

THIS OFFER TO CONNECT AGREEMENT (the “**Agreement**”), is made on the ____ day of _____, 20__ (the “**Effective Date**”) as between **INNPOWER CORPORATION** (“**IPC**”) and _____ (the “**Developer**”, collectively with IPC known as the “**Parties**” and individually as the “**Party**”) for the **Plan of Subdivision** known as _____.

WHEREAS IPC is a local distribution company and owns and operates the Electrical Distribution System (the “**EDS**”) in the Town of Innisfil (the “**Town**”) and City of Barrie (the “**City**”) annexed Lands;

AND WHEREAS the Developer is the registered owner of the lands located in IPC’s service territory (the “**Lands**”) and intends to develop the Lands connected to the EDS into a Subdivision as described in Schedule ‘A’;

AND WHEREAS the development of the Lands necessitates an Expansion of EDS, including the construction of new electrical distribution facilities and the Connection of such facilities to the existing IPC EDS;

AND WHEREAS the Parties wish for IPC or the Developer, as applicable, to design, construct and install the Expansion in accordance with this Agreement and the Ontario Energy Board – Distribution System Code (the “**DSC**”), and the Developer has agreed to make the related financial arrangements and other arrangements as provided in this Agreement;

AND WHEREAS IPC and the Developer acknowledge that the financial requirements set forth in this Agreement are governed by and subject to the DSC.

AND WHEREAS IPC has adopted a document entitled Conditions of Service (the “**COS**”), as required under the DSC, which further prescribes general terms and conditions governing the Connection to the EDS and the relationship to IPC;

NOW THEREFORE, in consideration of the mutual covenants, conditions and agreements herein contained, other good and valuable consideration the sufficiency and receipt of which is hereby acknowledged, the Parties hereto covenant, promise and agree as follows:

1. DEFINITIONS AND INTERPRETATION

For the purposes of this Agreement, defined terms used herein shall have the meanings given hereunder:

“**Agreement**” means this Offer to Connect Agreement as it may be amended, supplemented or restated from time to time and includes any Schedule(s) hereto.

“**Ancillary Costs**” has the meaning given to it in Section 14(e) of this Agreement.

“**Applicable Laws**” means any applicable law, including any statute, legislation, treaty, regulation and any applicable guideline, directive, rule, standard, requirement, policy, order, judgment, injunction, award or decree of a Governmental Authority.

“**Capital Contribution**” means capital contribution the Developer is required to pay to IPC in respect of the Expansion, as determined by IPC in accordance with the terms of the DSC.

“**City**” has the meaning given to it in the recitals.

“**Communication**” has the meaning given to it in Section 33 (Notice), of this Agreement.

“**Conditions of Service**” or “**COS**” means the document titled conditions of service developed by IPC in accordance with the DSC that describes the operating practices and connection rules for the LDC. The COS are available online IPC’s website.

“**Connection**” means the process of installing and activating Connection Assets in order to distribute electricity to a Customer; and “**Connect**” and “**Connecting**” shall have a corresponding meaning.

“**Connection Assets**” means that portion of the EDS used to connect a Customer to the existing main EDS, and consists of the assets between the point of connection on IPC’s main EDS and the Ownership Demarcation Point (as defined in the Conditions of Service) with that Customer.

“**Connection Horizon**” means the connection horizon for the Expansion specified by IPC in writing, failing which it shall be a five (5) year period, starting from the energization date of the Expansion.

“**Consumer**” means a person who uses, for the person’s own consumption, electricity that the person did not generate.

“**Contestable Work**” means work as identified by IPC that can be completed by either IPC if the Developer selects Option A, or by the Developer or the Developer’s Qualified Contractor if the Developer selects Option B.

“**CUP or Composite Utility Plan**” means the design drawings in plan view showing all above and below grade utilities including EDS, streetlight, telephone, cable TV and gas systems.

“**Customer**” means a person that has contracted for or intends to contract for Connection of a building; and Customer includes without limitation, developers of residential subdivisions and may include the Developer.

“**Damage Deposit**” has the meaning given to it in Section 13(e)(iii) of this Agreement.

“**Developer**” has the meaning given to it in the first page of this Agreement.

“**Distribute**” means to convey electricity at voltages of 50 kilovolts or less, and “**Distributing**” shall have a corresponding meaning.

“**Distributor**” means a person who owns or operates a distribution system, including the IPC.

“**DSC**” means the Distribution System Code as approved and published by the Ontario Energy Board and as amended and restated from time to time.

“**Economic Evaluation**” means the economic evaluation modelling completed by IPC for the Expansion in accordance with the terms of the DSC.

“**EDS**” or “**Electrical Distribution System**” means IPC’s system for Distributing electricity, and includes any structures, equipment or other things used for that purpose.

“**Effective Date**” has the meaning given to it in the first page of this Agreement.

“**Electrical Safety Authority**” means the person or body designated as the “Authority” pursuant to Part VIII of the Electricity Act, or its successor.

“**Event of Default**” has the meaning given to it in Section 32 (Breaches of Agreement) of this Agreement.

“**Expansion**” has the meaning ascribed to such term in the DSC and means the modification or addition to the existing EDS in response to the Developer’s request for additional Customer Connections that otherwise could not be made as further described in Schedule ‘B’ (Scope of Work for Expansion). For example, an Expansion may include a) building a new line to serve the Customer; b) rebuilding a single phase line to three phase to serve the Customer; c) rebuilding an existing line with a larger conductor to serve the Customer; d) rebuilding or overbuilding an existing line to provide an additional circuit to serve the Customer; e) converting a lower voltage to operate at a higher voltage; f) replacing a transformer to a larger kVA or MVA size; g) upgrading a voltage regulating transformer or station to a larger MVA size; and h) adding or upgrading capacitor banks to accommodate the Connection of the Customer as per DSC.

“**Expansion Deposit**” shall be the deposit or security the Developer is required to provide IPC in respect of the Expansion, as determined by IPC in accordance with the terms of the DSC. The Expansion Deposit may be reduced in accordance with the terms of the DSC.

“**Final Acceptance**” means the end of the Warranty Period, and upon completion of a final inspection by IPC; confirmation that the Expansion is absent of any deficiencies and that all conditions and covenants of the Developer as per this Agreement have been satisfied to IPC’s satisfaction, as evidenced by Schedule ‘H’ - Certificate of Final Acceptance issued by IPC.

“**Force Majeure Event**” shall have the meaning ascribed to it in Section 24.

“**Governmental Authority**” means any court or governmental department, commission, board, bureau, agency, or instrumentality of a country, or of any province, municipality, city, town or other political jurisdiction in such country having or purporting to have jurisdiction over a Party in respect of this Agreement.

“**IPC**” means InnPower Corporation.

“**Joint Use Trench or JUT**” shall mean a common utility trench which may include in addition to the EDS one or all of the other utilities being telephone, cable television, streetlights, and / or gas. Shall gas be included within the JUT, it shall be installed as to maintain minimum clearance from the electrical trench as per Ontario Electrical Safety Code.

“**Lands**” has the meaning given to it in the recitals and as per Schedule ‘A’.

“**Non-Contestable Costs**” means the costs associated with the Non-Contestable Work. Costs such as inspection, termination, basic and system connections, legal, surveying and engineering charges are Non-Contestable Costs.

“**Non-Contestable Work**” means work as identified by IPC that cannot be completed by the Developer or the Developer’s Qualified Contractor if the Developer selects Option B, as further described in Section 7(d)(i)(1).

“**Ontario Electrical Safety Code**” – means the code adopted by the Electrical Safety Authority pursuant to O. Reg. 164/99.

“**Ontario Regulation 22/04**” is the Province of Ontario regulation that establishes electrical distribution safety that establishes objective based electrical safety requirements for the design, construction, and maintenance of electrical distribution systems owned by licensed Distributors.

“**Option A**” means the Developer’s decision to have IPC complete any Contestable Work. For clarity, IPC will also complete the Non-Contestable Work.

“**Option B**” means the Developer’s decision to complete only the Contestable Work itself using a Qualified Contractor in accordance with IPC’s requirements, standards and specifications.

“**Plans**” and “**Plans and Specifications**” mean the EDS design drawings, standards and specifications that have been approved by IPC and included in Schedule ‘I’.

“**Preliminary Acceptance**” means IPC’s confirmation that the Expansion has been supplied and installed in accordance with the Plans and this Agreement and is absent of any deficiencies, as evidenced by Schedule ‘G’ - Certificate of Preliminary Acceptance issued by IPC.

“**Processes and Procedures**” means the IPC processes and procedures governing any work associated with the EDS.

“**Qualified Contractor**” means a contractor licensed in the Province of Ontario and in accordance with all the Applicable Laws that has been pre-qualified by IPC through IPC’s pre-qualification process.

“**Schedule**” means a schedule attached to this Agreement.

“**Security**” has the meaning given to it in Section 15 (Purpose of Security) and Section 16 (Form of Security).

“**Subdivision**” means, the Lands being developed, as further detailed in Schedule ‘A’, that have a minimum of two (2) residential units or more and require an expansion of the EDS that may include all or parts of overhead or underground primary and secondary cable(s) to feed the subdivision along with secondary pedestal(s), pad-mounted transformer(s), primary switchgear units or other means of underground or combination of underground and overhead EDS to provide power to the subdivision.

“**Third Party Work**” has the meaning given to it in the InnPower Process and Procedures: Scope of Work under Option B.

“**Town**” has the meaning given to it in the recitals.

“**Transfer Price**” has the meaning given to it in Section 19(c).

“**Warranty Deposit**” has the meaning given to it in Section 16(c) and 16(d).

“**Warranty Period**” means a two (2) year time period beginning and ending with written notification by IPC under Option B only, during which the Developer is responsible to guarantee the Expansion work and electrical installation, including both civil and electrical materials.

2. INTERPRETATION

- (a) In the event of any inconsistency between this Agreement, the Conditions of Service and the Processes and Procedures, the following descending order of priority will prevail: (i) this Agreement; (ii) the Conditions of Service; and (iii) the Processes and Procedures.
- (b) Any reference to a particular “Article”, “section”, “paragraph” or other subdivision is a reference to the specified Article, section, paragraph or other subdivision of this Agreement unless otherwise expressly stated.
- (c) The words “herein”, “hereof”, “hereto” and “hereunder” and other words of similar import refer to this Agreement as a whole and not to any particular Article, section, paragraph or other subdivision of this Agreement.
- (d) Words importing the masculine gender include the feminine or neutral gender and words in the singular include the plural, and vice versa.
- (e) The headings appearing in this Agreement are inserted for convenience or reference only and shall not affect the construction or interpretation thereof.
- (f) Any reference in this Agreement to a statute or a provision thereof shall be construed as a reference to that statute or provision as amended, assigned or re-enacted from time to time and shall include regulations and other subordinate legislation, as amended, assigned or re-enacted from time to time, made under that statute or provision thereof.

3. IPC Processes and Procedures

The Developer agrees to abide by the Processes and Procedures, including those listed in Schedule ‘F’ (Processes and Procedures) to this Agreement. IPC may in its sole and absolute discretion amend, supplement or replace any of its Processes or Procedures from time to time.

4. SCOPE OF WORK

A high level description of the scope of work for the Expansion is set out in Schedule 'B' (Scope of Work for Expansion). This description will differentiate between Contestable Work and Non-Contestable Work.

