the completion of the Closing will not be deemed to constitute a waiver of any of the representations, warranties or covenants of Cambridge, North Dumfries or the members of the Energy Plus Group contained in this Agreement or in any other agreement or document delivered pursuant to this Agreement. Those representations, warranties and covenants will continue in full force and effect as provided in Article 8 or, if Article 8 does not apply, the terms of the agreement or document in which they are made.

(b) **No Material Adverse Effect.** Since the date of this Agreement there will not have been any change in any of the assets, financial condition, earnings, results of operations or prospects of Cambridge, North Dumfries, the Energy Plus Group or the Energy Plus Business (whether or not covered by insurance) that has had, or might reasonably be expected to have, a Material Adverse Effect.

(c) **Consents and Regulatory Approvals.** All filings, notifications, approvals and consents with, to or from Governmental Authorities and third parties, including the parties to the Material Contracts and the lessors of the Energy Plus Group Leased Premises, will have been made, given or obtained on terms acceptable to Brantford, acting reasonably, so that the transactions contemplated by this Agreement may be completed without resulting in the violation of, or a default under, or any termination, amendment or acceleration of any obligation under any Permit, Energy Plus Group Real Property Lease, or Material Contract of or affecting the Energy Plus Business, including the OEB Approval and the Competition Act Approval.

(d) **No Transfer Tax.** No Transfer Tax shall be payable by any Party to the Ontario Electricity Financial Corporation in connection with the transactions contemplated by this Agreement.
7.4 Waiver or Termination by Brantford

The conditions contained in Section 7.3 are inserted for the exclusive benefit of Brantford and may be waived in whole or in part by it at any time without prejudice to any of its rights of termination in the event of non-performance of any other condition in whole or in part. If any of the conditions contained in Section 7.3 are not fulfilled or complied with by the time that is required under this Agreement, Brantford may, at or before the Closing Time, terminate this Agreement by notice in writing after that time to Cambridge and North Dumfries. In that event, all Parties will be released from all obligations under this Agreement (except as set out in Section 8.3).

7.5 Condition Precedent

The Amalgamations are subject to the following condition to be fulfilled at or before the Closing Time, which condition is a true condition precedent to the completion of the transactions contemplated by this Agreement:

(a) No order of any Governmental Authority will be in force, and no action or proceeding will be pending or threatened by any Person:

   (i) to restrain or prohibit the completion of the transactions contemplated in this Agreement, including the Amalgamations;

   (ii) to restrain or prohibit the carrying on of the Energy Plus Business or the BEC Business, respectively; or

   (iii) which would have a Material Adverse Effect (taken as a whole) on the BEC Group or on the Energy Plus Group (taken as a whole).

If this condition precedent has not been fulfilled at or before the Closing Time, unless otherwise agreed by the Parties in writing, this Agreement will be terminated and the Parties will be released from all obligations under this Agreement (except as set out in Section 8.3).

7.6 Termination

(a) This Agreement may be terminated at any time prior to Closing by mutual written consent of Brantford, Cambridge and North Dumfries.

(b) This Agreement may be terminated by Cambridge and North Dumfries or Energy Plus Holdings, on the one hand, or Brantford or BEC, on the other hand, by written notice to the other Parties if the Closing contemplated by this Agreement shall have not occurred on or before the earlier of (a) the second anniversary of the date of this Agreement, (b) 90 days following OEB Approval and (c) within 60 days following an Adverse Determination if the Parties cannot agree on any amendments to this Agreement. Upon such termination the Parties shall be released from all obligations then remaining under this Agreement, other than the obligations contained in Sections 6.3, 11.3 and 11.8 provided that the right to terminate this Agreement under this Section 7.6(b) shall not be available to a Party if the acts or omissions of
that Party or any of its Affiliates have been the cause of, or result in, the failure of the Closing to occur on or before such date.

(c) If any condition in Section 7.1 or 7.5 is not satisfied on or before the Closing Date, Cambridge and North Dumfries or Energy Plus Holdings may, by notice to the other Parties, terminate this Agreement and thereupon the Parties shall be released from all obligations then remaining under this Agreement, other than the obligations contained in Sections 6.3, 11.3 and 11.8; provided that Cambridge and North Dumfries, Energy Plus Holdings or Energy+ may also bring a Direct Claims against Brantford, BEC, BPI and BHI in accordance with Section 8.8 for Losses asserted against or suffered by Cambridge and North Dumfries, Energy Plus Holdings and Energy+, or any of them, as a result of the failure to complete the Amalgamations, where the non-performance or non-conformance of the relevant condition is as a result of a breach of covenant, representation or warranty by Brantford, BEC, BPI or BHI.

(d) If any condition in Section 7.3 or 7.5 is not satisfied on or before the Closing Date, Brantford or BEC may, by notice to the other Parties, terminate this Agreement and thereupon the Parties shall be released from all obligations then remaining under this Agreement, other than the obligations contained in Sections 6.3, 11.3 and 11.8; provided that Brantford, BEC BPI or BHI may also bring a Direct Claim against Cambridge and North Dumfries, Energy Plus Holdings and Energy + in accordance with Section 8.8 for Losses asserted against or suffered by Brantford, BEC, BPI, BHI or any of them, as a result of the failure to complete the Amalgamations, where the non-performance or non-conformance of the relevant condition is as a result of a breach of covenant, representation or warranty by Cambridge, North Dumfries, Energy Plus Holdings or Energy +.

ARTICLE 8
SURVIVAL AND INDEMNIFICATION

8.1 Survival of Covenants and Representations and Warranties

All of the covenants and representations and warranties contained in this Agreement and in any other agreement or document delivered pursuant to this Agreement, including this Article 8, will survive the Closing.

8.2 Survival Following Termination

If this Agreement is terminated at or before the Closing Time pursuant to Sections 6.1(c)6.1(f), 7.2, 7.4 or 7.5, the provisions of Section 6.3(c) will remain in full force and effect.

8.3 Mutual Indemnifications for Breaches of Warranty, etc.

Subject to the remaining provisions of this Article 8:

(a) Cambridge and North Dumfries agree that if Cambridge, North Dumfries or any member of the Energy Plus Group fails to observe or perform any covenant or
obligation to be complied with or performed by them in this Agreement, or breach any of their representations and warranties contained in this Agreement (an “Energy Plus Failure”), Cambridge and North Dumfries will jointly and severally indemnify and hold harmless Brantford from and against the full amount of any Loss which Brantford may suffer as a result of such Energy Plus Failure; and

(b) Brantford agrees that if Brantford or any member of the BEC Group fails to observe or perform any covenant or obligation to be complied with or performed by them in this Agreement, or breach any of their representations and warranties contained in this Agreement (a “Brantford Failure”), Brantford will indemnify and hold harmless Cambridge and North Dumfries from and against the full amount of any Loss which it/they may suffer as a result of such Brantford Failure;

(the Party or Parties making a Claim for indemnification under any provision of this Article 8 being the “Indemnified Party”, and the Party or Parties providing indemnification being the “Indemnifying Party” for the purposes of this Article 8).

8.4 Limitation on Mutual Indemnification

The indemnification obligations of Cambridge and North Dumfries (on the one hand) and Brantford (on the other hand) pursuant to Section 8.3 are:

(a) limited to the sum of $15,000,000, in the aggregate, in the case of all Brantford Failures, but there will be no limit with respect to any indemnification arising as a consequence of fraud, wilful misrepresentation or gross negligence on the part of Brantford or any member of the BEC Group;

(b) limited to the sum of $15,000,000, in the aggregate, in the case of all Energy Plus Failures, but there will be no limit with respect to any indemnification arising as a consequence of fraud, wilful misrepresentation or gross negligence on the part of Cambridge, North Dumfries or any member of the Energy Plus Group; and

(c) not applicable to indemnify an Indemnified Party unless and until the aggregate of all of its Indemnity Claims exceeds $250,000, in which case, the Indemnifying Party will be obligated to pay the entire amount owing in respect of those Claims without a deductible.
8.6 Notice of Claim

If an Indemnified Party becomes aware of a Loss or potential Loss in respect of which the Indemnifying Party has agreed to indemnify it under this Agreement, the Indemnified Party will promptly give written notice (an "Indemnity Notice") of its Claim or potential Claim for indemnification (an "Indemnity Claim") to the Indemnifying Party. An Indemnity Notice must specify whether the Indemnity Claim arises as the result of a Claim made against the Indemnified Party by a person who is not a Party (a "Third Party Claim") or as a result of a Loss that was suffered directly by an Indemnified Party (a "Direct Claim"), and must also specify with reasonable particularity (to the extent that the information is available):

(a) the factual basis for the Indemnity Claim; and
(b) the amount of the Indemnity Claim, if known.

If, through the fault of the Indemnified Party, the Indemnifying Party does not receive an Indemnity Notice of an Indemnity Claim in time to effectively contest the determination of any liability capable of being contested, the Indemnifying Party will be entitled to set off against the amount claimed by the Indemnified Party the amount of any Loss incurred by the Indemnifying Party resulting from the Indemnified Party’s failure to give an Indemnity Notice on a timely basis.

8.7 Time Limits for Notice

(a) Subject to, and other than for Indemnity Claims in respect of which a different time period is expressly set out in the remaining provisions of this Section 8.7, no Indemnity Claim may be made under Section 8.3 unless an Indemnity Notice of that Indemnity Claim is delivered to the Indemnifying Party within 18 months after the Closing Date or, in respect of an Indemnity Claim.

(b) No Indemnity Claim arising out of a breach by Brantford of Section 4.13, or the indemnity obligations of Brantford under Section 8.5, may be made unless an Indemnity Notice of that Indemnity Claim is delivered to Brantford within 180 days after the last day upon which any of the relevant Governmental Authorities is entitled to assess or reassess the BEC Group with respect to any Tax, having regard to any waivers given by the BEC Group in respect of Tax, and any entitlement of a Governmental Authority to assess or reassess in the event of fraud or misrepresentation or attributable to neglect, carelessness or wilful default.

(c) No Indemnity Claim arising out of a breach by Cambridge and North Dumfries of Section 5.13 may be made unless an Indemnity Notice of that Indemnity Claim is delivered to Cambridge and North Dumfries within 180 days after the last day upon which any of the relevant Governmental Authorities is entitled to assess or reassess the Energy Plus Group with respect to any Tax, having regard to any waivers given by the Energy Plus Group in respect of Tax, and any entitlement of a Governmental Authority to assess or reassess in the event of fraud or misrepresentation or attributable to neglect, carelessness or wilful default.
(d) An Indemnity Notice of an Indemnity Claim may be delivered to the Indemnifying Party at any time with respect to the following (subject to the applicable statute of limitations):

(i) a breach of the representations and warranties contained in Sections 3.1 (Corporate Existence), 3.2 (Capacity to Enter Agreement), 3.3 (Binding Obligation) or 3.4 (Absence of Conflict);

(ii) a breach of the representations and warranties of Brantford contained in Sections 4.4 (Share Ownership, Etc.), 4.5 (Corporate Existence of the BEC Group), 4.7 (Capacity and Powers of the BEC Group), 4.9 (Options, Etc.) or 4.35 (Absence of Conflict);

(iii) a breach of the representations and warranties of Cambridge and North Dumfries contained in Section 5.4 (Share Ownership, Etc.), 5.5 (Corporate Existence of the Energy Plus Group), 5.7 (Capacity and Powers of the Energy Plus Group), 5.9 (Options, Etc.) or 5.35 (Absence of Conflict);

(iv) a breach of any of the Indemnifying Party’s covenants or representations and warranties, if that breach is attributable to fraud, wilful misrepresentation or gross negligence; and

(v) a breach of the covenants contained in Section 6.3(c) (as limited by the provisions of such Section).

8.8 Procedure for Direct Claims

Following receipt of an Indemnity Notice from the Indemnified Party of a Direct Claim, the Indemnifying Party will have 20 Business Days to make any investigations it considers necessary or desirable. For the purpose of those investigations, the Indemnified Party will make available to the Indemnifying Party the information relied upon by the Indemnified Party to substantiate the Direct Claim, together with all other information that the Indemnifying Party may reasonably request. If both Parties agree at or before the expiration of such period (or any mutually agreed upon extension) to the validity and amount of the Direct Claim, the Indemnifying Party will pay immediately to the Indemnified Party the full agreed upon amount of the Loss for which the Direct Claim is made, and no subsequent proceeding will be brought in any court of law concerning that Direct Claim.

8.9 Procedure for Third Party Claims

(a) Despite any other provision of this Agreement, if the Indemnified Party is required by applicable Law to make a payment into court, into escrow, or to any third party, with respect to a Third Party Claim before the completion of related settlement negotiations or legal proceedings, the Indemnified Party may make the required payment and the Indemnifying Party will, promptly after demand by the Indemnified Party, reimburse the Indemnified Party for the required payment made. If the Indemnifying Party makes that reimbursement in full, and if the amount of any liability of the Indemnified Party under the Third Party Claim in respect of
which the required payment was made, as finally determined, is less than the amount that was paid by the Indemnifying Party to the Indemnified Party, the Indemnified Party will, promptly after recovery of the surplus amount left over from the required payment, pay that surplus amount to the Indemnifying Party.

(b) The Indemnified Party will promptly deliver to the Indemnifying Party copies of all correspondence, notices, assessments or other written Communication received by the Indemnified Party in respect of any Third Party Claim.

(c) The Indemnified Party will not negotiate, settle, compromise or pay any Third Party Claim with respect to which it has asserted or proposes to assert an Indemnity Claim, without the prior written consent of the Indemnifying Party, which consent will not be unreasonably withheld.

(d) The Indemnified Party will not cause or permit the termination of any right of appeal in respect of any Third Party Claim which is or might become the basis of an Indemnity Claim without giving the Indemnifying Party written notice of the contemplated or potential termination in time to grant the Indemnifying Party an opportunity to contest the Third Party Claim.

(e) If the Indemnifying Party first acknowledges in writing its obligation to satisfy an Indemnity Claim to the extent of any binding determination or settlement in connection with a Third Party Claim (or enters into arrangements otherwise satisfactory to the Indemnified Party), in any legal or administrative proceeding in connection with the matters forming the basis of a Third Party Claim, the following will apply:

(i) the Indemnifying Party will have the right, subject to the rights of any Person having potential liability for it, by written notice delivered to the Indemnified Party within ten Business Days of receipt by the Indemnifying Party of an Indemnity Notice, to assume carriage and control of the negotiation, defence or settlement of a Third Party Claim and the conduct of any related legal or administrative proceedings at the expense of the Indemnifying Party and by its own counsel;

(ii) if the Indemnifying Party elects to assume carriage and control, the Indemnified Party will have the right to participate at its own expense in the negotiation, defence or settlement of a Third Party Claim assisted by counsel of its own choosing;

(iii) each of the Indemnified Party and the Indemnifying Party will make all reasonable efforts to make available to the Party, who has assumed carriage and control of the negotiation, defence or settlement of a Third Party Claim, those employees whose assistance or evidence is necessary to assist that Party in evaluating and defending that Third Party Claim and all documents, records and other materials in the possession or control of that Party
required for use in the negotiation, defence or settlement of that Third Party Claim;

(iv) despite Sections 8.9(e)(i), 8.9(e)(ii) and 8.9(e)(iii), the Indemnifying Party will not settle a Third Party Claim or conduct any related legal or administrative proceeding in a manner which would, in the opinion of the Indemnified Party, acting reasonably, have a material adverse effect on the Indemnified Party except with the Indemnified Party’s prior written consent; and

(v) subject to Section 8.9(e)(ii), the Indemnifying Party will indemnify and hold harmless the Indemnified Party from and against any Loss incurred or suffered as a result of the Indemnifying Party’s settlement of the Third Party Claim or conduct of any related legal or administrative proceeding.

(f) When the amount of the Loss with respect to a Third Party Claim is finally determined in accordance with this Section 8.9, including any amount described in Section 8.9(e)(v), the Indemnifying Party will immediately pay the full amount of that Loss to the Indemnified Party.

(g) If the Indemnified Party has been permitted by the Indemnifying Party to assume the carriage and control of the negotiation, defence, or settlement of the Third Party Claim, the Indemnifying Party will not contest the amount of that Loss.

(h) The Indemnifying Party will have no obligation to make any payment with respect to any Third Party Claim that is settled or contested in violation of the terms of this Section 8.9.

### 8.10 No Delay

Each Indemnifying Party will pursue any Indemnity Claim made by an Indemnified Party under this Agreement with reasonable diligence and dispatch, and without unnecessary delay, once the circumstances that give rise to that Indemnity Claim are known to it.

### 8.11 Set-off

Each Indemnified Party will be entitled to set-off the amount of any Loss for which it seeks indemnification under this Article 8 once, if applicable, finally determined in accordance with Section 8.8 or Section 8.9, as the case may be, as damages or by way of indemnification against any other amounts payable by it to the Indemnifying Party whether under this Agreement or otherwise.

### 8.12 Exclusive Remedy

(a) Subject to Sections 2.4 and 8.12(b), the rights of indemnity in this Article 8 are the sole and exclusive remedy of each Party for any Loss suffered in connection with the transactions contemplated by this Agreement.
(b) Nothing in this Section 8.12 will prevent a Party from seeking equitable remedies with respect to a breach of the confidentiality covenants contained in this Agreement.

(c) Unless otherwise specifically agreed by the Parties, this Section 8.12 will remain in full force and effect in all circumstances and will not be terminated by any breach (fundamental, negligent or otherwise) by any Party of its covenants, representations or warranties in this Agreement or under any agreement or other document delivered pursuant to this Agreement, or by any termination or rescission of this Agreement.

ARTICLE 9
REGULATORY APPROVAL

9.1 OEB Approval and Competition Act Approval

(a) Each of BPI and Energy+ will, as promptly as practicable after the execution of this Agreement (but in no event later than 60 days after the execution of this Agreement), file or caused to be filed with the OEB an application under the OEB Act for the OEB Approval.

(b) The Parties will, as promptly as possible after the execution of this Agreement (but in no event later than 5 days after the execution of this Agreement), file with the Commissioner an application for an advance ruling certificate under section 102 of the Competition Act or, alternatively, a No-Action Letter, in respect of the transactions contemplated by this Agreement. If an advance ruling certificate or No-Action Letter has not been obtained by the 45th day following such application, the Parties will prepare and file with the Commissioner a pre-merger notification in respect of the transactions contemplated by this Agreement under section 114 of the Competition Act.

(c) BPI and Brantford and Cambridge, North Dumfries and Energy+ will share equally the cost of the filing fees in respect of the applications for the OEB Approval and the Competition Act Approval. Each of BPI and Brantford and Cambridge, North Dumfries and Energy+ will use its best efforts (which shall not be less than commercially reasonable efforts) to co-operate and assist the other, so that the OEB Approval and the Competition Act Approval can be obtained on or prior to December 31, 2021. To the extent the Parties incur costs from their own advisors, such costs shall be borne by the party incurring them.

9.2 Minister of Finance Notice

(a) BPI and Energy+ will as promptly as practicable after the execution of this Agreement (but in no event later than 60 days prior to the Closing Date), jointly file or cause to be filed with the Ontario Minister of Finance the notification required under subsection 4(2) of Ontario Regulation 124/99 made under the EA.
(b) Each Party will be responsible for the costs incurred by it in connection with the Minister of Finance Notice.

9.3 OEB Approval Procedure

In the event that the BEC Group or Energy Plus Group, as applicable, is of the opinion, acting reasonably, that the OEB Approval will be obtained in whole or in part on terms that will (i) reduce the maximum allowable time and/or maximum amount of savings that may be allocated the shareholder of LDC Amalco pursuant to the policies of the OEB, and/or (ii) result in a material adverse change to the proposed rate structure and rate harmonization of LDC Amalco proposed in the application under the OEB Act for the OEB Approval pursuant to Section 9.1(a) following Closing (in each case, an “Adverse Determination”), either the BEC Group or Energy Plus Group, as applicable, may provide written notice to the other parties of such potential Adverse Determination. The Parties agree to cooperate and negotiate to reach agreement with respect to any desirable or required amendments to this Agreement to address a potential Adverse Determination.

ARTICLE 10
CLOSING ARRANGEMENTS

10.1 Closing

The Closing will take place at the Closing Time on the Closing Date at such place or places as the Parties may agree.

10.2 Closing Procedures

At the Closing Time, upon fulfillment of all the conditions set out in Article 7 that have not been waived in writing, each Party shall deliver or cause to be delivered to certificates, agreements, documents and instruments as required by the terms of the this Agreement.

ARTICLE 11
GENERAL

11.1 Submission to Jurisdiction

Each of the Parties irrevocably and unconditionally submits and attorns to the non-exclusive jurisdiction of the courts of the Province of Ontario to determine all issues, whether at law or in equity, arising from this Agreement. To the extent permitted by applicable Law, each of the Parties:

(a) irrevocably waives any objection, including any Claim of inconvenient forum, that it may now or in the future have to the venue of any legal proceeding arising out of or relating to this Agreement in the courts of that Province, or that the subject matter of this Agreement may not be enforced in those courts;

(b) irrevocably agrees not to seek, and waives any right to, judicial review by any court which may be called upon to enforce the judgment of the courts referred to in this Section 11.1, of the substantive merits of any suit, action or proceeding; and
(c) to the extent a Party has or may acquire any immunity from the jurisdiction of any
court or from any legal process, whether through service or notice, attachment
before judgment, attachment in aid of execution, execution or otherwise, with
respect to itself or its property, that Party irrevocably waives that immunity in
respect of its obligations under this Agreement.

11.2 Tender

Any tender of documents or money under this Agreement may be made upon the Parties or their
respective counsel.

11.3 Costs and Expenses

Except as otherwise specified in this Agreement, including Section 9.1(c) and Section 9.2(b), all
costs and expenses (including the fees and disbursements of accountants, financial advisors, legal
counsel and other professional advisers) incurred in connection with this Agreement, the
obligations under this Agreement and the completion of the transactions contemplated by this
Agreement, are to be paid by the Party incurring those costs and expenses, provided that any
integration and transition costs and expenses incurred by the members of the BEC Group and the
members of the Energy Plus Group after the effective date of this Agreement will be borne by the
applicable members of the BEC Group and the Energy Plus Group in proportion to the number of
Common Shares to be issued the capital of Amalco Holdco as set forth in Section 2.1(b). If there
is a breach of this Agreement or this Agreement is terminated, the obligation of each Party to pay
its own costs and expenses is subject to each Party’s respective rights arising from such breach or
termination.

11.4 Time of Essence

Time is of the essence in all respects of this Agreement.

11.5 Notices

Any Communication must be in writing and either:

(a) delivered personally or by courier;
(b) sent by prepaid registered mail; or
(c) transmitted by e-mail.

Any Communication must be sent to the intended recipient at its address as follows:

in the case of Brantford:

c/o The Corporation of the City of Brantford
100 Wellington Square
PO Box 818
Brantford, Ontario N3T 5R7
Attention: Brian Hutchings, Chief Administrative Officer
E-mail: bhutchings@brantford.ca

in the case of each member of the BEC Group:

c/o Brantford Energy Corporation
150 Savannah Oaks Dr.
Brantford, Ontario
N3V 1E8

Attention: Paul Kwasnik, President and Chief Executive Officer
E-mail: PKwasnik@brantford.ca

in the case of Cambridge:

c/o City of Cambridge
50 Dickson Street
P.O. Box 669
Cambridge, Ontario N1R 5W8

Attention: David Calder, City Manager
E-mail: calderd@cambridge.ca

in the case of North Dumfries:

c/o The Corporation of the Township of North Dumfries
North Dumfries Community Complex
2958 Greenfield Road
P.O. Box 1060
Ayr, Ontario N0B 1E0

Attention: Andrew McNeely, Chief Administrative Officer
E-mail: amcneely@northdumfries.ca

in the case of each member of the Energy Plus Group:

c/o Cambridge and North Dumfries Energy Plus Inc.
1500 Bishop Street North
Cambridge, Ontario N1R 5X6

Attention: Ian Miles, President and Chief Executive Officer
E-mail: imiles@energyplus.ca

or at any other address as any Party may at any time advise the other Parties by Communication
given or made in accordance with this Section 11.5. Any Communication delivered to the Party to
whom it is addressed will be deemed to have been given or made and received on the day it is
delivered at that Party’s address, provided that if that day is not a Business Day then the
Communication will be deemed to have been given or made and received on the next Business
Day. Any Communication sent by prepaid registered mail will be deemed to have been given or
made and received on the fifth Business Day after which it is mailed. If a strike or lockout of postal
employees is then in effect, or generally known to be impending, every Communication must be
delivered personally or by courier or transmitted by e-mail. Any Communication transmitted by
e-mail will be deemed to have been given or made and received on the day on which it is
transmitted; but if the Communication is transmitted on a day which is not a Business Day or after
5:00 p.m. (local time of the recipient), the Communication will be deemed to have been given or
made and received on the next Business Day.

