

MERGER PARTICIPATION AGREEMENT

BETWEEN

THE CORPORATION OF THE CITY OF BRANTFORD

– and –

THE CORPORATION OF THE CITY OF CAMBRIDGE

– and –

THE CORPORATION OF THE TOWNSHIP OF NORTH DUMFRIES

– and –

BRANTFORD ENERGY CORPORATION

– and –

CAMBRIDGE AND NORTH DUMFRIES ENERGY PLUS INC.

– and –

BRANTFORD POWER INC.

– and –

ENERGY+ INC.

– and –

CAMBRIDGE AND NORTH DUMFRIES ENERGY SOLUTIONS INC.

– and –

BRANTFORD HYDRO INC.

September 1, 2021

TABLE OF CONTENTS

	Page
ARTICLE 1 INTERPRETATION.....	3
1.1 Definitions.....	3
1.2 Certain Rules of Interpretation.....	17
1.3 Governing Law	17
1.4 Entire Agreement.....	17
1.5 Schedules and Exhibits	18
ARTICLE 2 AMALGAMATIONS.....	18
2.1 Holdco Amalgamation.....	18
2.2 LDC Amalgamation.....	19
2.3 Target Closing Amounts	19
2.4 Closing Financial Statements, Contracts Valuation and Brantford Real Property Valuation	20
2.5 Calculation of Adjustments.....	24
2.6 Implementation of Adjustments.....	29
2.7 COVID-19 Acknowledgement Re. Target Balances	31
2.8 Nature and Intent of Adjustments (No Double Counting).....	31
ARTICLE 3 GENERAL REPRESENTATIONS AND WARRANTIES.....	32
3.1 Corporate Existence	32
3.2 Capacity to Enter Agreement.....	32
3.3 Binding Obligation.....	32
3.4 Absence of Conflict	32
ARTICLE 4 REPRESENTATIONS AND WARRANTIES OF BRANTFORD.....	33
4.1 Residence	33
4.2 Regulatory Approvals	33
4.3 Consents.....	33
4.4 Share Ownership, Etc.....	33
4.5 Corporate Existence of the BEC Group.....	34
4.6 Corporate Articles.....	34
4.7 Capacity and Powers of the BEC Group.....	34
4.8 Jurisdictions	34
4.9 Options, Etc.....	34
4.10 Corporate Records/Directors	35
4.11 Books and Records	35
4.12 Financial Statements	35
4.13 Tax Matters	36
4.14 Absence of Changes.....	37
4.15 Absence of Undisclosed Liabilities	38

4.16	Absence of Unusual Transactions.....	38
4.17	Title to and Condition of Assets	39
4.18	Real Property	39
4.19	Intellectual Property.....	41
4.20	Accounts Receivable.....	41
4.21	Material Contracts.....	42
4.22	Accounts and Powers of Attorney	42
4.23	Compliance with Laws, Permits	42
4.24	Environmental Conditions	43
4.25	Suppliers and Customers.....	44
4.26	Rights to Use Personal Information.....	45
4.27	Employees and Employment Contracts	45
4.28	Unions	46
4.29	Employee Benefits Matters.....	47
4.30	Pension Plans	48
4.31	Insurance Policies	48
4.32	Litigation.....	49
4.33	Withholding	49
4.34	No Expropriation	49
4.35	Absence of Conflict	49
4.36	Restrictive Covenants	50
4.37	BEC Group Business	50
4.38	Compliance with Privacy Laws	50

ARTICLE 5 REPRESENTATIONS AND WARRANTIES OF CAMBRIDGE AND NORTH DUMFRIES.....52

5.1	Residence	52
5.2	Regulatory Approvals	52
5.3	Consents.....	52
5.4	Share Ownership, Etc.....	53
5.5	Corporate Existence of the Energy Plus Group	53
5.6	Corporate Articles.....	54
5.7	Capacity and Powers of the Energy Plus Group.....	54
5.8	Jurisdictions	54
5.9	Options, Etc.....	54
5.10	Corporate Records/Directors	54
5.11	Books and Records	55
5.12	Financial Statements	55
5.13	Tax Matters	55
5.14	Absence of Changes.....	57
5.15	Absence of Undisclosed Liabilities	57
5.16	Absence of Unusual Transactions.....	58
5.17	Title to and Condition of Assets	59
5.18	Real Property	59
5.19	Intellectual Property.....	61
5.20	Accounts Receivable.....	61