5. REPRESENTATION, WARRANTIES AND COVENANTS

(a) The Developer represents and warrants as follows and acknowledges that IPC is relying on such representations and warranties in entering into this Agreement:

(i) The Developer is registered or otherwise qualified to carry on business in the Province of Ontario and has the requisite power to enter into this Agreement and to perform its obligations hereunder;

(ii) this Agreement has been duly authorized, executed, and delivered by the Developer and is a valid and binding obligation of the Developer enforceable in accordance with its terms except as such enforcement may be limited by bankruptcy, insolvency and other laws affecting the rights of creditors generally and except that equitable remedies may only be granted in the discretion of a court of competent jurisdiction;

(iii) The execution and delivery of this Agreement by the Developer will not result in the breach or violation of any of the provisions of, or constitute a default under, or conflict with or cause the termination, cancellation or acceleration of any material obligation of the Developer under:

(1) Any contract or obligation to which the Developer is a party or by which it or its assets may be bound, except for such defaults or conflicts as to which requisite waivers or consents have been obtained;

(2) the articles, by-laws or other documents, or resolutions of the directors or shareholders of the Developer;

(3) any judgment, decree, order or award of any Governmental Authority or arbitrator;

(4) any licence, permit, approval, consent or authorization held by the Developer; or

(5) any Applicable Laws,

that could have a material adverse effect on the Developer;

(iv) there are no bankruptcy, insolvency, reorganization, receivership, seizure, realization, arrangement or other similar proceedings pending

against or being contemplated by the Developer, to the knowledge of the Developer, threatened against the Developer;

- (v) there are no actions, suits, proceedings, judgments, rulings or orders by or before any Governmental Authority or arbitrator, or, to the knowledge of the Developer, threatened against the Developer, that could have a material adverse effect on the Developer in connection with construction, maintenance or operation of the Expansion;
 - (vi) all requirements for the Developer to make any filing, declaration or registration with, give any notice to or obtain any licence, permit, certificate, registration, authorization, consent or approval of, any Governmental Authority as a condition to entering into this Agreement have been satisfied;
 - (vii) The Developer is in compliance with all Applicable Laws;
 - (viii) The Developer owns all right, title and interest in and to the Land(s);
 - (ix) The Developer has the experience, skills, personnel, ability and financial capacity to perform and fulfil its obligations hereunder; and
 - (x) to the best of the Developer's information, knowledge and belief, all information, representations, warranties and other matters of fact committed in writing to IPC by the Developer in connection with or arising out of its written request are true and complete in all material respects in the context of the Expansion.
- (b) IPC represents and warrants as follows:
- (i) IPC is registered or otherwise qualified to carry on business in the Province of Ontario and has the requisite power to enter into this Agreement and to perform its obligations hereunder;
 - (ii) this Agreement has been duly authorized, executed, and delivered by IPC and is a valid and binding obligation of IPC enforceable in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency and other laws affecting the rights of creditors generally and except that equitable remedies may be granted solely in the discretion of a court of competent jurisdiction;
 - (iii) The execution and delivery of this Agreement by IPC will not result in the breach or violation of any of the provisions of, or constitute a default under, or conflict with or cause the termination, cancellation or acceleration of any material obligation of IPC under:

- (1) any contract or obligation to which IPC is a party or by which it or its assets may be bound, except for such defaults or conflicts as to which requisite waivers or consents have been obtained;
- (2) the articles, by-laws or other documents, or resolutions of the directors or shareholders of IPC;
- (3) any judgment, decree, order or award of any Governmental Authority or arbitrator;
- (4) any licence, permit, approval, consent or authorization held by IPC; or
- (5) any Applicable Laws,

that could have a material adverse effect on IPC;

- (iv) there are no bankruptcy, insolvency, reorganization, receivership, seizure, realization, arrangement or other similar proceedings pending against or being contemplated by IPC, to the knowledge of IPC, threatened against IPC;
- (v) as at the date hereof, there are no actions, suits, proceedings, judgments, rulings or orders by or before any Governmental Authority or arbitrator, or, to the knowledge of IPC, threatened against IPC that could have a material adverse effect on IPC in connection with the construction, maintenance or operation of the Expansion; and
- (vi) IPC is in compliance with all Applicable Laws.

Except as specifically set forth or referenced in this Agreement, IPC makes no representations, warranties, or conditions, express, implied, statutory or otherwise, regarding any matter, including any implied warranties or conditions of quality or fitness for a particular purpose.

6. DELAYS

- (a) The Developer acknowledges and agrees that IPC will not be responsible for any delays in connection with the Expansion.
- (b) Without limiting the generality of the foregoing, the following may result in delays in the Expansion work: a delay by the Developer in the execution of this Agreement; provision of an Expansion Deposit; posting of the Damage Deposit; provision of a Warranty Deposit; the completion of Contestable Work (if Option B is selected); registration of the Subdivision; release of municipal (911) addresses; approval of the CUP; registration of easements; or the installation of curbs and asphalt.

- (c) The delays as a result of those provided in Section 6(1) above, will result in no connection to the Expansion and therefore delay the energization date of the Subdivision and consequently will delay the Developer's unit closing dates.

7. DSC REQUIREMENTS

- (a) Preliminary Planning and Design
 - (i) The Developer shall provide to IPC in writing all information reasonably requested by IPC that is necessary to complete the preliminary planning and design of the Expansion.
 - (ii) To the best of the Developer's information, knowledge and belief, all information, representations and other matters of fact committed in writing to IPC by the Developer in connection with or arising out of its requested Expansion are true and complete in all material respects. The Developer will promptly notify IPC should any such information change.
 - (iii) IPC shall prepare or cause to be prepared the preliminary planning, design and engineering specifications of the work required for the Expansion. The steps associated with this work are more fully detailed in the applicable Processes and Procedures.
- (b) Delineation of Costs for Preliminary Cost Estimate and Final Capital Cost of the Expansion
 - (i) In determining the amount to be charged to the Developer in order to construct the Expansion, IPC shall identify all Contestable Work and all Non-Contestable Work and the associated costs in accordance with the DSC and its Processes and Procedures.
 - (ii) IPC may, in its sole and absolute discretion, request the Developer to secure the services of a Qualified Contractor to provide an estimate of project costs. If IPC makes such a request, the Developer shall ensure that its Qualified Contractor completes the project estimate in accordance with IPC's Processes and Procedures. IPC may, in its sole discretion, accept or reject a cost estimate prepared by the Developer or a Qualified Contractor.
- (c) Economic Evaluation and Capital Contribution Amount
 - (i) The Parties acknowledge that IPC has performed an Economic Evaluation, the results of which are included in Schedule 'C' - (Option A) & Schedule 'D' - (Option B) - Economic Evaluation and Schedule of Charges.
 - (ii) The specific inputs to determine the Economic Evaluation including financial indicators, build-out forecasts and closing schedule based on

the anticipated Connections on an annual basis for the Connection Horizon are set out in Schedule 'C' - (Option A) & Schedule 'D' - (Option B) - Economic Evaluation and Schedule of Charges of this Agreement.

- (iii) If the Economic Evaluation determines a shortfall between the present value of the projected costs and revenues, IPC will collect the Capital Contribution from the Developer under the terms of this Agreement. The amount of the Capital Contribution is specified in Schedule 'C' - (Option A) & Schedule 'D' - (Option B) - Economic Evaluation and Schedule of Charges.
 - (iv) IPC also requires the Developer to provide an Expansion Deposit in accordance with the DSC, the amount of which shall be specified in Schedule 'C' - (Option A) & Schedule 'D' - (Option B) - Economic Evaluation and Schedule of Charges.
- (d) Offer to Connect
- (i) The Parties acknowledge that IPC has, in accordance with the DSC, made an Offer to Connect the Developer, summarized in this Agreement to:
 - (1) make all connections, terminations, line extensions and alterations to the existing operating EDS related to the Expansion which work may only be performed by IPC, and;
 - (2) supply and install a complete functioning Expansion within the development Lands.
 - (ii) The Non-Contestable Work may only be performed by IPC. The Contestable Work may be performed by either IPC (if Option A is selected) or by the Developer's Qualified Contractor if Option B is selected.
 - (iii) Under Option B, the Qualified Contractor performs all Contestable Work which does not involve existing circuits (Non-Contestable Work) related to the Expansion and connection assets as identified in the electrical servicing plans and specifications.
 - (iv) The Developer acknowledges and agrees to relocate, support or modify at the Developer's expense any existing utility service facilities (pole lines, transformers, and switchgear, primary and secondary cable) necessary to accommodate the Expansion in accordance with IPC's Processes and Procedures. It is the Developer's sole responsibility for the relocation of any of the proposed EDS and streetlight facilities under this Offer to Connect Agreement, that when installed, conflict with driveway locations and any other plant within the Subdivision.

- (e) Rebate for Connection of Unforecasted Customers
 - (i) In the event unforecasted Customers outside the Lands are Connected to the Expansion, during the Connection Horizon as specified in the Economic Evaluation, IPC will complete a re-calculation of the Economic Evaluation in accordance with the terms of the DSC. Such re-calculation shall be made without escalation or interest being applied. In the event such re-calculation results in a Capital Contribution lower than originally determined and paid by the Developer, the Developer who financed the Expansion shall be entitled to a rebate, without interest, based on the apportioned benefit for the remaining period.
 - (ii) Where a developer may request Connection to an Expansion that was previously constructed and paid for by another party and is currently within the Connection Horizon, the developer requesting the Connection to this Expansion shall be required by IPC to contribute to the Expansion based on an equitable formulae. The Developer may receive a rebate if this occurs.

8. DESIGN AND CONSTRUCTION OF THE EXPANSION

- (a) IPC shall design and plan the Expansion of the EDS which includes IPC's obligation to:
 - (i) accommodate distribution substations as necessary;
 - (ii) provide for temporary electrical supply to Customers as required, prior to the availability of initial or back up or looped electrical supply; and
 - (iii) provide supply circuits to streetlight power pedestal or secondary disconnect necessary to operate streetlights, signal systems, signalized and illuminated intersections and other similar plant, as required.
- (b) Where the Developer submits revised plans or requires additional design work, such costs shall be resubmitted to IPC by the Developer to re-calculate the Economic Evaluation for such revised plans or additional design work.
- (c) The cost of designing and planning any development related to the Expansion shall be capitalized using actual costs and shall be included in the Economic Evaluation of the Expansion.
- (d) The cost of the construction of any development related to the Expansion shall be capitalized using actual costs and shall be included in the Economic Evaluation of the Expansion.

9. EASEMENTS

- (a) The Developer shall grant free and clear of all encumbrances, the easements identified in Schedule 'E' (Easements to be conveyed to IPC by the Developer) and/or shall enter into a license agreement in favour of IPC free of encumbrances, as may be required, and shall prepare all necessary easement documents and survey reference plans for registration on title. The Developer agrees to obtain postponements or discharges of any prior mortgage or mortgages on the easements granted in favour of IPC.
- (b) The easements granted in favour of IPC may include Bell Canada, Gas and C.A.T.V. provider whose infrastructure is involved / installed in any part of the Joint Use Trench installation.
- (c) The cost of preparing easement documents and / or reference plans for the EDS in favour of IPC shall be at the expense the Developer.
- (d) All easements in favour of IPC shall be registered against title to the Lands over which the rights and easements are granted.
- (e) Prior to the registration of any easement documents or reference plans on behalf of IPC, the easement documents and reference plan shall be reviewed and approved by IPC and IPC's solicitor. The Developer's Ontario Land Surveyor and solicitor shall be responsible for the preparation of the Reference Plan and associated easement documents. Easement documents and reference plans can be deposited on title of the lands as per Schedule 'A' (Legal Description of Lands) once reviewed and approved by IPC.
- (f) The Developer warrants that the Lands transferred by the Developer to IPC pursuant to this Agreement, including any Lands over which any easement is granted, that there is no substance or material within the easement lands that is prohibited, controlled or regulated by any Governmental Authority including, without limitation, pollutants, contaminants, dangerous goods or substances, toxic or hazardous substance or materials, wastes including without limitation, solid non-hazardous waste, PCB's, asbestos, petroleum, its derivatives, by-products or other hydro carbons, all as defined in or pursuant to any Applicable Law rendered by any governmental or regulatory authority within any of the easement lands.
- (g) The Developer shall ensure that the easement lands are in a clean and tidy condition, graded as required and, if necessary, stabilized against erosion and that they remain so throughout the indefinite easement period. The Developer shall not use or permit the use of such lands for the storing of topsoil or any excavated material or equipment except with the written consent of IPC.
- (h) All easement documents, reference plans shall be completed, deposited and registered on title prior to the EDS being energized.

- (i) Easements shall be in the form of a reference plan or a blanket easement as specified by IPC.
- (j) All proposed switchgear units shall be placed within a minimum 5.0 m x 5.0 m easement. The location of the switchgear unit shall be reviewed and approved by IPC. For all proposed developments, switchgear units shall not be installed within the municipal right of way. Switchgear units shall be installed within school or park blocks, or industrial & commercial blocks and/or Storm Water Management Pond (SWMP) blocks complete with easement(s).