11.6  Further Assurances

Each Party will, at that Party’s own cost and expense, execute and deliver any further agreements
and documents and provide any further assurances, undertakings and information as may be
reasonably required by the requesting Party to give effect to this Agreement and, without limiting
the generality of this Section 11.6, will do or cause to be done all acts and things, execute and
deliver or cause to be executed and delivered all agreements and documents and provide any
assurances, undertakings and information as may be required at any time by all Governmental
Authorities.

11.7  No Broker

Each Party represents and warrants to the other Parties that all negotiations relating to this
Agreement and the transactions contemplated by this Agreement have been carried on between
them directly, without the intervention of any other Person on behalf of any Party in such manner
as to give rise to any valid Claim against the BEC Group or the Energy Plus Group for a brokerage
commission, finder’s fee or other similar payment.

11.8  Public Notice

All public notices to third parties and all other announcements, press releases and publicity
concerning this Agreement or the transactions contemplated by this Agreement, must be jointly
planned and co-ordinated by each member of the BEC Group and Brantford, on the one hand, and
the Energy Plus Group and Cambridge and North Dumfries, on the other hand, and no Party will
act unilaterally in this regard without the prior consent of the other Parties.

11.9  Amendment and Waiver

No amendment, discharge, modification, restatement, supplement, termination or waiver of this
Agreement or any Section of this Agreement is binding unless it is in writing and executed by the
Party to be bound. No waiver of, failure to exercise or delay in exercising, any Section of this
Agreement constitutes a waiver of any other Section (whether or not similar) nor does any waiver
constitute a continuing waiver unless otherwise expressly provided.
11.10 Assignment and Enurement

Neither this Agreement nor any right or obligation under this Agreement may be assigned by any Party without the prior written consent of the other Parties, which consent will be within their sole discretion. This Agreement enures to the benefit of and is binding upon the Parties and their respective successors (including any successor by amalgamation or operation of law) and permitted assigns.

11.11 Severability

Each Section of this Agreement is distinct and severable. If any Section of this Agreement, in whole or in part, is or becomes illegal, invalid, void, voidable or unenforceable in any jurisdiction by any court of competent jurisdiction, the illegality, invalidity or unenforceability of that Section, in whole or in part, will not affect:

(a) the legality, validity or enforceability of the remaining Sections of this Agreement, in whole or in part; or

(b) the legality, validity or enforceability of that Section, in whole or in part, in any other jurisdiction.

11.12 Counterparts

This Agreement may be executed and delivered by the Parties in one or more counterparts, each of which will be an original, and those counterparts will together constitute one and the same instrument.

11.13 Electronic Execution

Delivery of this Agreement may be effected by one or more Parties by e-mail or other electronic transmission of the execution pages hereof to the other Parties. A Party or Parties so delivering this Agreement will thereafter forthwith deliver to the other Parties original execution pages hereof with its/their original signature(s) located thereon, provided, however, that any failure by a Party or Parties to so deliver such original execution pages will not affect the validity or enforceability hereof against that Party or Parties.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK
Each Party has executed and delivered this Agreement as of the date noted at the beginning of the Agreement.

**THE CORPORATION OF THE CITY OF BRANTFORD**

Per: ______________________
Name:
Title:

Per: ______________________
Name:
Title:

**THE CORPORATION OF THE CITY OF CAMBRIDGE**

Per: ______________________
Name:
Title:

Per: ______________________
Name:
Title:

**THE CORPORATION OF THE TOWNSHIP OF NORTH DUMFRIES**

Per: ______________________
Name:
Title:

Per: ______________________
Name:
Title:
BRANTFORD ENERGY CORPORATION

Per:
Name: Scott Saint
Title: Chair

Per:
Name: Paul Kwasnik
Title: President and Chief Executive Officer

BRANTFORD HYDRO INC.

Per:
Name: Craig Mann
Title: Chair

Per:
Name: Paul Kwasnik
Title: President and Chief Executive Officer

BRANTFORD POWER INC.

Per:
Name: Scott Saint
Title: Chair

Per:
Name: Paul Kwasnik
Title: President and Chief Executive Officer

Signature Page to Merger Participation Agreement
CAMBRIDGE AND NORTH DUMFRIES ENERGY PLUS INC.

Per: ___________________________________________
    Name:________________________________________
    Title:________________________________________

ENERGY + INC.

Per: ___________________________________________
    Name:________________________________________
    Title:________________________________________

CAMBRIDGE AND NORTH DUMFRIES ENERGY SOLUTIONS INC.

Per: ___________________________________________
    Name:________________________________________
    Title:________________________________________
SCHEDULE A
BRANTFORD DISCLOSURE SCHEDULE

See attached.
SCHEDULE B
BRANTFORD DISCLOSURE SCHEDULE

See attached.
SCHEDULE C
SHARE CAPITAL

A. COMMON SHARES

The following are the rights, privileges, restrictions and conditions attaching to the Common Shares:

1. **Voting Rights:** The holders of the Common Shares shall be entitled to receive notice of and to attend and vote at all meetings of the shareholders of the Corporation and shall be entitled to one (1) vote per Common Share held, except meetings at which only holders of another class of shares are entitled to vote.

2. **Dividends:** The holders of the Common Shares shall be entitled to receive dividends if, as and when declared by the board of directors of the Corporation out of the assets of the Corporation properly applicable to the payment of dividends in such amounts and payable in such manner as the board of directors may from time to time determine.

3. **Participation upon Liquidation, Dissolution or Winding-Up:** In the event of the liquidation, dissolution or winding-up of the Corporation or other distribution of assets of the Corporation among its shareholders for the purpose of winding-up its affairs, the holders of the Common Shares shall be entitled to participate rateably in any distribution of the assets of the Corporation remaining after payment of the Total Class A Redemption Amount to the holders of the Class A Special Shares or the payment of the Class B Redemption Amount to the holders of the Class B Special Shares, as applicable.

B. CLASS A SPECIAL SHARES.

The following are the rights, privileges, restrictions and conditions attaching to the Class A Special Shares:

1. **Voting Rights:** The holders of Class A Special Shares shall not be entitled to receive notice of, attend or vote at any meeting of the Corporation's shareholders.

2. **No Dividends:** The holders of the Class A Special Shares shall not be entitled to receive any dividend payable by the Corporation.

3. **Redemption at the Option of the Holder:** Subject to the terms of the Merger Participation Agreement, any registered holder of Class A Special Shares may, at their option, upon giving notice as hereinafter described, require the Corporation, to redeem all of the Class A Special Shares held by such holder, and the Corporation shall pay to such holder for each Class A Special Share an amount equal to the Class A Redemption Amount (as defined below). The redemption right provided for herein may be exercised by notice in writing given by any Class A Special Shares shareholder to the Corporation within 30 days following the determination of the Net Adjustment Amount at the registered office of the Corporation or to any transfer agent or registrar for the Class A Special Shares, and such
notice shall be executed by the person registered on the books of the Corporation as the holder of the Class A Special Shares in respect of which such right is being exercised or by his duly authorized attorney and shall specify that the holder desires to have all such Class A Special Shares redeemed. The holder shall pay any governmental, transfer or other tax imposed in respect of such redemption. If the aggregate of all Class A Redemption Amounts payable to the holders of Class A Special Shares ("Total Class A Redemption Amount") is less than or equal to $2,000,000, then all such Class A Redemption Amounts shall be paid no later than 60 days following the determination of the Net Adjustment Amount. If the Total Class A Redemption Amount is greater than $2,000,000 but less than or equal to $4,000,000, then each such holder shall receive its Pro Rata Portion of $2,000,000 no later than 60 days following the determination of the Net Adjustment Amount, and shall receive the balance of its Class A Redemption Amount no later than 10 days following the commencement of the second fiscal year of the Corporation. If the Total Class A Redemption Amount is greater than $4,000,000, then each such holder shall receive its Pro Rata Portion of $2,000,000 no later than 60 days following the determination of the Net Adjustment Amount, its Pro Rata Portion of $2,000,000 no later than 10 days following the commencement of the second fiscal year of the Corporation, and its Pro Rata Portion of up to $2,000,000 no later than 10 days following the commencement of each fiscal year thereafter until all Class A Redemption Amounts have been paid in full. If the payment of any Class A Redemption Amount would result in a breach by the Corporation of applicable law (including the solvency requirements of the Business Corporations Act (Ontario)) or would breach a covenant under the Corporation’s financing arrangements, such payment shall not be paid but will be held in abeyance until such time that it can be paid without any such breach.

"Class A Redemption Amount", for each Class A Special Share, means an amount equal to the aggregate Net Adjustment Amount payable to the holders of Class A Special Shares, if any, divided by the aggregate number of Class A Special Shares issued to all holders of Class A Special Shares pursuant to section 2.1 of the Merger Participation Agreement, provided that if there is no Net Adjustment Amount payable to the holders of Class A Special Shares, then the Class A Redemption Amount for each Class A Special Share shall be an amount equal to $1.00 divided by the aggregate number of Class A Special Shares issued to all holders of Class A Special Shares pursuant to section 2.1 of the Merger Participation Agreement.


"Net Adjustment Amount" has the meaning given to it in the Merger Participation Agreement.

"Pro Rata Portion" means in respect of any holder of Class A Special Shares, such holder’s ownership percentage of Class A Special Shares reflected by a fraction the
numerator of which is the number of Class A Special Shares owned by such holder and the
denominator of which is the total number of issued and outstanding Class A Special Shares.

"Total Class A Redemption Amount" is defined in Section B.3 above.

4. **Redemption by Corporation:** If any holder of Class A Special Shares fails to deliver a
redemption notice as specified in Section B.3 above within 30 days following the
determination of the Net Adjustment Amount then the Corporation may, upon giving notice
as hereinafter provided, redeem at any time and from time to time all of the then outstanding
Class A Special Shares on payment of the Class A Redemption Amount for each share to
be redeemed.

*Idem:* In the case of redemption of Class A Special Shares by the Corporation, the Corporation
shall, at least 10 days before the intended redemption date, mail to each person who at the date of
mailing is a holder of the Class A Special Shares to be redeemed, a notice in writing of the
intention of the Corporation to redeem such shares. Such notice shall be mailed by prepaid mail,
addressed to each such holder at its address as it appears on the records of the Corporation or in
the event of the address of any such holder not so appearing, then to the last known address of
such holder; provided, however, that accidental failure to give any such notice to one or more of
such holders shall not affect the validity of such redemption. Such notice shall set out the Class A
Redemption Amount and the date on which redemption is to take place. On or after the date so
specified for redemption, the Corporation shall pay or cause to be paid to or to the order of the
holders of the Class A Special Shares to be redeemed the aggregate Class A Redemption Amount
for the Class A Special Shares called for redemption. Such payment by the Corporation shall be
made by way of a cheque payable at par at any branch of the Corporation's bankers in Canada.
From and after the date specified for redemption in any such notice, the holders of the Class A
Special Shares called for redemption shall cease to be entitled to any of the rights of holders of
Class A Special Shares in respect thereof, unless payment of the Class A Redemption Amount
for each Class A Special Share to be redeemed is not made, in which case the rights of the holders
of the said Class A Special Shares shall remain unaffected. The Corporation shall have the right
at any time after the mailing of notice of its intention to redeem the Class A Special Shares to
deposit the aggregate Class A Redemption Amount of the shares so called for redemption to a
special account in any chartered bank or in any trust company in Canada, named, in such notice,
to be paid without interest to or to the order of the respective holders of such Class A Special
Shares called for redemption, and upon such deposit being made or upon the date specified for
redemption in such notice, whichever is the later, the Class A Special Shares in respect whereof
such deposit shall have been made shall be redeemed and the rights of the holders thereof after
such deposit or such redemption date, as the case may be, shall be limited to receiving without
interest their proportionate part of the Total Class A Redemption Amount and any interest
allowed on such amount shall belong to the Corporation.

5. **Notice:** Where notice is required by the provisions hereof to be sent, the notice or the time
for the notice may be waived or abridged at any time with the consent in writing of the
person entitled thereto.

6. **Participation upon Liquidation, Dissolution or Winding-Up:** In the event of the
liquidation, dissolution or winding-up of the Corporation or other distribution of assets of
the Corporation among its shareholders for the purpose of winding-up its affairs, the holders of the Class A Special Shares will be entitled to receive from the assets of the Corporation a sum equivalent to any then-outstanding Class A Redemption Amounts (if any) owing to them before any amount is paid or any assets are distributed to the holders of the Common Shares or shares of any class ranking junior to the Class A Special Shares.

C. CLASS B SPECIAL SHARES

The following are the rights, privileges, restrictions and conditions attaching to the Class B Special Shares:

1. **Voting Rights:** The holders of Class B Special Shares shall not be entitled to receive notice of, attend or vote at any meeting of the Corporation's shareholders.

2. **No Dividends:** The holders of the Class B Special Shares shall not be entitled to receive any dividend payable by the Corporation.

3. **Redemption at the Option of the Holder:** Subject to the terms of the Merger Participation Agreement, the registered holder of Class B Special Shares may, at its option, upon giving notice as hereinafter described, require the Corporation, to redeem all of the Class B Special Shares held it, and the Corporation shall pay to such holder for each such Class B Special Share an amount equal to the Class B Redemption Amount (as defined below). The redemption right provided for herein may be exercised by notice in writing given by any Class B Special Shares shareholder to the Corporation within 30 days following the determination of the Net Adjustment Amount at the registered office of the Corporation or to any transfer agent or registrar for the Class B Special Shares, and such notice shall be executed by the person registered on the books of the Corporation as the holder of the Class B Special Shares in respect of which such right is being exercised or by his duly authorized attorney and shall specify that the holder desires to have all such Class B Special Shares redeemed. The holder shall pay any governmental, transfer or other tax imposed in respect of such redemption. If the Class B Redemption Amount payable to the holder of Class B Special Shares is less than or equal to $2,000,000, then such Class B Redemption Amount shall be paid no later than 60 days following the determination of the Net Adjustment Amount. If the Class B Redemption Amount is greater than $2,000,000 but less than or equal to $4,000,000, then such holder shall receive $2,000,000 no later than 60 days following the determination of the Net Adjustment Amount, and shall receive the balance of its Class B Redemption Amount no later than 10 days following the commencement of the second fiscal year of the Corporation. If the Class B Redemption Amount is greater than $4,000,000, then such holder shall receive $4,000,000 no later than 60 days following the determination of the Net Adjustment Amount, $2,000,000 no later than 10 days following the commencement of the second fiscal year of the Corporation, and up to $2,000,000 no later than 10 days following the commencement of each fiscal year thereafter until the Class B Redemption Amount has been paid in full. If the payment of the Class B Redemption Amount would result in a breach by the Corporation of applicable law (including the solvency requirements of the *Business Corporations Act* (Ontario)) or would breach a covenant under the Corporation’s
financing arrangements, such payment shall not be paid but will be held in abeyance until such time that it can be paid without any such breach.

"Class B Redemption Amount", for each Class B Special Share, means an amount equal to the Net Adjustment Amount payable to the holder of Class B Special Shares, if any, divided by the aggregate number of Class B Special Shares issued to the holder of Class B Special Shares pursuant to section 2.1 of the Merger Participation Agreement, provided that if there is no Net Adjustment Amount payable to the holder of Class B Special Shares, then the Class B Redemption Amount for each Class B Special Share shall be an amount equal to $1.00 divided by the aggregate number of Class B Special Shares issued to the holder of Class B Special Shares pursuant to section 2.1 of the Merger Participation Agreement.

4. **Redemption by Corporation:** If the holder of Class B Special Shares fails to deliver a redemption notice as specified in Section C.3 above within 30 days following the determination of the Net Adjustment Amount then the Corporation may, upon giving notice as hereinafter provided, redeem at any time and from time to time all of the then outstanding Class B Special Shares on payment of the Class B Redemption Amount for each share to be redeemed.

*Idem:* In the case of redemption of Class B Special Shares by the Corporation, the Corporation shall, at least 10 days before the intended redemption date, mail to the holder of the Class B Special Shares to be redeemed, a notice in writing of the intention of the Corporation to redeem such shares. Such notice shall be mailed by prepaid mail, addressed to each such holder at its address as it appears on the records of the Corporation or in the event of the address of any such holder not so appearing, then to the last known address of such holder; provided, however, that accidental failure to give any such notice to one or more of such holders shall not affect the validity of such redemption. Such notice shall set out the Class B Redemption Amount and the date on which redemption is to take place. On or after the date so specified for redemption, the Corporation shall pay or cause to be paid to or to the order of the holders of the Class B Special Shares to be redeemed the aggregate Class B Redemption Amount for the Class B Special Shares called for redemption. Such payment by the Corporation shall be made by way of a cheque payable at par at any branch of the Corporation’s bankers in Canada. From and after the date specified for redemption in any such notice, the holder of the Class B Special Shares called for redemption shall cease to be entitled to any of the rights of a holder of Class B Special Shares in respect thereof, unless payment of the Class B Redemption Amount for each Class B Special Share to be redeemed is not made, in which case the rights of the holder of the said Class B Special Shares shall remain unaffected. The Corporation shall have the right at any time after the mailing of notice of its intention to redeem the Class B Special Shares to deposit the aggregate Class B Redemption Amount of the shares so called for redemption to a special account in any chartered bank or in any trust company in Canada, named, in such notice, to be paid without interest to or to the order of the holder of such Class B Special Shares called for redemption, and upon such deposit being made or upon the date specified for redemption in such notice, whichever is the later, the Class B Special Shares in respect whereof such deposit shall have been made shall be redeemed and the rights of the holder thereof after such deposit or such redemption date, as the case may be, shall be limited to receiving without interest the total Class B Redemption Amount so deposited and any interest allowed on such deposit shall belong to the Corporation.
5. **Notice:** Where notice is required by the provisions hereof to be sent, the notice of the time for the notice may be waived or abridged at any time with the consent in writing of the person entitled thereto.

6. **Participation upon Liquidation, Dissolution or Winding-Up:** In the event of the liquidation, dissolution or winding-up of the Corporation or other distribution of assets of the Corporation among its shareholders for the purpose of winding-up its affairs, the holders of the Class B Special Shares will be entitled to receive from the assets of the Corporation a sum equivalent to any then-outstanding Class B Redemption Amounts (if any) owing to them before any amount is paid or any assets are distributed to the holders of the Common Shares or shares of any class ranking junior to the Class B Special Shares.

D. **CLASS C SPECIAL SHARES**

The following are the rights, privileges, restrictions and conditions attaching to the Class C Special Shares:

1. **Voting Rights:** The holders of Class C Special Shares shall not be entitled to receive notice of, attend or vote at any meeting of the Corporation’s shareholders.

2. **No Dividends:** The holders of the Class C Special Shares shall not be entitled to receive any dividend payable by the Corporation.

3. **Redemption at the Option of the Holder:** Subject to the terms of the Merger Participation Agreement, the registered holder of Class C Special Shares may, at its option, upon giving notice as hereinafter described, require the Corporation, to redeem all of the Class C Special Shares held it, and the Corporation shall pay to such holder for each such Class C Special Share an amount equal to the Class C Redemption Amount (as defined below).

The holder shall pay any governmental, transfer or other tax imposed in respect of such redemption. If the payment of the Class C Redemption Amount would result in a breach by the Corporation of applicable law (including the solvency requirements of the *Business Corporations Act* (Ontario)) or would breach a covenant under the Corporation’s financing arrangements, such payment shall not be paid but will be held in abeyance until such time that it can be paid without any such breach.
Idem: In the case of redemption of Class C Special Shares by the Corporation, the Corporation shall, at least 10 days before the intended redemption date, mail to the holder of the Class C Special Shares to be redeemed, a notice in writing of the intention of the Corporation to redeem such shares. Such notice shall be mailed by prepaid mail, addressed to each such holder at its address as it appears on the records of the Corporation or in the event of the address of any such holder not so appearing, then to the last known address of such holder; provided, however, that accidental failure to give any such notice to one or more of such holders shall not affect the validity of such redemption. Such notice shall set out the Class C Redemption Amount and the date on which redemption is to take place. On or after the date so specified for redemption, the Corporation shall pay or cause to be paid to or to the order of the holders of the Class C Special Shares to be redeemed the aggregate Class C Redemption Amount for the Class C Special Shares called for redemption. Such payment by the Corporation shall be made by way of a cheque payable at par at any branch of the Corporation’s bankers in Canada. From and after the date specified for redemption in any such notice, the holder of the Class C Special Shares called for redemption shall cease to be entitled to any of the rights of a holder of Class C Special Shares in respect thereof, unless payment of the Class C Redemption Amount for each Class C Special Share to be redeemed is not made, in which case the rights of the holder of the said Class C Special Shares shall remain unaffected. The Corporation shall have the right at any time after the mailing of notice of its intention to redeem the Class C Special Shares to deposit the aggregate Class C Redemption Amount of the shares so called for redemption to a special account in any chartered bank or in any trust company in Canada, named, in such notice, to be paid without interest to or to the order of the holder of such Class C Special Shares called for redemption, and upon such deposit being made or upon the date specified for redemption in such notice, whichever is the later, the Class C Special Shares in respect whereof such deposit shall have been made shall be redeemed and the rights of the holder thereof after such deposit or such redemption date, as the case may be, shall be limited to receiving without interest the total Class C Redemption Amount so deposited and any interest allowed on such deposit shall belong to the Corporation.

5. **Notice:** Where notice is required by the provisions hereof to be sent, the notice of the time for the notice may be waived or abridged at any time with the consent in writing of the person entitled thereto.

6. **Participation upon Liquidation, Dissolution or Winding-Up:** In the event of the liquidation, dissolution or winding-up of the Corporation or other distribution of assets of the Corporation among its shareholders for the purpose of winding-up its affairs, the
holders of the Class C Special Shares will be entitled to receive from the assets of the Corporation a sum equivalent to any then-outstanding Class C Redemption Amounts (if any) owing to them before any amount is paid or any assets are distributed to the holders of the Common Shares or shares of any class ranking junior to the Class C Special Shares.

E. CLASS D SPECIAL SHARES

The following are the rights, privileges, restrictions and conditions attaching to the Class D Special Shares:

1. **Voting Rights:** The holders of Class D Special Shares shall not be entitled to receive notice of, attend or vote at any meeting of the Corporation’s shareholders.

2. **No Dividends:** The holders of the Class D Special Shares shall not be entitled to receive any dividend payable by the Corporation.

3. **Redemption at the Option of the Holder:** Subject to the terms of the Merger Participation Agreement, the registered holder of Class D Special Shares may, at its option, upon giving notice as hereinafter described, require the Corporation, to redeem all of the Class D Special Shares held it, and the Corporation shall pay to such holder for each such Class D Special Share an amount equal to the Class D Redemption Amount (as defined below). The redemption right provided for herein may be exercised by notice in writing given by any Class D Special Shares shareholder to the Corporation within 30 days following the Closing Date (as such term is defined the Merger Participation Agreement) at the registered office of the Corporation or to any transfer agent or registrar for the Class D Special Shares, and such notice shall be executed by the person registered on the books of the Corporation as the holder of the Class D Special Shares in respect of which such right is being exercised or by his duly authorized attorney and shall specify that the holder desires to have all such Class D Special Shares redeemed. The holder shall pay any governmental, transfer or other tax imposed in respect of such redemption. If the payment of the Class D Redemption Amount would result in a breach by the Corporation of applicable law (including the solvency requirements of the *Business Corporations Act* (Ontario)) or would breach a covenant under the Corporation’s financing arrangements, such payment shall not be paid but will be held in abeyance until such time that it can be paid without any such breach.

“**Class D Redemption Amount**”, for each Class D Special Share, means an amount equal to the BPI COVID-19 Deferral and Variance Amount (as such term is defined in the Merger Participation Agreement) approved for recovery by the OEB, if any, divided by the aggregate number of Class D Special Shares issued to the holder of Class D Special Shares pursuant to section 2.1 of the Merger Participation Agreement, provided that if there is no BPI COVID-19 Deferral and Variance Amount the Class D Redemption Amount for each Class D Special Share shall be an amount equal to $1.00 divided by the aggregate number of Class D Special Shares issued to the holder of Class D Special Shares pursuant to section 2.1 of the Merger Participation Agreement.
4. **Redemption by Corporation:** If the holder of Class D Special Shares fails to deliver a redemption notice as specified in Section E.3 above within 30 days following the Closing Date then the Corporation may, upon giving notice as hereinafter provided, redeem at any time and from time to time all of the then outstanding Class D Special Shares on payment of the Class D Redemption Amount for each share to be redeemed.