5.21	Material Contracts.....	62
5.22	Accounts and Powers of Attorney	62
5.23	Compliance with Laws, Permits	62
5.24	Environmental Conditions	63
5.25	Suppliers and Customers.....	65
5.26	Rights to Use Personal Information.....	65
5.27	Employees and Employment Contracts	65
5.28	Unions	66
5.29	Employee Benefits Matters.....	67
5.30	Pension Plans	68
5.31	Insurance Policies	69
5.32	Litigation.....	69
5.33	Withholding	70
5.34	No Expropriation	70
5.35	Absence of Conflict	70
5.36	Restrictive Covenants	70
5.37	Energy Plus Group Business.....	71
5.38	Compliance with Privacy Laws	71
5.39	Matters with Respect to GRE	72
ARTICLE 6 COVENANTS		73
6.1	Covenants of Brantford.....	73
6.2	Covenants of Cambridge and North Dumfries	76
6.3	Mutual Covenants	78
ARTICLE 7 CLOSING CONDITIONS		80
7.1	Conditions for the Benefit of Cambridge and North Dumfries	80
7.2	Waiver or Termination by Cambridge and North Dumfries.....	81
7.3	Conditions for the Benefit of Brantford.....	81
7.4	Waiver or Termination by Brantford	82
7.5	Condition Precedent.....	82
7.6	Termination.....	83
ARTICLE 8 SURVIVAL AND INDEMNIFICATION.....		84
8.1	Survival of Covenants and Representations and Warranties	84
8.2	Survival Following Termination.....	84
8.3	Mutual Indemnifications for Breaches of Warranty, etc.	84
8.4	Limitation on Mutual Indemnification.....	84
8.5	Cost Reimbursement and Indemnity for Excluded Assets	85
8.6	Notice of Claim.....	85
8.7	Time Limits for Notice	85
8.8	Procedure for Direct Claims	87
8.9	Procedure for Third Party Claims	87
8.10	No Delay	89

8.11	Set-off	89
8.12	Exclusive Remedy	89
ARTICLE 9 REGULATORY APPROVAL		89
9.1	OEB Approval and Competition Act Approval.....	89
9.2	Minister of Finance Notice	90
9.3	OEB Approval Procedure	90
ARTICLE 10 CLOSING ARRANGEMENTS		90
10.1	Closing	90
10.2	Closing Procedures	91
ARTICLE 11 GENERAL.....		91
11.1	Submission to Jurisdiction	91
11.2	Tender	91
11.3	Costs and Expenses.....	91
11.4	Time of Essence.....	92
11.5	Notices	92
11.6	Further Assurances.....	93
11.7	No Broker.....	94
11.8	Public Notice.....	94
11.9	Amendment and Waiver	94
11.10	Assignment and Enurement	94
11.11	Severability	94
11.12	Counterparts	95
11.13	Electronic Execution.....	95

MERGER PARTICIPATION AGREEMENT

THIS AGREEMENT is dated as of September 1, 2021

BETWEEN:

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

(“**Brantford**”)

– and –

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

(“**Cambridge**”)

– and –

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

(“**North Dumfries**”)

– and –

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

(“**BEC**”)

– and –

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

(“**Energy Plus Holdings**”)

– and –

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

(“**BPI**”)

– and –

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

(“**BHI**”)

– and –

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

(“**Energy+**”)

– and –

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

(“**Energy Plus Solutions**”)

RECITALS:

- A. Cambridge, North Dumfries, Brantford, BEC and Energy Plus Holdings are party to a memorandum of understanding dated December 15, 2020 (the “**MOU**”) and a confidentiality agreement dated December 15, 2020 (the “**Confidentiality Agreement**”) in connection with the transactions contemplated by this Agreement.
- B. BPI is licensed by the OEB to distribute electricity in Ontario.
- C. Energy+ is licensed by the OEB to distribute electricity in Ontario.
- D. Brantford is the beneficial and registered owner of all of the issued and outstanding shares in the capital of BEC.
- E. Cambridge is the beneficial and registered owner of 92.1% of the issued and outstanding shares in the capital of Energy Plus Holdings and North Dumfries is the beneficial and registered owner of 7.9% of the issued and outstanding shares in the capital of Energy Plus Holdings.
- F. BEC is the legal and beneficial owner of all the issued and outstanding shares in the capital of BPI and BHI.
- G. Energy Plus Holdings is the legal and beneficial owner of all the issued and outstanding shares in the capital of Energy+ and Energy Plus Solutions.
- H. The Parties wish to have BEC and Energy Plus Holdings amalgamate to form Amalco Holdco.
- I. The Parties wish to have BPI and Energy+ amalgamate to form LDC Amalco.

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

**ARTICLE 1
INTERPRETATION**

1.1 Definitions

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

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

“**Adverse Determination**” is defined in Section 9.3.

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

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

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

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

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

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

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

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

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

“**BEC Environmental Approvals**” is defined in Section 4.24(b).

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

“**BEC Group**” means, collectively, BEC, BPI and BHI.

“**BEC Group Adjustment Amount**” is defined in Section 2.5(a).

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

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

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

“**BHI**” is defined in the preamble to this Agreement.

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

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

“**BPI**” is defined in the preamble to this Agreement.

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

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

“**Brantford**” is defined in the preamble to this Agreement.

“**Brantford Closing Financial Statements**” is defined in Section 2.4(a).

“**Brantford Disclosure Schedule**” is defined in Article 4.

“**Brantford Failure**” is defined in Section 8.3(b).

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

“**Cambridge**” is defined in the preamble to this Agreement.