10. EXCLUSIVE COSTS

- (a) The Developer shall be responsible for all of the cost for the design and installation of the streetlight system and associated electrical system and any other costs detailed with the subject plan of subdivision.
- (b) The Developer acknowledges and agrees that in order to provide a proper and reliable EDS for the Lands, looping of the EDS may be required (as further defined in Schedule 'B'). Should additional cost be incurred due to temporary looping (overhead and/or underground) as to the phasing of the subdivision, the Developer agrees to be financially responsible for these costs and these costs will not be included in the Economic Evaluation.
- (c) The Developer shall be responsible for all additional costs incurred due to incorrect staking of lot lines, curbs, grades and other reference points for the electrical contractor.
- (d) The Developer shall be responsible for all associated charges and costs should any changes occur after the approval of the CUP by IPC and the issuance of the "Accepted for Construction" EDS design drawings or any changes causing the relocation and / or adjustment of any part of the EDS installed as part of this Agreement which after IPC inspection is rejected (for example, due to conflict or encroachment of minimum clearances or depth of installation).
- (e) The Developer acknowledges and agrees that the cost for the main trench and the secondary services to the property are based on "frost free" conditions. The Developer agrees to be responsible for all additional costs to remove frost and all additional costs associated with winter work. The Developer agrees to be financially responsible for these costs and these costs will not be included in the Economic Evaluation.
- (f) The supply and installation of the secondary service between the front property line and the location of the meter base (IPC's identified demarcation point) shall be the responsibility of the Developer. The expense of the secondary service lateral shall be that of the Developer / Builder.

11. COMPLIANCE OF APPLICABLE LAWS

The Developer agrees to comply with all Applicable Laws in performing its obligations under this Agreement.

12. OPTION A OR OPTION B

The Developer will choose either Option A as described in Section 13 or Option B as described in Section 14.

13. OPTION A - DEVELOPER ACCEPTS IPC'S OFFER

- (a) The Developer shall be responsible for the following if Option A is selected:
 - (i) pay to IPC the Damage Deposit, Capital Contribution and the Expansion Deposit prior to the commencement of construction of the Expansion;
 - (ii) commence construction in the manner set out in this Agreement within twelve (12) months from the Effective Date of this Agreement;
 - (iii) not to order materials for the development of the Lands until the execution of this Agreement, complete with builders closing dates, site accessibility date as stated in this Agreement, and the review and approval of materials by IPC representative;
 - (iv) enter into a separate agreement with a Qualified Contractor for any Third Party Work including the supply and installation of the joint use utilities and the supply and installation of the streetlight and associated electrical distribution system; and
 - (v) be responsible for the co-ordination and all costs associated with all the Third Party Work.
- (b) The Developer grants to IPC the right to stop, wholly or in part, for reasonable cause or in any emergency whatsoever, any work being carried out in respect to the Expansion.
- (c) IPC's inspector and/or a Qualified Contractor shall maintain records at all times during construction of the Expansion. "As Constructed" sets of drawings showing final adjustments thereon shall be available to the Developer upon request.
- (d) Time is of essence in executing and submitting to IPC the requested letters of credit(s), certified cheques or cash so that major materials can be ordered expeditiously and delivered in time and a Qualified Contractor can be scheduled to complete the EDS installation.

(e) **Financial Responsibility**

Under Option A, the Developer shall provide IPC with:

- (i) the Capital Contribution for the difference between the present value of the revenue of the Expansion less the cost of the Supply and Installation of the EDS, both Contestable Works and Non-Contestable Works, administration, operation and maintenance costs including capital cost allowance (CCA) and applicable taxes;
- (ii) an Expansion Deposit in accordance with Section 16(a). The Expansion Deposit amount is specified as per Schedule 'C' – Option A (Economic Evaluation and Schedule of Charges) and is based on IPC's estimated risk;
- (iii) an irrevocable letter of credit in the name of InnPower Corporation for the Damage Deposit letter of credit in the event of damage to IPC EDS. The Damage Deposit letter of credit shall be 20% of the total cost of the EDS system installation or a minimum of \$10,000.00, whichever is greater (the "**Damage Deposit**"). The Developer shall be responsible for all costs associated with the replacement of the EDS that have suffered damages during construction identified as a deficiency prior to energization and all equipment damaged after energization. The Damage Deposit letter of credit will not be returned to the Developer until the last service is connected or at the end of the Connection Horizon, whichever occurs first. If damage occurs after energization, IPC will repair / replace and invoice the Developer for such work. If the invoice is not paid within ten (10) business days then the invoiced amount will be drawn from the Damage Deposit letter of credit; and
- (iv) a design review deposit in the amount determined by IPC. At the completion of the Expansion, the Developer shall be invoiced for the actual IPC costs for the review and approval of the EDS design drawings and associated administration costs.

14. OPTION B - DEVELOPER SELECTS ALTERNATIVE BID

- (a) If the Developer selects Option B, IPC shall provide the Developer with the scope of work (Plans and Specifications) for the Expansion that the Developer may obtain bids and complete the Expansion through the Option B selection. Such scope of work will be in a manner and in sufficient detail to allow the Developer to readily obtain an alternative bid comparable to the Option A pricing from IPC.
- (b) Where the Customer chooses to pursue an Option B, the Developer will obtain IPC's review and approval of any plans for the design, engineering, layout and work execution for the work that is eligible for Option B to ensure conformance with the IPC's Processes and Procedures, including its

distribution system planning and specifications prior to commencing that work.

(c) **Selection of Contractor and Administration**

- (i) IPC shall provide the Developer with a list of contractors that have been pre-qualified by IPC to do the Contestable Work, among which the Developer may choose any one to perform the Contestable Work eligible for Option B.
- (ii) Such contractors are those who in IPC's sole evaluation are qualified and competent to administer, supervise, and perform a particular scope of work which may be required under this Agreement including procurement of all materials as per IPC approved material list.
- (iii) The Developer shall select, hire, and pay the contractor's costs for the Contestable Work eligible for Option B and assume full responsibility for the installation of the Expansion. The Developer will have the overall responsibility for others who may be employed by the Qualified Contractor to install the Expansion.
- (iv) The Developer shall be responsible for the contract administration and project management of the installation. Under the contract administration and management for Option B, the Developer and or the Qualified Contractor shall be responsible for the acquisition of all required permissions, road occupancy permits, road cut permits and easements and any other permits, permissions and / or approvals required from any other approval agencies.

(d) **Financial Responsibility**

- (i) Under Option B, the Developer shall provide IPC as per Schedule 'D' with:
 - (1) the Capital Contribution for ancillary cost (which is for Non-Contestable Work) in accordance with Section 14(e);
 - (2) the Expansion Deposit in accordance with Section 16;
 - (3) the Damage Deposit in accordance with Section 16;
 - (4) the Warranty Deposit in accordance with Section 16; and
 - (5) the Developer shall be responsible for the costs associated with performing the Contestable Work.

At the end of the Warranty Period, IPC will inspect the equipment and installation of the EDS for deficiencies and forward a report to the

Developer. The Developer will correct all deficiencies noted in the report and once completed, IPC will re-inspect and complete a final inspection and issue a Final Acceptance of EDS prior to IPC assuming the EDS; and

(e) **Financial Responsibility of Developer for Ancillary Costs**

- (i) The Developer's responsibility, in addition to paying the Qualified Contractor for the installation of the EDS under Option B, shall also include, but not be limited to, payment of each of the following (the "Ancillary Costs"):
 - (1) Other connection charges that are not otherwise included in the Economic Evaluation but are in accordance with the DSC, for example charges which covers IPC costs for the connections at the meter base and the supply transformer;
 - (2) Non-Contestable Costs for IPC's inspection, approval and extra administration and project management of the work performed by the Qualified Contractor hired by the Developer to install the EDS and the inspection of the installation of the lateral services from the property line to the meter base location (IPC's demarcation point as per the COS);
 - (3) the Developer's own costs and IPC's costs, not contemplated in this Agreement and not included in the determination of the Capital Contribution amount, and necessitated, among other reasons, directly as a result of the actions of the Developer or Developer's contractor or other project consultants. Such costs may include using a work plan at variance with the plan proposed by IPC, additional material approvals, additional design and engineering, revisions to the design due to changes in the land fabric or general servicing plans by the civil consultant, conflicts with landscape architects drawings, changes in the location of driveways or elevations of the residential unit by the builder or builders' sales staff, additional switching to isolate the EDS, or installation of additional facilities or external contractor services (hydro-vac, excavation, directional bore etc.) or any other reason outside the control of IPC that result in additional costs required to complete the Expansion;
 - (4) legal and surveying costs incurred by IPC with respect the preparation and registration of this agreement, preparation and registration of easement or the completion of any matter herein; and
 - (5) the costs associated with the repair of the EDS during the term of this Agreement, subject to the further provisions. Such costs include repairs of all defects or deficiencies in the installation, or

the workmanship, and shall include responsibility for IPC's costs related to the inspection of repairs and any physical assistance required to facilitate any repair work, including, among others and as an example only, de-energization and re-energization of the EDS.

- (ii) The above noted financial requirements shall be the total cash owing to IPC as Ancillary Costs upon signing of the Agreement by the Developer and shall be made payable to IPC.

15. PURPOSE OF SECURITY

To be clear, the Developer shall deposit the Expansion Deposit and Warranty Deposit (the "Security") with IPC to:

- (a) provide financial security to mitigate IPC exposure to any forecast and asset risk in accordance with the terms of the DSC; and
- (b) ensure that forecasted Connections for the Connection Horizon are realized along with associated revenue.

16. FORM OF SECURITY

- (a) The Expansion Deposit shall be in the form of cash, letter of credit from a bank as defined in the *Bank Act*, S.C. 1991, c.46, or surety bond.
- (b) The security for the Damage Deposit may be in the form of cash, letter of credit issued by a chartered bank approved by IPC, a performance bond issued by any bonding company approved by IPC or such security as may be proposed by Developer and approved by IPC. The Damage Deposit letter of credit must state that it will remain in full force and effect until such time as the last connection has been completed or the 5-year Connection Horizon has expired, whichever occurs first.
- (c) If the Developer proceeds with Option B, IPC shall be allowed to retain and use the Expansion Deposit to cover IPC's costs if IPC must complete, repair or bring up to standard the facilities, to ensure that the expansion is completed to the proper design and technical standards and specifications, and that the facilities operate properly when energized.
- (d) If Option B was chosen, IPC may retain up to ten (10) percent of the Expansion Deposit for a Warranty Period of up to two (2) years (the "**Warranty Deposit**"). This two (2) year Warranty Period begins: (i) when the last forecasted Connection in the Expansion materializes (for residential developments) or the last forecasted demand materializes (for commercial and industrial developments); or (ii) at the end of the Connection Horizon, whichever is first. IPC shall return any remaining portion of the Warranty Deposit at the end of the two (2) year warranty period.

- (e) If the Warranty Deposit or Damage Deposit is in the form of a letter of credit or a surety bond, such letter of credit or surety bond must comply with the following requirements:
 - (i) acknowledge that it is given for the purposes indicated above;
 - (ii) provide that a written statement by IPC that the Developer is in breach or default under the terms of this Agreement together with a demand for the money required to rectify such breach or default is deemed to be sufficient evidence of such breach or default and of the amount required to rectify such breach or default and that it will pay such amount to IPC forthwith;
 - (iii) state that it will remain in full force and effect until such time as the Certificate of Final Acceptance is issued by IPC; and
 - (iv) if the Warranty Deposit or Damage Deposit is in the form of a letter of credit, be in the form of an automatically renewing irrevocable letter of credit from a recognized financial institution with a Dominion Bond Rating Service rating R-1 middle or above.
- (f) If the Warranty Deposit is in the form of cash or an instrument that bears interest, such interest as it is paid shall be added to the amount of Warranty Deposit held by IPC to further guarantee performance and dealt with as part of such Security by this Agreement.