*Idem:* In the case of redemption of Class D Special Shares by the Corporation, the Corporation shall, at least 10 days before the intended redemption date, mail to the holder of the Class D Special Shares to be redeemed, a notice in writing of the intention of the Corporation to redeem such shares. Such notice shall be mailed by prepaid mail, addressed to each such holder at its address as it appears on the records of the Corporation or in the event of the address of any such holder not so appearing, then to the last known address of such holder; provided, however, that accidental failure to give any such notice to one or more of such holders shall not affect the validity of such redemption. Such notice shall set out the Class D Redemption Amount and the date on which redemption is to take place. On or after the date so specified for redemption, the Corporation shall pay or cause to be paid to or to the order of the holders of the Class D Special Shares to be redeemed the aggregate Class D Redemption Amount for the Class D Special Shares called for redemption. Such payment by the Corporation shall be made by way of a cheque payable at par at any branch of the Corporation's bankers in Canada. From and after the date specified for redemption in any such notice, the holder of the Class D Special Shares called for redemption shall cease to be entitled to any of the rights of a holder of Class D Special Shares in respect thereof, unless payment of the Class D Redemption Amount for each Class D Special Share to be redeemed is not made, in which case the rights of the holder of the said Class D Special Shares shall remain unaffected. The Corporation shall have the right at any time after the mailing of notice of its intention to redeem the Class D Special Shares to deposit the aggregate Class D Redemption Amount of the shares so called for redemption to a special account in any chartered bank or in any trust company in Canada, named, in such notice, to be paid without interest to or to the order of the holder of such Class D Special Shares called for redemption, and upon such deposit being made or upon the date specified for redemption in such notice, whichever is the later, the Class D Special Shares in respect whereof such deposit shall have been made shall be redeemed and the rights of the holder thereof after such deposit or such redemption date, as the case may be, shall be limited to receiving without interest the total Class D Redemption Amount so deposited and any interest allowed on such deposit shall belong to the Corporation.

5. **Notice:** Where notice is required by the provisions hereof to be sent, the notice of the time for the notice may be waived or abridged at any time with the consent in writing of the person entitled thereto.

6. **Participation upon Liquidation, Dissolution or Winding-Up:** In the event of the liquidation, dissolution or winding-up of the Corporation or other distribution of assets of the Corporation among its shareholders for the purpose of winding-up its affairs, the holders of the Class D Special Shares will be entitled to receive from the assets of the Corporation a sum equivalent to any then-outstanding Class D Redemption Amounts (if any) owing to them before any amount is paid or any assets are distributed to the holders of the Common Shares or shares of any class ranking junior to the Class D Special Shares.
SCHEDULE D
LOCATION OF AMALCO HOLDCO FACILITIES & FUNCTIONS
EXHIBIT A
AMALCO HOLDCO SHAREHOLDER AGREEMENT

See attached.
EXHIBIT B
AMENDED AND RESTATED SHARED SERVICES AND OBLIGATIONS AGREEMENT

See attached.

45710204.1
THE CORPORATION OF THE CITY OF BRANTFORD

- and -

THE CORPORATION OF THE CITY OF CAMBRIDGE

- and -

THE CORPORATION OF THE TOWNSHIP OF NORTH DUMFRIES

- and -

[MERGECHO HOLDING] CORPORATION

- and -

[LDC <> INC.]

- and -

[AFFCO 1 INC.]

- and -

[AFFCO 2 INC.]

UNANIMOUS SHAREHOLDERS’ AGREEMENT
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THIS SHAREHOLDERS’ AGREEMENT made as of the ___ day of ___________ 2022.

BETWEEN:

THE CORPORATION OF THE CITY OF BRANTFORD, a municipal corporation existing under the laws of Ontario

("Brantford")

- and -

THE CORPORATION OF THE CITY OF CAMBRIDGE, a municipal corporation existing under the laws of Ontario

("Cambridge")

- and -

THE CORPORATION OF THE TOWNSHIP OF NORTH DUMFRIES, a municipal corporation existing under the laws of Ontario

("North Dumfries")

- and -

[MERGECO HOLDING] CORPORATION, a corporation amalgamated under the laws of Ontario

(the “Corporation")

- and -

<> INC., a corporation amalgamated under the laws of Ontario

(the "LDC")

- and -

<> INC., a corporation incorporated under the laws of Ontario

("Affco 1")

- and -

<> INC., a corporation incorporated under the laws of Ontario

("Affco 2")
RECITALS:

1. The Corporation is a corporation existing under the laws of Ontario;

2. The authorized capital of the Corporation consists of an unlimited number of Shares of which ● Common Shares, ● Class A Special Shares and ● Class B Special Shares are issued and outstanding as fully paid and non-assessable;

3. Cambridge, North Dumfries and Brantford (collectively the "Shareholders" and each a "Shareholder") are the sole registered and beneficial shareholders of the Corporation holding the following numbers of Shares, respectively:

<table>
<thead>
<tr>
<th>NAME OF SHAREHOLDER</th>
<th>NUMBER AND CLASS OF SHARES</th>
<th>PERCENTAGE TOTAL</th>
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<tbody>
<tr>
<td>Brantford</td>
<td>41,000,000 Common Shares</td>
<td>41%</td>
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<tr>
<td></td>
<td>1 Class A Special Share</td>
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</tr>
<tr>
<td></td>
<td>1 Class D Special Share</td>
<td></td>
</tr>
<tr>
<td>Cambridge</td>
<td>54,339,000 Common Shares</td>
<td>54.339%</td>
</tr>
<tr>
<td></td>
<td>921 Class B Special Shares</td>
<td></td>
</tr>
<tr>
<td></td>
<td>921 Class C Special Shares</td>
<td></td>
</tr>
<tr>
<td>North Dumfries</td>
<td>4,661,000 Common Shares</td>
<td>4.661%</td>
</tr>
<tr>
<td></td>
<td>79 Class B Special Shares</td>
<td></td>
</tr>
<tr>
<td></td>
<td>79 Class C Special Shares</td>
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4. The parties wish to enter into this Agreement to provide for the conduct of certain affairs of the Corporation, to provide for certain restrictions on the transfer and ownership of Shares in the capital of the Corporation, and to govern the mutual rights and obligations of the Shareholders with respect to the Corporation and each other Shareholder;

NOW THEREFORE in consideration of the premises, the mutual promises herein contained and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged) each of the parties agrees with each other party as follows:
ARTICLE I
INTERPRETATION

1.1 Definitions

In this Agreement the following terms shall have the following meanings unless the subject matter or context otherwise requires:

"Act" means the Business Corporations Act (Ontario);

"Affco" means, Affco 1 or Affco 2;

"Affco Board" has the meaning set out in Section 3.4(a).

"Affiliate" has the meaning given to it in the Act;

"Agreement" means this Agreement, all schedules attached hereto and any agreement or schedule supplementing or amending this Agreement. All uses of the words "hereto", "herein", "hereof", "hereby" and "hereunder" and similar expressions refer to this Agreement and not to any particular section or portion of it. References to an Article, Section, Subsection or Schedule refer to the applicable article, section, subsection or schedule of this Agreement;

"Arbitration Act" means the Arbitration Act, S.O., 1991;

"Arbitrator" has the meaning set out in Subsection 12.3(a);

"ARC" means the OEB's Affiliate Relationships Code for Electricity Distributors and Transmitters;

"Arm's Length" has the meaning attributed thereto in the Income Tax Act (Canada) provided that, for the purposes of Section 6.4, each Shareholder shall be deemed to be acting at Arm's Length with each other Shareholder and the Corporation;

"Auditors" means the firm of Chartered Professional Accountants appointed as auditors of the Corporation from time to time;

"Board Committees" means committees created by the Corporation Board from time to time for the purpose of overseeing specific tasks and reporting to the Corporation Board and includes the committees referred to in Section 3.3;

"Business" means the business of the Corporation, the LDC or the Affcos as described in Sections 2.2, 2.3 and 2.4, respectively, or as may otherwise be conducted by any of them from time to time;

"Business Day" means any day other than a Saturday, Sunday, or statutory holiday in Ontario;

"CAO" has the meaning set out in Section 3.10;
"Chair" means the director elected by the board of directors to serve as its chairperson from time to time;

"Closing Date" means the effective date hereof;

"Confidential Information" means any and all information and data relating in any manner to the Business and any activities, plans, ideas, products, services, policies or intentions (including without limitation, information of an operational, business, marketing, financial or economic nature), whether or not proprietary in nature, that is of value to the Corporation or its Subsidiaries and is held by any of them as a trade secret and is not generally known to competitors of the Corporation or to the public;

"Corporation Board" means the board of directors of the Corporation;

"Debt" means, with respect to the Corporation and the Subsidiaries, without regard to any uncapitalized interest component thereof (whether actual or imputed) that is not due and payable, the aggregate of the following amounts, each calculated in accordance with IFRS or MIFRS, as applicable, unless the context otherwise requires:

(a) indebtedness for money borrowed (including, without limitation, by way of overdraft) or indebtedness represented by notes payable and drafts accepted representing extensions of credit;

(b) the face amount of all bankers' acceptances and other similar instruments;

(c) all obligations (whether or not with respect to the borrowing of money) that are evidenced by bonds, debentures, notes or other similar instruments;

(d) all liabilities upon which interest charges are customarily paid;

(e) any capital stock of the Corporation (or of any Subsidiary that is not held by the Corporation or by a Subsidiary that is wholly owned, directly or indirectly), which capital stock, by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable at the option of the holder), or upon the happening of any event, matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof, in whole or in part, on or prior to the maturity date for cash or securities constituting debt;

(f) all capital lease obligations, synthetic lease obligations, obligations under sale and leaseback transactions and purchase money obligations;

(g) the full amount of any contingent liability under any guarantee (other than by endorsement of negotiable instruments for collection or deposit in the ordinary course of business) given by another person of indebtedness or liabilities of the type included in items (a) through (f) above, including contingent liabilities in respect of letters of credit, letters of guarantee and similar instruments; and
(h) to the extent not covered by items (a) through (g) above, contingent liabilities in respect of performance bonds and surety bonds, and any other guarantee or other contingent liability of any part or all of an obligation of a Person, in each case only to the extent that the guarantee or other contingent liability is required by IFRS or MIFRS, as applicable, to be treated as a liability on a balance sheet of the guarantor or person contingently liable,

provided that trade payables, operating leases and accrued liabilities that are current liabilities incurred and deposits received in the ordinary course of business do not constitute Debt in whole or in part, on or prior to the maturity date for cash or securities constituting debt;

"Debt/Equity Ratio" means a ratio of Debt to Equity on a consolidated basis for the Corporation and all Subsidiaries;

"Departure Tax" means the tax payable pursuant to Section 93 of the Electricity Act and calculated according to Section 12 of O. Reg. 162/01 Payments in Lieu of Corporate Taxes – Municipal Electricity Utilities promulgated pursuant to the Electricity Act or any similar tax or replacement or substitution thereof;

"Disputing Shareholder" has the meaning set out in Subsection 12.3(c);

"Dividend Policy" means the Dividend Policy set out in Appendix A hereto;

"Electricity Act" means the Electricity Act, 1998 (Ontario);

"Encumbrance" means a mortgage, charge, pledge, hypothecation, lien (statutory or otherwise), security interest, adverse claim, assignment as security or reservation of title of any kind;

"Energy Board Act" means the Ontario Energy Board Act, 1998 (Ontario);

"Energy Legislation" means collectively the Electricity Act, the Energy Board Act, the market rules established by the IESO and other Laws regulating the energy sector in Ontario;

"Equity" means the aggregate of the capital stock, retained earnings (deficit) and accumulated other comprehensive income (loss) as such amounts appear on a consolidated balance sheet of the Corporation prepared in accordance with IFRS or MIFRS, as applicable.

"Fair Market Value" means the appraised value as determined by a registered appraiser selected and paid for by the Corporation;

"Fiscal Year" means a 12-month period ending on December 31 in each year;

"Governance Review" has the meaning set out in Section 3.18;
“Governmental Authority” means any government or political subdivision (including any municipality or federal or provincial ministry) or agency, authority, commission, department or instrumentality of any government or political subdivision, or any court or tribunal, and specifically includes the OEB and the IESO;

“Handbook” means the Chartered Professional Accountants Canada Handbook;

“IFRS” means International Financial Reporting Standards as set out in the Handbook;

“IESO” means the Independent Electricity Market Operator established pursuant to the Electricity Act;

“includes” and “including” means includes or including without limitation;

“Independent” means, when used in relation to an individual, that:

(a) neither such individual nor a member of the immediate family of such individual is or has been in the past year a councillor or employee of a Shareholder or any Subsidiary of a Shareholder;

(b) neither such individual nor any member of such individual’s immediate family has received payments for goods or services (other than services rendered as an employee) from a Shareholder, the Corporation or any Subsidiary of the Corporation or any Shareholder in any of the last 3 years in excess of $75,000 (other than directors’ fees of the Corporation or its Subsidiaries or entities in which the Corporation or a Subsidiary holds a material equity investment);

(c) neither such individual nor any member of such individual’s immediate family is an employee, partner or member of a firm or company that in any of the last 3 years received payments from the Corporation, any Shareholder or any Subsidiary of the Corporation or any Shareholder for goods or services in an amount in excess of the lesser of $500,000 and 2% of such firm’s or company’s gross revenue in that year;

(d) neither such individual nor a member of such individual’s immediate family is a partner of the firm that is the Corporation’s auditor, and

(e) neither such individual nor a member of the immediate family of such individual is an employee of the firm that is the Corporation’s auditor and participates or in the last 3 years has participated in the audit of the Corporation.

As used herein, an individual’s immediate family means the spouse, issue, parents and siblings of that individual.

"Initial Period" means the three-year period commencing on the Closing Date;
“Laws” means applicable (i) laws, constitutions, treaties, statutes, codes, ordinances, principles of common and civil law and equity, orders, decrees, rules, regulations and municipal by-laws, whether domestic, foreign or international, (ii) judicial, arbitral, administrative, ministerial, departmental and regulatory judgments, orders, writs, injunctions, decisions, rulings, decrees and awards of any Governmental Authority, and (iii) policies, practices, directives, rules, standards, requirements and guidelines of, or contracts with, any Governmental Authority, whether or not having the force of law, in each case binding on or affecting the Person, or the assets of the Person, referred to in the context in which such word is used, including Energy Legislation;

“LDC Board” has the meaning set out in Section 3.3(a);

“Mayor’s Alternate” has the meaning set out in Subsection 3.2(b);

“MIFRS” means International Financial Reporting Standards as modified by the OEB as set out in the OEB’s Accounting Procedures Handbook For Electricity Distributors;

“MPA” has the meaning set out in Subsection 2.7(c);

“New Shares” has the meaning set out in Subsection 5.1;

“Nominating Committee” has the meaning set out in Subsection 3.6(b);

“Notice Period” has the meaning set out in Subsection 6.4(b);

“OEB” means the Ontario Energy Board;

“Offer” has the meaning set out in Subsection 6.4(a);

“Offered Shares” has the meaning set out in Subsection 6.4(a);

“Other Holders” has the meaning set out in Section 6.4;

“Permanently Disabled” where used in relation to a director means that such director is unable to perform his duties as a director by reason of physical or mental infirmity for a period of three (3) consecutive months or more;

“Person” means an individual, firm, partnership, unincorporated association, corporation, bank, trust or other legal entity of any kind whatsoever;

“Prospective Purchaser” has the meaning set out in Subsection 6.4(a);

“Purchase Notice” has the meaning set out in Subsection 6.4(c);

“Selling Notice” has the meaning set out in Subsection 6.4(a);

“Selling Shareholder” has the meaning set out in Section 6.4;

“Share Interest” means, at any time, the respective ownership percentages of the Corporation determined for a Shareholder as the percentage reflected by a fraction (x) the
numerator of which is the number of Shares owned by such Shareholder and (y) the
denominator of which is the total number of issued and outstanding Shares;

"Shareholder" means, at the date of this Agreement, each of Cambridge, North Dumfries
and Brantford, and, subsequently, includes any Person which becomes a registered
holder of Shares;

"Shareholder Action" has the meaning set out in Section 6.7;

"Shareholder Representative" has the meaning set out in Section 3.10;

"Shares" means shares issued and outstanding in the capital of the Corporation;

"Subsidiary" means any subsidiary (as this term is defined in the Act) of the Corporation
or other entity in which the Corporation holds, directly or indirectly, an equity interest of
greater than 25% of the entity;

"Surplus Assets" means any land or buildings owned by the Corporation or any
Subsidiary that the Corporation or any Subsidiary has determined to offer for sale;

"Third Party" means any Person with whom a Shareholder deals at Arm’s Length;

"Transfer" means (and any derivatives thereof, including "Transferred"): (i) any transfer,
sale, assignment, exchange, gift, donation or other disposition of securities where
possession, legal title, beneficial ownership or the economic risk or return associated with
such securities passes from one Person to another or to the same Person in a different
legal capacity, whether or not for value, whether or not voluntary and however occurring,
and for greater certainty includes the granting of a security interest; and (ii) any
agreement, undertaking or commitment to effect any of the foregoing;

"Transfer Tax" means the tax payable pursuant to Section 94 of the Electricity Act or any
similar tax or replacement of substitution thereof;

"Transfer Tax Reduction Amount" means the amount of the reduction in Transfer Tax
calculated according to Section 94(4) of the Electricity Act or any replacement or
substitution thereof;

"Transferee Shareholder" means any Person which acquires Shares from a Shareholder
in accordance with the provisions of this Agreement; and

"Vice-Chair" means the director elected by the board of directors to serve as its vice-
chairperson from time to time.

1.2 Headings

The division of this Agreement into Articles, Sections and Subsections and the insertion
of headings are for convenience of reference only and shall not affect the construction or
interpretation of this Agreement. The Article and Section headings in this Agreement are
not intended to be full or precise descriptions of the text to which they refer and shall not be considered part of this Agreement.

1.3 Entire Agreement

The execution of this Agreement has not been induced by, nor do any of the parties rely upon or regard as material, any representations, warranties, conditions, other agreements or acknowledgements not expressly made in this Agreement, in the agreements and other documents to be delivered pursuant hereto.

1.4 Number and Gender

In this Agreement, words in the singular include the plural and vice-versa and words in one gender include all genders.

1.5 Accounting Principles

Where the Chartered Professional Accountants of Canada includes a recommendation in its Handbook concerning the treatment of any accounting matter, such recommendation shall be regarded as the accounting principle applicable to the circumstances that it covers. The Corporation shall also comply with any accounting requirements of applicable Energy Legislation and of the OEB.

All accounting and financial terms used herein, unless specifically provided to the contrary, shall be interpreted and applied in accordance with generally accepted accounting principles in Canada.

1.6 Calculation of Time

In this Agreement, a period of days shall be deemed to begin on the first day after the event which began the period and to end at 5:00 p.m. (Eastern time) on the last day of the period. If, however, the last day of the period does not fall on a Business Day, the period shall terminate at 5:00 p.m. (Eastern time) on the next Business Day.

1.7 Statutory References

A reference in this Agreement to a statute refers to that statute, and any regulations or rules issued thereunder, as amended, supplemented or replaced from time to time.

1.8 Reclassification of Shares

The provisions of this Agreement shall apply, with any necessary changes to (a) any shares or securities of any nature into which the Shares or any of them may be converted, exchanged, reclassified, redivided, redesignated, subdivided or consolidated; (b) any shares or securities of any nature that are received by a Shareholder as a stock dividend or distribution payable in shares, securities, warrants, rights or options of any nature of the Corporation; (c) any shares, securities, warrants, rights or options of any nature of the Corporation or any successor, continuing company or corporation of the Corporation that may be received by a Shareholder on a reorganization, amalgamation, arrangement,
consolidation or merger, statutory or otherwise; and (d) any shares, securities, warrants, rights or options hereafter issued or allotted by the Corporation to a Shareholder, all of which shares, securities, warrants, rights or options shall be deemed to be Shares for all purposes of this Agreement.

1.9 Interpretation

If any conflict shall appear between the by-laws and the articles of the Corporation and the provisions of this Agreement, the provisions of this Agreement shall govern.

1.10 Governing Law

This Agreement shall be governed by and construed, interpreted and performed in accordance with the laws of Ontario and the laws of Canada applicable therein and shall be treated in all respects as an Ontario contract.

1.11 Currency

All dollar amounts referred to in this Agreement and all payments to be made hereunder are in Canadian funds.

ARTICLE II
BUSINESS OF THE CORPORATION AND THE SUBSIDIARIES

2.1 Purpose of Agreement

This Agreement outlines the expectations of the Shareholders relating to the principles of governance and other fundamental principles and policies of the Corporation and the Subsidiaries and the dealings between the Shareholders.

2.2 Business of the Corporation

The business of the Corporation shall be limited to acquiring, holding and disposing of shares, exercising any voting or other rights pertaining to such shares, supervising and directing, as provided herein, the business of the Subsidiaries, including strategic planning and the approval of business cases for the Subsidiaries, and any other decisions and activities appropriate for a holding corporation.

2.3 Business of the LDC

The LDC may engage in the business of distributing electricity in accordance with its OEB-licence and carry on ancillary activities related thereto permitted by Laws, provided that in respect of activities and investments other than those related to regulated electricity distribution activities and assets, in the absence of valid business, financial, regulatory, strategic or other reasons to the contrary, such activities and assets shall generally be pursued and owned by an Affco.
2.4 Business of the Affcos

Each Affco may engage in such business activities as may be permitted by Law and authorized by its board of directors from time to time subject to the terms of this Agreement.

2.5 LDC's Standard of Service

It is the intention of the Shareholders that the LDC shall provide service levels in accordance with standards of service that are established by the OEB.

2.6 Shareholder Expectations

The Shareholders expect that the Corporation, either directly through the Corporation Board or by direction to the Subsidiaries, establish policies to:

(a) develop and maintain a prudent financial and capitalization structure for the Corporation and its Subsidiaries consistent with industry norms and sound financial principles;

(b) establish just and reasonable rates for the regulated distribution business of the LDC taking into account the interests of customers and the sustainability of the electricity distribution business;

(c) provide the Shareholders with a reasonable rate of return permitted pursuant to Energy Legislation and any applicable orders, rules or regulations applicable to the Corporations:
   (i) through the payment of dividends (subject to the Dividend Policy), interest or otherwise; and
   (ii) consistent with a prudent financial and capitalization structure and maintaining just and reasonable rates;

(d) manage all risks related to the businesses conducted by the Corporation and the Subsidiaries through the adoption of appropriate risk management strategies and internal controls consistent with industry norms; and

(e) develop a long range strategic plan for the Corporation and the Subsidiaries which is consistent with the maintenance of a viable, competitive business and preserves the value for the business.
ARTICLE III
CORPORATE AFFAIRS OF THE CORPORATION

3.1 Assurances

The Shareholders shall cause such meetings of Shareholders to be held, votes to be cast, resolutions to be passed, by-laws to be made, confirmed and/or repealed, agreements and other documents and instruments to be executed and all other acts and things to be done, to ensure that at all times the provisions of this Article III are in effect, complied with or implemented.

3.2 The Board of the Corporation

(a) Shareholder Action. Each of the Shareholders agrees to elect as members of the Corporation Board the nominees put forward by each other Shareholder from time to time in accordance with the provisions of this Section 3.2.

(b) Size of Corporation Board. Subject to the provisions of this Agreement, the business and affairs of the Corporation shall be managed or supervised by the Corporation Board which shall consist of ten (10) directors.