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

“**CDM**” is defined in Section 4.16(k).

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

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

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

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

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

“**Closing**” means the completion of the Amalgamations pursuant to this Agreement.

“**Closing Date**” means the later of:

- (a) December 31, 2021, subject to receipt of the OEB Approval and Competition Act Approval; or
- (b) the first Business Day of the applicable fiscal quarter receipt of the OEB Approval and Competition Act Approval (e.g., April 1, July 2, October 1 or January 2),

provided; however, that if the OEB Approval and Competition Act Approval is received within 14 days prior to December 31, 2021 or the end of the applicable fiscal quarter, as the case may be, the Closing Date shall be the first Business Day of the subsequent fiscal quarter.

“**Closing Financial Statements**” means the Brantford Closing Financial Statements and the Energy Plus Closing Financial Statements.

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

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

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

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

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

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

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

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

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

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

“**COVID-19 Legislation and Emergency Orders**” means the *Reopening Ontario (A Flexible Response to COVID-19) Act, 2020*, the orders made under section 7.0.2 or 7.1 of the *Emergency Management and Civil Protection Act* and any other decrees, rules,

regulations, by-laws, published policies and guidelines enacted by a Governmental Authority in the Province of Ontario in connection with COVID-19.

“**CTA**” means the *Corporations Tax Act* (Ontario).

“**Current Assets**” means the aggregate sum of, Accounts Receivable, plus unbilled revenue, Taxes receivable, Inventories and Current Prepaid Amounts.

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

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

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

- (a) Energy Plus Solutions is a party (excluding any Contracts between Energy Plus Solutions and any of its Affiliates) which Contract generates gross revenue for Energy Plus Solutions in excess of \$250,000 per year;
- (b) GRE is a party (excluding any Contracts between GRE and any of its Affiliates) which Contract generates gross revenue for GRE in excess of \$750,000 per year; and
- (c) BHI is a party (excluding any Contracts between BHI and any of its Affiliates) which Contract generates gross revenue for BHI in excess of \$250,000 per year.

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

“**Direct Claim**” is defined in Section 8.6.

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

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

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

“**Electronic Message**” has the meaning ascribed thereto in CASL;

“**Employee Benefits**” means:

- (a) bonuses, vacation entitlements, commissions, fees, stock option plans, incentive plans, deferred compensation plans, profit-sharing plans, severance plans, termination pay plans, supplementary employment insurance plans and other similar benefits, plans or arrangements; and
- (b) insurance, health, welfare, disability, pension, retirement, hospitalization, medical, prescription drug, dental, eye care and other similar benefits, plans or arrangements.

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

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

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

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

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

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

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

“**Energy Plus Group**” means Energy Plus Holdings, Energy+ and Energy Plus Solutions.

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

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

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

“Energy Plus Group Valuation Amount” means the numerical value set forth in cell D10 of the spreadsheet entitled “Closing Adjustment Calc” within the excel file named “Final Financial Model – Project Phoenix_August 13, 2021” prepared by Grant Thornton LLP.

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

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

“Energy Plus Shareholder Agreement” means the shareholders agreement dated January 1, 2000 between Cambridge, North Dumfries and Energy Plus Holdings in respect of Energy Plus Holdings, as amended.

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

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

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

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

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

“Excluded Assets” means the real property owned by BPI located at the municipal address designated as 130 Savannah Oaks Drive, Brantford, Ontario, N3V 1E8 and 37 Empey Street, Brantford, Ontario N3S 7R2, respectively.

“Excluded Debt” means the indebtedness and liabilities for borrowed money, whether contingent, unmatured or otherwise, owed by BPI to Ontario Infrastructure and Lands Corporation pursuant to financing agreement No. 7079 dated December 3, 2007, financing agreement No. 9027 dated November 18, 2009, as amended by amending agreements dated November 16, 2010 and April 20, 2017, respectively, and financing agreement No. 11070

dated November 6, 2012, as amended by amending agreements dated April 20, 2017 and May 28, 2019, respectively.

“**Expert**” is defined in Section 2.4(j).

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

“**Governmental Authority**” means:

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

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

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

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

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

“**IESO**” means the Independent Electricity System Operator.

“**IESO Settlement Amount**” means the value of any settlement, judicial decision, or arbitral award issued in favour of Energy+ in respect of the dispute between Energy+ and the IESO as described on the Energy Plus Disclosure Schedule;

“**IFRS**” means the International Financial Reporting Standards in effect from time to time, which include standards and interpretations adopted by the Canadian Accounting Standards Board.

“**Indemnified Party**” is defined in Section 8.3.

“**Indemnifying Party**” is defined in Section 8.3.

“**Indemnity Claim**” is defined in Section 8.6.

“**Indemnity Notice**” is defined in Section 8.6.