17. DRAWING ON THE SECURITY

- (a) IPC will not draw upon the Security to do any of the Expansion work contemplated by the Plans and Specifications of this Agreement until it has given fourteen (14) days' notice to the Developer that it intends to do so and the purpose or purposes for which it intends to do so and the Developer has failed to take steps that IPC deems are reasonable to rectify the problem or problems that have given rise to the giving of such notice.
- (b) IPC shall be at liberty to use all or part of the securities or deposits of the Developer held by IPC, whenever the Developer has not fulfilled his responsibilities within a timeframe as specified by IPC, or under any or all of the following situations:
 - (i) when the Developer fails to pay for the completion, design, inspection, repair or maintenance of the EDS by its contractor and related sub-contractors and consultants or IPC;
 - (ii) when the Developer, after demand by IPC, fails to provide such easements required by this Agreement, for the purpose of acquiring such easements or alternative easements by expropriation or otherwise; and

- (iii) for the payment of amounts of any invoice rendered to the Developer for work performed by or on behalf of IPC pursuant to this Agreement including the costs incurred by IPC in rectifying any default of the Developer.
- (c) Upon use by IPC of the said Security for any or all of the above situations, the Developer shall then reinstate the Security in order to, at all times, maintain the Security as required by this Agreement.

18. RELEASE OF SECURITY

- (a) Once the facilities are energized and subject to Sections 7(c)(iv) (regarding the collection of Expansion Deposit) and 16(c) (regarding the collection of Warranty Deposit), IPC shall annually return the percentage of the Expansion Deposit in proportion to the actual Connections (for residential developments) or actual demand (for commercial and industrial developments) that materialized in that year (i.e., if twenty (20%) percent of the forecasted Connections or demand materialized in that year, then IPC shall return to the Developer twenty (20%) percent of the Expansion Deposit). This annual calculation shall only be done for the duration of the Connection Horizon. If at the end of the Connection Horizon the forecasted Connections (for residential developments) or forecasted demand (for commercial and industrial developments) have not materialized, IPC shall be allowed to retain the remaining portion of the Expansion Deposit.
- (b) Release of the Security does not relieve the Developer of any obligations under this Agreement.

Subject to Sections 3.2.20, 3.2.21, 3.2.22, 3.2.23, and 3.2.24 of the DSC, the Security will not be reduced or released, as the case may be, until such time as IPC is satisfied that all accounts for the work have been paid and any claims under the Construction Liens Act have been satisfied. Delivery of a Statutory Declaration of Payment from the Developer, Payment Certificates from the Consultant and correspondence stating that all accounts have been paid from both electrical contractor and the consultant, as the case may be, are deemed to be satisfactory evidence of payment unless IPC has actual notice that they are not true.

- (c) Subject to Sections 3.2.20, 3.2.21, 3.2.22, 3.2.23, and 3.2.24 of the DSC when the Certificate of Final Acceptance is issued, IPC will deliver up the Security for cancellation.
- (d) For the final release of the Warranty Deposit letter of credit, a final inspection shall be completed and all deficiencies shall be rectified and a “Final Acceptance of EDS Plant” shall be issued by IPC, prior to final release of the Warranty Deposit letter of credit.

- (e) The Damage Deposit letter of credit will not be returned to the Developer until the last service is connected or the Connection Horizon (5 years) has expired, whichever occurs first.

19. TRANSFER PRICE UNDER OPTION B

- (a) Upon completion and energization of the EDS under Option B and the commencement of the Warranty Period, the Developer shall submit a statement capitalizing the cost of the contestable portion of the EDS (less the street lighting) by the Qualified Contractor. Such statement capitalizing the cost of the contestable portion of the EDS shall be certified by an officer of the Developer's electrical consulting engineer and shall be provided within sixty (60) calendar days of energization of the EDS. If final costs are not received from the Developer within sixty (60) calendar days of energization of the EDS, the initial estimate will be used to confirm the Developer's Capital Contribution amount. The statement capitalizing the cost of the contestable portion of the EDS shall be supported with copies of all invoices, payment certificates and a copy of a statutory declaration of payment from the Developer.
- (b) IPC will determine the Developer's Capital Contribution amount based on the present value (PV) estimated servicing costs (contestable and non-contestable) and the present value (PV) forecasted revenues determined within the Economic Evaluation. The Capital Contribution is typically paid once by the Developer, however, in some cases where a change in the scope of the project results in additional costs, IPC will recalculate the Developer's capital contribution amount upon energization and final cost submitted by the Developer's consultant.
- (c) Upon energization of the EDS and receipt of the final costs from the Developer's consultant, IPC will use the lesser of the Developer's cost under Option B or the cost provided by IPC under Option A (the "**Transfer Price**"). The lesser of the cost shall be used to determine the transfer price and final Capital Contribution of the Expansion.
- (d) Payment of the Transfer Price by IPC to the Developer shall only occur upon submission by all Parties involved in the design, supply and installation of the Expansion, providing IPC satisfactory proof that all invoices related to the Expansion have been paid and all holdbacks have been released.
- (e) Upon the anniversary date of energization, the Developer shall submit to IPC a copy of the unit closing schedule for the Expansion for the past 12 month period from the date of energization. IPC will re-calculate the Economic Evaluation based on final capitalized cost for the Expansion and the actual closing schedules.

- (f) The Economic Evaluation shall be completed as per the DSC and on the anniversary dates for the 5 years after the initial date of energization.

20. LIMITATION OF LIABILITY

- (a) IPC will not be liable to the Developer for any indirect, consequential, exemplary, punitive, special damages, loss of profits or revenue howsoever caused whether arising directly or indirectly as a result of a breach of this Agreement by IPC.
- (b) IPC will not be liable to the Developer for any losses, claims, damages, demands, costs or expenses arising from (i) any breach of this Agreement by IPC, except for any losses, claims, damages, demands, costs or expenses directly related to the gross negligence or wilful misconduct by IPC; (ii) acts or omissions of the Developer or its employees, officers, directors, contractors, subcontractors or agents; and (iii) business interruption losses, loss of contract or loss of goodwill.

21. INSURANCE

- (a) The Developer shall insure against all damages or claims for damage, with a policy from an insurance company satisfactory to IPC. Such policy shall include “InnPower Corporation” as named insured. The policy shall remain in full effect until the Certificate of Final Acceptance has been issued by IPC and all the conditions of this Agreement have been fulfilled by all parties.
- (b) The provision of such insurance coverage shall not be construed as relieving the Developer from responsibility for other and larger claims for which it may be held accountable.
- (c) This policy must comply with the following conditions:
 - (i) the minimum limits shall be five million dollars (\$5,000,000.00) all-inclusive for each incident with no exclusion for blasting;
 - (ii) contain a severability of interest clause and a cross liability clause;
 - (iii) the minimum period of insurance policy coverage shall be twelve (12) months or as otherwise approved;
 - (iv) the policy shall specify that the policy will not be cancelled or allowed to expire; and
 - (v) unless prior notice by registered letter has been received by IPC from the insurance company, or its agent, thirty (30) days in advance of the expiry date.
- (d) The Developer is responsible for all adjustment service costs.

- (e) The Developer shall prove to the satisfaction of IPC from time to time as IPC may require that all premiums on such policy or policies of insurance have been paid and that the insurance is in full force and effect.

22. INDEMNIFICATION

- (a) Until a Certificate of Final Acceptance has been issued by IPC, the Developer shall indemnify and save harmless IPC, its directors, officers, shareholders, employees, and agents from any and all actions, causes of action, suits, claims and demands whatsoever including;
 - (i) any death, bodily injury, sickness, disease or injury of any kind, of any person to the extent caused by an act or omission of the Developer or its Qualified Contractor;
 - (ii) any damage, loss or destruction of any tangible, real, personal or intangible property, to the extent caused by an act or omission of the Developer or Qualified Contractor; and
 - (iii) any negligence or criminal, fraudulent or other wilful misconduct on the part of the Developer or the Qualified Contractor;

which may arise either directly or indirectly from this Agreement by reason of its, or the contractors under its supervision, performing, failing to perform or performing incorrectly any work set out in this Agreement and the plans in any portion of the said plan of subdivision or on lands and/or municipal right of ways adjacent to the said plan of subdivision and all costs incurred in respect thereto.

- (b) The said indemnity shall apply to the Lands including any part of the Lands which have been designated as park, school, and/or storm water management pond (SWMP) blocks and conveyed to a municipality or other public authority.

23. CONSTRUCTION DAMAGE

- (a) If the Developer, its agent or a Qualified Contractor retained by Developer damages IPC's EDS or the Expansion in any manner whatsoever, IPC shall make all necessary repairs at the Developer's expense. If the Developer selects Option B, and the Expansion causes damage to the EDS following energization, IPC shall make all necessary repairs at the Developer's expense. IPC will make such necessary repairs and inform and invoice the Developer for such work which will be due and payable in ten (10) business days.
- (b) Developer shall indemnify and save harmless IPC from any and all costs, losses or expenses arising in connection with Section 23(a) of this Agreement.

24. FORCE MAJEURE

- (a) For the purposes of this section, “Force Majeure Event” means any act of God, labour disturbance, act of public enemy, war, insurrection, riot, fire, storm or flood, earthquake, or explosion; any curtailment, order, regulation, or restriction imposed by governmental, military or lawfully established civilian authorities; or any other cause beyond a Party’s reasonable control.
- (b) Subject to Section 24(c), neither Party shall be held to have committed an event or default in respect of any obligation under this Agreement if prevented from performing that obligation, in whole or in part, because of a Force Majeure Event.
- (c) If a Force Majeure Event prevents a Party from performing any of its obligations under the DSC and this Agreement, that Party shall:
 - (i) promptly notify the other Party of the Force Majeure Event and its assessment in good faith of the effect that the event will have on its ability to perform any of its obligation. If the immediate notice is not in writing, it shall be confirmed in writing as soon as reasonably practicable;
 - (ii) not be entitled to suspend performance of any of its obligations under this Agreement to any greater extent or for any longer time than the Force Majeure Event requires it to do;
 - (iii) use its best efforts to mitigate the effects of the Force Majeure Event, remedy its ability to perform, and resume full performance of its obligations;
 - (iv) keep the other Party continually informed of its efforts; and
 - (v) provide written notice to the other Party when it resumes performance of any obligations affected by the Force Majeure Event.
- (d) Notwithstanding any of the foregoing, settlement of any strike, lockout, or labour dispute constituting a Force Majeure Event shall be within the sole discretion of the Party to the Agreement involved in the strike, lockout, or labour dispute. The requirement that a Party must use its best efforts to remedy the cause of the Force Majeure Event, mitigate its efforts, and resume full performance under this Agreement and the DSC shall not apply to strikes, lockouts, or labour disputes.

25. SCHEDULES

The following list of schedules or any part or parts thereof shall form part of this Agreement and shall inure to the benefit of and be binding upon the Parties hereto and their respective heirs, successors and assigns:

- Schedule 'A' – Legal Description of Lands
- Schedule 'B' – Scope of Work for Expansion
- Schedule 'C' – Developer Summary – Option A (Economic Evaluation and Schedule of Charges)
- Schedule 'D' – Developer Summary – Option B (Economic Evaluation and Schedule of Charges)
- Schedule 'E' – Easements to be Conveyed to IPC by the Developer
- Schedule 'F' – InnPower Processes and Procedures
- Schedule 'G' – Certificate of Preliminary Acceptance
- Schedule 'H' – Certificate of Final Acceptance
- Schedule 'I' – Plans and Specifications

26. FORM OF DOCUMENTS

The Parties hereto shall each execute and deliver all conveyances and deliver all conveyances and deeds in a form suitable for registration, and documents of any kind whatsoever, so that the full intent of this Agreement may be registered against the Lands, and that IPC will provide a release upon fulfillment of the Developer's obligations in this Agreement. Such registration shall be at the instance of IPC and at its sole discretion and at the expense of the Developer.

27. RIGHT OF RE-ENTRY

The Developer reserves unto itself, its successors and assigns and grants to IPC, its successors and assigns an easement to enter or re-enter upon the Property for the purpose of carrying out the requirements of the Developer hereunder. Such easement shall continue and may be exercised at any time for a period of five (5) years following the date of the release of the Developer's obligations hereunder by IPC.

28. ASSUMPTIONS OF DEVELOPER'S OBLIGATIONS

The covenants, agreements, stipulations, declarations and provisions contained herein on the part of the Developer shall run with the Lands and shall be binding upon the Developer, the Developer's successors and assigns and the benefit thereof shall inure to IPC. In the event the Developer commits a default of this Agreement, IPC's obligations under this Agreement shall at the sole option of IPC become null and void and IPC shall conduct itself with respect to the Lands solely in accordance with the DSC and the IPC Conditions of Service. IPC shall demand payment of or draw on the Security to recover any and all costs incurred in relation to this Agreement and return or release any remaining balance.