(c) Corporation Board Composition During Initial Period. During the Initial Period, the Corporation's ten (10) directors shall include the Mayor of Cambridge (or, if the Mayor of Cambridge is unable or unwilling to serve as a director, another person designated by Cambridge's council), the Mayor of North Dumfries (or, if the Mayor of North Dumfries is unable or unwilling to serve as a director, another person designated by North Dumfries' council), the Mayor of Brantford (or, if the Mayor of Brantford is unable or unwilling to serve as a director, another person designated by Brantford's council), and seven other persons. Where a municipal council has designated another person to serve as director as provided in this section, such person is hereinafter referred to as the “Mayor's Alternate”.
During the Initial Period, the other seven directors shall be Scott Saint, Craig Mann, Anita Davis and Lynn Woeller and three Independent directors listed below in this Section 3.2(c). If either of Scott Saint or Craig Mann shall die, resign, be convicted of a criminal offence or become Permanently Disabled during the Initial Period, the Shareholders (except in the case of death or resignation) shall remove such director and their replacement shall be appointed by Brantford. If either of Lynn Woeller or Anita Davis should die, resign, be convicted of a criminal offence or become Permanently Disabled during the Initial Period, the Shareholders (except in the case of death or resignation) shall remove such director and their replacement shall be appointed by Cambridge. The three Independent directors of the Corporation for the Initial Period shall be __________________ and __________________. If one of such Independent directors should die, resign, be convicted of a criminal offence or become Permanently Disabled during the Initial Period, the Shareholders (except in the case of death or resignation) shall remove such director and the Nominating Committee shall recommend a replacement Independent director to all the Shareholders. If the Shareholders do not vote their Shares so as to elect the replacement recommended by the Nominating Committee or if the Nominating Committee is unable to make a recommendation, then Brantford shall appoint one (1) Independent director and Cambridge shall appoint two (2) Independent directors to serve for the unexpired portion of the Initial Period and each Independent director who is serving at that time shall, unless reappointed by Brantford or Cambridge pursuant to the foregoing, be removed as a director.

The Corporation Board shall annually elect from its members a Chair and Vice-Chair.

(d) Corporation Board Composition After Initial Period. After the Initial Period, the Corporation’s ten directors shall include the Mayor of Brantford (or the Mayor’s Alternate), the Mayor of Cambridge (or the Mayor’s Alternate), the Mayor of North Dumfries (or the Mayor’s Alternate) and seven other individuals who are Independent. The seven Independent directors of the Corporation shall be recommended to all the Shareholders by the Nominating Committee. If the Nominating Committee is unable to make such a recommendation or the Shareholders do not vote their Shares so as to elect as directors the seven Independent nominees recommended by the Nominating Committee prior to the expiry of the terms in office of the incumbent directors, Brantford shall appoint three (3) Independent directors and Cambridge shall appoint four (4) Independent directors.

(e) Term of Directors.

(i) The term of each Mayor that is a director of the Corporation Board shall end on the date that such Mayor ceases to hold the office of Mayor. If a director of the Corporation Board is a Mayor’s Alternate then the term of such Mayor’s Alternate shall end upon the earlier of
the date that (A) the applicable Mayor ceases to hold the office of Mayor, (B) subject the provisions of clause (A) immediately foregoing, thirty (30) days after the applicable Mayor provides notice to the municipal council of such municipality and to the Corporation that such Mayor shall serve as director, or (C) thirty (30) days after the applicable municipal council selects a replacement Mayor's Alternate and provides notice thereof to the Corporation. At the end of a Mayor’s or Mayor Alternate’s term as director of the Corporation Board, the applicable Shareholder shall forthwith replace the Mayor or such Mayor’s Alternate, as applicable, with the then current Mayor or Mayor’s Alternate, and all the Shareholders agree to elect such Mayor or Mayor’s Alternate replacement as a director of the Corporation Board.

(ii) The term of each director of the Corporation shall be three (3) years.

(iii) Should an Independent director who was elected by the Shareholders as contemplated by Section 3.2(d) die, resign, be convicted of a criminal offence or become Permanently Disabled during their term in office, the Shareholders (except in the case of death or resignation) shall remove such director and the Nominating Committee shall recommend a replacement Independent director to all the Shareholders. If the Shareholders do not vote their Shares so as to elect the replacement recommended by the Nominating Committee or if the Nominating Committee is unable to make a recommendation, then Brantford shall appoint three (3) Independent directors and Cambridge shall appoint four (4) Independent directors to serve for the unexpired portion of the term of office of the Independent director who dies, resigned or became Permanently Disabled, and each Independent director who is serving at that time shall, unless reappointed by Brantford or Cambridge pursuant to the foregoing, be removed as a director.

(iv) Should an Independent director directly appointed by Brantford or Cambridge as contemplated by Sections 3.2(c), 3.2(d) or 3.2(e)(iii) die, resign, be convicted of a criminal offence or become Permanently Disabled during their term in office the Shareholders shall (except in the case of death or resignation) remove such director, and their replacement shall be appointed by the Shareholder who appointed such director.

(v) Members of the Corporation Board may serve a maximum of three (3) successive terms on the Corporation Board, except that any member who is a Mayor or Mayor’s Alternate shall not be subject to this limitation.
3.3 The Board of the LDC

(a) **LDC Board of Directors.** The business and affairs of the LDC shall be managed or supervised by its board of directors ("LDC Board") which shall consist of eleven (11) directors.

(b) **Appointment of the Board of Directors of the LDC.** The Corporation Board shall select and appoint directors to the LDC Board. The LDC Board shall be comprised of at least four (4) Independent directors who do not serve on the Corporation Board or any Affco Board. The remaining members of the LDC Board will be comprised of members of the Corporation Board other than the Mayors and Mayor’s Alternates.

(c) **Compliance.** Notwithstanding the provisions of this Section 3.3, the composition of the LDC Board shall at all times comply with the requirements of subsection 2.1.2 of the ARC or any other requirements for the composition of board of directors of Ontario regulated electricity distributors.

(d) **Chair of the Board of the LDC.** The LDC Board will annually elect by simple majority a Chair from among its members who does not serve on the Corporation Board or on any Affco Board.

(e) **Term of Directors and Chair.**

   (i) The initial four (4) directors of the LDC who are not also directors of the Corporation or any Affco shall be elected to serve for the following terms:

   (A) two shall each serve for an initial term of three (3) years;

   (B) one shall serve for an initial term of two (2) years; and

   (C) one shall serve for an initial term of one (1) year.

   (ii) Each of the initial seven (7) directors of the LDC that is also a director of the Corporation shall be elected to serve an initial term that is coterminal with his or her initial term as a director of the Corporation.

   (iii) After the initial term served by each of the directors referred to in Section 3.3(e)(i), the term of each such director of the LDC shall be three (3) years.

   (iv) Members of the LDC Board may serve a maximum of three (3) successive terms on the LDC Board.

   (v) The Chair of the LDC Board may serve successive terms, which shall not exceed four (4) years.
(vi) Where a member of the LDC Board was a member of the Corporation Board and ceases to be a member of the Corporation Board for any reason, that director shall at such time also cease to be a member of the LDC Board and the director’s replacement’s term shall be the remainder of the term of the replaced director, except where the Corporation Board otherwise decides.

3.4 The Board of each Affco

(a) **Affco Boards of Directors.** The business and affairs of each Affco shall be managed or supervised by a board of directors ("Affco Board").

(b) **Appointment of the Board of Directors of each Affco.**

(i) The initial Affco Board of each Affco shall be made up of five (5) independent directors of the Corporation Board, with initial terms coterminous with their terms as Directors of the Corporation Board, and two other Independent directors,

(ii) Following the establishment of each initial Affco Board, the Nominating Committee will propose to the Corporation Board such revisions to the composition of each such Affco Board, including number of directors, terms and eligibility as it may consider appropriate. The Corporation Board shall consider such recommendations and take such action as it may see fit.

(iii) Where a member of the Affco Board was a member of the Corporation Board and ceases to be a member of the Corporation Board for any reason, that director shall at such time also cease to be a member of the Affco Board and the director’s replacement’s term shall be the remainder of the term of the replaced director, except where the Corporation Board otherwise decides.

(iv) All the directors of each Affco Board shall be the directors of the other Affco Board at all times and all appointments, nominations and elections of directors shall be undertaken to ensure the application of this subsection (iv).

3.5 General Provisions Regarding Boards

(a) **Director Qualifications.** In addition to the requirements of the Act, the qualifications of candidates for any of the Corporation Board, LDC Board or each Affco Board, shall, where possible, include the following:

(i) Industry experience;

(ii) Financial skills;

(iii) Merger and acquisitions experience;
(iv) Regulated monopoly expertise;
(v) Experience as a director for public or private "for profit" companies or not-for-profit companies;
(vi) Certification or other recognized credentials in corporate governance;
(vii) Accounting, legal and commercial business experience;
(viii) Knowledge and experience concerning IT and cyber-security issues;
(ix) Background in innovation and entrepreneurialism;
(x) Knowledge of public policy issues relating to the electricity sector;
(xi) Knowledge and experience concerning environmental matters, labour relations and occupational health and safety issues; and

(b) **Diversity.** Reasonable efforts shall be made to establish the composition of the Corporation Board, LDC Board and Affco Boards to reflect diverse gender, ethnicity and aboriginal status.

(c) **Quorum.** A quorum for a meeting of any of the Corporation Board, LDC Board or Affco Board shall be a majority of the members of each board of directors, respectively. A meeting shall be adjourned for lack of a quorum and a notice of the adjourned meeting shall be sent to all directors rescheduling the meeting to a date at least 15 days following the adjourned meeting.

(d) **Meetings of a Board.** Meetings of any of the Corporation Board, LDC Board or Affco Board shall be held at least once in every calendar quarter or at the request of the Chair or of a majority of the members of each board of directors, respectively. All meetings of any of the Corporation Board, LDC Board or Affco Board shall be held in Ontario, or by such telephone or electronic communication devices as permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously. At least two days' written notice of the time and place of the meeting and of the business to be transacted at the meeting in sufficient detail to enable each director to assess reasonably the importance of such business to the affairs of the Corporation, LDC or Affco, respectively shall be given to each director.

(e) **Decisions of the Directors.** Decisions or resolutions of any of the Corporation Board, LDC Board or Affco Board shall require the approval of the majority of the directors present at each meeting thereof, respectively. The Chair shall not have a second or casting vote. A resolution in writing signed by all of the directors entitled to vote on that resolution at a meeting
of the respective board of directors is as valid as if it had been passed at a meeting of the respective board of directors.

(f) **Board Duties.** Subject to those matters requiring Shareholder approval as set out in Section 3.12 hereof, the Corporation Board, LDC Board or Affco Board shall supervise the management of the business and affairs of the Corporation, LDC and Affco respectively, and, without limiting the generality of the foregoing, the respective board of directors shall be responsible for, but not limited to, overseeing the following specific matters:

(i) the establishment of appropriate reserves for the applicable corporation consistent with sound financial principles;

(ii) with respect to the Corporation Board, declaration of dividends and distribution of capital in respect of the Shares or the shares of the Subsidiary, as applicable, in accordance with the Dividend Policy set out in Appendix A attached to this Agreement, it being agreed that the Dividend Policy may be amended only with Shareholder approval given in accordance with Section 3.9; and

(iii) with respect to the Corporation Board, reporting to the Shareholders on an annual basis regarding the business, affairs and financial condition of the Corporation and its Subsidiaries.

(g) **Indemnification and Insurance for Directors and Officers.** Each of the Corporation and its Subsidiaries shall indemnify and save its directors and officers harmless from and against any and all liability, damages, costs (including any income tax payable as a result of receiving such indemnity, reasonable counsel fees and disbursements), charges and expenses arising out of or related to any act or omission done or permitted by them to be done in connection with the execution of the duties of their office as directors or officers of the Corporation or a Subsidiary by reason of their being or having been directors of the Corporation or a Subsidiary. The Corporation and each Subsidiary shall acquire and maintain insurance coverage for its respective directors and officers, and past directors and officers, in such amount as the Corporation Board, LDC Board or Affco Board, respectively, may determine from time to time.

(h) **Compensation.** Directors of the Corporation Board, LDC Board, and each Affco Board shall receive compensation as approved by the Corporation Board. Any changes in director compensation shall also be subject to the approval of the Corporation Board.

3.6 **Board Committees**

The Corporation Board may, in its discretion, establish Board Committees from time to time and delegate certain duties to them as it may consider appropriate from time to time, which may include:
(a) **Audit Committee.** The Audit Committee shall be appointed by the Corporation Board from time to time and shall be to oversee the work of the Auditors, the preparation of budgets (which shall include details of all management salaries and bonuses, together with such other information as may reasonably be requested by any director of the Corporation), implementation of the Divided Policy of the Corporation, annual and quarterly financial statements, accounting policies, management of financial and business risks, oversight of financial controls, development of financial plans and forecasts, and to report and make recommendations to the Corporation Board with respect to the foregoing.

(b) **Human Resources and Governance Committee.** The Corporation Board shall appoint members to the Human Resources and Governance Committee. The Human Resources and Governance Committee shall be comprised of such number of directors as the Corporation Board may from time to time determine. The duties of the Human Resources and Governance Committee will be the establishment and enforcement of policy guidelines for employee relations, the establishment and alteration of any salary, bonus or other compensation paid or payable to senior management employees and directors, the establishment of guidelines for the approval of any collective agreement, preparation, adoption and implementation of governance, codes of conduct and conflict of interest practices and processes for directors and employees, and to report and make recommendations to the Corporation Board on the foregoing.

(c) **Nominating Committee.** The Corporation Board shall appoint members to the Nominating Committee. The Nominating Committee shall be comprised of such number of directors as the Corporation Board may from time to time determine. The purpose of the Nominating Committee shall be to make recommendations to the Shareholders concerning candidates for the Corporation Board and the compensation for members of the Corporation Board, the Chair, Vice-Chair and Board Committee members, and chairpersons ("**Nominating Committee**").

(d) **General Provisions Relating to Board Committees.** Unless otherwise determined by the Corporation Board, the quorum for meetings of Board Committees shall be a majority of the members from time to time of each Board Committee. Decisions of all Board Committees shall be made by a majority of the members of the respective Board Committee. Except as otherwise provided in this Section 3.3 and subject to the supervision of the Corporation Board, each Board Committee shall establish its own rules of procedure for operating in an efficient and expeditious manner. A Transferee Shareholder shall not acquire the rights of any of the initial Shareholder to designate nominees to any Board Committee except with the agreement of all of the other Shareholders. A Shareholder that has amalgamated with another person shall retain its rights to designate nominees to the Board Committees, as applicable in the same manner as if it had not amalgamated.
3.7 Shareholders' Meetings

(a) A quorum for a meeting of Shareholders shall be at least one individual representing, by proxy or as otherwise permitted by the Act, (i) Cambridge; and (ii) Brantford.

(b) The chair of any meeting of the Shareholders of the Corporation shall be the Chair or, in the absence of the Chair, the Vice-Chair, or in the absence of the Vice-Chair, the President of the Corporation or, in the absence of the President, such individual as the Shareholders represented at such meeting shall determine.

3.8 Regular Shareholders Meetings

Unless the Shareholders otherwise determine, the Shareholders shall meet at least annually within 6 months of the end of the Corporation's fiscal year at the registered office of the Corporation or at such other times or places as the Shareholders may determine.

3.9 Decisions of the Shareholders

Except as otherwise required by the Act or this Agreement, all decisions or resolutions of the Shareholders, including any motion or resolution to appoint directors of the Corporation Board, shall require, and shall be deemed to be effective upon, the approval of at least a two thirds (2/3) majority of the votes cast at a meeting of Shareholders. A Shareholders' resolution in writing signed by all of the Shareholders entitled to vote on that resolution at a meeting of the Shareholders is as valid as if it had been passed at a meeting of the Shareholders.

3.10 Shareholder Representative

Each Shareholder shall designate its Chief Administrative Officer ("CAO") or another individual so identified by the Shareholder as the legal representative of that Shareholder (the "Shareholder Representative") for purposes of providing any consent or approval required by this Agreement or by the Act. In the event that a CAO is unable or unwilling to act as the Shareholder Representative, then the person designated by that Shareholder's council shall be the Shareholder Representative for purposes of this Agreement and of the Act unless the Shareholder determines otherwise. A Shareholder shall designate its Shareholder Representative (by proxy duly completed in accordance with the Act) as its representative to attend and vote at any meeting of Shareholders.

3.11 Officers

(a) The officers of the Corporation shall include a Chair, President and Chief Executive Officer and such other officers as the Corporation Board may determine from time to time. The Corporation Board shall appoint the officers of the Corporation from time to time. The officers of the LDC shall include a Chair, President and Chief Executive Officer and such other officers as its Corporation Board may determine from time to time. The officers of each Affco shall include a Chair, President and Chief Executive
Officer and such other officers as the directors of each Affco may determine from time to time.

(b) For greater certainty the parties recognize that in carrying on the ordinary course of business, it is not practicable for the Corporation Board to be involved in the day to day affairs of the Corporation. The Corporation Board will delegate responsibilities to the officers, who will report to the Corporation Board and the Board Committees from time to time as required.

3.12 Matters Requiring Shareholder Approval

The Shareholders agree that, without Shareholder approval given in accordance with Section 3.9, neither the Corporation nor any Subsidiary shall:

(a) change its name; add, change or remove any restrictions on its business, create new classes of shares; or in any other way amend its articles (within the meaning of the Act) or enact, revoke, or amend any by-law of the Corporation;

(b) issue, or enter into any agreement to issue, any shares of any class, or any securities convertible into any shares of any class, or grant any option or other right to purchase any such shares or securities convertible into such shares;

(c) redeem, purchase for cancellation or otherwise retire any outstanding shares;

(d) establish any requirement for capital contributions by shareholders;

(e) make any individual acquisition or individual disposition of assets, or series of acquisitions or dispositions of assets during a fiscal year, by conveyance, transfer, lease, sale and leaseback, merger or other reorganization or transaction, mortgage, pledge, charge or otherwise grant a security interest in, assets of the Corporation or its Subsidiaries with an aggregate value in excess of 10% of the consolidated book value of all assets of the Corporation and its Subsidiaries;

(f) purchase or otherwise acquire assets or shares or any other equity interest in another entity with an aggregate value in excess of 10% of the consolidated book value of all assets of the Corporation and its Subsidiaries;

(g) enter into any contracts, commitments or transactions that would increase the Debt/Equity Ratio to greater than 60:40 for the Corporation and its Subsidiaries on a consolidated basis;

(h) grant security for or guarantee, or otherwise become liable for any debt, liability or obligation of any Person other than the Corporation or otherwise become liable for any debt, liability or obligation of a Subsidiary exceeding
10% of the consolidated book value of all assets of the Corporation and the Subsidiaries;

(i) take or institute the proceedings for any winding up, insolvency, bankruptcy, creditor protection, reorganization or dissolution;

(j) enter into any amalgamation, arrangement or consolidation (other than in respect of the merger of the Affcos);

(k) apply to continue as a corporation under the laws of another jurisdiction;

(l) make any decision that would materially adversely affect the tax or regulatory status of the Corporation or its Subsidiaries;

(m) materially alter the nature of or geographic extent of the business of the Corporation or a Subsidiary in a manner which would have a financial impact equal to or greater than 10% of the consolidated book value of all assets of the Corporation and its Subsidiaries;

(n) enter into any joint venture, partnership, strategic alliance or other venture, including ventures in respect of the generation or co-generation of electricity, which would require an investment of, or which would have a financial impact, equal to or greater than 10% of the consolidated book value of all assets of the Corporation and its Subsidiaries; and

(o) in the case of the Corporation only, amend the Dividend Policy;

(p) outsource or otherwise enter into arrangements with service providers or consultants with respect to the provision of all or substantially all of any core business of the Corporation or the LDC;

(q) establish, enter into or acquire any new line of business which competes directly with products or services which a Shareholder could provide, provided that, notwithstanding Sections 3.12 and 3.9, such action shall be permitted following the approval of every affected Shareholder.

(r) enter into any transaction between the Corporation or any Subsidiary and a Shareholder that is material and outside of the ordinary course of business, including redemption or issuance of shares or promissory notes or other debt instruments, lease arrangements with respect to real estate, and services or management arrangements.

For purposes of this Section 3.12, the consolidated book value of all assets of the Corporation and its Subsidiaries shall be the values reported in the most recently available audited consolidated financial statements of the Corporation.
3.13 Unanimous Shareholder Agreement

Each of the Shareholders acknowledges that this Agreement is intended to operate as a unanimous shareholder agreement with respect to the Corporation and each Subsidiary within the meaning of the Act. Pursuant to Section 108(2) or 108(3) of the Act, as applicable, the discretion and powers of the Corporation Board and the Board of each Subsidiary to manage or supervise the management of the business and affairs of the Corporation or each Subsidiary are hereby restricted in accordance with the provisions of this Agreement.

3.14 Agreement Binds Subsidiaries

The Corporation and LDC, by their execution of this Agreement, and each other Subsidiary, agree to be bound by this Agreement and acknowledge that they have actual notice of the terms of this Agreement, consent to this Agreement and by this Agreement covenant with each of the Shareholders that they will at all times during the term of this Agreement:

(a) give or cause to be given such notices, execute or cause to be executed such deeds, transfers and documents as may from time to time be necessary or conducive to the carrying out of the terms and intent of this Agreement;

(b) do or cause to be done all such acts, matters and things as may from time to time be necessary or conducive to the carrying out of the terms and intent of this Agreement; and

(c) take no action that would constitute a contravention of any of the terms and provisions of this Agreement.

The Corporation and, as appropriate, the LDC, shall issue a direction from time to time to each Subsidiary restricting the actions of such Subsidiary so as to give effect to the terms and intent of this Agreement.

3.15 Auditors

The Auditors shall be appointed by the Shareholders from time to time pursuant to Section 3.9.

3.16 Banking

The Corporation’s bankers shall be such financial institution as the Corporation Board shall from time to time determine. All resolutions respecting banking authority, the opening of bank accounts and the drawing on such accounts shall require the consent of the Corporation Board before becoming effective.
3.17 Financial Statements

The Corporation shall cause to be prepared and delivered to the Shareholders as soon as reasonably practicable and in no event later than one-hundred and twenty (120) days after the end of each fiscal year of the Corporation annual audited financial statements for such fiscal year prepared in accordance with generally accepted accounting principles and accompanied by a report of the Auditors of the Corporation.

3.18 Governance Review

(a) The Shareholders agree to convene a governance review of the Corporation and its Subsidiaries (the "Governance Review") to be held within two (2) months after the expiry of the Initial Period and thereafter every three (3) years.

(b) The terms of reference and scope of each Governance Review, including consideration of whether to maintain or change the governance structure of the Corporation and the Subsidiaries, shall be determined by the Shareholders.

(c) The Corporation Board shall, pursuant to the scope and terms of reference of the Governance Review, engage resources and personnel, consider industry best-practices and other relevant information and developments, and make recommendations to the Shareholders as to the governance structure of the Corporation and its Subsidiaries.

(d) The Shareholders shall consider and decide, in accordance with Section 3.9, whether to accept the recommendations of the Corporation Board.

ARTICLE IV
REPRESENTATIONS, WARRANTIES AND COVENANTS

4.1 Representations and Warranties

Each of the Shareholders represents and warrants as follows and acknowledges that each of the other parties hereto are relying on such representations and warranties in connection with the entering into of this Agreement:

(a) it is the registered and beneficial owner of the Shares stated to be owned by such Shareholder in the recitals hereto, free and clear of all Encumbrances and there are no outstanding agreements, options, warrants or other rights capable of becoming an agreement, option or warrant to purchase such Shares;

(b) it has the power and capacity to own its assets and to enter into and perform its obligations hereunder and has taken all necessary action to authorize the execution and delivery of this Agreement;
(c) this Agreement and the transactions contemplated herein have been duly authorized by it and constitutes a valid and binding obligation of it enforceable against it in accordance with its terms subject to the laws of bankruptcy and the availability of equitable remedies;

(d) the execution, delivery and performance of this Agreement does not and will not contravene the provisions of its articles, by-laws, constating documents or the provisions of any agreement or other instrument to which it is a party or may be bound.

4.2 Covenants

(a) Each of the Shareholders covenants and agrees with each other party hereto that all of the foregoing representations and warranties pertaining to it set forth in Section 4.1 will continue to be true and correct during the continuance of this Agreement.

(b) The Corporation agrees to pay to the applicable Shareholder(s) any "Unpaid Redemption Amount" as required under Section 2.6(b) of the MPA in accordance with the terms thereof.

ARTICLE V
PRE-EMPTIVE RIGHTS

5.1 Issuance of New Shares.

The Corporation hereby grants to each Shareholder a right to purchase its Share Interest (subject to its over-allotment option in Section 5.4) of any new Shares that the Corporation may from time to time propose to issue or sell to any party ("New Shares").

5.2 Additional Share Issuances

The Corporation shall give written notice (an "Issuance Notice") of any proposed issuance or sale of New Shares to the Shareholders within ten (10) Business Days following any meeting of the Shareholders at which any such issuance or sale is approved in accordance with Section 3.9. The Issuance Notice shall, if applicable, be accompanied by a written offer from any prospective purchaser seeking to purchase the applicable New Shares (a "New Shares Prospective Purchaser") and shall set forth the material terms and conditions of the proposed issuance or sale, including (a) the number and description of New Shares proposed to be issued; (b) the proposed issuance date, which shall be at least twenty (20) Business Days from the date of the Issuance Notice; and (c) the proposed purchase price per share of New Shares, and (d) all other material terms of the offer or sale.