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

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

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

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

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

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

“**Law**” or “**Laws**” means all laws, statutes, codes, ordinances, decrees, rules, regulations, by-laws, statutory rules, principles of law, published policies and guidelines, judicial or arbitral or administrative or ministerial or departmental or regulatory judgments, orders, decisions, rulings or awards, including general principles of common and civil law, and the terms and conditions of any grant of approval, permission, authority or licence of any

Governmental Authority, and the term “applicable” with respect to Laws and in a context that refers to one or more Persons, means that the Laws apply to the Person or Persons, or its or their business, undertaking, property or Securities, and emanate from a Governmental Authority having jurisdiction over the Person or Persons or its or their business, undertaking, property or Securities, including COVID-19 Legislation and Emergency Orders.

“**LDC Amalco**” is defined in Section 2.2.

“**LDC Amalgamation**” is defined in Section 2.2.

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

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

“**Make-Whole Payment**” means the amount of any break-fee and/or make whole payment that may be payable to Infrastructure Ontario and Lands Corporation by BPI in connection with repayment of the Excluded Debt.

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

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

- (a) that involves or may result in the payment of money or money’s worth in an amount in excess of \$250,000 (excluding any collective bargaining agreements or employment agreements), including any Customer Contracts; or
- (b) the termination of which, or under which the loss of rights, would constitute a Material Adverse Effect.

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

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

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

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

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

“**OBCA**” means the *Business Corporations Act* (Ontario).

“**OEB**” means the Ontario Energy Board.

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

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

“**OMERS**” means the Ontario Municipal Employees Retirement System.

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

“**Parties**” means Brantford, BEC, BHI, BPI, Cambridge, North Dumfries, Energy Plus Holdings, Energy+ and Energy Plus Solutions and “**Party**” means any one of them.

“**PCBs**” is defined in Section 4.24(k).

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

“Permitted Encumbrances” means:

- (a) unregistered liens for municipal Taxes, assessments or similar charges incurred in the ordinary course of business that are not yet due and payable;
- (b) inchoate mechanic’s, construction and carrier’s liens and other similar liens arising by operation of law or statute in the ordinary course business for obligations which are not delinquent and will be paid or discharged in the ordinary course of business;
- (c) unregistered Encumbrances of any nature claimed or held by Her Majesty The Queen in Right of Canada, Her Majesty The Queen in right of the Province of Ontario or by any Governmental Authority under any applicable Law, except for unregistered liens for unpaid realty Taxes, assessments and public utilities;
- (d) title defects which are of a minor nature and in the aggregate, do not materially impair the value or use of any of the Owned Lands;
- (e) any right of expropriation conferred upon, reserved to or vested in Her Majesty The Queen in Right of Canada, Her Majesty The Queen in right of the Province of Ontario or any Governmental Authority under any applicable Law;
- (f) zoning restrictions, easements and rights of way or other similar Encumbrances or privileges in respect of real property which in the aggregate, do not materially impair the value or use of any of the Owned Lands, Leased Premises or Easements;
- (g) Encumbrances created by others upon other lands over which there are easements, rights-of-way, licences or other rights of user in favour of the Owned Lands, Leased Premises or Easements and which do not materially impede the use of the easements, rights-of-way, licences or other rights of user for the purposes for which they are held;
- (h) the reservations, limitations, provisos, conditions, restrictions and exceptions in the letters patent or grant, as the case may be, from the Crown and statutory exceptions to title; and
- (i) those instruments registered on title to the Owned Lands or against the leasehold interest in the Leased Premises and described in the Brantford Disclosure Schedule or the Energy Plus Disclosure Schedule.

“Person” will be broadly interpreted and includes:

- (a) a natural person, whether acting in his or her own capacity, or in his or her capacity as executor, administrator, estate trustee, trustee or personal or
- (b) legal representative, and the heirs, executors, administrators, estate trustees, trustees or other personal or legal representatives of a natural person;

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

“Personal Information” means information about an individual who can be identified by the Person who holds that information.

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

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

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

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

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

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

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

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

“**Securities**” has the meaning given to that term in the *Securities Act* (Ontario).

“**Shared Services Agreement**” means the Shared Services Agreement between Brantford and BPI dated January 1, 2017.

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

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

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

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

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

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

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

“**Third Party Claim**” is defined in Section 8.6.

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

“**Transfer Tax**” means the tax payable pursuant to section 94 of the EA.

1.2 Certain Rules of Interpretation

- (a) In this Agreement, words signifying the singular number include the plural and vice versa, and words signifying gender include all genders. Every use of the words “including” or “includes” in this Agreement is to be construed as meaning “including, without limitation” or “includes, without limitation”, respectively.
- (b) The division of this Agreement into Articles and Sections, the insertion of headings and the inclusion of a table of contents are for convenience of reference only and do not affect the construction or interpretation of this Agreement.
- (c) References in this Agreement to an Article, Section, Schedule or Exhibit are to be construed as references to an Article, Section, Schedule or Exhibit of or to this Agreement unless otherwise specified.
- (d) Unless otherwise specified in this Agreement, time periods within which or following which any calculation or payment is to be made, or action is to be taken, will be calculated by excluding the day on which the period begins and including the day on which the period ends. If the last day of a time period is not a Business Day, the time period will end on the next Business Day.
- (e) Unless otherwise specified, any reference in this Agreement to any statute includes all regulations and subordinate legislation made under or in connection with that statute at any time, and is to be construed as a reference to that statute as amended, modified, restated, supplemented, extended, re-enacted, replaced or superseded at any time.