29. IPC'S DECISION BINDING

Should there be any dispute between the Parties to this Agreement as to the meaning of any specifications or design, or as to the quality or performance of the work, then IPC's decision shall be final and binding upon all Parties.

30. TAXES

The Developer will be responsible for all taxes owed as a result of any changes imposed by Municipal, Provincial or Federal authorities.

31. TERM AND TERMINATION

- (a) The term of this Agreement will begin on the Effective Date and continue until terminated in accordance with its terms.
- (b) This Agreement may be terminated at any time and without penalty by IPC and with notice to the Developer in the event of breach of this Agreement by the Developer.

32. BREACHES OF AGREEMENT

- (a) IPC may terminate this Agreement for cause on written notice for a material breach caused by the Developer that cannot be corrected, and following thirty (30) days' written notice for a material breach that is correctable but is not corrected within such thirty (30) day period (an "**Event of Default**"). For clarity, a material breach includes, but is not limited to, any of the following:
 - (i) a failure to commence construction of the works and services contemplated by this Agreement and the Plans;
 - (ii) a failure to proceed with construction of such works and services after construction has begun;
 - (iii) a failure to remedy any defect in construction of the said works and services;
 - (iv) a failure to properly maintain said works and services;
 - (v) a cancellation of any security given to guarantee performance of this Agreement by the person, corporation or other body issuing such security;
 - (vi) a cancellation of the liability insurance policy deposited by the Developer with IPC pursuant to the terms of this Agreement; and
 - (vii) any other material breach of this Agreement.
- (b) If an Event of Default occurs and is continuing, IPC may, in addition to the remedy set out in Section 32(a),
 - (i) set off any payments due to the Developer against any amounts payable by the Developer to IPC including, at the IPC's option, the amount of any Security provided to IPC pursuant to this Agreement; and

- (ii) draw on all or part of the Security and if the remedy in Section 32(a) has not been exercised, require the Developer to replace such drawn Security with new security.
- (c) No breach of agreement relieves the Developer of any commitments in this Agreement.

33. NOTICE

- (a) Any notice, request, demand, consent or other communication provided or permitted by this Agreement (in each case, “**Communication**”) shall, unless otherwise provided herein, be in writing and given by personal delivery, by courier, sent by registered mail (postage prepaid), transmitted by facsimile copier, or by electronic mail, addressed to the Party for which it is intended at recipient’s address set forth below; provided that either Party may, from time to time, change its contact information for purposes of receipt of any such Communication by giving ten (10) calendar days prior written notice of such change to the other Party in the manner prescribed above in this Section.
- (b) Any Communication made by personal delivery or by courier shall be conclusively deemed to have been given and received on the day of actual delivery thereof, provided that if delivery is made after 5:00 p.m. or on a day that is not a business day, the Communication shall be deemed to have been given and received on the next business day. Any Communication made or given by facsimile copier shall be conclusively deemed to have been given and received on the first business day following the transmittal thereof. Any Communication that is sent by registered mail shall be conclusively deemed to have been given and received on the third business day following the date of mailing but if, at the time of mailing or within three business days thereafter, there is or occurs a labour dispute affecting postal workers that might reasonably be expected to disrupt delivery of documents by mail, the Communication in question shall be given by personal delivery, by courier or transmitted by facsimile copier.
- (c) Developer’s contact information:

Contact Name: _____

Title: _____

Company Legal Name: _____

Operating As Name: _____

Mailing Address: _____

Courier Address: (if different than above): _____

Telephone Number: _____

Facsimile Number: _____

Email _____

- (d) IPC's contact information:

InnPower Corporation
John N. Aseerwatham, P.Eng.
Vice President, Engineering & Operation
7251 Yonge Street, Innisfil, ON L9S 0J3

Telephone Number: 705-431-4321
Facsimile Number: 705-431-5901
Email: johna@innpower.ca

34. GENERAL

- (a) Amendments. This Agreement may be amended only by written agreement signed by all the Parties.
- (b) Entire Agreement. This Agreement, including the Schedules hereto, constitutes the entire agreement of the Parties and supersedes and replaces all previous and contemporaneous communications, representations, understandings and agreements, both written and oral, express and implied, related to the subject matter hereof.
- (c) Waiver. No failure or delay on the part of a Party hereto in exercising any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy. No waiver by a Party hereto of a default hereunder shall operate against such Party as a waiver of such default unless made in writing and signed by the authorized representative of such Party.
- (d) Severability. Should any provision of this Agreement be found to be illegal, invalid or unenforceable, that provision shall be considered separate and severable from the remaining provisions of this Agreement, and the remaining provisions of this Agreement shall remain in force and be binding upon the parties.
- (e) Governing Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. Each Party hereby irrevocably and

unconditionally submits to the exclusive jurisdiction of the courts of the Province of Ontario and all courts competent to hear appeals therefrom.

- (f) Further Assurances. Each of the Parties agrees from time to time hereafter and upon any reasonable request of any other Party, to make or cause to be made all such further acts, deeds, assurances and things as may be required to more effectually implement the true intent of this Agreement.
- (g) Time. Time shall be of the essence in this Agreement and no extension of time or amendment of this Agreement shall operate as a waiver of this provision.
- (h) Survival. Except where terminated expressly or by implication, the rights, obligations and remedies of the Parties contained herein shall survive the expiration or termination of this Agreement for any reason.
- (i) Inurement. This Agreement shall inure to and be binding upon the Parties and their personal representatives, successors and permitted assigns.
- (j) Assignment. Except as otherwise provided for herein, no Party may assign this Agreement without the prior written consent of all other Parties, such consent not to be unreasonably withheld or delayed. IPC may, upon written notice to the other Party, but without its consent, assign this Agreement to an affiliate of IPC.
- (k) Currency. All dollars expressed herein shall be payable in Canadian currency.
- (l) The *ejusdem generis* rule will not apply in interpreting this Agreement.
- (m) No *Contra Preferentum*. Notwithstanding the fact that this Agreement was drafted by the IPC's legal and other professional advisors, the Parties acknowledge and agree that any doubt or ambiguity in the meaning, application, or enforceability of any term or provision of this Agreement shall not be construed or interpreted against the IPC or in favour of the Developer when interpreting such term or provision, by virtue of such fact.
- (n) Counterparts. This Agreement may be executed in any number of counterparts with the same effect as if all Parties hereto had signed the same document. All counterparts shall be construed together and shall constitute one and the same original agreement.

IN WITNESS WHEREOF the Parties hereto have signed this Agreement under the hands of their proper signing officers duly authorized:

[INSERT DEVELOPER LEGAL NAME]

Per:

I have the authority to bind the Corporation

Name, Title

INNPOWER CORPORATION

Walter J. Malcolm, President/CEO

INNPOWER CORPORATION

Jason Reynar, CAO, Town of Innisfil & Board Chair

SCHEDULE 'A'

LEGAL DESCRIPTION OF LANDS

1. Lands

All and singular that certain parcel or tract of land and premises situate, lying and being in the Town of Innisfil, in the County of Simcoe, being composed of _____ on Plan

_____.

2. Plan of Subdivision

See attached surveyed plan of subdivision as referenced on Page 1 of the attached Agreement referred to as the Plan of Subdivision.

3. The Subdivision

The "Subdivision" is to consist of:

- ____ lots with
- ____ detached single family dwelling(s),
- ____ semi-detached single family dwelling(s),
- ____ unit(s) freehold townhomes,
- ____ unit(s) condominium townhomes, and
- ____ private streetlight service,
- ____ municipal streetlight service(s),
- ____ industrial / commercial lot(s)

which subdivision is to be known as _____
subdivision.

Subject to Schedule B hereof, the proposed development of the Subdivision is anticipated to proceed in _____ phase(s) with this Agreement for (____ # of lots / _____ # of units).

SCHEDULE 'B'

SCOPE OF WORK FOR EXPANSION

1. Phasing

This Agreement does not involve any additional phasing / staging of the proposed development.

2. Scope of Work for Expansion

The Parties agree to the following scope of work for the Expansion. Developer will comply with its respective obligations and responsibilities in accordance with the Processes and Procedures.

(a) **Contestable Work (List)**

- [TO BE LISTED AND SPECIFIC TO THE PROJECT]

(b) **Non-Contestable Work (List)**

- [TO BE LISTED AND SPECIFIC TO THE PROJECT]

1. The following activities are not eligible for alternative bid:

(a) distribution system planning; and

(b) the development of specifications for any of the following:

i) the design of an expansion;

ii) the engineering of an expansion; and

iii) the layout of an expansion.

2. Work that requires physical contact with IPC's existing distribution system is not eligible for alternative bid unless IPC decides in any given case to allow such work to be eligible for alternative bid in this Schedule B.

3. Decisions related to the temporary de-energization of any portion of the distributor's existing distribution system are the sole responsibility of IPC.

SCHEDULE 'C'



Developer Summary - Option A

Project	Project #
Developer	Energyization Year

Option A - LDC Installed		Subtotal	HST	Total
Non-contestible Costs				
Legal, survey, engineering, inspection				
Connection charges				
Distribution system connection charges				
Other				
		\$ -	\$ -	\$ -
Contestible Costs				
1830 Poles				
1835 Conductor				
1840 Conduit				
1850 Transformers				
1855 Services				
Other				
		\$ -	\$ -	\$ -
Option A - Grand Total		\$ -	\$ -	\$ -

Economic Evaluation Summary - Estimated	
--	--

Expansion Deposit	
Expansion Deposit - due to LDC prior to commencement of construction	
Warranty Holdback - no warranty holdback under Option A	NIL
Expansion Deposit Available on Connection - refunded annually based on actual connections	\$ -

Discounted Cashflow Calculation	
PV of revenues	
PV of capital, operating costs incl. CCA Tax shield	
Developer Contribution	\$ -

Amount Payable to InnPower (due upon execution of Offer to Connect)	
Expansion Deposit	-
Developer Contribution	-
Damage Deposit	-
Less: Design Deposit	-
HST	-
Total Payable	\$ -

Signature (InnPower Corporation)	Print Name
Title	Date

Signature (Developer)	Print Name
Title	Date

SCHEDULE 'D'



Developer Summary - Option B

Project	Project #
Developer	Energization Year

Option B - Developer Installed		Subtotal	HST	Total
Non-contestible Costs				
Legal, survey, engineering, inspection				
Connection charges				
Distribution system connection charges				
Other				
		\$ -	\$ -	\$ -
Contestible Costs				
1830 Poles				
1835 Conductor				
1840 Conduit				
1850 Transformers				
1855 Services				
Other				
		\$ -	\$ -	\$ -
Option B - Grand Total		\$ -	\$ -	\$ -

Economic Evaluation Summary - Estimated		
Expansion Deposit		
Expansion Deposit - due to LDC prior to commencement of construction		
Warranty Holdback - 10% of deposit retained for 2 year warranty period		
Expansion Deposit Available on Connection - refunded based on actual connections		\$ -
Due to Developer		
Transfer Price		-
Capital Contribution (shortfall from Discounted Cashflow Calculation)		
Due to Developer - refunded at energization		\$ -
Amount Payable to InnPower (due upon execution of Offer to Connect)		
Expansion Deposit		-
Non-contestible Costs Deposit		-
Damage Deposit		-
Less: Design Deposit		-
HST		-
Total Payable to InnPower		\$ -

Signature (InnPower Corporation)	Print Name
Title	Date

Signature (Developer)	Print Name
Title	Date

SCHEDULE 'E'

EASEMENTS TO BE CONVEYED TO IPC BY THE DEVELOPER

Legal Description of Easements to be Conveyed to the Company by the Owner. Referenced on Section 9.

SCHEDULE 'F'

IPC PROCESSES AND PROCEDURES LIST

The following is a listing of the IPC Processes and Procedures as of the date of this Agreement, as the same may be amended, supplemented, or replaced from time to time:

1. PRELIMINARY PLANNING AND DESIGN OF EDS
2. SCOPE OF WORK UNDER OPTION A – IPC INSTALLED
3. SCOPE OF WORK UNDER OPTION B – ALTERNATIVE BID

In addition to its rights as specified in the Agreement, IPC retains the right to add additional Processes and Procedures from time to time.