5.3 Exercise of Pre-Emptive Rights

Each Shareholder shall, for a period of twenty (20) Business Days following the receipt of an Issuance Notice (the "Pre-Emptive Exercise Period"), have the right to elect irrevocably to purchase all or any portion of its Share Interest of any New Shares on the
terms and conditions, including the purchase price, set forth in the Issuance Notice by
delivering a written notice to the Corporation (a "Pre-Emptive Acceptance Notice")
specifying the number of New Shares it desires to purchase up to its Share Interest. The
delivery of a Pre-Emptive Acceptance Notice by a Shareholder shall be a binding and
irrevocable offer by such Shareholder to purchase the New Shares described therein.
The failure of a Shareholder to deliver a Pre-Emptive Acceptance Notice by the end of
the Pre-Emptive Exercise Period shall constitute a waiver of its rights under this
Section 5.3 with respect to the purchase of such New Shares, but shall not affect its rights
with respect to any future issuances or sales of New Shares.

5.4 Over Allotment

No later than ten (10) Business Days following the expiration of the Pre-Emptive Exercise
Period, the Corporation shall give written notice (the "Over-Allotment Notice") to
each Shareholder specifying the number of New Shares that each Shareholder has
agreed to purchase (including, for the avoidance of doubt, where such number is zero)
and the aggregate number of remaining New Shares, if any, not elected to be purchased
by the Shareholders under Section 5.3 (the "Remaining New Shares"). Each
Shareholder that exercised its right to purchase its Share Interest of the New Shares in
full (a "Fully Exercising Shareholder") shall have a right of over-allotment such that, if
there are any Remaining New Shares, such Fully Exercising Shareholder may purchase
all or any portion of its pro rata portion of the Remaining New Shares, based on the
relative Share Interest as between all Fully Exercising Shareholders. Each Fully
Exercising Shareholder shall elect to purchase its allotment of Remaining New Shares by
giving written notice to the Corporation specifying the number of Remaining New Shares
it desires to purchase within ten (10) Business Days of receipt of the Over-Allotment
Notice (the "Over-Allotment Exercise Period").

5.5 Issuance to the New Shares Prospective Purchaser

Following the expiration of the Pre-Emptive Exercise Period and, if applicable, the Over-
Allotment Exercise Period, the Corporation shall be free to complete the proposed
issuance or sale of New Shares described in the Issuance Notice with respect to which
Shareholders declined to exercise the pre-emptive right set forth in Section 5.3 on terms
no less favourable to the Corporation than those set forth in the Issuance Notice (except
that the amount of New Shares to be issued or sold by the Corporation may be reduced);
provided that (a) such issuance or sale is closed within thirty (30) Business Days after the
expiration of the Pre-Emptive Exercise Period and, if applicable, the Over-Allotment
Exercise Period, and (b) for the avoidance of doubt, the price at which the New Shares
are sold to the New Shares Prospective Purchaser is at least equal to or higher than the
purchase price described in the Issuance Notice. If the Corporation has not sold such
New Shares within such time period, the Corporation shall not thereafter issue or sell any
New Shares without first again offering such shares to the Shareholders in accordance
with the procedures set forth in Section 5.2.
5.6 Closing Procedures.

The closing of any issuance or sale of New Shares to any Shareholder under this Section 5.6 shall be consummated concurrently with the consummation of any issuance or sale, if any, to the New Shares Prospective Purchaser as described in the Issuance Notice. Upon the issuance or sale of any New Shares in accordance with this Article V, the Corporation shall deliver the New Shares in certificated form, free and clear of any Encumbrances (other than those arising hereunder and those attributable to the actions of the purchasers thereof). The Corporation shall represent and warrant to the purchasers thereof that the New Shares are free and clear of any such Encumbrances and further that such New Shares shall be, upon issuance thereof to such purchasers and after payment therefor, duly authorized, validly issued, fully paid and non-assessable. Each Shareholder shall deliver to the Corporation the purchase price for the New Shares purchased by it by certified cheque or bank draft or by wire transfer of immediately available funds. Each party to the purchase and sale of New Shares shall take all such other actions as may be reasonably necessary to consummate the purchase and sale, including entering into such additional agreements as may be necessary or appropriate. No issuance of any New Shares to a New Shares Prospective Purchaser shall be deemed completed until the New Shares Prospective Purchaser has entered into a Joinder Agreement.

ARTICLE VI
TRANSFER OF SHARES

6.1 Issuance of New Shares

The Corporation hereby grants to each Shareholder a right to purchase its proportionate Share Interest, defined as a Shareholder’s Equity and Percentage Voting Interest, of any New Shares that the Corporation may from time to time propose to issue or sell to any party.

6.2 General Restriction on Transfer

(a) No Shares may be sold, transferred, assigned or otherwise disposed of prior to thirty (30) months following the Closing Date.

(b) After the expiry of the thirty (30) month period referred to in Section 6.2(a), a Shareholder may sell all (but not less than all, except as expressly contemplated by the proviso in Section 6.5) of its Shares to (and only to) a third party with whom it deals at arm’s length, subject to compliance with the remaining provisions of this Article VI.

(c) No Shareholder shall at any time be entitled to grant an Encumbrance on its Shares.
6.3 Legend on Shares

All share certificates representing Shares of the Corporation shall bear on their face the following notation:

"The shares represented by this certificate are subject to the provisions of the Shareholders' Agreement made as of ____________, 2021 among all of the shareholders of the Corporation as at that date, which agreement contains restrictions on the right to sell, transfer, pledge, mortgage, assign, vote or otherwise deal with or encumber such shares. Notice of such restrictions and the other provisions of such agreement is hereby given. A copy of such agreement is available for inspection from the Secretary of the Corporation on request."

6.4 Rights of First Refusal

If any Shareholder (in this Article VI called the "Selling Shareholder") wishes to sell all, but not less than all, of its Shares to a Person with whom it deals at Arm's Length, the other Shareholder(s) and Corporation (in this Article VI called the "Other Holders") shall have the prior right to purchase such Shares in accordance with the following provisions:

(a) **Notice of Offer.** A Selling Shareholder shall give to the Secretary of the Corporation (in this Article VI called the "Secretary") and to each Other Holder notice in writing of its desired intention to sell all, but not less than all, of its Shares (in this Article VI called the "Offered Shares"). The notice (in this Article called the "Selling Notice") shall have annexed thereto a true copy of the offer, agreement or similar document (the "Offer") containing the terms and conditions pursuant to which the Selling Shareholder wishes to sell the Offered Shares to the prospective purchaser (in this Article VI called the "Prospective Purchaser"), who shall be identified, and the price and terms of payment which the Selling Shareholder is willing to accept for the Offered Shares which shall be the same as set forth in the Offer;

(b) **Offer Open During Notice Period.** The Secretary of the Corporation shall thereupon be deemed to be the agent of the Selling Shareholder for the purposes of offering the Offered Shares to the Other Holders on the terms of payment and for the price contained in the Selling Notice and the offer by the Secretary shall be irrevocable and remain open for acceptance, as hereinafter provided, for a period of 90 days (in this Article VI called the "Notice Period") after receipt of the Selling Notice by the Secretary;

(c) **Acceptance of Offer.** Within two Business Days after receipt of the Selling Notice by the Secretary, the Secretary shall offer the Offered Shares for sale to the Other Holders as nearly may be in proportion to the number of Shares held by each such Other Holder respectively as at the date of such offer. The offer by the Secretary shall state that any Other Holder desiring to purchase a number of Offered Shares less than or in excess of its proportion shall indicate in its notice to the Secretary (in this Article VI called
the "Purchase Notice") stating the number of Offered Shares it desires to purchase. If, within the Notice Period, a Purchase Notice has not been received by the Secretary of the Corporation from an Other Holder, such Other Holder shall be deemed to have declined to purchase the Offered Shares being offered;

(d) **Excess Shares.** If the Other Holders do not claim their respective proportions, any unclaimed Offered Shares shall be used to satisfy the claims of such Other Holders for Offered Shares in excess of their proportions. If the claims in excess are more than sufficient to exhaust such unclaimed Offered Shares, the unclaimed Offered Shares shall be divided pro rata among such Other Holders desiring Offered Shares in excess of their proportion, in proportion to the number of Shares held by them respectively as at the date of such offer, provided that any unclaimed Offered Shares after such pro rata division shall be divided pro rata among Other Holders in proportion to their claims in excess of their respective proportions determined as aforesaid. Notwithstanding anything to the contrary, no Other Holder shall be bound to purchase any Offered Shares in excess of the amount indicated in its Purchase Notice;

(e) **No Fractions.** If the Offered Shares are not capable, without division into fractions of Shares, of being offered to or being divided among the Other Holders in the proportions above mentioned, the same shall be offered to or divided among the Other Holders as nearly as may be in the proportions hereinbefore mentioned and any balance shall be offered to or divided among the Other Holders or some of them in such equitable manner as may be determined by the Corporation Board;

(f) **Sale.** If all, but not less than all, of the Offered Shares are accepted by the Other Holders pursuant to the provisions of this Section 6.4, the Offered Shares shall be sold to the Other Holders for the price and for the terms contained in the Selling Notice;

(g) **Deemed Refusal.** If Purchase Notices have not been received by the Secretary in respect of all of the Offered Shares within the Notice Period, the Other Holders, and each of them, shall be deemed to have declined to purchase the Offered Shares and, subject to the provisions of paragraph (h), the Selling Shareholder may within 60 days after the expiration of the Notice Period sell all, but not less than all, of the Offered Shares to the Prospective Purchaser at the price and upon terms of payment which are not more favourable than those specified in the Selling Notice; and

(h) **Prospective Purchaser Bound.** The Selling Shareholder shall sell the Offered Shares to a Person who is not a party hereto only if such other Person simultaneously with any such sale executes and delivers to each of the other parties hereto a counterpart of this Agreement in which case such Person shall have the rights of a Transferee Shareholder and shall be
subject to the same obligations as a party to this Agreement as if it were an original signatory in place of the Selling Shareholder or its predecessor in title originally party to this Agreement, as applicable. Without limiting the generality of the foregoing, a Transferee Shareholder shall agree to be bound by the provisions of Section 8.1.

(i) Corporation as Purchaser. The Other Holders, except the Corporation, may cause the Corporation to act as an Other Holder.

6.5 Piggyback Right

In the event one or more Selling Shareholders receives an Offer, and in accordance with the procedures set out in Section 6.4, the Other Holders decline or are deemed to decline to purchase the Offered Shares from the Selling Shareholder(s), and the Shares which the Selling Shareholder(s) wish to sell under the Offer(s) would result in a Person owning fifty percent (50%) or more of all the issued and outstanding Shares, then each Other Holder except the Corporation shall have the right to require that all, but not less than all, of its Shares be sold to the Prospective Purchaser, on the same terms and conditions as those set out in the Offer; provided that, if the Prospective Purchaser will not purchase the aggregate amount of Shares which the Selling Shareholder(s) and Other Holders except the Corporation requested to be sold pursuant to the immediately preceding sentence, the number of Shares which the Selling Shareholder(s) and the Other Shareholders except the Corporation shall be permitted to sell to the Prospective Purchaser shall be proportionately reduced so that each may sell the same percentage of its Shares. The Other Holders except the Corporation may only exercise their right under this Section 5.5 by written notice given to the Secretary of the Corporation within the Notice Period.

6.6 Drag Along Right

If a Shareholder receives an Offer for all of its Shares from a Prospective Purchaser which Offer which has a condition that the Prospective Purchaser acquire all of the Shares of the Corporation and, in accordance with the procedures set forth in Section 6.4, North Dumfries declines to purchase the Offered Shares, then either of Cambridge or Brantford shall have the right to require that North Dumfries sell all of its Shares to the Prospective Purchaser, on the same terms and conditions as those set out in the Offer.

6.7 Put Right

The parties acknowledge that, due to North Dumfries holding 4.661% of the Shares, the decisions made by the Shareholders pursuant to Section 3.12 may be made despite the negative vote by North Dumfries. If a Shareholder decision is made pursuant to Section 3.12 (a “Shareholder Action”) despite the negative vote by North Dumfries on such matter, North Dumfries shall have the right to provide notice (the “Put Notice”) to Cambridge of the desire of North Dumfries to sell all, but not less than all, of its Shares to Cambridge at the following price:

(a) if the parties agree upon a price, the price agreed upon by the parties;
if the parties do not agree upon a price, then each of Cambridge and North Dumfries shall obtain a valuation of the Corporation and the aggregate price for the North Dumfries Shares shall be, unless either party objects within 5 Business Days of the receipt by such party of the later of the two valuations, 
(i) the simple average of the mid-points of the two valuations times (ii) the percentage of all Shares of the Corporation owned by North Dumfries; and

if the parties do not agree upon a price and either party objects to the calculation pursuant to (b), then the parties shall obtain a third valuation and the aggregate price for the North Dumfries Shares shall be (i) the simple average of the mid-points of the three valuations times (ii) the percentage of all Shares of the Corporation owned by North Dumfries.

The Put Notice must be delivered by North Dumfries to Cambridge within 60 days of the date of the relevant Shareholder decision and shall specify a closing date for such purchase and sale which shall be no more than 20 Business Days nor less than 10 days after the date of the Put Notice.

North Dumfries hereby waives any dissent, appraisal or similar rights to which it may be entitled with respect to a Shareholder Action (or the underlying actions or transaction to which the Shareholder Action pertains) to the extent permitted by applicable Laws, and notwithstanding its initial negative vote with respect to any Shareholder Action which is approved pursuant to Section 3.9, agrees to execute all such consents and other instruments necessary to implement such Shareholder Action.

6.8 Indemnity

Each Shareholder who Transfers, grants a right to purchase or otherwise purports to Transfer Shares shall:

(a) subject to applicable Laws, only claim and credit against any Transfer Tax payable by it, its Transfer Tax Reduction Amount available at such time to the Shareholder;

(b) indemnify and hold harmless the Corporation, each Subsidiary and each of the other Shareholders from and against any liability for tax, whether Transfer Tax, Departure Tax, income tax, capital tax or any other tax, exigible on the Corporation, the Subsidiaries or the Shareholders as a result or as a consequence of such Transfer, grant, issuance or other purported Transfer or issuance, as the case may be, provided that such liability for tax is not a result or a consequence of the allotting, reserving, setting aside or issuing of any Shares or other securities of the Corporation or any of its Subsidiaries or the issuance or grant of any rights, warrants or options to purchase, acquire or otherwise obtain any unissued Shares or other securities of the Corporation or any of its Subsidiaries which has been approved by the affirmative vote of Shareholders pursuant to Section 3.9; and
(c) if required by the Electricity Act, pay all Transfer Tax payable in respect of such Transfer such that the Transfer shall not be void.

ARTICLE VII
CLOSING OF PURCHASE TRANSACTION

7.1 Time and Place of Closing

The closing of any purchase and sale of Shares contemplated by Sections 6.4, 6.5 or 6.7 of this Agreement shall unless otherwise agreed upon by the parties to such transaction, take place at the registered office of the Corporation on the date specified in the Selling Notice or the Put Notice, as the case may be.

7.2 Documents to be delivered by the Vendor

On or before the closing of a purchase and sale of Shares contemplated hereunder, the vendor shall deliver to the purchaser the following (each in form and substance satisfactory to the purchaser):

(a) a share certificate or certificates representing the Shares being sold, duly endorsed in blank for transfer or newly issued in the name of the purchaser;

(b) a certificate of a senior officer certifying that any representations and warranties made by such vendor in this Agreement are true and correct as of the Closing Date;

(c) the written resignation of such vendor's nominee(s) to the Corporation Board and any Subsidiaries and a release by such nominee(s) of all claims against the Corporation and any Subsidiaries with respect to any matter or thing arising as a result of being a director;

(d) the written release of the vendor of all claims against the Corporation and the Subsidiaries, any of the other Shareholders with respect to any matter or thing arising up to and including the Closing Date as a result of being a Shareholder; and

(e) such other documents as may be reasonably required by any party to such purchase and sale to properly complete the purchase and sale of the Shares.

7.3 Documents to be delivered by the Purchaser

On or before the closing of a purchase and sale of Shares contemplated hereunder, the purchaser shall deliver to the vendor the following:

(a) a certified cheque or bank draft in an amount equal to the purchase price for the Shares being purchased;
(b) in the event Shares are sold to a Person who is not a Shareholder pursuant to Sections 6.4 or 6.5 hereof, a duly executed counterpart of this Agreement or other agreement pursuant to which such Person agrees to be bound by the provisions hereof, and

(c) such other documents as may be reasonably required by any party to such purchase and sale to properly complete the purchase and sale of the Shares.

7.4 Failure to Complete Sale

In the event the vendor fails to complete the subject purchase and sale transaction, the purchaser shall have the right to deposit the purchase price for the subject Shares for the account of the vendor in an interest-bearing account at a branch of the Corporation’s bankers. Thereafter, notwithstanding that the documents required pursuant to Section 7.2 have not been delivered by the vendor, the purchase and sale of the subject Shares shall be deemed to be fully completed and all right, title, benefit and interest, both at law and in equity, in and to the subject Shares shall be deemed to have been transferred and assigned to and become vested in the purchaser and all right, title, benefit and interest, both at law and in equity, of the vendor or any other Person having an interest in and to the subject Shares shall cease and the records of the Corporation shall be amended accordingly.

ARTICLE VIII
NON-COMPETITION AND CONFIDENTIALITY

8.1 Non-Competition

(a) Each Shareholder covenants and agrees that it shall not, except through the Corporation or otherwise with the consent of all Shareholders, or as provided in Section 8.1(c), directly or indirectly, from the date hereof until two (2) years after the party ceases to be a Shareholder, compete within the Province of Ontario with the Business, whether by carrying on or engaging in or being concerned with or interested in or advising, lending money to, guaranteeing the debts or obligations of or permitting the party’s name or any part thereof to be used or employed by any Person engaged in or concerned with or interested in any business within the Province of Ontario that is competitive with the Business, or otherwise.

(b) Notwithstanding Section 8.1(a), any activities carried on by a Shareholder in relation to a community energy plan or other valid municipal purpose, and any activity in respect of which the Shareholder may obtain financing on terms more advantageous than that available to the Corporation or its Subsidiaries, shall not be prohibited thereby and the applicable Shareholder may carry on such activities.

(c) The parties acknowledge that a person which holds a portfolio investment of less than 5% of the shares of a corporation whose shares are publicly
traded which competes with the Business shall not be considered to compete with the Business.

8.2 Confidentiality

Each Shareholder shall not use or disclose to any Person, directly or indirectly, any Confidential Information at any time other than to employees, officers or directors of such Shareholder provided that all such Persons shall treat such information as confidential and not disclose same to any Third Party nor use the same for any purpose other than for the purposes of the Corporation or a Subsidiary or in respect of a Shareholder’s investment in the Corporation, provided, however, that nothing in this Article VIII shall preclude a Shareholder from disclosing or using Confidential Information if:

(a) the Confidential Information is available to the public or in the public domain at the time of such disclosure or use, without breach of this Agreement;

(b) disclosure of Confidential Information is required to be made by any law, regulation, governmental body or authority or by court order;

(c) disclosure of Confidential Information is made in connection with any arbitration pursuant to Section 12.3;

(d) disclosure of Confidential Information is made to a court which is determining the rights of the parties under this Agreement;

(e) the Confidential Information is properly within the legitimate possession of a Shareholder prior to its disclosure hereunder and without any obligation of confidentiality;

(f) after disclosure, the Confidential Information is lawfully received by a Shareholder from another Person who is lawfully in possession of such information and such other Person is not restricted from disclosing the information to the Shareholder;

(g) the disclosure of Confidential Information is necessary to complete a transfer of Shares in accordance with this Agreement;

(h) the Confidential Information is independently developed by a Shareholder through Persons who have not had access to, or knowledge of, the Confidential Information, other than as permitted in (a) through (g) above or (i) below; or

(i) the Confidential Information is approved by the Corporations for disclosure prior to its actual disclosure.

Each Shareholder acknowledges and agrees that the obligations under this Section 8.2 shall remain in effect for the period of two (2) years after it ceases to be a Shareholder. Notwithstanding the foregoing restrictions, the nominees of the Shareholders on the
Corporation Board shall be entitled to discuss the affairs of the Corporation with the officers, directors, employees and representatives of such Shareholder.

8.3 Injunctive Relief

Each Shareholder understands and agrees that the Corporation and Subsidiaries, and consequently the other Parties, will suffer irreparable harm in the event that a Shareholder breaches any of the obligations set out in this Article VIII and that monetary damages shall be inadequate to compensate for the breach. Accordingly, each Shareholder agrees that, in the event of a breach or threatened breach by it of any of the provisions of this Article VIII, the Corporation, the Subsidiaries and the other Parties hereto, in addition to and not in limitation of any other rights, remedies or damages available to them at law or in equity, shall be entitled to an interim injunction, interlocutory injunction and permanent injunction in order to prevent or to restrain any such breach by the Shareholder.

8.4 Accounting for Profits

Each Shareholder agrees that in the event of a violation of any of its covenants or agreements under this Article VIII, the Corporation shall be entitled to an accounting and repayment of all profits, compensation, royalties, commissions, remunerations or benefits which the Shareholder directly or indirectly shall have realized or may realize relating to, growing out of, or in connection with any such violation(s); this remedy shall be in addition to and not in limitation of any injunctive relief or other rights or remedies to which the Corporation and the other parties are or may be entitled at law or in equity or otherwise under this Article VIII.

8.5 Reasonableness of Restrictions

Each Shareholder acknowledges that it has given careful consideration to the provisions of Sections 8.1 to 8.4 above and, having done so, agrees that the restrictions set forth in those sections are fair and reasonable and are reasonably required for the protection of the other Shareholders' investments in the Corporation and for the protection of the interests of the Corporation, the Subsidiaries and the Business, and that it is being reasonably compensated for the imposition of such restrictions.

ARTICLE IX
SALE OF SURPLUS ASSETS

9.1 Right of First Refusal

(a) In the event the Corporation or any Subsidiary proposes to sell any Surplus Assets, it shall first have such Surplus Assets appraised by a registered appraiser and shall share the results of such appraisal with the Shareholders. References in this Section 9.1 to the Fair Market Value of Surplus Assets are to the value thereof set out in such appraisal.

(b) In the event that the Corporation or any Subsidiary intends to sell any Surplus Assets which are located within the municipal boundaries of a Shareholder, that Shareholder shall be so notified by the Corporation and
shall have the option to purchase such Surplus for their Fair Market Value. If that Shareholder does not exercise such option to purchase by notice to the Corporation delivered within thirty (30) days of its receipt of notice of the proposed sale, the other Shareholders shall be notified and given the option to purchase the Surplus Assets to be sold for their Fair Market Value. If both of the other Shareholders exercise such option within thirty (30) days of their receipt of the Corporation's notice, they shall purchase the Surplus Assets in proportion to their voting shares, provided they have agreed on the terms on which they shall jointly own such Surplus Assets, and if only one of the other Shareholders exercises such option, that Shareholder alone shall purchase the Surplus Assets.

(c) In the event that the Corporation or any Subsidiary intends to sell any Surplus Assets not located within the municipal boundaries of a Shareholder, the Corporation shall so notify the Shareholders and the Shareholders shall have the option to purchase such Surplus Assets for their Fair Market Value. In the event two or more Shareholders exercise such option within thirty (30) days of receipt of the Corporation’s notice, they shall purchase the Surplus Assets in proportion to their voting shares, provided they have agreed on the terms on which they shall jointly own such Surplus Assets, and if only one of the Shareholders exercises such option, that Shareholder alone shall purchase the Surplus Assets.

(d) The closing of a sale of Surplus Assets to one or more Shareholders shall occur on the 15th Business Day after the exercise(s) of the option to purchase such Surplus Assets. The purchase price will be payable in cash on closing.

(e) If no Shareholders exercise an option to purchase Surplus Assets offered under this Section 9.1 or if two or more Shareholders exercise an option to purchase Surplus Assets offered under this Section 9.1 but are unable to reach agreement on the terms on which such Surplus Assets will be jointly owned by the exercising Shareholders within ten (10) days of their exercise of the option, the Corporation or the Selling Subsidiary may dispose of such Surplus Assets on such terms as it sees fit (but not, for certainty, to a Shareholder).