1.3 Governing Law

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

1.4 Entire Agreement

This Agreement and any other agreements and documents to be delivered pursuant to this Agreement constitute the entire agreement between the Parties pertaining to the subject matter of this Agreement and supersede all prior agreements, the MOU, understandings, negotiations and discussions, whether oral or written, of the Parties, but other than the provisions of the

Confidentiality Agreement, and there are no representations, warranties or other agreements between the Parties in connection with the subject matter of this Agreement except as specifically set out in this Agreement, the Confidentiality Agreement or in any of the other agreements and documents delivered pursuant to this Agreement. No Party has been induced to enter into this Agreement in reliance on, and there will be no liability assessed, either in tort or contract, with respect to, any warranty, representation, opinion, advice or assertion of fact, except to the extent it has been reduced to writing and included as a term in this Agreement or in any of the other agreements and documents delivered pursuant to this Agreement.

1.5 Schedules and Exhibits

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

Schedules

Schedule A	Brantford Disclosure Schedule
Schedule B	Energy Plus Disclosure Schedule
Schedule C	Share Capital Provisions
Schedule D	Illustrative Examples of the Calculations of the BEC Group Adjustment Amount and The Energy Plus Group Adjustment Amount
Schedule E	Location of Amalco Holdco Facilities & Functions

Exhibits

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

ARTICLE 2 AMALGAMATIONS

2.1 Holdco Amalgamation

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

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

Party	Amalco Holdco	Equity & Voting Percentage Interest
Brantford	41,000,000 Common Shares 1 Class B Special Shares 1 Class D Special Shares	41.000%
Cambridge	54,339,000 Common Shares 921 Class A Special Shares 921 Class C Special Shares	54.339%
North Dumfries	4,661,000 Common Shares 79 Class A Special Shares 79 Class C Special Shares	4.661%

- (c) The Common Shares and Special Shares shall contain the respective rights, privileges, restrictions and conditions set out in Schedule C.

2.2 LDC Amalgamation

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

2.3 Target Closing Amounts

- (a) Before Closing, BEC shall take reasonable steps to ensure that on Closing it has BEC Holdco Closing Net Asset Value equal to BEC Holdco Target Closing Net Asset Value.
- (b) Before Closing, BPI shall take reasonable steps to ensure that on Closing it has:
- (i) BPI Closing Working Capital equal to BPI Target Closing Working Capital;
 - (ii) BPI Closing Net Fixed Assets equal to BPI Target Closing Net Fixed Assets;
 - (iii) BPI Closing Net Regulatory Balance equal to BPI Target Closing Net Regulatory Balance;

- (iv) BPI Closing Net Other Assets and Liabilities equal to BPI Target Closing Net Other Assets and Liabilities; and
 - (v) BPI Closing Total Net Debt equal to BPI Target Closing Total Net Debt.
- (c) Before Closing, BHI shall take reasonable steps to ensure that on Closing it has BHI Adjusted Closing Net Income/(Loss) excluding Other Comprehensive Income/(Loss) equal to BHI Target Closing Adjusted Net Income/(Loss) excluding Other Comprehensive Income/(Loss).
- (d) Before Closing, Energy Plus Holdings shall take reasonable steps to ensure that on Closing it has Energy Plus Holdings Closing Net Asset Value equal to Energy Plus Holdings Target Closing Net Asset Value.
- (e) Before Closing, Energy+ shall take reasonable steps to ensure that on Closing it has:
- (i) Energy+ Closing Working Capital equal to Energy+ Target Closing Working Capital;
 - (ii) Energy+ Closing Net Fixed Assets equal to Energy+ Target Closing Net Fixed Assets;
 - (iii) Energy+ Closing Net Regulatory Balance equal to Energy+ Target Closing Net Regulatory Balance;
 - (iv) Energy+ Closing Net Other Assets and Liabilities equal to Energy+ Target Closing Net Other Assets and Liabilities; and
 - (v) Energy+ Closing Total Net Debt equal to Energy+ Target Closing Total Net Debt.
- (f) Before Closing, Energy Plus Solutions shall take reasonable steps to ensure that on Closing it has:
- (i) Energy Plus Solutions Closing Net Asset Value equal to Energy Plus Solutions Target Closing Net Asset Value; and
 - (ii) GRE Closing Adjusted Net Income/(Loss) and Other Comprehensive Income/(Loss) equal to the GRE Target Closing Adjusted Net Income/(Loss) and Other Comprehensive Income/(Loss).