INNPOWER PROCESS AND PROCEDURES:

PRELIMINARY PLANNING AND DESIGN OF EDS

This document outlines certain processes and procedures of InnPower Corporation (“IPC”) in connection with any work being done on IPC’s electricity distribution system, including a proposed Expansion.

This document shall be deemed to be one of the “Processes and Procedures” referenced in an Offer to Connect Agreement between IPC and a developer or customer.

This processes and procedures document deals with the supply and installation of the electrical distribution system in the InnPower service territory as per the InnPower Plans and Specifications.

- (a) IPC shall prepare or cause to be prepared the preliminary planning, and the engineering standards and specifications of the work required for the Expansion.
- (b) IPC shall prepare or cause to be prepared the master schematic for the development showing proposed route for both primary local (200A) and express (600A) feeders, total number 200 A Underground Residential Distribution (URD) primary feeders, pad mounted switchgear locations and proposed easement locations and the total number of transformers per Red / White / Blue local URD feeders and the total kVA of transformation for the site. Master schematic shall be prepared on the lot fabric complete with all Right of Ways and park, industrial / commercial, and storm water management pond (SWMP) zoned lands and blocks shown.
- (c) IPC shall permit the Developer to prepare electrical design drawings and specifications (the “Plans” and the “Plans and Specifications”) for the installation of all the EDS to be installed and all services to be prepared on the designated development lands less the streetlight locations.
- (d) The streetlight plans and specifications are not part of this Agreement however it is the responsibility of the Developer and the Developer’s consulting engineer to co-ordinate the location of all the electrical apparatuses which shall include transformer(s) / streetlight(s) / switchgear(s) / primary and secondary cable(s) / road crossing(s)) absent of conflict with the civil general servicing plans for the civil services (watermain / storm and sanitary sewers) and landscape architect and architect plans.
- (e) The Developer shall employ an approved electrical design consultants as per IPC’s list of approved engineering consultants, professional engineers that are members in good standing with the Professional Engineers of Ontario, planners, surveyors – Ontario Land Surveyor and consultants that are required to:
 - (i) properly prepare such plans and specifications in conformance with IPC’s drawing, design and material specifications and standards;
 - (ii) coordinate joint trench underground servicing with telephone, cable television, gas utilities as per Town of Innisfil Right of Way Standard(s);

- (iii) provide IPC with a copy of the Composite Utility Plan (CUP) signed by all the respective utilities and submitted to the Town for approval, before the Developer and / or IPC can proceed with any construction within the Subdivision.
- (iv) obtain coordination compliance letters from utilities for the Composite Utility Plan (CUP) and send a copy of the signed off and approved CUP to IPC prior to construction commencement;
- (v) provide construction cost estimates and preliminary and final cost estimates based on the awarded contractors contract price and as per the breakdown required by IPC for Option B – Alternative Bid. IPC will prepare the Capital Cost Estimate for the EDS under Option A – Offer to Connect;
- (vi) issue, receive and review tenders on behalf of the Developer;
- (vii) award and issue construction contracts on behalf of the Developer;
- (viii) receive and review and approve shop drawings for all materials submitted by the Qualified Contractor on behalf of the Developer and IPC. IPC shall also review and approve all shop drawings and certified test reports for all major EDS materials prior to the materials being scheduled for production;
- (ix) inspect the works during construction for construction contract compliance with respect to Ontario Regulation 22/04 under the Electricity Act, S.O. 1998, c.15;
- (x) issue Inspection Certificates as required by Ontario Regulation 22/04;
- (xi) prepare coloured “As Constructed” plans of the installation from data provided by the Developer’s Electrical Engineer and IPC’s inspector, plans complete with cable identification and lengths, 911 address numbers, duct bank configurations, vault cable entry-exit data, critical dimensions, road crossing dimensions and additional information that IPC deems necessary; before any connection to IPC’s existing EDS;
- (xii) provide Letter of Compliance and Conformance that installation has been constructed in accordance with the “Accepted for Construction” design drawings and Specifications;
- (xiii) remedy deficiencies where required. Prior to preliminary and final acceptance of the EDS, IPC shall inspect the works for outstanding maintenance and warranty items and direct the Developer to have all deficiencies remediated where required;
- (xiv) provide IPC with Final Capitalization of Costs based on final quantities and Payment Certificates issued by the Developer’s consulting engineer;
- (xv) provide IPC with annual unit closing schedule for IPC preparation of the economic evaluation. IPC will determine if the closing date schedule provide by the Developer’s builders are obtainable. If a list of builders is not available as of the

Effective Date of the agreement, Developer will provide an initial unit closing schedule noting the builder and the closing date(s). At a future date, the Developer shall provide IPC with an updated and accurate list of builders and their actual closing dates;

- (xvi) all EDS design drawings including “As Constructed” drawings shall be Stamped and Sealed by the Developer’s Electrical Engineer;
 - (xvii) provide IPC with a digital copy of the AutoCAD .DWG (Version 2014) electronic file of the “Accepted for Construction” and “As Constructed” EDS design drawings;
 - (xviii) review, Approve, Sign and Seal all EDS design drawings to be “Absent of Conflict” with all other servicing and design drawings for the subdivision; and
 - (xix) any additional items which may be specifically identified in the Agreement.
- (f) The Developer has appointed _____ (engineer of record) and _____ (electrical engineer) to be its consultants in the preparation of the EDS design drawings.
- (g) The Developer agrees that the Electrical Engineer whose services are to be retained by the Developer receives a copy of this agreement and fully understands their obligations as it pertains to Ontario Regulation 22/04, IPC Condition of Service, IPC Subdivision EDS servicing Standards and Specifications and the Ontario Electrical Safety Code.

INNPOWER PROCESS AND PROCEDURES:

SCOPE OF WORK UNDER OPTION A – IPC INSTALLED

This document outlines certain processes and procedures of InnPower Corporation (“IPC”) in connection with any work being done on IPC’s electricity distribution system, including a proposed Expansion.

This document shall be deemed to be one of the “Processes and Procedures” referenced in an Offer to Connect Agreement between IPC and a developer or customer.

This processes and procedures document deals with the supply and installation of the EDS by InnPower – Option A in the InnPower service territory as per the InnPower Plans and Specifications.

This InnPower Processes and Procedures is applicable where the Developer has elected to proceed with Option A with respect to the Expansion.

1. Scope of Work Related to Option A

- (a) The Developer shall be responsible for the following if Option A is selected:
 - (i) Provide IPC with a certified cheque for the Developers Contribution. The delivery of major material such as switchgear units and pad mounted transformers can be upwards of twenty-six (26) weeks depending upon the time of year. Some of the major materials required for the expansion of EDS under an Option A are not regular IPC stocked inventory items and are only ordered when required. These major materials will only be ordered by IPC upon receipt of Developers certified cheque of the Developers Contribution. IPC shall not be held liable for any delays associated with the delay of the delivery of any major materials shall the Developers Contribution be made less than twenty-six (26) weeks from the closing date of the first units within the subdivision;
 - (ii) Inform the appropriate IPC representative as to when the road base will be ready for road crossings. IPC requires a minimum of thirty calendar (30) days’ notice in order to schedule and mobilize contract crews for road crossing installation. Road crossings shall be installed prior to the installation of curbs and base asphalt. The Developer is responsible for all costs associated with cutting, removing, disposing, and replacing any base asphalt and any curbs that are installed prior to the installation of the road crossings;
 - (iii) provide a date below that IPC contractor(s) will have access to the job site to commence EDS servicing of the site. The available date of the site for the electrical contractor will be: _____;

- (iv) payment of all associated mobilization costs, should IPC contractor be required to leave the site and return due to conditions directly related to Developer or the Developer's civil contractor where the site is not in a condition to complete the EDS installation in one continuous and timely operation. This shall include boulevard clutter and / or the presence of building materials and trades prohibiting IPC contractor in achieving optimal efficiencies of operation as estimated for this Expansion.

All mobilizations subsequent to the 1st mobilization for road crossings and 2nd mobilization for the installation of the EDS will be invoiced to the Developer at \$3,000.00 per mobilization;

- (v) acknowledges that servicing from the property line to the meter base will be the responsibility of the Developer / builder;
 - (vi) inform the builder that the secondary service lateral will not be connected until IPC receives the ESA Connection Authorization (CA); and
 - (vii) IPC shall administer, and construct, the complete Expansion of the EDS in accordance with this Schedule with the exception of the streetlight and associated electrical distribution system and Third Party Work.
- (b) IPC shall not commence construction of the Expansion until:
- (i) the Developer has secured all municipal and provincial approvals (which shall remain in good standing throughout the term of this Agreement), municipal and provincial permits (which shall remain in good standing throughout the term of this agreement), agreements, fees (deposits and securities), and easements as referred herein have been obtained and provided to IPC;
 - (ii) installation of sewer and water facilities, including lateral connections, and paved road bases and curb bases or curbs are complete with the exception of road crossing which will be installed prior to the installation of base asphalt provided that all items as identified by IPC in writing have been secured and submitted to IPC; and
 - (iii) all portions of lands (including but not limited to private lands, boulevards, easements, and right of ways) involved with the Expansion of the EDS are graded to within plus or minus fifteen centimetres (6") of the final grade.

2. Construction of EDS by IPC

- (a) The construction of the EDS by IPC will be initiated only if;
 - (i) If the Developer:
 - (1) fails to commence construction of the works and services;
 - (2) having commenced such construction, fails to complete it within a reasonable time frame;
 - (3) fails to repair or reconstruct faulty work;
 - (b) IPC, after it has issued a stop work order may, at its option, enter onto the property and proceed to commence or to complete such construction or repairs or to reconstruct the faulty work at the Developer's cost.
 - (c) If IPC elects to do any of the required work and supply any of the required materials, it may do it by either;
 - (i) employing the services of an independent contractor, that is prequalified and on IPCs' list of Qualified Contractors, or
 - (ii) supply and install the EDS itself using IPC's own equipment and line crews.
 - (d) If IPC completes the work itself, it shall be entitled to charge:
 - (i) its labour cost at its actual cost plus applicable overheads in effect at the time the work is done;
 - (ii) its equipment cost at the rates from time to time determined by IPC;
 - (iii) its cost of material at its cost plus applicable overhead burdens in effect at the time the work is done.
 - (e) If IPC completes the work itself, it shall be reimbursed for any work done and material supplied. For this purpose, it may call upon the security deposited with IPC to secure performance of this Agreement.
 - (f) If IPC employs the services of an independent contractor to do the necessary work and supply the required materials, it may call upon the security deposited with IPC to guarantee performance of this Agreement to pay the independent contractor.
 - (g) If in doing the work, the securities are not sufficient to reimburse IPC for such work completed or materials supplied, the Developer will pay the balance to

IPC within thirty (30) days after demand has been made for it. If the Developer fails to pay the balance within thirty (30) days after demand, such balance shall bear interest at the rate of interest charged by the bank at which IPC is doing business plus five (5%) per cent both before and after any judgement.

- (h) IPC will be deemed to be the agent of the Developer in doing any work or supplying any materials that are the Developer's responsibility to do or supply. IPC shall not be liable for any breach of authority in doing such work or supplying such materials.

INNPOWER PROCESS AND PROCEDURES:

SCOPE OF WORK UNDER OPTION B – ALTERNATIVE BID

This document outlines certain processes and procedures of InnPower Corporation (“IPC”) in connection with any work being done on IPC’s electricity distribution system, including a proposed Expansion (as that term is defined in the Ontario Energy Board’s *Distribution System Code*).

This document shall be deemed to be one of the “Processes and Procedures” referenced in an Offer To Connect Agreement between IPC and a developer or customer.

This processes and procedures document deals with: the supply and installation of the EDS by the Developer – Option B in the InnPower service territory as per the InnPower Plans and Specifications.

This InnPower Processes and Procedures is applicable where the Developer has elected to proceed with Option B with respect to the Expansion.