ARTICLE X
BOOKS, RECORDS AND RIGHT TO INFORMATION

10.1 Books and Records

The Corporation and its Subsidiaries shall at all times maintain at its registered office proper books of account, which shall contain accurate and complete records of all transactions, receipts, expenses, assets and liabilities of the Corporation or the Subsidiary, as the case may be.
10.2 Right to Information

The Parties covenant and agree that each Shareholder shall have rights of inspection with respect to the Corporation and its Subsidiaries as set out in Sections 140, 141, 144 and 145 of the Act, subject to Laws, including the ARC and privacy Laws.

ARTICLE XI
TERM

11.1 Term and Automatic Renewal

This Agreement shall come into force and effect as at and from the date of this Agreement and shall continue in force for five (5) years at which time this Agreement shall be automatically renewed for further successive terms of five (5) years each.

ARTICLE XII
GENERAL

12.1 Notices

All notices, requests, demands, consents or other communications required to be given or made or provided for in this Agreement shall be in writing and shall be deemed to have been given if delivered, if sent by registered mail or if sent by telexcopier or other means of electronic transmission to:

in the case of a notice to Brantford addressed to it at:

Corporation of the City of Brantford
100 Wellington Square
Brantford, Ontario N3T 2M2

Attention: Mayor

in the case of a notice to Cambridge addressed to it at:

Corporation of the City of Cambridge
73 Water Street North
P.O. Box 669
Cambridge, Ontario N1R 5W8

Attention: Mayor

in the case of a notice to North Dumfries addressed to it at:

Corporation of the Township of North Dumfries
R.R. #4
Cambridge, Ontario N1R 5S5
Attention: Mayor
in the case of a notice to the Corporation addressed to it at:

<image>

Attention: President

in the case of a notice to Affco 1, addressed to it at:

<image>

Attention: President

in the case of a notice to Affco 2, addressed to it at:

<image>

Attention: President

or at such other addresses as the party to whom such notice is to be given may have designated by notice so given to the other parties. Any notice so mailed shall be deemed to have been given on the fifth Business Day following the date of the mailing of the same or if delivered, on the date of delivery and any notice given by telecopier or other means of electronic communication shall be deemed to have been received on the Business Day following the date on which such transmission is completed and the appropriate confirmation received.

12.2 Assignment and Binding Effect

This Agreement is not assignable by any party except insofar as its benefit and burden pass with the Shares transferred in accordance with its provisions. This Agreement shall be binding on and enure to the benefit of the parties hereto and their respective successors and permitted assigns. Reference in this Agreement to any party shall be deemed to include reference to such party and its respective successors and assigns as permitted hereunder.

12.3 Arbitration

(a) Selection of Single Arbitrator. The Shareholders agree that any controversy, dispute or claim between them or any of them arising out of or relating to this Agreement or the performance, enforcement, breach, termination or validity of it, including the determination of the scope of the Agreement to arbitrate, shall be determined by arbitration before a single arbitrator (the "Arbitrator") agreed to by all of the Shareholders. If the Shareholders are unable to agree on the Arbitrator, then, an application may be made under the Arbitration Act to a judge for the appointment.

(b) Referring Dispute. Any Shareholder may refer a dispute to the Arbitrator by providing notice in writing to the Arbitrator and to all of the shareholders
hereto expressing its intention to refer the dispute to arbitration and briefly
describing the nature of the dispute.

(c) **Attempted Settlement.** Upon service of the notice referred to above, the
Shareholders who are party to the dispute (the "Disputing Shareholders")
will attempt to negotiate a settlement of the dispute amongst themselves. In
the event that the parties are unable to reach settlement by themselves
within 10 days of the service of the notice referred to above, the
Shareholders will proceed with the arbitration and any Disputing
Shareholders shall be free to apply to the Arbitrator for directions as to the
scheduling of the arbitration itself and the pre-hearing procedures.

(d) **Decision Final and Binding.** The Shareholders agree that the award of the
Arbitrator shall be final and binding without any right of appeal and shall be
the sole and exclusive remedy between them regarding any claims,
counterclaims, issues or disputes referred to the Arbitrator.

(e) **Place of Arbitration.** The arbitration shall take place in Cambridge, or such
other place as the parties agree, and shall be governed by the laws of the
Province of Ontario.

(f) **Powers of Arbitrator.** The Shareholders agree that the Arbitrator shall have
the powers and jurisdiction of an arbitrator pursuant to the Arbitration Act
and such power shall include the power to award interim and interlocutory
injunctions and other equitable relief.

(g) **Costs.** The Arbitrator shall have the power to award the costs of the
Arbitrator's services and related costs against either party, however, each
party will bear the costs of their own counsel and witness fees.

(h) **Written Notices.** All notices by one Shareholder to the other in connection
with the arbitration shall be in writing and shall be deemed to have been
duly given or made if delivered or sent by facsimile transmission to the
addresses provided in this Agreement.

### 12.4 Further Assurances

Each party hereto shall do such acts and shall execute such further documents,
conveyances, deeds, assignments, transfers and the like, and will cause the doing of
such acts and will cause the execution of such further documents as are within its power
as any other party may in writing at any time and from time to time reasonably request be
done and or executed, in order to give full effect to the provisions of this Agreement.

### 12.5 Severability

If any provision of this Agreement is determined to be invalid or unenforceable by a court
of competent jurisdiction from which no further appeal lies or is taken, that provision shall
be deemed to be severed herefrom, and the remaining provisions of this Agreement shall
not be affected thereby and shall remain valid and enforceable.
12.6 Amendment, Modification and Waiver

This Agreement may not be modified, amended, terminated or supplemented except as agreed, in writing. Any waiver of, or consent to depart from, the requirements of any provision of this Agreement shall be effective only if it is in writing and signed by the party giving it, and only in the specific instance and for the specific purpose for which it has been given. No failure on the part of any party to exercise, and no delay in exercising, any right under this Agreement shall operate as a waiver of such right. No single or partial exercise of any such right shall preclude any other or further exercise of such right or the exercise of any other right.

12.7 Time of Essence

Time is of the essence of this Agreement.

12.8 Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall constitute one agreement.

12.9 No Partnership

Nothing in this Agreement shall be deemed in any way or for any purpose to constitute any party a partner of or a joint venture with any other party.

12.10 Proceedings

The covenants, agreements and obligations herein expressed to be observed and performed by the parties hereto may be enforced by any of the parties hereto pursuant to Section 12.3 without joining the remaining parties as parties in any proceedings.
IN WITNESS WHEREOF the parties hereto have duly executed this Agreement as of the date first above written.

THE CORPORATION OF THE CITY OF BRANTFORD

By: __________________________
    Name: ______________________
    Title: _______________________

By: __________________________
    Name: ______________________
    Title: _______________________

THE CORPORATION OF THE CITY OF CAMBRIDGE

By: __________________________
    Name: ______________________
    Title: _______________________

By: __________________________
    Name: ______________________
    Title: _______________________

THE CORPORATION OF THE TOWNSHIP OF NORTH DUMFRIES

By: __________________________
    Name: ______________________
    Title: _______________________

By: __________________________
    Name: ______________________
    Title: _______________________
[MERGECO] HOLDING CORPORATION

By: _____________________________
    Name: _________________________
    Title: __________________________

By: _____________________________
    Name: _________________________
    Title: __________________________

[MERGECO] LDC

By: _____________________________
    Name: _________________________
    Title: __________________________

By: _____________________________
    Name: _________________________
    Title: __________________________

[AFFCO 1]

By: _____________________________
    Name: _________________________
    Title: __________________________

By: _____________________________
    Name: _________________________
    Title: __________________________
[AFFCO 2]

By: 
Name: 
Title: 

By: 
Name: 
Title:
APPENDIX A

DIVIDEND POLICY

1. Preamble

The Dividend Policy of the Corporation is predicated on the mandate of the Board of Directors (the "Board") which includes maximizing Shareholder value. Such value is generally realized by the Shareholders through dividends or the appreciation of shareholder investment.

2. Policy

Subject to the "Criteria for the Payment of Dividends" provided in this Dividend Policy, the declaration and payment of any dividends is at all times subject to the discretion and resolution of the Board.

3. Regular Dividends on Voting Shares

Shareholders of Voting Shares are eligible to receive, in proportion to their Voting Shares, non-cumulative dividends with a target of the sum of:

1. 50% of the Corporation's consolidated net income as reported under Modified International Financial Reporting Standards for the electricity distribution business and International Financial Reporting Standards for the unregulated businesses; and

2. in respect of each fiscal year during the first ten fiscal years following the date hereof (but not thereafter), $1,209,458.40, being an amount equal to 1/20 (one twentieth) of $24,189,168.00 (the principal amount of a promissory note issued by Brantford Power Inc. due February 1, 2026 and previously repaid by it).

4. Criteria for the Payment of Dividends on Voting Shares

Dividends will be paid to the extent that such would not otherwise cause:

1. Non-compliance with relevant statutes and regulations;

2. A breach of contract or the immediate or anticipated failure to otherwise meet the terms of financing arrangements;

3. An impairment in the continued reliability, operation and maintenance of electricity distribution infrastructure;

4. A deterioration in the credit rating of the Corporation from credit rating agencies that rate the Corporation and/or its securities; or

5. Non-compliance with the financial policies of the Corporation including capital structure.
AMENDED AND RESTATED

SHARED SERVICES AND OBLIGATIONS AGREEMENT

BETWEEN

THE CORPORATION OF THE CITY OF BRANTFORD

- and -

[LDC AMALCO]

- and -

BRANTFORD HYDRO INC.

**, 2022
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SHARED SERVICES AND OBLIGATIONS AGREEMENT

THIS AGREEMENT is dated and effective as of [date], 2022.

BETWEEN:

THE CORPORATION OF THE CITY OF BRANTFORD
(the “City”)

- and -

[LDC AMALCO],
a corporation incorporated under the laws of Ontario
(“LDC Amalco”)

- and -

BRANTFORD HYDRO INC.,
a corporation incorporated under the laws of Ontario
(“BHI”)

WHEREAS

A. The City and Brantford Power Inc. (“BPI”) entered into a Shared Services Agreement dated and effective as of January 1, 2017 (the “Original Agreement”).

B. The City and BHI are also parties to certain agreement or arrangements pursuant to which the City provides services to BHI.

C. LDC Amalco is the successor by amalgamation to BPI.

D. BPI acquired, on its creation, certain life insurance, health-care related and dental coverage plan liabilities for certain retired employees of the City’s Hydro-Electric Commission (the “HEC”) and the Parties wish to continue to provide such benefits on a shared basis, with LDC Amalco bearing a proportion equal to the proportion the Beneficiary devoted to electricity distribution activities during their employment by the HEC.

E. The City and LDC Amalco wish to amend and restate the Original Agreement as herein set out.
ARTICLE 1
INTERPRETATION

1.1 Definitions

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

1.1.1 “Affiliate” means an affiliate as that term is defined in the Business Corporations Act (Ontario).

1.1.2 “Agreement” means this Agreement, including all Schedules, as it may be confirmed, amended, modified, supplemented or restated by written agreement between the Parties.

1.1.3 “Applicable Law” means, at any time, with respect to any Person, property, transaction or event, all applicable laws, statutes, regulations, treaties, judgments and decrees and (whether or not having the force of law) all applicable official directives, rules, codes, consents, approvals, by-laws, permits, authorizations, guidelines, orders and policies of any Persons having authority over that Person, property, transaction or event.

1.1.4 “Arbitration Act” is defined in Section 7.4.

1.1.5 “Arbitrator” is defined in Section 7.4

1.1.6 “Benefits” means the benefits to which the Beneficiaries are entitled pursuant to the Policies.

1.1.7 “Beneficiaries” means those persons listed in Schedule C-2.

1.1.8 “BHI” is defined in the recitals of the Parties above.

1.1.9 “Business” means the business of distributing electricity to residential, commercial and industrial customers in the Territory and, in the case of services provided to BHI, the business of BHI.

1.1.10 “Business Day” means any day excluding a Saturday, Sunday or statutory holiday in the Province of Ontario, and also excluding any day on which the principal chartered banks located in the City of Brantford are not open for business during normal banking hours.

1.1.11 “BPI” is defined in the recital of the Parties above.

1.1.12 “LDC Amalco Data” is defined in Section 3.4.

1.1.13 “City” is defined in the recital of the Parties above.

1.1.14 “Commodity Taxes” means all taxes levied on or measured by, or referred to as transfer, land transfer, registration charges, gross receipt, sales, retail sales, use, consumption, goods and services, harmonized sales, value-added, turnover, excise or stamp, all customs duties, countervail, anti-dumping and special import measures, and all import and export taxes.
1.1.15 “Communication” means any notice, demand, request, consent, approval or other communication which is required or permitted by this Agreement to be given or made by a Party.

1.1.16 “Comparable Service” is defined in Section 4.2.3.

1.1.17 “Confidential Information” means any information relating to LDC Amalco, BHI or their respective businesses, including:

1.1.17.1 Personal Information (including this Agreement and Schedule C-2 in particular);

1.1.17.2 Customer Information;

1.1.17.3 information relating to the assets, business plans, Customers, Employees, equipment, financial statements and financial performance, intellectual property, inventory, market strategies, operations, pricing, products, suppliers, and trade secrets of LDC Amalco; and

1.1.17.4 all analyses, compilations, records, data, reports, correspondence, memoranda, specifications, materials, applications, technical data, studies, derivative works, reproductions, copies, extracts, summaries or other documents containing or based upon, in whole or in part, any of the information listed above in this Section 1.1.17,

whether communicated in written form, orally, visually, demonstratively, technically or by any other electronic form or other media, or committed to memory, and whether or not designated, marked, labelled or identified as confidential or proprietary, but excluding information, other than Personal Information, which:

1.1.17.5 was, is or becomes available to or known by the public, other than as a result of improper disclosure by the City or any of its Representatives, before the end of the Term; or

1.1.17.6 was or is obtained from a source other than LDC Amalco, any of its Representatives, or any Person bound by a duty of confidentiality to LDC Amalco or the Business.

1.1.18 “Consents” is defined in Section 3.5.

1.1.19 “Cost Change” is defined in Section 4.2.3.

1.1.20 “Customer” means any resident of the City of Brantford who is a customer of LDC Amalco or BHI or has been a customer of LDC Amalco, BHI or BPI while resident within the Territory.

1.1.21 “Customer Information” means any information relating to a Customer, including information LDC Amalco or BHI has obtained in relation to a specific smart sub-metering
provider, wholesaler, consumer, retailer, or generator in the process of providing current or prospective utility service.

1.1.22 "Defaulting Party" is defined in Section 2.2.

1.1.23 "Disputes" is defined in Section 7.1.

1.1.24 "Employee" means any employee or independent contractor employed or retained in connection with the Business on a full-time or part-time basis, including any who are on medical or long-term disability leave, or other statutory or authorized leave of absence.

1.1.25 "FAC Services" means those Services identified under the heading "FAC Services" on Error! Reference source not found., the fees for which are determined on a fully-allocated cost basis by the City, which the Parties acknowledge are also "shared corporate services" (as such term is defined in the ARC).

1.1.26 "Facilitated Negotiation Period" is defined in Section 7.3.

1.1.27 "Facilitator" is defined in Section 7.3.

1.1.28 "Failing Party" is defined in Section 2.3.

1.1.29 "Force Majeure" means acts of God; laws, orders, rules, regulations, acts and restraints of armies, militaries, enemies, terrorists, and Governmental Authorities; war, revolutions, mobilization, political and civil unrest or insurrection, embargos, disturbances and riots; epidemics, outbreak of disease and quarantine; inclement weather including floods, storms, tornados, hurricanes, tsunamis, earthquakes, volcanic eruptions and landslides; explosions and fire; labour issues including disputes, walkouts, strikes, slowdowns, lockouts and picketing; damage, destruction or expropriation of property; delays or defaults in or caused by, and shortages of, power, water, transportation and common carriers, facilities, labour, subcontractors, goods, materials and supplies; and any other event or occurrence beyond the reasonable control of the Failing Party.

1.1.30 "Governmental Authority" means:

1.1.30.1 any federal, provincial, state, local, municipal, regional, territorial, aboriginal, or other government, governmental or public department, branch, ministry, or court, domestic or foreign, including any district, agency, commission, board, arbitration panel or authority and any subdivision of any of them exercising or entitled to exercise any administrative, executive, judicial, ministerial, prerogative, legislative, regulatory, or taxing authority or power of any nature; and

1.1.30.2 any quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under or for the account of any of them, and any subdivision of any of them, including the Ontario Energy Board.

1.1.31 "HEC" is defined in the recitals of the Parties above.
1.1.32 "Indemnified Party" is defined in Section 6.4.1.

1.1.33 "Indemnifying Party" is defined in Section 6.4.1.

1.1.34 "Initial Term" is defined in Section 2.1.

1.1.35 "Licences" is defined in Section 3.5.

1.1.36 "Local Market Survey" is defined in Section 4.2.3.

1.1.37 "Loss" means:

1.1.37.1 any loss, liability, damage, cost, expense, charge, fine, penalty or assessment including the costs and expenses of any action, suit, proceeding, demand, assessment, judgment, settlement or compromise and all interest, fines, penalties and reasonable professional fees and disbursements; but excluding

1.1.37.2 indirect, incidental, special, consequential, exemplary, punitive or reliance damages or liability of any kind, including for any death or personal injury, as well as any loss or anticipated loss of business profit, business information, business reputation or business goodwill, or for any business interruption, even if the Party against whom the Loss is claimed, or its agents, employees or other personnel, have been advised of the possibility of any such damages, liabilities, or losses.

1.1.38 "Market Differential" is defined in Section 4.2.3.

1.1.39 "Monthly Invoice" is defined in Section 4.2.1

1.1.40 "Negotiation Period" is defined in Section 7.2.2.

1.1.41 "Non FAC Services" means those Services identified under the heading "Non FAC Services" on Error! Reference source not found., the fees for which are determined on a market basis by the City.

1.1.42 "Non-Requesting Party" is defined in Section 7.3.

1.1.43 "Parties" means the City and LDC Amalco, collectively, and "Party" means any one of them, provided that LDC Amalco and BHI shall collectively be deemed to be a Party hereunder except as otherwise provided herein.

1.1.44 "Person" means:

1.1.44.1 a natural person, whether acting in his or her own capacity, or in his or her capacity as executor, administrator, estate trustee, trustee or personal or legal representative, and the heirs, executors, administrators, estate trustees, trustees or other personal or legal representatives of a natural person;
1.1.44.2 a corporation or a company of any kind, a partnership of any kind, a sole proprietorship, a trust, a joint venture, an association, an unincorporated association, an unincorporated syndicate, an unincorporated organization or any other association, organization or entity of any kind; and

1.1.44.3 a Governmental Authority.

1.1.45 “Personal Information” means information relating to identifiable individuals.

1.1.46 “Policies” means the benefits policies attached hereto as Schedule “C-1”.

1.1.47 “Representatives” means advisors, agents, consultants, directors, management, officers, employees, subcontractors, and other representatives, including accountants, auditors, financial advisors, lenders and lawyers of a Party.

1.1.48 “Requesting Party” is defined in Section 7.3.

1.1.49 “Secondary Information” is defined in Section 5.2.

1.1.50 “Semi-Annual Adjustment” is defined in Section 4.2.2.

1.1.51 “Semi-Annual Period” is defined in Section 4.2.2.

1.1.52 “Semi-Annual Statement” is defined in Section 4.2.2.

1.1.53 “Services” means the services set forth on Schedule A.

1.1.54 “Services Expiration Date” is defined in Section 2.2.

1.1.55 “Term” means the Initial Term and each Renewal Period, if any.

1.1.56 “Termination Date” is defined in Section 8.7.1.

1.1.57 “Territory” means the area within the municipal boundaries of the City of Brantford.

1.1.58 “Third Party Agreements” is defined in Section 3.5.

1.2 Certain Rules of Interpretation

1.2.1 In this Agreement, words signifying the singular number include the plural and vice versa, and words signifying gender include all genders. Every use of the words “including” or “includes” in this Agreement is to be construed as meaning “including, without limitation” or “includes, without limitation”, respectively.

1.2.2 The division of this Agreement into Articles and Sections, the insertion of headings and the inclusion of a table of contents are for convenience of reference only and do not affect the construction or interpretation of this Agreement.
1.2.3 References in this Agreement to an Article, Section, or Schedule are to be construed as references to an Article, Section, or Schedule of or to this Agreement unless otherwise specified.

1.2.4 Unless otherwise specified in this Agreement, time periods within which or following which any calculation or payment is to be made, or action is to be taken, will be calculated by excluding the day on which the period begins and including the day on which the period ends. If the last day of a time period is not a Business Day, the time period will end on the next Business Day.

1.2.5 Unless otherwise specified, any reference in this Agreement to any statute includes all regulations and subordinate legislation made under or in connection with that statute at any time, and is to be construed as a reference to that statute as amended, modified, restated, supplemented, extended, re-enacted, replaced or superseded at any time.

1.2.6 If there is any conflict between the provisions of this Agreement and provisions in any of the Schedules, the provisions of this Agreement will govern.

1.3 Governing Law

This Agreement is governed by, and is to be construed and interpreted in accordance with, the laws of the Province of Ontario and the laws of Canada applicable in that Province.

1.4 Entire Agreement

This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter of this Agreement and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the Parties including the Original Agreement, and there are no representations, warranties or other agreements between the Parties in connection with the subject matter of this Agreement except as specifically set out in this Agreement. No Party has been induced to enter into this Agreement in reliance on, and there will be no liability assessed, either in tort or contract, with respect to, any warranty, representation, opinion, advice or assertion of fact, except to the extent it has been reduced to writing and included as a term in this Agreement.

1.5 Business Day

Whenever any calculation or payment to be made or action to be taken under this Agreement is required to be made or taken on a day other than a Business Day, the calculation or payment is to be made, or action is to be taken on the next Business Day.

1.6 Payment and Currency

Any money to be advanced, paid or tendered by one Party to another under this Agreement must be advanced, paid or tendered by bank draft, certified cheque or wire transfer of immediately available funds payable to the Person to whom the amount is due. Unless otherwise specified, the word “dollar” and the “$” sign refer to Canadian currency, and all amounts to be advanced, paid, tendered or calculated under this Agreement are to be advanced, paid, tendered or calculated in Canadian currency.
1.7 Schedules

The following Schedules are incorporated by reference into and deemed to be a part of this Agreement:

Schedule | Subject Matter
---|---
A | Defined Terms for Service Schedules

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ARTICLE 2
TERM AND TERMINATION

2.1 Term

The term of this Agreement (the “Term”) will be for a maximum thirty (30) years commencing on the date hereof, subject to the termination provisions set out in this Agreement and to the provisions of Sections 2.5 and 5.6.

2.2 Termination

The provisions of this Agreement related to the provision of some or all of the Services, whether to LDC Amalco or BHI, including Article 3, and corresponding provisions relating to payment for such Services contained in Article 4, may be terminated by either the City, on the one hand, or LDC Amalco and BHI, collectively, on the other, in their sole and absolute discretion at any time (the “Services Expiration Date”) after the first anniversary of the Effective Date upon twelve (12) months’ notice, or as otherwise agreed to by the Parties. For clarity, the City shall not be permitted to terminate its obligations under Sections 5.5 and 5.6, which shall continue in full force and effect until such time as no obligations under the Policies remain outstanding and all such liabilities have been fully satisfied. In addition, other than in respect of Sections 5.5 and 5.6, any Service provided herein, and obligation to pay for such Service, may be terminated by any Party upon 30 Business
Days’ notice to the other Parties (the “Defaulting Party”) upon the occurrence of any of the following events:

2.2.1 if the Defaulting Party is in default of any material term of this Agreement and the default has not been cured within 30 Business Days of written notice of that default having been given by one Party to the Defaulting Party;

2.2.2 if the Defaulting Party becomes insolvent, makes an assignment for the benefit of creditors or is the subject of any proceeding under any bankruptcy and/or insolvency law;

2.2.3 if the Defaulting Party winds up, dissolves, liquidates or takes steps to do so or otherwise ceases to function as a going concern; or

2.2.4 if a receiver or other custodian (interim or permanent) of any of the assets of the Defaulting Party is appointed by private instrument or by court order or if any execution or other similar process of any court becomes enforceable against the Defaulting Party or its assets or if distress is made against any of the Defaulting Party’s assets.

For clarity, LDC Amalco and BHI shall be deemed to be a single Party for purposes of this Section 2.2.