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

- (a) Brantford shall cause the auditors for the BEC Group to complete the audit procedures and distribute to Brantford, Cambridge and North Dumfries the audited financial statements for each member of the BEC Group as at the end of business

on the day immediately prior to the Closing Date (including the audited financial statements of BEC on a consolidated basis) within 120 days following the Closing Date (collectively the “**Brantford Closing Financial Statements**”).

- (b) Cambridge and North Dumfries shall cause the auditors for the Energy Plus Group to complete the audit procedures and distribute to Cambridge, North Dumfries and Brantford the audited financial statements for each member of the Energy Plus Group as at the end of business on the day immediately prior to the Closing Date (including the audited financial statements of Energy Plus Holdings on a consolidated basis) within 120 days following the Closing Date (collectively the “**Energy Plus Closing Financial Statements**”).
- (c) Brantford, Cambridge and North Dumfries shall cause a valuation by a Chartered Business Valuator (to be agreed between BEC and Energy Plus Holdings prior to the Closing Date) utilizing a discounted cash flow analysis method of the following:
 - (i) each new Customer Contract entered into and not terminated by a member of the BEC Group (excluding BPI) or by a member of the Energy Plus Group (including GRE but excluding Energy+) during the period from and including the date of this Agreement to and including the Closing Date,
 - (ii) any amendment with revenue in excess of \$250,000 or \$750,000 per year, as applicable, to any new or existing Customer Contract to which a member of the BEC Group (excluding BPI) or the Energy Plus Group (including GRE but excluding Energy+) is a party made during the period from and including the date of this Agreement to and including the Closing Date existing at the date hereof; and
 - (iii) each Customer Contract that may be terminated by a member of the BEC Group (excluding BPI) or by a member of the Energy Plus Group (including GRE but excluding Energy+) or by a counterparty to any such Material Contract during the period from and including the date of this Agreement to and including the Closing Date,

(each such valuation by Brantford, on the one hand, and Cambridge and North Dumfries, on the other hand, a “**Customer Contracts Valuation**”).
- (d) Brantford shall engage an independent, accredited appraiser acceptable to Cambridge and North Dumfries, each acting reasonably, to determine the fair market value of the Tallgrass Property within 60 days prior to the Closing Date (the “**Tallgrass Appraisal**”).
- (e) Cambridge and North Dumfries shall engage an independent, accredited appraiser acceptable to Brantford, acting reasonably, to determine the fair market value of the MTS Property within 60 days prior to the Closing Date (the “**MTS Appraisal**”).
- (f) All Closing Financial Statements shall be prepared in accordance with IFRS applied on a basis consistent with the preparation of the BEC Financial Statements, the BPI

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

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

by Cambridge and North Dumfries within such 30-day period, such Brantford Closing Financial Statements, the Customer Contracts Valuation in respect of each applicable member of the BEC Group and the Tallgrass Appraisal shall be deemed to have been approved by Cambridge and North Dumfries as of the last day of such 30-day period.

- (i) Brantford may object to the Energy Plus Closing Financial Statements, the Customer Contracts Valuation in respect of any applicable member of the Energy Plus Group and/or the MTS Appraisal within the 30-day period set out in Section 2.4(h) by giving written notice to Cambridge and North Dumfries setting out in reasonable detail the nature of such objection (a “**Brantford Objection**”). Cambridge and North Dumfries (acting jointly) may object to the Brantford Closing Financial Statements, the Customer Contracts Valuation in respect of the applicable member of the BEC Group and/or the Tallgrass Appraisal within the 30-day period set out in Section 2.4(h) by giving written notice to Brantford setting out in reasonable detail the nature of such objection (a “**Cambridge and North Dumfries Objection**”). Brantford, Cambridge and North Dumfries (acting jointly) agree to attempt to resolve the matters in dispute set out in a Brantford Objection and/or Cambridge and North Dumfries Objection within 15 days from the date on which such notice is given. If all matters in dispute are resolved by Brantford, Cambridge and North Dumfries, the applicable Closing Financial Statements(s), Customer Contracts Valuation, Tallgrass Appraisal and/or MTS Appraisal, as applicable, shall be modified to the extent required to give effect to such resolution and shall be deemed to have been approved as of the date of such resolution.
- (j) If Brantford and Cambridge and North Dumfries (acting jointly) cannot resolve all matters in dispute in a Brantford Objection and/or Cambridge and North Dumfries Objection within such 15-day period, all unresolved matters shall be submitted to a mutually agreed, independent, nationally recognized accounting firm (the “**Expert**”) for resolution. The Expert shall be given access to all materials and information reasonably requested by it for such purpose. The rules and procedures to be followed in connection therewith shall be determined by the Expert in its discretion but the Expert shall be instructed to proceed as quickly as possible. Notwithstanding the foregoing, the final determination of the Expert shall be limited to the strict parameters of the dispute submitted to it and the Expert shall limit its review to the matters specifically set out in the Brantford Objection and/or Cambridge and North Dumfries Objection and shall not assign a value to any item that is higher than the highest value for such item or lower than the lowest value for such item claimed by any Party. The Expert’s determination of all such matters shall be final and binding on all Parties and shall not be subject to appeal by Brantford, Cambridge, North Dumfries or any other Party. The fees and expenses of the Expert shall be borne by Amalco Holdco. The applicable Closing Financial Statements, Customer Contracts Valuation in respect of the applicable member(s) of the BEC Group and/or Energy Plus Group, MTS Appraisal and/or Tallgrass Appraisal shall be modified to the extent required to give effect to the Expert’s determination and shall be deemed to have been approved as of the date of such determination.