1. Scope of Work Related to Option B

- (a) Developer agrees to complete all works as per “Accepted for Construction” plans. The work plan and recording of the installation of the EDS on the field maintained “As Constructed” plans shall comply with Ontario Regulation 22/04.
- (b) Prior to the commencement of the installation of the EDS the Developer shall:
 - (i) Provide written confirmation of the Developer’s proposed contractor at the time this Agreement is executed, in order to ensure that the proposed contractor is as per IPC approved list of Qualified Contractor;
 - (ii) Provide IPC a list of its subcontractors or other persons to be engaged in the construction and installation of the EDS, and obtain IPC’s written approval with respect to all the contractors, subcontractors, or other trades or persons engaged in the construction and installation of the Expansion;
 - (iii) Not substitute any of the Qualified Contractor, subcontractors or other trades or individuals previously identified for the supply and installation of the EDS for this Expansion;
 - (iv) provide a written acknowledgement in a form satisfactory to IPC, from the Developer stating that under no circumstance is IPC liable for any fees or cost of the supply and installation of the EDS by the Developer’s contractor, subcontractors or other persons associated with the construction and installation of the EDS under Option B;

- (v) be responsible for ensuring that all aspects of the construction of the Developers contestable portion of the EDS is conducted in a good and workmanlike manner and shall comply with all applicable requirements of IPC including the approval requirement of any Municipal, Provincial, Federal or regulatory authority and / or agencies.
- (vi) Direct the Developer's Qualified Contractor to be under the direction of IPC with respect to, among other things, start and stop dates, scheduled inspection, extras, changes to the plans, or overtime.
- (vii) For all overtime or work outside of IPC regular hours of work, the Qualified Contractor shall submit a written request noting the date and hours of work to both IPC and the Developer and shall obtain prior approval of from the Developer to proceed, of which a copy of the Developers approval shall be submitted to IPC and the Developer agrees to IPC's extra costs;
- (viii) Be responsible for ensuring that its Qualified Contractor and subcontractors comply with all Applicable Laws, including the Occupational Health and Safety Act, 1990 or latest edition;
- (ix) Be responsible for obtaining all road crossing related approvals from IPC for the EDS design drawings and Town of Innisfil representative for the CUP before any road crossing construction commences. All materials and installation of road crossings shall adhere to IPC specifications and standards and the "Accepted for Construction" plans and specifications. An IPC representative must be informed as to when the road crossing(s) are scheduled for installation a minimum of forty-eight (48 hours) before construction is planned to commence. An IPC field inspector must be present for all road crossing(s) installations. Ideally road crossings shall be installed when road base is to grade, prior to base asphalt and any curbs to ensure that road base and fill below the curb is properly compacted so that settlement will not occur. Road crossing(s) must be installed when the road base is up to grade with Granular A and B materials. Requests to install the road crossings in Granular B material or subgrade shall be at the discretion of IPC;
- (x) Provide a date below that the site will be ready for the EDS installation and that the Developer's Qualified Contractor will have access to the job site to commence the EDS servicing of the site. The Developer shall notify IPC representative a minimum of forty-eight (48) hours before any construction commences so that an IPC field inspector can be on site for any installation of the EDS. The site access date and commencement of the installation of the EDS will be: _____;
- (xi) Submit to IPC and IPC shall approve all aspects of the EDS including without limitation, the work plan, plans and specifications or design

drawings, major approved materials shop drawings and certified test reports (secondary cable, primary cables, pad mounted switchgear units, pad mounted single phase and three phase transformers, sectionalizers, multiplex junction cubicles) to be used, and work methods to be employed. When any major approved materials are not available, IPC will permit the alternative bid electrical contractor to suggest the use of alternative materials. The request to use alternative materials for the project shall be proposed in writing by the Developer's consultant or Qualified Contractor which approval will remain at the discretion of IPC;

- (xii) Provide IPC with copies of all certified test reports for all major materials together with written confirmation that, in the opinion of the Developer that the materials being supplied under this Agreement meet IPC's Standards and Specifications. Approval for use of all materials for the Expansion within the lands shall remain at the discretion of IPC;
- (xiii) Obtain from the suppliers all warranties and guarantees on purchased materials and shall provide written assurances to IPC that these warranties and guarantees shall be in favour of or inure to IPC.

2. Third Party Work

- (i) In addition to the requirements of the DSC, and the necessity for the construction of the proposed EDS, the Developer may wish to or may be required by the Town, or other parties to, supply and install certain other facilities not covered by the requirements of the DSC and this Agreement, including among others, a complete functioning municipal and/or private street lighting system (the "**Third Party Work**").
- (ii) The work details and costs for these work(s) are not covered by nor included in the provisions of this Agreement and is not included in the Economic Evaluations or Capital Contribution.
- (iii) The Developer shall secure a separate contract with an electrical contractor for the supply and installation of the streetlight system and associated streetlight electrical distribution system.
- (iv) The Developer shall employ an electrical contractor to complete all "third party works" which will include all joint use utility participants and shall have a separate contract for the supply and installation of "third party works".

3. Joint Use Trench

Prior to IPC accepting the EDS design and issuing "Accepted for Construction" drawings, the Developer or the electrical consultant shall provide IPC with (a) copies of the Letter of Understanding and copy of the "Approved for Construction" design drawings and (b) a copy of the CUP for joint use utilities that may be included in the Joint Use Trench.

4. Order of Construction

- (a) The Developer shall not commence construction of the EDS until:
 - (i) All design approvals, permits, agreements, fees, and easements as referred herein have been obtained and provided to IPC;
 - (ii) Installation of sanitary sewer, storm sewer and water main, including lateral connections have been completed by the civil contractor;
 - (iii) Road base is complete with Granular A and B have been installed and proof rolled by civil contractor;
 - (iv) The Developer's Ontario Land Surveyor surveys and installs all required IB's and SIB's for benchmarks. Ontario Land Surveyor provides electrical contractor with the final installation grades either by cut / fill stakes or grade / elevation sheets along the trench line and at all transformer, secondary pedestal and switchgear locations;
 - (v) the Developer has paid all cash amounts and posted the required securities and has provided ten (10) business days' written notice to IPC of its intention to commence such construction of the EDS covered under this Agreement;
 - (vi) The Qualified EDS contractor completes EDS layout on site;
 - (vii) The electrical consultant schedules and co-ordinated a preconstruction meeting with all joint use utility participants present and EDS and joint use utility road crossings are co-ordinated and installed prior to base asphalt and base curb. Compaction of 100% Standard Proctor density is required for all excavations of the road base and under all curbs within the subdivision for the road crossings. Compaction of the road crossing trench and under curbs shall be at the expense of the Developer.
 - (viii) Road are paved and curb bases or curbs are complete;
 - (ix) All portions of lands involved with the EDS are graded to within plus or minus fifteen centimetres (6") of the final grade; and,
 - (x) Commencement of main line JUT trench installation along with all transformer, secondary pedestal, streetlight pedestal and switchgear foundations. The Developer acknowledges and agrees that compaction is required when backfilling all excavation required to install the underground EDS. Compaction of 98% Standard Proctor density is required for all trench excavations within the boulevards of the subdivision. Compaction of the trench shall be at the expense of the Developer.

- (b) The Developer shall maintain records at all times during construction of the EDS. "As Constructed" sets of drawings showing final adjustments thereon shall be supplied to IPC when requested but no later than the date of energization. Such records shall be a condition of energization.
- (c) The Developer at his or her own expense agrees to have an Ontario Land Surveyor verify the final installation grades either by cut / fill stakes or grade / elevation sheets along the trench location, transformer and switchgear, sectionalizer, junction locations. Verification of final grades is mandatory for all ditched installation to ensure that top of the transformer and switchgear, sectionalizer, junction foundations are minimum 100 mm and maximum 150 mm above finished grade and to ensure that there will be proper cover over the main trench as per IPC standards and specifications and as per Ontario Electrical Safety Code.

5. Inspection, Supervision and Energization

- (a) The Developer shall give ten (10) business days' notice, whenever its contractor initially commences construction of the EDS, for the purpose of allowing inspection by IPC of the construction methods being employed by the Qualified Contractor.
- (b) IPC shall inspect the EDS following notice from the Developer's contractor or consultant that the EDS has been completed in a good and workmanlike manner in accordance with the designs, plans and specifications approved by IPC.
- (c) IPC may, at its discretion, energize portions of the EDS following satisfactory inspection. The Parties acknowledge that all energized portions of the EDS, notwithstanding any financial, legal, or warranty obligations of the Developer as set out herein, will be considered to have been assumed and to have become the property of IPC.
- (d) Once energized, the Developer shall not work on, alter, use, or otherwise become involved with the energized EDS without IPC's express knowledge, conditions, and approval.
- (e) For energization to occur, all IPC invoices as related to the EDS and this Expansion have been paid in full and that all related easement documents and reference plans have been registered on title.
- (f) IPC shall have the right at all times to enter onto the property to make whatever inspection(s) it may deem necessary or desirable, at a rate of **\$52.80** per hour (H.S.T. is included in the above cost) for IPC regular hours of operation (Monday to Friday – 7:30AM to 6:00PM) and at a rate for double time or **\$105.60** per hour (H.S.T. is included in the above cost) outside of IPC regular hours of operation, payable by the Developer to IPC. Developer's written

approval shall be received prior to IPC and the qualified contractor confirming work schedule.

- (g) The Developer shall provide and maintain clear access to the EDS route for the vehicles and equipment of IPC and both IPC's and the Qualified Contractor during the installation of the EDS.
- (h) The Developer shall be responsible for the protection of the pad mounted transformers, sectionalizers, multiplex junction cubicles, secondary pedestals and switchgear units and any other associated EDS above ground equipment.
- (i) The Developer, at the request of IPC, will provide at no cost to IPC, a secure compound on the construction site within the development lands that will be used to store materials and equipment for the EDS.
- (j) The Developer's Qualified Contractor will provide on-site inspection of the work being done pursuant to this Agreement and with regards to Section 8 of Ontario Regulation 22/04.
- (k) The Developer's Qualified Contractor under Option B shall not cover any portion of the EDS without such portion being first inspected by IPC or an IPC authorized inspector. If the contractor covers or permits to cover parts of the EDS without prior inspection, the Developer's Qualified Contractor shall promptly uncover such works, at the request of IPC, at the Developer's cost so that IPC may inspect the installation. If any of the installation of the EDS is found to be not to the standards and specifications of IPC, the Qualified Contractor can be requested at the Developer expense to open up further amounts of trench and shall correct such deficiencies as noted by IPC field inspector. These occurrences shall be documented in both the projects file and also in the Qualified Contractor file.

6. "As Constructed" Drawings

- (a) The Developer's Qualified Contractor and electrical consultant shall perform the inspection and prepare jointly and submit a single complete set of "As Constructed" drawings prior to energization of the EDS. The "As Constructed" drawings must be signed off by a competent person as defined in IPCs' Construction Verification Program (CVP) as per Ontario Reg. 22/04. Copies of the "Red line" mark ups shall be marked on a copy of IPC "Accepted for Construction" drawing set and shall be submitted to IPC by the developer's electrical consultant. The competent person and/or the Developers electrical consultant shall provide a "Certificate of Inspection" stating that the EDS has been installed in accordance with IPC "Accepted for Construction" drawings and that any changes and / or modifications to the "Accepted for Construction" drawings were reviewed and approved by IPC (Engineering Manager) prior to the installation of the EDS by the Qualified Contractor.

- (b) Final “As Constructed” drawings shall be submitted in both digital PDF and AutoCAD DWG format along with a single set of hard copies on ARCH D (24” x 36”) size bond paper, signed and sealed by the Developer’s electrical engineer prior to energization of the EDS.

7. Time Limits

- (a) The Developer will commence construction of the EDS within six (6) months from the effective date of the Offer to Connect Agreement signed by IPC. The Developer will complete the EDS within twelve (12) months from the date of commencement of construction, with the exception of the lateral services from the property line to the line side of the meter base at the individual units. Shall IPC receive notice to commence construction of the EDS for an expired Offer to Connect Agreement, a project review and possible resubmission may be required due to possible field changes.
- (b) The Developer shall not commence the construction of the EDS until it has provided ten (10) days’ prior written notice to IPC of its intention to commence such construction.
- (c) If for any reason there is a cessation or interruption of construction for seven (7) days, the Developer shall provide forty-eight (48) hours prior written notification to IPC before construction is resumed. The Qualified Contractor shall notify IPC forty-eight (48) hours prior of any cessation or interruption of construction so that IPC shall have sufficient time to notify IPC’s inspector. Failure to provide written notice of any cessation or interruption of construction shall result in the Developer being responsible for the cost of the inspector for a minimum four (4) hour duration.
- (d) If in the maintenance period hereinafter referred to the Developer fails to carry out any maintenance work within three (3) business days after receiving a request from IPC to do so, IPC may without further notice undertake such maintenance work at the Developer’s expense and may recover the expense of the repairs from the Developer.