2.3 Force Majeure

Other than in relation to duties and obligations under Section 5.6, if a Party (the “Failing Party”) is unable or fails to perform any or all of its duties and obligations under this Agreement by reason of Force Majeure, the Failing Party will not be liable to the other Party during the period of Force Majeure to the extent of its inability or failure, but:

2.3.1 the Failing Party claiming Force Majeure must notify the other Party promptly and, in any event, in writing within 72 hours after the Force Majeure event, setting out in reasonable detail the nature of the event, giving a good faith estimate of the expected duration of the event and outlining the steps the Failing Party intends to take to mitigate the effect of the event; and

2.3.2 the Failing Party will make all commercially reasonable efforts in the circumstances to surmount the event of Force Majeure, and to resume full performance as soon as it is reasonably possible to do so, provided that the Failing Party will not be required to settle any walkout, strike or labour dispute on commercially unreasonable terms.

2.4 Termination without Prejudice

Any termination of rights and obligations pursuant to Section 2.2 shall be without prejudice to any other remedies which any Party may have against the other arising out of a breach or default and shall not affect any rights or obligations of any Party arising under this Agreement prior to such termination.
2.5  Continuing Obligation

Termination of this Agreement or any rights or obligations hereunder will not release, discharge or otherwise affect the obligation of:

2.5.1  LDC Amalco or BHI to pay for any Services provided to it before the termination took effect, including any interest on unpaid amounts as contemplated by Section 4.4; or

2.5.2  The City from its obligations under Section 5.6, which shall survive and continue in full force and effect.

ARTICLE 3
SERVICES

3.1  Provision of Services

3.1.1  The City agrees to provide the Services to LDC Amalco and to BHI throughout the Term as set forth in Schedule A.

3.1.2  The City shall perform the Services in accordance with the standards and service levels as set forth in the Schedules.

3.1.3  For the avoidance of doubt, the Services will be provided solely within the Territory and solely for the benefit of and in relation to the Business.

3.2  Provision of Information by the Parties

LDC Amalco and BHI will provide any information, data or other items reasonably required by the City to provide the Services, including any information requested in writing by the City. The City will also provide LDC Amalco at its reasonable written request with such information within the City’s control in order for LDC Amalco to determine its compliance with the ARC. LDC Amalco will provide any information, data or other items reasonably requested by the City with respect to payment under Section 5.6, including proof thereof. A Party receiving an oral information request will, if requested, acknowledge that request in writing to the other Party and, if reasonably required under the circumstances, provide an estimate of the time by which the requested information will be delivered.

3.3  Personnel

The City will provide all necessary and appropriate personnel to perform the Services. The personnel performing the Services will not be required to perform services exclusively for LDC Amalco or BHI, but may also provide similar services for the City and other entities. The Services will be performed during the City’s normal business hours, unless otherwise specified herein. While providing the Services, the City’s personnel will remain employees of the City. The City will be responsible for all wages, benefits, withholdings for tax purposes, and all other employer liabilities and responsibilities relating to all of its personnel.
3.4 Processing Errors

LDC Amalco and BHI are responsible from the date of this Agreement for the accuracy and completeness of all information submitted by them to the City (whether communicated in written form, orally, or by any other electronic form or other media) for processing or transmission in connection with the Services, including all original reports, intellectual property, computer programs, information, data or other items (collectively, the “LDC Amalco Data”) and for any errors in and with respect to the LDC Amalco Data obtained from the City because of any inaccurate or incomplete LDC Amalco Data.

3.5 Third Party Agreements

The Parties recognize that certain Services and/or certain related software and hardware licences (the “Licences”) are provided by third parties under specific third party agreements (the “Third Party Agreements”). The City will use commercially reasonable efforts to obtain any necessary consents, approvals or amendments under its Third Party Agreements or any other existing agreements necessary to allow the City to provide the Services to LDC Amalco and BHI (the “Consents”). LDC Amalco or BHI will pay the cost of obtaining the Consents, if any, and any fees or charges associated with the Consents, including any additional licence or sublicense fees.

3.6 Security

The City will maintain adequate back-up material that will enable the regeneration of LDC Amalco Data, computer files, printer output and other data generated in the course of providing the Services, in case any of it is destroyed. At least one (1) copy of all back-up material will be stored in secure premises off-site until a new back-up copy replaces it. For the purposes of this Section, back-up material will mean exact copies of the magnetic tapes, disks or other LDC Amalco Data furnished to, or in the possession of, the City at any time. The City will adopt reasonable measures and safeguards to prevent the loss, damage or destruction of LDC Amalco Data and back-up material.

3.7 General Limitations

Nothing in this Agreement will:

3.7.1 require the City to perform any services not provided for in this Agreement;

3.7.2 require the City to make any change or addition that will require any capital expenditures by the City without the prior agreement of the City;

3.7.3 prohibit the City from making minor changes or additions to the Services, so long as the City continues to provide the Services substantially in the manner set forth in the Schedules; or

3.7.4 prohibit the City from adjusting the fees for the Services in accordance with Section 4.2.
3.8 Status of Parties

LDC Amalco, BHI and the City acknowledge that they are separate entities, and that the execution and performance of this Agreement does not create a partnership or joint venture between them.

ARTICLE 4
PAYMENT

4.1 Charges

The charges for the Services will be calculated as set out in Schedule A, in each case plus all applicable Commodity Taxes.

4.2 Invoicing and Annual Reconciliations

4.2.1 Each month the City will prepare and deliver to LDC Amalco an invoice for amounts that are estimated as payable to it in respect of the Services provided in the immediately preceding month (each such invoice, a “Monthly Invoice”) and payable by it pursuant to Section 5.6. Each quarter, LDC Amalco will prepare and deliver to the City an invoice (each such invoice, a “Quarterly Invoice”) for amounts that are estimated as payable by it pursuant to Section 5.6.

4.2.2 Following June 30 and December 31 of each calendar year during the Term (each such period, a “Semi-Annual Period”) the City will reconcile the Monthly Invoices delivered to LDC Amalco in each Semi-Annual Period against the actual fees, costs and expenses payable by LDC Amalco in accordance with agreed pricing terms set forth in the Schedules for FAC Services provided during the applicable Semi-Annual Period (each such adjustment, a “Semi-Annual Adjustment”). No later than 60 days following the last day of the preceding Semi-Annual Period the City will deliver a semi-annual statement to LDC Amalco reflecting any balances due or credits owing in connection with a Semi-Annual Adjustment (each such statement, a “Semi-Annual Statement”) for FAC Services. All balances due from LDC Amalco on a Semi-Annual Statement will automatically be subject to payment in accordance with Section 4.2.4. Any credits owing to LDC Amalco on a Semi-Annual Statement will automatically be applied to the following Monthly Invoice. Subject to Section 4.2.4, the City may continue to reconcile the fees charged for any Semi-Annual Period for FAC Services in accordance with this Section 4.2.2 notwithstanding the completion of any Semi-Annual Adjustment or delivery of any Semi-Annual Statement.

4.2.3 To the extent that there is a change in the City’s costs in delivering any Non FAC Service (each such change, a “Cost Change”) the City may adjust the pricing of the applicable Non FAC Service set forth in the applicable Schedule in accordance with this Section 4.2.3, The City will perform an updated review of local market rates for services comparable to the Non FAC Service subject to the Cost Change (a “Comparable Service”) available in the City of Brantford (the “Local Market Survey”). In the event that there is a difference in price between the Non FAC Service set forth in the applicable Schedule and the price for a Comparable Service set forth in the Local Market Survey (each such price differential, a “Market Differential”), the City may adjust the price for the Non FAC Service set forth in the applicable Schedule by an amount equal to the Market Differential. The City may
adjust for a Market Differential at any time during the Term effective as of the date of any Cost Change. All adjustments for Cost Changes will be reflected on the Monthly Invoice following the City’s determination of a Cost Change. All balances due from LDC Amalco on a Monthly Invoice will automatically be subject to payment in accordance with Section 4.2.4. Any credits owing to LDC Amalco on a Monthly Invoice will automatically be applied to the following Monthly Invoice. Subject to Section 4.2.4, the City may continue to adjust for Market Differentials at any time during the Term in accordance with this Section 4.2.3.

4.2.4 No further reconciliations of the fees charged for FAC Services under Section 4.2.2 or adjustments for Market Differentials for Non FAC Services under Section 4.2.3 may be made by the City after 60 calendar days following December 31 of each calendar year in which such FAC Services and/or Non FAC Services were invoiced, Notwithstanding the foregoing, the Parties acknowledge that:

4.2.4.1 the portion of the fees charged for FAC Services and/or Non FAC Services that are classified as “out-of-pocket” expenses by the City and incurred by the City on LDC Amalco’s behalf may not be known within 60 calendar days following December 31 of each calendar year in which such FAC Services and/or Non FAC Services were invoiced; and

4.2.4.2 the City may continue to reconcile and adjust the charges for the portion of the fees for FAC Services and/or Non FAC Services that are classified as “out-of-pocket” expenses by the City at any time during the Term, whenever such “out-of-pocket” expenses were incurred or invoiced by the City.

4.2.5 To the extent any arrangements in this Section 4.2 or otherwise in this Agreement would cause LDC Amalco to contravene the ARC, LDC Amalco and BHI shall enter into arrangements to assure compliance therewith.

4.3 Payment

Payment of amounts owed by a Party to the other Party hereunder will be made by the 30th day after receipt of the Monthly Invoice, Semi-Annual Statement or Quarterly Invoice, as applicable. Payments will be made to an account specified by each Party in writing. If there is a dispute as to the amount payable to a Party for Services rendered or pursuant to Section 5.6, the disputing Party will, within 15 days of receipt of the Monthly Invoice, Semi-Annual Statement or Quarterly Invoice, notify the other Party in writing that it disputes the Monthly Invoice, Semi-Annual Statement or Quarterly Invoice. A Party will be deemed to have finally accepted the Monthly Invoice, Semi-Annual Statement or Quarterly Invoice unless it delivers its dispute notice to the other Party within the applicable time period. Despite the submission of a dispute notice by a Party, the Party owing amounts under such invoice will pay to the other Party all amounts that are invoiced.

4.4 Default

If a Party fails to comply with its payment obligations in accordance with this Agreement, interest will be billed to it from the due date until paid in full at a rate of 24% per annum.
ARTICLE 5
COVENANTS, REPRESENTATIONS AND WARRANTIES

5.1 Confidentiality

5.1.1 The City acknowledges and agrees that:

5.1.1.1 LDC Amalco or BHI is the exclusive owner of all right, title and interest in and to the Confidential Information; and

5.1.1.2 the City has no right, title, licence, or interest in or to the Confidential Information, except for the right, subject to this Agreement, to review the Confidential Information for the purpose of carrying out its obligations under this Agreement.

Accordingly, the City agrees to hold in strict confidence and not disclose or use, and the City will not allow any of its Representatives to disclose or use, any Confidential Information, for any purpose, except as provided in this Section 5.1.

5.1.2 LDC Amalco and BHI or any of their respective Representatives will disclose Confidential Information to the City or any of its Representatives upon the following conditions:

5.1.2.1 the City will hold, and will cause its Representatives to hold, all Confidential Information in trust for LDC Amalco or BHI, as applicable, and will not use, or permit any of its Representatives to use, any of the Confidential Information, at any time or in any manner, except as is required by the City to carry out its obligations under this Agreement;

5.1.2.2 the City will limit the disclosure of the Confidential Information to those of its Representatives who have a need to know the Confidential Information to assist the City in carrying out its obligations under this Agreement, who are informed by the City of the confidential nature of the Confidential Information and who agree in writing to act in accordance with and be bound by the terms and conditions of this Agreement;

5.1.2.3 the City will not permit its Affiliates or their Representatives to access any Customer Information; and

5.1.2.4 the City will be responsible for any breach of this Section 5.1, or any disclosure, divulgence, communication or use of any Confidential Information in a manner not authorized by this Agreement by any of its Representatives.

5.1.3 The City will take appropriate measures to protect the Confidential Information and will keep a record of the location of the Confidential Information and all of its Representatives to whom Confidential Information is provided. The City will store the Confidential Information properly and securely and ensure that appropriate technical and organizational means and physical or electronic storage media are in place to protect the Confidential
Information against unauthorized or unlawful access or processing, and against accidental loss, destruction or damage, including taking reasonable steps to ensure the reliability of any Representative of the City permitted by the City to have access to the Confidential Information. The City will permit LDC Amalco upon 10 Business Days prior written notice to audit and review the City’s electronic access and security procedures and protocols pursuant to the standards set forth in ARC Section 2.2.2.

5.1.4 The City will, upon the written request of LDC Amalco or BHI, return promptly to LDC Amalco or BHI, as applicable, or destroy, and provide written certification of the destruction of, all documents, physical or tangible manifestations and electronic and computerized forms of the Confidential Information received from LDC Amalco or BHI, including all copies, reproductions and applications of the Confidential Information, but the City will be entitled to retain copies of these records only as may be necessary to establish the City’s satisfactory performance of its obligations under this Agreement and to comply with Applicable Law, Governmental Authority or audit requirements.

5.1.5 If the City or any Representative of the City is required by any Applicable Law or by any Governmental Authority to disclose any Confidential Information of LDC Amalco or BHI, the City or that Representative will provide LDC Amalco or BHI, as applicable, with prompt written notice of that requirement, so that LDC Amalco or BHI, as applicable, may contest the disclosure of the Confidential Information and seek an appropriate protective order or other appropriate remedy.

5.1.6 If, in the absence of a protective order or other appropriate remedy, the City or any Representative of the City is, in the reasonable opinion of its lawyers, required by any Applicable Law or by any Governmental Authority to disclose any Confidential Information or stands liable for contempt or to suffer other censure or penalty, then the City or that Representative may, without liability under this Agreement, disclose that portion of the Confidential Information, but only that portion, that the City or the Representative is legally required to disclose.

5.1.7 The City will notify LDC Amalco and BHI immediately upon discovery of any breach of this Section 5.1 or any unauthorized or unlawful disclosure, divulgence, communication or use of any Confidential Information.

5.1.8 The covenants and obligations contained in this Section 5.1 will be perpetual.

5.2 Computer Back-up

The Parties acknowledge that the computers and data storage and retrieval systems or network of the City and, if applicable, its Representatives, may automatically back up Confidential Information stored in electronic form. The Parties agree that to the extent that those back-up procedures automatically create electronic copies of Confidential Information (the “Secondary Information”), each of the City and, if applicable, its Representatives, may, despite any requirement under this Agreement to return or destroy Confidential Information, retain Secondary Information in its archival storage for the period that it would normally archive electronic data, provided that those data are periodically and systematically overwrittren or otherwise destroyed.
Secondary Information will be subject to the provisions of this Agreement until destroyed and may not be accessed by the City or any of its Representatives during its period of archival storage.

5.3 Security of Electronic Information

Use of Confidential Information by, or disclosure of Confidential Information to, any person that is not a Party to this Agreement or a Representative of the City permitted by the City to have access to the Confidential Information, that results from a breach of the electronic security of the computers and data storage and retrieval systems or network of the City or, if applicable, any Representative of the City, will be treated as a disclosure by the City contrary to the terms of this Agreement, provided that the breach results from a failure by the City or, if applicable, any of its Representatives, to implement appropriate security measures consistent with best practices or otherwise take necessary precautions in order to secure the Confidential Information.

5.4 Books of Account and Information

Each of LDC Amalco, BHI and the City will maintain at its head office appropriate books of account and records with respect to all transactions entered into in the performance of this Agreement. Each of LDC Amalco, BHI and the City will provide to the other whatever additional reports and information relating to the Services provided under this Agreement which the other may reasonably request.

5.5 Representations and Warranties of Brantford

Brantford represents and warrants to LDC Amalco as follows, and acknowledges that LDC Amalco is relying on these representations and warranties in connection with its entry into this Agreement:

5.5.1 Obligations (the “Obligations”) to the Beneficiaries, including full actuarial benefit expenses, were recorded as a liability on BPI’s audited financial statements.

5.5.2 LDC Amalco has been provided with a record of all payments to or in respect of Beneficiaries by or to the order of BPI pursuant to the Policies.

5.5.3 BPI made no payments to any person in respect of a Policy other than the Beneficiaries pursuant to the Obligations.

5.5.4 All of the Beneficiaries were employed by the HEC and retired from the HEC and, as a result became entitled to receive the Benefits, on or prior to the amalgamation of the HEC into the City.

5.6 Payments under the Policies

The City agrees to bear, and reimburse LDC Amalco, for a percentage of the amount of each of LDC Amalco’s payments under the Policies with respect to a Beneficiary equal to the sum of the percentages set out under the headings “% Transit” and “% Water” in Schedule C-2 in relation to each such Beneficiary. LDC Amalco shall invoice the City quarterly in respect of such payments and settlement shall occur as provided in the provisions of Article 4 applicable to such payments. Notwithstanding any termination of this Agreement or part thereof, this Section 5.6 and the
obligations of the City hereunder shall continue in full force and effect together with Articles 4 (mutatis mutandis), 6, 7 and 8 so long as LDC Amalco has any obligations or liabilities in connection with the Policies. LDC Amalco will not terminate the Policies until all benefits in respect of the individuals listed in Schedule C-2 have been fully paid or are otherwise lawfully discharged.

ARTICLE 6
INDEMNIFICATION

6.1 Indemnification by City

The City agrees to defend, indemnify and save harmless LDC Amalco and BHI, their respective agents or employees, from and against any Loss sustained or incurred by LDC Amalco or BHI, or their respective agents or employees, which arises or results directly from:

6.1.1 the breach by the City of any representation, warranty or covenant contained in this Agreement;

6.1.2 the failure to deliver the Services if that failure lasts for more than three (3) Business Days or if there are more than five (5) instances of failure in any one (1) year period; or

6.1.3 any negligent or willful act or omission of the City or its Representatives.

6.2 Indemnification by LDC Amalco

LDC Amalco and BHI, severally and not jointly and severally, agrees to defend, indemnify and hold harmless the City, its agents or employees, from and against any Loss sustained or incurred by the City, its agents or employees, which arises or results directly from the breach by LDC Amalco or BHI of any representation, warranty or covenants contained in this Agreement.

6.3 Limitation on Indemnification by City

Other than in respect of Sections 5.5 and 5.6 (in respect of which its indemnification obligations shall not be limited), the indemnification obligations of the City pursuant to Section 6.1 are strictly limited to the sum of the aggregate amount of fees paid by LDC Amalco and BHI to the City pursuant to this Agreement (and, where the limitation under this Section 6.3 is being determined prior to the first anniversary of the effective date of this Agreement, by BPI pursuant to the Original Agreement) during the then immediately preceding 12 month period, calculated from the date on which such liability arose. This Section 6.3 will prevail in the event of any conflict between the terms of this Agreement and this Section 6.3.

6.4 Third Party Claims

6.4.1 Upon receipt of a claim by either Party (the “Indemnified Party”) from a third party for which the other Party (the “Indemnifying Party”) has agreed to indemnify the Indemnified Party, the Indemnified Party will notify the Indemnifying Party in writing of that claim.
6.4.2 Upon receipt of that notice, the Indemnifying Party will have the right to defend and/or settle any such claim at its own expense, provided that the Indemnifying Party advises the Indemnified Party of its intention to do so with 30 days of receipt of that notice.

6.4.3 If the Indemnifying Party fails to advise the Indemnified Party within the time specified in Section 6.4.2, the Indemnified Party will have the right but not the obligation to defend or settle that claim, employing counsel chosen exclusively by the Indemnified Party, in which case the Indemnifying Party will indemnify the Indemnified Party for all amounts which it is required to pay in settlement or satisfaction of those claims and will reimburse the Indemnified Party for all expenses (including reasonable legal fees and costs) incurred in the defence or compromise that claim.

6.4.4 Any settlement of any claim by the Indemnifying Party must include a full and complete release of the Indemnified Party.

6.5 **Disclaimer and Release**

6.5.1 Except as expressly provided in this Agreement and to the maximum extent permitted by any Applicable Law, the City gives no condition, warranty, undertaking or representation, implied or otherwise, in respect of the Services.

6.5.2 The remedies of the Parties set out in Sections 6.1 and 6.2 are exclusive and in substitution for, and each Party waives, releases and disclaims, all other warranties, obligations and liabilities of the other Party and all other remedies, rights and claims against the Party, express or implied, arising by law, statute or otherwise, with respect to the Services and any other items subject to, or related or associated with, this Agreement, including, any warranty of merchantability or fitness for a particular purpose; any warranty arising from course of performance, course of dealing or usage of trade; any obligation, liability, right, remedy or claim in tort, despite any fault, negligence, omission or strict liability of the City (whether active, passive or imputed); and any obligation, liability, remedy, right or claim for infringement.

6.6 **Continuing Obligation**

The indemnities in this Article 6 are continuing and irrevocable and the obligations of a Party under this Agreement will not be released, discharged, impaired or affected by:

6.6.1 any extensions of time or variations of obligations which the Party may grant or permit in respect of the observance or performance of any of the obligations of the Party;

6.6.2 any waiver by or neglect or failure of the Party to enforce any of the terms, covenants and conditions in respect of this Agreement; or

6.6.3 any amendment to this Agreement.
ARTICLE 7
DISPUTE RESOLUTION

7.1 Disputes

All disputes, disagreements, controversies, questions or claims arising out of or relating to this Agreement, including, without limitation, with respect to its formation, execution, validity, application, interpretation, performance, breach, termination or enforcement (collectively, “Disputes”), will be determined in accordance with this Article 7, which sets out the exclusive procedure for the resolution of Disputes.

7.2 Negotiation

7.2.1 The Parties will make, and participate in, good faith efforts to resolve any Dispute by negotiation. Each of the Parties will appoint a designated officer whose task it will be to meet for the purpose of endeavouring to resolve the Dispute. In the case of BP1, the designated officer will be the Chief Executive Officer and his or her designate and in the case of the City the designated officer will be the City Treasurer and his or her designate or the General Manager of Corporate Services and his or her designate. The designated officers will meet as often as the Parties reasonably deem necessary during the Negotiation Period in order to gather and furnish to each other Party all information with respect to the matter in issue which the Parties believe to be appropriate and germane in connection with its resolution. The specific format for those discussions will be left to the discretion of the designated officers but may include the preparation of agreed upon statements of fact or written statements of position furnished to each other Party.

7.2.2 The period for negotiation (the “Negotiation Period”) will begin on the day that the recipient receives the Dispute Notice and will end on the earlier of:

7.2.2.1 the date that the designated officers conclude in good faith that amicable resolution through continued negotiation of the matter in issue is not likely to occur; or

7.2.2.2 the fourteenth day after the first day of the Negotiation Period.

7.2.3 The negotiations and other settlement efforts of the Parties under Section 7.2 will, in all respects, be kept confidential and will be strictly without prejudice. All information provided, documents disclosed or statements made in the course of those negotiations and settlement efforts, including, without limitation, any admission, view, suggestion, notice, response, discussion, position or settlement proposal, will be held in strictest confidence among the Parties and, unless otherwise discoverable, will not be subject to disclosure through discovery or any other process, and will not be relied upon by any Party and will not be admissible into evidence for any purpose, including impeaching credibility, in any subsequent proceeding except as required by law, or to enforce any settlement agreement reached between the Parties.
7.3 Optional Facilitated Negotiation

At the end of the Negotiation Period, if the Dispute is still not resolved, the Dispute will proceed to arbitration under Section 7.4 unless one Party (the "Requesting Party") requests a further specified period for facilitated negotiation (the "Facilitated Negotiation Period"). The Facilitated Negotiation Period will not exceed 14 days from the date following the end of the Negotiation Period. Any Facilitated Negotiation Period will be chaired and administered by a sole facilitator (the "Facilitator"). The Requesting Party will provide the other Party (the "Non-Requesting Party") a list of three (3) qualified persons to act as the Facilitator, and the Non-Requesting Party will choose a Facilitator from such list. The costs of the Facilitator will be borne equally by the Parties. The specific format for the negotiations during the Facilitated Negotiation Period will be left to the discretion of the Parties. The Facilitator will be provided with all materials exchanged between the Parties under Section 7.2. The provisions of Section 7.2.3 will apply mutatis mutandis to the negotiations and other settlement efforts of the Parties under this Section 7.3.