2.5 Calculation of Adjustments

- (a) Upon the approval or deemed approval pursuant to Section 2.4 of the Closing Financial Statements for each member of the BEC Group,
 - (i) BEC shall calculate the sum of:
 - (A) the BEC Holdco Closing Net Asset Value *less* the BEC Holdco Target Closing Net Asset Value (which sum may be positive or negative),
 - (ii) BPI shall calculate the sum of:
 - (A) the BPI Closing Working Capital *less* the BPI Target Closing Working Capital (which sum may be positive or negative), *plus*
 - (B) the BPI Closing Net Fixed Assets *less* the BPI Target Closing Net Fixed Assets (which sum may be positive or negative), *plus*
 - (C) the BPI Closing Net Regulatory Balance *less* the BPI Target Closing Net Regulatory Balance (which sum may be positive or negative), *plus*
 - (D) the BPI Closing Net Other Assets and Liabilities *less* the BPI Target Closing Net Other Assets and Liabilities; *plus*
 - (E) the BPI Closing Total Net Debt *less* the BPI Target Closing Total Net Debt (which sum may be positive or negative); *plus*
 - (F) the value of the Tallgrass Appraisal; *plus*
 - (G) the amount of the Make-Whole Payment *less* the amount of any income Tax savings on account of the repayment of the Make-Whole Payment,
 - (iii) BHI shall calculate the sum of:
 - (A) the BHI Adjusted Closing Net Income/(Loss) excluding Other Comprehensive Income/(Loss) for calendar 2021 and the period to the Closing Date *less* the BHI Target Closing Adjusted Net Income/(Loss) excluding Other Comprehensive Income/(Loss) (which sum may be positive or negative), *less*
 - (B) the BHI dividends paid during fiscal 2021 and the period to the Closing Date less the budgeted BHI dividends of \$400,000 (which sum may be positive or negative), *plus*

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

(the sum of all the amounts referred to in this Section 2.5(a) as the “**BEC Group Adjustment Amount**”).

- (b) Upon the approval or deemed approval pursuant to Section 2.4 of the Closing Financial Statements for each member of the Energy Plus Group,
 - (i) Energy Plus Holdings shall calculate the sum of:
 - (A) the Energy Plus Holdings Closing Net Asset Value *less* the Energy Plus Holdings Target Closing Net Asset Value (which sum may be positive or negative).
 - (ii) Energy+ shall calculate the sum of:
 - (A) the Energy+ Closing Working Capital *less* the Energy+ Target Closing Working Capital (which sum may be positive or negative), *plus*
 - (B) the Energy+ Closing Net Fixed Assets *less* the Energy+ Target Closing Net Fixed Assets (which sum may be positive or negative), *plus*
 - (C) the Energy+ Closing Net Regulatory Balance *less* the Energy+ Target Closing Net Regulatory Balance (which sum may be positive or negative), *plus*
 - (D) the Energy+ Closing Net Other Assets and Liabilities *less* the Energy+ Target Closing Net Other Assets and Liabilities; *plus*
 - (E) the Energy+ Closing Total Net Debt *less* the Energy+ Target Closing Total Net Debt (which sum may be positive or negative), *plus*
 - (F) the value of the MTS Appraisal,
 - (iii) Energy Plus Solutions shall calculate the sum of:
 - (A) the Energy Plus Solutions Closing Net Asset Value *less* the Energy Plus Solutions Target Closing Net Asset Value (which sum may be positive or negative), *plus*
 - (B) the value of any Customer Contracts Valuation to which Energy Plus Solutions or GRE is a party pursuant to the applicable

Customer Contracts Valuation (which sum may be positive or negative); *plus*

- (C) the GRE Closing Adjusted Net Income/(Loss) and Other Comprehensive Income/(Loss) *less* the GRE Target Closing Adjusted Net Income/(Loss) and Other Comprehensive Income/(Loss) (which sum may be positive or negative).

(the sum of all the amounts referred to in this Section 2.5(b) as the “**Energy Plus Group Adjustment Amount**”).