8. Warranty Period

- (a) Following the installation and satisfactory inspection and full energization by IPC of the EDS in its entirety, IPC shall give the Developer written notice of the commencement of the Warranty Period. During this Warranty Period, if, in the sole opinion of IPC, repairs to the EDS are necessary, IPC will notify the Developer of the repairs to be made and the time within which such repairs are to be made. In the event the Developer fails to make the repairs as set out in the notice or in the event the condition is an emergency or immediate repair is required, IPC without any notice may take such action and complete all repairs to energized the system that are considered necessary and advisable and the Developer shall reimburse IPC for any and all costs of such action.

- (b) Commencement of the Warranty Period requires that:
 - (i) The EDS has been fully installed as per the “Accepted for Construction” design drawings. At the request of the Developer, IPC will complete an inspection of the lands. If any deficiencies exist, these will be noted and a summary of deficiencies will be sent to the Developer or Developer’s consultant. The Warranty Period starts upon the satisfactory completion of all the deficiencies and acceptance of the repairs by IPC. IPC shall provide in writing the start date of the Warranty Period to the Developer or electrical consultant.
 - (ii) “As Constructed” drawings and all major material certified test reports have been received and reviewed and approved; and
 - (iii) All required easement documents and reference plans and/or license agreements have been registered on title of the lands; and
 - (iv) The Developer has delivered a Statutory Declaration confirming that all payment certificates including the holdback and fees have been paid to the electrical contractor and electrical consultant of the EDS, there are no outstanding lien claims or existing liens in respect of any of the services related to the EDS including the supply and installation of the EDS and associated materials, design and inspection of the EDS, all sub-contractor work or materials supplied in the construction or repair or testing of the EDS.

9. Preliminary Acceptance

- (a) IPC will issue a Certificate of Preliminary Acceptance for the services when the EDS has been installed in accordance with the terms of this Agreement and to the satisfaction of IPC.
- (b) The following procedure will be adopted to obtain Preliminary Acceptance:
 - (i) The Developer will notify IPC that the required work has been completed and will deliver to IPC the declarations referred to in paragraph 9(c)(i) to (c)(iii) below.
 - (ii) IPC will inspect the services and make such tests as it deems necessary as soon as it is practicable to do so.
 - (iii) IPC will deliver to the Developer a list of any deficiencies as soon as it is practicable to do so after completing field inspections and tests. The Developer will correct such deficiencies and request a follow-up inspection.
 - (iv) When the deficiencies referred to in the list have been corrected, the procedures referred to in paragraphs (i), (ii) and (iii) will be repeated until

IPC is satisfied that all deficiencies have been corrected. It shall then notify the Developer that it is satisfied.

- (v) When the Developer has received the notice from IPC, the Developer's electrical engineer will certify to IPC that the work has been completed pursuant to the plans and request Preliminary Acceptance of them.
 - (vi) On receipt of the certificate from the Developer's electrical engineer, IPC, on being satisfied that all other terms of this Agreement have been met, will issue a Certificate of Preliminary Acceptance. All monies owing to IPC from the Developer must be paid before issuing a Certificate of Preliminary Acceptance.
- (c) Upon applying for Preliminary Acceptance of the services, the Developer shall supply IPC with:
- (i) A Statutory Declaration declared by an officer of the Developer that all accounts for work and materials submitted to the Developer and certified by the Developer's engineer for payment have been paid except for the normal holdbacks and that there are no claims for liens or otherwise in connection with such work or materials;
 - (ii) A Statutory Declaration from each contractor (sworn by an officer if the Contractor is a Corporation) that all required payments to the Worker's Safety and Insurance Board have been made or such other evidence that such payments have been made as is satisfactory to IPC;
 - (iii) A letter from the Developer's electrical engineer certifying that all works have been constructed in accordance with this Agreement, and provide "As Constructed" drawings.
- (d) The form of the Certificate of Preliminary Acceptance is Schedule G. The signing and delivery of the Certificate by IPC is deemed to be proof of all matters contained in it.
- (e) When a Certificate of Preliminary Acceptance has been issued, the value or amount of the security shall remain the same for a period of two (2) years from the date the certificate is issued.

10. Maintenance

- (a) The maintenance period for all services will run for a period of two years from the date of the Certificate of Preliminary Acceptance and thereafter until IPC has issued a Certificate of Final Acceptance.
- (b) During the maintenance period, the Developer is responsible for the repair and maintenance of all services constructed by it.

- (c) The Developer agrees that:
 - (i) Those services which are not already owned by IPC may be used prior to final acceptance by IPC or any other persons authorized by IPC for the purpose for which such services were designed; and,
 - (ii) The employees or agents of IPC may at any time and from time to time at the expense of the Developer make emergency repairs to any of the services not owned by IPC.
- (d) The exercise of these powers shall not be deemed an acceptance of the services by IPC or any assumption by IPC of any liability in connection therewith or a release of the Developer from any of its obligations under this Agreement.

11. Final Acceptance

- (a) IPC will not grant its Final Acceptance of the works and services until the following conditions are satisfied.
 - (i) the maintenance period has ended;
 - (ii) the Developer has completed all works and services that the Developer is required to construct or install;
 - (iii) the Developer has delivered to IPC:
 - (1) A Statutory Declaration declaring that all accounts that are payable in connection with the engineering, installation and maintenance of the services except the normal holdbacks have been paid and that there are no outstanding claims related to them;
 - (2) a Statutory Declaration from each contractor (declared by an officer of the contractor if the contractor is a corporation) that all required payments to the Worker's Safety and Insurance Board have been made or such other evidence that such payments have been made as is satisfactory to IPC.
- (b) The following is the procedure to be adopted in order to obtain Final Acceptance:
 - (i) The Developer shall make a written request to IPC for Final Acceptance and deliver to IPC the declarations referred to in paragraph 11 (a) (iii).
 - (ii) IPC will inspect the services and make such tests as it deems necessary as soon thereafter as is practicable.
 - (iii) IPC will deliver to the Developer a deficiency list as soon as is practicable after making the inspection and tests.

- (iv) The Developer will correct the deficiencies as soon as is practicable after receiving the list.
 - (v) When the deficiencies are corrected the procedures in paragraphs (b)(ii), (b)(iii) and (b)(iv) will be repeated until IPC is satisfied that all deficiencies have been corrected.
 - (vi) When IPC is satisfied that all deficiencies have been corrected, it will notify the Developer stating that he is so satisfied. The Developer's engineer will then certify to IPC that all works and services have been constructed and completed pursuant to the plans and that all deficiencies have been corrected.
 - (vii) Upon receipt of the letter, IPC, if satisfied that all other terms of this Agreement are satisfied, will issue a Certificate of Final Acceptance in the form shown in Schedule H. All monies owing to IPC from the Developer must be paid before issuing a Certificate of Final Acceptance.
- (c) The signing and delivery of the Certificate of Final Acceptance shall be deemed to be proof of all matters contained in it.
 - (d) The effect of the Certificate of Final Acceptance is that the Developer is released from all obligations imposed by this Agreement except for those reserved by the Certificate. If this Agreement is registered on title, the effect of registration of the Certificate of Final Acceptance is to release the land against which it is registered from any burdens placed upon the land by this Agreement and the plans except for those reserved by the said Certificate.
 - (e) Upon the issuing of the Certificate of Final Acceptance, the ownership of all services that are not already owned by IPC shall vest in IPC.
 - (f) When the Certificate of Final Acceptance is issued, IPC will:
 - (i) pass a resolution assuming responsibility for all services; and
 - (ii) release all securities with the exception of the Damage Deposit that the Developer has submitted to IPC to it to guarantee performance of this Agreement and the plans. Damage Deposit shall be released as per the Offer to Connect Agreement Clause 13(c)(ii).

12. Stop of Work Orders

- (a) IPC may issue a stop work order:
 - (i) if the Developer has failed to commence to construct the EDS or having commenced such work, fails to proceed with reasonable speed to complete it; or

- (ii) if the construction and installation of the works and services contemplated by the “Accepted for Construction” design drawings are not being installed in accordance to the design drawings or in accordance with IPC’s standards and specifications or standard construction practices; or
 - (iii) if the Developer is in any other breach of this Agreement or the “Accepted for Construction” Plans, Standards and Specifications.
- (b) A stop work order shall not be issued until after IPC has given to the Developer two (2) days’ written notice of the matter or matters about which it is not satisfied and the Developer has not, in IPC’s opinion, taken reasonable steps to rectify such matter or matters.
 - (c) If IPC has issued a stop work order and the Developer fails to stop work, the Developer shall be deemed to be in breach of this Agreement.
 - (d) If IPC has issued a stop work order, work will not begin again until the Developer has made arrangements that are satisfactory to IPC to rectify the breach or to correct the improper construction or installation of works or services, and IPC has put in writing their approval to resume work.

SCHEDULE 'G'

CERTIFICATE OF PRELIMINARY ACCEPTANCE

This Certificate is issued pursuant to an Agreement

B E T W E E N:

hereinafter referred to as the "Owner"

- and -

INNPOWER CORPORATION

hereinafter referred to as the "Company"

1. The following are the facts upon which this Certificate is issued:
 - a) the Company and the Owner entered into an agreement (hereinafter referred to as the "Agreement") with respect to the land referred to in Schedule "A" hereto which Agreement is dated the ____ day of _____.
 - b) Pursuant to the terms of the Agreement, the Owner has applied for a Certificate of Preliminary Acceptance;
 - c) The Owner has complied with all terms of the Agreement that must be satisfied prior to the issuing of this Certificate.
2. The Company hereby grants its preliminary acceptance for the services that are required to be constructed by the Agreement prior to the issue of this Certificate and certifies that the Owner has satisfied all other obligations that it is required to fulfil for the granting of this Certificate.
3. The Owner has issued security to the Company to guarantee the performance of this Agreement in the amount of \$____, HST included.
4. Pursuant to InnPower Process and Procedures – Cls. 9 of the Agreement, the signing and delivery of this Certificate by the Company is deemed to be proof of all matters contained herein
5. This Certificate of Preliminary Acceptance is issued on the ____ day of _____, _____.

INNPOWER CORPORATION

Per:

President / CEO

Secretary / CFO

SCHEDULE 'H'

CERTIFICATE OF FINAL ACCEPTANCE

This Certificate is issued pursuant to an Agreement

B E T W E E N :

hereinafter referred to as the "Owner"

- and -

INNPOWER CORPORATION

hereinafter referred to as the "Company"

1. The following are the facts upon which this Certificate is issued:
 - a) the Company and the Owner entered into an agreement (hereinafter referred to as the "Agreement") with respect to the land referred to in Schedule "A" hereto which Agreement is dated the ____ day of _____, 20____ and registered in the Registry Office for the Registry Division of Simcoe on the _____ day of __, 20__ as number _____;
 - b) pursuant to the terms of the Agreement, the Owner has applied for a Certificate of Final Acceptance;
 - c) the Owner has complied with all the terms of the Agreement that must be satisfied prior to the issuing of this Certificate.
2. The Company hereby grants its final acceptance for the services that are required to be constructed by the Agreement prior to the issue of this Certificate and certifies that the Owner has satisfied all other obligations that it is required to fulfil for the granting of this Certificate.
3. The institution that has issued security to the Company and to the Owner to guarantee the performance of this Agreement is hereby authorized to reduce the amount of security to zero.
4. Pursuant to InnPower Process and Procedures – Cls. 11 of the Agreement, the signing and delivery of this Certificate by the Company is deemed to be proof of all matters contained herein.
5. The registration of a copy of this Certificate in the Registry Office hereto will act as a complete release of the land upon the title to which it has been registered from the terms of this Agreement except for the following:
6. This Certificate of Final Acceptance is issued as of the ____ day of _____.

INNPOWER CORPORATION

Per:

President / CEO

Secretary / CFO

SCHEDULE 'I'
PLANS AND SPECIFICATIONS

- **[TO BE LISTED AND SPECIFIC TO THE PROJECT]**