7.4 Arbitration

7.4.1 All Disputes not resolved pursuant to Section 7.2 or Section 7.3 will be determined by a sole arbitrator (the "Arbitrator") under the Arbitration Act, 1991 (Ontario) (the "Arbitration Act"). In addition:

7.4.1.1 Section 7(2) of the Arbitration Act will not apply to the arbitration of a Dispute;

7.4.1.2 the Arbitrator will be any person on whom the Parties can agree. If the Parties cannot agree, the Arbitrator will be appointed by a judge of the Superior Court of Justice of Ontario on the application of any Party on notice to the other Party. No individual will be appointed as Arbitrator unless he or she agrees in writing to be bound by the provisions of this Article 7;

7.4.1.3 the law of Ontario will apply to the substance of all Disputes;

7.4.1.4 the arbitration will take place in the City of Brantford unless otherwise agreed in writing by the Parties;

7.4.1.5 the language to be used in the arbitration will be English;

7.4.1.6 the Arbitrator, after giving the Parties an opportunity to be heard, will determine the procedures for the arbitration of the Dispute, provided that those procedures will include an opportunity for written submissions and responses to written submissions by or on behalf of all Parties, and may also include an opportunity for exchange of oral argument and any other procedures as the Arbitrator considers appropriate. However, if the Parties agree on a code of procedures or on specific matters of procedure, that agreement will be binding on the Arbitrator;

7.4.1.7 the Arbitrator will have the right to determine all questions of law and jurisdiction, including questions as to whether a Dispute is arbitrable, and will have the right to grant legal and equitable relief including permanent and
interim injunctive relief, and final and interim damages awards. Subject to Section 7.4.1.10, the Arbitrator will also have the discretion to award costs of the arbitration, including reasonable legal fees and expenses, reasonable experts’ fees and expenses, reasonable witnesses’ fees and expenses, and pre-award and post-award interest and costs, provided that the Arbitrator will not make an award of costs on a distributive basis;

7.4.1.8 the Parties intend, and will take all reasonable action necessary or desirable to ensure, that there be a speedy resolution to any Dispute, and the Arbitrator will conduct the arbitration of the Dispute with a view to making a determination and order as soon as possible;

7.4.1.9 the Parties desire that any arbitration should be conducted in strict confidence and that there will be no disclosure to any Person of the existence or any aspect of a Dispute except as is necessary for the resolution of the Dispute. Any proceedings before the Arbitrator will be attended only by those Persons whose presence, in the opinion of any Party or the Arbitrator, is reasonably necessary for the resolution of the Dispute. All matters relating to, all evidence presented to, all submissions made in the course of, and all documents produced in accordance with, an arbitration under this Article, as well as any arbitral award, will be kept confidential and will not be disclosed to any Person without the prior written consent of all the Parties except as required in connection with an application of a Party under Section 46 or Section 50 of the Arbitration Act, by Applicable Law, or by an order of an Arbitrator;

7.4.1.10 the fees of the Arbitrator will be paid equally by the Parties; and

7.4.1.11 subject to Section 44 of the Arbitration Act, the Arbitrator’s determination of a Dispute will be final and binding and there will be no appeal of that determination on any ground.

7.5 Interim Relief

7.5.1 Prior to the appointment of the Arbitrator, the Parties may apply to the courts for interim relief.

7.5.2 At the request of either Party, the Arbitrator may take any interim measures that the Arbitrator considers necessary in respect of the Dispute, including measures for the preservation of assets, the conservation of goods or the sale of perishable goods. The Arbitrator may require security for the costs of those measures.
ARTICLE 8
GENERAL PROVISIONS

8.1 Notices

Any Communication must be in writing and either:

8.1.1 delivered personally or by courier;

8.1.2 sent by prepaid registered mail; or

8.1.3 transmitted by facsimile, e-mail or functionally equivalent electronic means of transmission, charges (if any) prepaid.

Any Communication must be sent to the intended recipient at its address as follows:

to The Corporation of the City of Brantford at:

City Hall
100 Wellington Square
P.O. Box 818
Brantford, Ontario
N3P 5R7

Attention: City Clerk
Tel No.: (519) 759-4150
Facsimile No.: (519) 759-7840

to [LDC Amalco] at:

84 Market Street
Brantford, Ontario
N3T 5N8

Attention:
Tel No.: (519) 751-3522
Facsimile No.: (519) 753-3369

to BII at:

<**>

Attention:
Tel No.: (519) 751-3522
Facsimile No.: (519) 753-3369

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or at any other address as any Party may at any time advise the others by Communication given or made in accordance with this Section 8.1. Any Communication delivered to the Party to whom it is addressed will be deemed to have been given or made and received on the day it is delivered at that Party’s address, provided that if that day is not a Business Day then the Communication will be deemed to have been given or made and received on the next Business Day. Any Communication sent by prepaid registered mail will be deemed to have been given or made and received on the fifth Business Day after which it is mailed. If a strike or lockout of postal employees is then in effect, or generally known to be impending, every Communication must be delivered personally or by courier or transmitted by facsimile, e-mail or functionally equivalent electronic means of transmission. Any Communication transmitted by facsimile, e-mail or other functionally equivalent electronic means of transmission will be deemed to have been given or made and received on the day on which it is transmitted; but if the Communication is transmitted on a day which is not a Business Day or after 5:00 p.m. (local time of the recipient), the Communication will be deemed to have been given or made and received on the next Business Day.

8.2 Severability

Each Section of this Agreement is distinct and severable. If any Section of this Agreement, in whole or in part, is or becomes illegal, invalid, void, voidable or unenforceable in any jurisdiction by any court of competent jurisdiction, the illegality, invalidity or unenforceability of that Section, in whole or in part, will not affect:

8.2.1 the legality, validity or enforceability of the remaining Sections of this Agreement, in whole or in part; or

8.2.2 the legality, validity or enforceability of that Section, in whole or in part, in any other jurisdiction.

8.3 Submission to Jurisdiction

Without prejudice to the ability of any Party to enforce this Agreement in any other proper jurisdiction, each of the Parties irrevocably and unconditionally submits and attorns to the non-exclusive jurisdiction of the courts of the Province of Ontario to determine all issues, whether at law or in equity, arising from this Agreement. To the extent permitted by Applicable Law, each of the Parties:

8.3.1 irrevocably waives any objection, including any claim of inconvenient forum, that it may now or in the future have to the venue of any legal proceeding arising out of or relating to this Agreement in the courts of that Province or that the subject matter of this Agreement may not be enforced in those courts;

8.3.2 irrevocably agrees not to seek, and waives any right to, judicial review by any court which may be called upon to enforce the judgment of the courts referred to in this Section 8.3, of the substantive merits of any suit, action or proceeding; and

8.3.3 to the extent a Party has or may acquire any immunity from the jurisdiction of any court or from any legal process, whether through service or notice, attachment before judgment,
attachment in aid of execution, execution or otherwise, with respect to itself or its property, that Party irrevocably waives that immunity in respect of its obligations under this Agreement.

8.4 Amendment and Waiver

No amendment, discharge, modification, restatement, supplement, termination or waiver of this Agreement or any Section of this Agreement is binding unless it is in writing and executed by the Party to be bound. No waiver of, failure to exercise or delay in exercising, any Section of this Agreement constitutes a waiver of any other Section (whether or not similar) nor does any waiver constitute a continuing waiver unless otherwise expressly provided.

8.5 Further Assurances

Each Party will, at that Party’s own cost and expense, execute and deliver any further agreements and documents and provide any further assurances, undertakings and information as may be reasonably required by the requesting Party to give effect to this Agreement and, without limiting the generality of this Section 8.5, will do or cause to be done all acts and things, execute and deliver or cause to be executed and delivered all agreements and documents and provide any assurances, undertakings and information as may be required at any time by all Governmental Authorities having jurisdiction over the affairs of a Party or as may be required at any time under Applicable Law.

8.6 Assignment and Enurement

Neither this Agreement nor any right or obligation under this Agreement may be assigned by any Party without the prior written consent of the other Party. This Agreement entitles to the benefit of and is binding upon the Parties and their respective successors and permitted assigns.

8.7 Survival

8.7.1 The indemnities set forth in Article 6 will survive and apply to any claim for indemnification that arose prior to the expiration of the Term or earlier termination of this Agreement in accordance with Section 2.2 (the “Termination Date”) or, with respect to such indemnities that relate to the provision of the Services, the Services Termination Date; provided that no claim for indemnification may be made by any Party unless that claim is made within two (2) years following the Termination Date or, with respect to claims for indemnification that relate to the provision of the Services, the Services Termination Date.

8.7.2 Section 4.2.2 and Section 4.2.3 will survive the Termination Date and remain in full force and effect for a period of two (2) years following the Termination Date, provided that provisions therein relating to payments for the Services will survive the Services Termination Date and remain in full force and effect for a period of two (2) years following the Services Termination Date.
8.8 Counterparts

This Agreement may be executed and delivered by the Parties in one (1) or more counterparts, each of which will be an original, and each of which may be delivered by facsimile, e-mail or other functionally equivalent electronic means of transmission, and those counterparts will together constitute one and the same instrument.

8.9 Electronic Signatures

Delivery of this Agreement by facsimile, e-mail or other functionally equivalent electronic means of transmission constitutes valid and effective delivery.

8.10 Termination of Agreements

All agreements and arrangements pursuant to which the City provides services to BHI, including the Agreement date are hereby terminated and obligations thereunder discharged, other than those intended to survive termination thereof.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]
Each of the Parties has executed and delivered this Agreement as of the date noted at the beginning of this Agreement.

THE CORPORATION OF THE CITY OF BRANTFORD

Per: ____________________________
    Mayor

______________________________
    Clerk

[LDC AMALCO]

Per: ____________________________
    Name:
    Title:

Per: ____________________________
    Name:
    Title:

BRANTFORD HYDRO INC.

Per: ____________________________
    Name:
    Title:

Per: ____________________________
    Name:
    Title:
SCHEDULE A
DEFINED TERMS
Community Engagement Findings
Merger Exploration Opportunity

June 24 – July 23, 2021
# Energizing Our Future

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</tbody>
</table>
**Energizing Our Future**

**Introduction**

- Councils for the City of Cambridge and the Township of North Dumfries completed their independent reviews on a possible merger framework between Energy+ Inc. and Brantford Power Inc. The next step in the merger exploration process was to collect community-wide input and feedback.

- A centralized website [EnergizingOurFuture.ca](http://EnergizingOurFuture.ca) was developed for customers and communities to learn more about the potential merger, ask questions, and provide feedback about the future of the local hydro companies.
Energizing Our Future

Community Engagement Background

- Community engagement and feedback was gathered over four weeks (June 24 - July 23, 2021). Due to pandemic restrictions, the community engagement was conducted online.

- Public input and feedback is being shared with municipal Councils to help inform decisions moving forward.

- The community engagement process was a collaboration between the Municipal Communications staff at the City of Cambridge and Township of North Dumfries and Communications staff at Energy+ Inc.
Community Engagement Objectives

Ensure the residents and businesses were informed about and had opportunities to comment on the potential merger exploration.

- Offer convenient, easy to access options to provide input, ask questions relating to a potential merger.
- Encourage engagement from the community, drive awareness and participation.
- Gather input from the community to ensure the community members' views are considered in the Shareholders’ “Go/No Go” merger decision.
- Feedback will help inform the Shareholders’ Go/No Go decision.
- Community Engagement to occur over four-weeks
Community Engagement Messages

Consistent messaging to inform customers and communities in proactive, transparent ways,

• Your feedback is welcomed. Learn more be informed. Visit EnergizingOurFuture.ca to learn about what a potential hydro merger could mean for customers, communities and shareholders.

• If you have questions or want to comment, we encourage you to complete an online form. We will respond within five business days and will update Frequently-Asked Questions on the website.

• A final decision has not been made.

• Community outreach will be open for four weeks.

• Input will be shared with municipal shareholders.
Energizing Our Future

Engagement Tools & Collateral

engageCambridge portal

Township of North Dumfries website

Website: EnergizingOurFuture.ca

Online Ask a Question Form

Energy+ website
Energizing Our Future

Engagement Tools & Collateral

Utility Customer Bill insert

EnergizingOurFuture.ca

Exploring a Merger Opportunity

Brantford Power and Energy may join together as one to energize our future. We invite you to learn more.

Visit EnergizingOurFuture.ca to learn more and ask questions about the potential merger.

Learn more about a potential merger between Brantford Power and Energy.

Brantford Power Inc. is owned by the City of Brantford. Energy Inc. is owned by the City of Cambridge and the Township of North Dumfries. Together, the municipalities will become one, to manage the holding companies and effectively including Brantford Power Inc. and Energy Inc. A final decision has not been made.

Input from our customers is important.

EnergizingOurFuture.ca

Print Advertising

Exploring a Merger Opportunity

The City of Cambridge and the City of Brantford consider joining together to energize our future. We invite you to learn more about the potential merger.

Input from all community members is important.

EnergizingOurFuture.ca

Social Media

Online Advertising

We're exploring a merger opportunity.

EnergizingOurFuture.ca
Engagement Results and Metrics
Website - EnergizingOurFuture.ca

A central website dedicated to informing, educating and engaging customers and communities about the potential merger:

- Website launched June 24, 2021.
- Online feedback and comments were gathered, responded to and tracked over four weeks.
- Website continues to be accessible to customers and communities, to inform about next steps in the merger exploration process.
Website - EnergizingOurFuture.ca

Age Demographic of Website Users

- Age groups of users on the EnergizingOurFuture website was evenly split.

Source: Google Analytics June 24 to July 23, 2021
Website - EnergizingOurFuture.ca

Unique Users by Community

- Unique users counted only once, no matter how many times they visited the site over the period.
- Majority of users were from Brantford.
- 15% of users on the site submitted an online Ask a Question/Comment.

Source: Google Analytics June 24 to July 23, 2021
Website - EnergizingOurFuture.ca

How Users Arrived on Website

- Majority of users got to the website by directly typing in the URL (i.e., read bill insert, saw print ad).
- Social media posts were successful in driving users to website.

- 76% - Typed URL energizingourfuture.ca
- 13% - Clicked on link in social media post
- 5% - Searched on Google
- 6% - Clicked on link in external website

Source: Google Analytics June 24 to July 23, 2021
Energizing Our Future

Engagement Results: June 24 – July 23, 2021

<table>
<thead>
<tr>
<th>Initiative: Community Engagement Website</th>
<th>Reach</th>
</tr>
</thead>
</table>
| Website [EnergizingOurFuture.ca](EnergizingOurFuture.ca) | Total pageviews: 2,660  
Total users: 801  
Average time on website: 02:31 min. |

Most Frequently Visited Webpages (by pageviews)

1. Homepage  
2. Ask a Question/Comment  
3. Merger Exploration  
4. Key Participants

Total pageviews — total pages viewed. Repeated views of a single page are counted.  
Total users — total users who initiated at least one session during the period.
Online Form - Ask a Question/Comment

Volume Questions/Comments by Community

- CAMBRIDGE
- NORTH DUMFRIES
- BRANT
- BRANTFORD

See Appendix A for Summary of Questions and Answers gathered June 24 to July 31, 2021.
Online Form - Ask a Question/Comment

Questions/Comments By Theme/Community

See Appendix A for Summary of Questions and Answers gathered June 24 to July 31, 2021.
Online Form – Ask A Question/Comment

Summary of Questions/Answers by Theme by Community

<table>
<thead>
<tr>
<th>Theme</th>
<th>City of Cambridge</th>
<th>Township of North Dumfries</th>
<th>County of Brant</th>
<th>City of Brantford</th>
<th>Summary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rates/Bill Impact</td>
<td>4</td>
<td>1</td>
<td>2</td>
<td>13</td>
<td>20</td>
</tr>
<tr>
<td>Benefits of Merger</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>13</td>
<td>14</td>
</tr>
<tr>
<td>Ownership/Control</td>
<td>3</td>
<td>0</td>
<td>0</td>
<td>2</td>
<td>5</td>
</tr>
<tr>
<td>Innovation/Green Energy</td>
<td>2</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>3</td>
</tr>
<tr>
<td>Potential Job Loss</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Reliability/Service</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>TOTAL QUESTIONS SUBMITTED</td>
<td>9</td>
<td>3</td>
<td>2</td>
<td>33</td>
<td>47</td>
</tr>
</tbody>
</table>

See Appendix A for Summary of Questions and Answers gathered June 24 to July 31, 2021.
**Engagement Results:** June 24 – July 23, 2021

<table>
<thead>
<tr>
<th>Initiative: Online - Ask a Question/Comment Form</th>
<th>Reach</th>
</tr>
</thead>
</table>
| Online Form – Ask a Question/Comment             | Pageviews: 308  
Average time on web page: 03:10 min.  
Total forms submitted: 47  
- Cambridge: 9 (19%)  
- North Dumfries: 3 (7%)  
- Brant County: 2 (4%)  
- Brantford: 33 (70%) |

See Appendix A for detailed Summary of Frequently Asked Questions (June 24, 2021 – July 31, 2021)
Results - Online and Print Advertising

To increase outreach and build awareness of the merger exploration, drive traffic to the Merger Explore website and encourage customer input:

- Weekly online and print ads were placed in Cambridge Times, Ayr News and Brantford Expositor (June 29 to July 22).
- Print ads had 155,500 impressions
- Online ads had 36,000 impressions
- Media coverage achieved 8 times
## Engagement Results: June 24 – July 23, 2021

### Initiative: Online and Print Advertising

<table>
<thead>
<tr>
<th>Initiative</th>
<th>Reach</th>
</tr>
</thead>
<tbody>
<tr>
<td>Print</td>
<td>• Ads: 6</td>
</tr>
<tr>
<td></td>
<td>• Size: Half Page</td>
</tr>
<tr>
<td></td>
<td>• Total Impressions: 155,500</td>
</tr>
<tr>
<td></td>
<td>Cambridge Times, Ayr News</td>
</tr>
<tr>
<td></td>
<td>• Cambridge Times (July 8, 15, 22)</td>
</tr>
<tr>
<td></td>
<td>• Ayr News (June 30, July 7, 14)</td>
</tr>
<tr>
<td>Online</td>
<td>• Clicks: 36 Interactions: 2,932</td>
</tr>
<tr>
<td></td>
<td>• Impressions: 34,900</td>
</tr>
<tr>
<td></td>
<td>• Interactions: 384</td>
</tr>
<tr>
<td></td>
<td>• Impressions: 1,298</td>
</tr>
<tr>
<td></td>
<td>• CambridgeTimes.ca – News Takeover (June 29, July 6, 13)</td>
</tr>
<tr>
<td></td>
<td>• AyrNewsOnline.ca (June 29, July 6, 13)</td>
</tr>
<tr>
<td>Media Coverage</td>
<td>• Stories: 8</td>
</tr>
<tr>
<td></td>
<td>See Appendix B for copies of media coverage (June 24, 2021 – June 30, 2021)</td>
</tr>
<tr>
<td></td>
<td>• Cambridge Today, Cambridge Times</td>
</tr>
<tr>
<td></td>
<td>• Ayr News</td>
</tr>
<tr>
<td></td>
<td>• Brantford Expositor</td>
</tr>
<tr>
<td></td>
<td>• The Record, Waterloo Chronicle</td>
</tr>
<tr>
<td></td>
<td>• Norfolk Tillsonburg News</td>
</tr>
</tbody>
</table>

**Impressions:** #Times people saw the posts.  
**Engagements:** #Times people interacted with the posts (liked, re-tweet, shared, commented).  
**Reach:** #People that saw the posts.
Results - City of Cambridge

The City directed the public to the central website for information and to submit questions via:

- Joint news release
- engageCambridge
- Social media
### Engagement Results: June 24 – July 23, 2021

<table>
<thead>
<tr>
<th>Shareholder: City of Cambridge</th>
<th>Reach</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Media Coverage</strong> – Cambridge Times, CBC, Kitchener Today, Waterloo Chronicle, CTV, The Record, Kitchener Today</td>
<td>Number of Articles: 7</td>
</tr>
<tr>
<td><strong>Social Media – Twitter and Facebook</strong></td>
<td>Number of posts: 8, Impressions: 7,176, Engagements: 155, Comments: 3 (Facebook)</td>
</tr>
<tr>
<td><strong>engageCambridge portal</strong></td>
<td>Portal visits: 49, Number of comments: 0</td>
</tr>
<tr>
<td><strong>Incoming messages to Customer Service Centre/Mayor’s Office</strong></td>
<td>Number of emails: 0, Number of phone calls: 0</td>
</tr>
</tbody>
</table>

Impressions: #Times people saw the posts.
Engagements: #Times people interacted with the posts (liked, re-tweet, shared, commented).
Reach: #People that saw the posts.
Results - Township of North Dumfries

The Township directed the public to the central website EnergizingOurFuture.ca for information and to submit questions via:

- Joint news release
- Township website
- E-Blast newsletter
- Social media
## Engagement Results: June 24 – July 23, 2021

<table>
<thead>
<tr>
<th>Shareholder: Township of North Dumfries</th>
<th>Reach</th>
</tr>
</thead>
<tbody>
<tr>
<td>Social Media – Twitter and Facebook</td>
<td>Number of posts: 12 (7 retweets)</td>
</tr>
<tr>
<td></td>
<td>Impressions: 2,039</td>
</tr>
<tr>
<td></td>
<td>Engagements: 78</td>
</tr>
<tr>
<td></td>
<td>Comments: 1 (Facebook)</td>
</tr>
<tr>
<td>Dedicated webpage – northdumfries.ca</td>
<td>Pageviews: 26</td>
</tr>
<tr>
<td>Township Eblast</td>
<td>Sent to 683 subscribers</td>
</tr>
<tr>
<td>Incoming messages to Customer Service Centre/Mayor’s Office</td>
<td>Number of emails: 0</td>
</tr>
<tr>
<td></td>
<td>Number of phone calls: 0</td>
</tr>
</tbody>
</table>

**Impressions:** #Times people saw the post.
**Engagements:** #Times people interacted with the posts (liked, re-tweet, shared, commented)
**Reach:** #People that saw the posts.
Results - Energy+ Website

To raise awareness of the potential merger and direct traffic to the Merger Exploration website and encourage customer input:

- Homepage banner viewed by 12,295 visitors.
- Interior webpage viewed 158 times.
Results - Energy+ Bill Insert

To raise awareness and inform all utility customers of the potential merger, drive traffic to Merger Exploration website and encourage customer input:

- 68,000 print and electronic bill inserts delivered to every utility residence and business, over 30-day period.
- 75% of website traffic came from users typing in URL of EnergizingOurFuture.ca website directly (ie. read bill insert or saw community advertising).
- Copies distributed at Shareholders’ Customer Service Centres.
Results - Energy+ Customer E-Blast

To increase outreach and build awareness of the merger exploration, drive traffic to the Merger Exploration website and encourage customer input:

- Distributed to 833 utility customer subscribers via Constant Contact on July 14, 2021.
- Using CASL-compliant customer list.
- 40% open rate; 0 click-throughs.
Results - Social Media

To increase outreach and build awareness of the merger exploration, drive traffic to the EnergizingOurFuture.ca website and encourage customer input:

- Calendar of messages and images created, scheduled.
- Social media reach – 15,314 followers reached, educated, made aware.
- Social media engagement - 290 engagements with posts where users liked, commented, shared the post.
- Three negative comments received.
**Engagement Results:** June 24 – July 23, 2021

<table>
<thead>
<tr>
<th>Utility: Energy+ Inc.</th>
<th>Reach</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Energy+ Inc website energyplus.ca</strong></td>
<td>Pageviews homepage: 12,925</td>
</tr>
<tr>
<td></td>
<td>Pageviews interior page: 158</td>
</tr>
<tr>
<td><strong>Social Media – Twitter and Facebook</strong></td>
<td>Number of Posts: 40</td>
</tr>
<tr>
<td></td>
<td>Impressions: 15,314</td>
</tr>
<tr>
<td></td>
<td>Engagements: 290</td>
</tr>
<tr>
<td></td>
<td>Comments: 3</td>
</tr>
<tr>
<td><strong>Bill insert to Energy+ customers</strong></td>
<td>Print: 55,000</td>
</tr>
<tr>
<td></td>
<td>Electronic: 15,000</td>
</tr>
<tr>
<td><strong>E-Blast to Customers Subscribed to eNews</strong></td>
<td>Sent: 833</td>
</tr>
<tr>
<td></td>
<td>Open rate: 40% Clicks: 0</td>
</tr>
<tr>
<td><strong>Incoming messages to Customer Care Call Centre</strong></td>
<td>Number of emails: 0</td>
</tr>
<tr>
<td></td>
<td>Number of phone calls: 1</td>
</tr>
</tbody>
</table>
Closing Take-Aways

Overall, the response by residents and businesses in the City of Cambridge, Township of North Dumfries and Count of Brant throughout the Community Engagement process could be classified as moderate.

Throughout the engagement process there was no overwhelming movement for or against the proposed merger of Energy+ and Brantford Power.

The most common issue raised was the impact on rates/hydro bill, followed by questions about ownership/control.

Residents in the communities expressed an interest in the shareholders sharing details about the proposed transaction, the full impact and next steps.
Contacts/Questions

Community Engagement / Communications Team:

City of Cambridge – hillers@cambridge.ca
Township of North Dumfries – mpoissant@northdumfries.ca
Energy+ Inc. – communications@energyplus.ca