- (c) For the purposes of this Article 2:
- (i) “**BEC Holdco Closing Net Asset Value**” means the sum of (i) total non-consolidated shareholder’s equity; (ii) less the intercompany debt owing from subsidiaries; and (iii) less investments in subsidiaries as at the Closing Date;
 - (ii) “**BEC Holdco Target Closing Net Asset Value**” means \$177,000;
 - (iii) “**BHI Adjusted Closing Net Income/(Loss) excluding Other Comprehensive Income/(Loss)**” means the Net Income/(Loss) excluding Other Comprehensive Income/(Loss) as determined in accordance with IFRS consistently applied, and as shown on the BHI Financial Statements for the fiscal year ended December 31, 2021 plus the fiscal period up to the Closing Date;
 - (iv) “**BHI Target Closing Adjusted Net Income/(Loss) excluding Other Comprehensive Income/(Loss)**” means \$451,000;
 - (v) “**BPI Closing Net Fixed Assets**” means the value of the Fixed Assets as defined and based on the applicable Brantford Closing Financial Statements, excluding the Excluded Assets;
 - (vi) “**BPI Closing Net Other Assets and Liabilities**” means any current or long term assets or liabilities not included within the BPI Closing Working Capital, BPI Closing Net Fixed Assets, BPI Closing Net Regulatory Balance or BPI Closing Total Net Debt. For greater certainty, other assets and liabilities will: (a) include current and long-term customer deposits payable, and (b) exclude the Excluded Debt, the Excluded Assets and any derivative assets or liabilities, net of any associated deferred tax; all as determined in accordance with IFRS, consistently applied and based on the applicable Brantford Closing Financial Statements;
 - (vii) “**BPI Closing Net Regulatory Balance**” means the asset regulatory balances net of deferred tax component, if any, *less* liability regulatory balances net of deferred tax component, if any, in each case as determined in accordance with IFRS, consistently applied and as shown on the

applicable Brantford Closing Financial Statements, excluding the BPI COVID-19 Deferral and Variance Amount if the whole or any portion of such BPI COVID-19 Deferral and Variance Amount is not approved by the OEB for recovery by BPI prior to the Closing Date;

- (viii) **“BPI Closing Total Net Debt”** means the sum of the Total Debt of BPI, cash and cash equivalents and net deferred tax assets (excluding the deferred tax asset relating to the derivative liability) or liabilities in each case based on the applicable Brantford Closing Financial Statements;
- (ix) **“BPI Closing Working Capital”** means the sum of the Current Assets of BPI *less* the Current Liabilities of BPI, in each case as determined in accordance with IFRS, consistently applied and as shown on the applicable Brantford Closing Financial Statements;
- (x) **“BPI COVID-19 Deferral and Variance Amount”** means the deferral and variance amounts claimed by BPI for recovery on account of the costs and expenses incurred by it related to COVID-19;
- (xi) **“BPI Target Closing Net Fixed Assets”** means \$96,384,000;
- (xii) **“BPI Target Closing Net Other Assets and Liabilities”** means (\$2,369,000);
- (xiii) **“BPI Target Closing Net Regulatory Balance”** means (\$941,000);
- (xiv) **“BPI Target Closing Total Net Debt”** means (\$27,950,000);
- (xv) **“BPI Target Closing Working Capital”** means \$7,176,000;
- (xvi) **“Brantford Objection”** is defined in Section 2.4(i).
- (xvii) **“Cambridge and North Dumfries Objection”** is defined in Section 2.4(i).
- (xviii) **“Customer Contracts Valuation”** is defined in Section 2.4(c).
- (xix) **“Energy Plus Holdings Closing Net Asset Value”** means the sum of (i) total non-consolidated shareholder’s equity; (ii) less the intercompany debt owing from Energy Plus Solutions; and (iii) less investments in subsidiaries as at the Closing Date;
- (xx) **“Energy Plus Holdings Target Closing Net Asset Value”** means \$2,184,000;
- (xxi) **“Energy Plus Solutions Closing Net Asset Value”** means the sum of (i) total shareholder’s equity; (ii) plus the intercompany debt owing to Energy Plus Holdings; and (iii) less investments in Affiliates as at the Closing Date;

- (xxii) **“Energy Plus Solutions Target Closing Net Asset Value”** means \$56,000;
- (xxiii) **“Energy+ Closing Net Fixed Assets”** means the value of the Fixed Assets as defined and as included on the applicable Energy Plus Closing Financial Statements;
- (xxiv) **“Energy+ Closing Net Other Assets and Liabilities”** means any current or long term assets or liabilities not included within the Energy+ Closing Working Capital, Energy+ Closing Net Fixed Assets, Energy+ Closing Net Regulatory Balance or Energy+ Closing Total Net Debt. For greater certainty, other assets and liabilities will: (a) include current and long-term customer deposits payable, (b) include goodwill, and (c) exclude any derivative assets or liabilities, net of any associated deferred tax; all as determined in accordance with IFRS, consistently applied and based on the applicable Energy Plus Closing Financial Statements;
- (xxv) **“Energy+ Closing Net Regulatory Balance”** means the asset regulatory balances net of deferred tax component, if any, *less* liability regulatory balances net of deferred tax component, if any, in each case as determined in accordance with IFRS, consistently applied and as shown on applicable Energy Plus Closing Financial Statements;
- (xxvi) **“Energy+ Closing Total Net Debt”** means the sum of the Total Debt of Energy+, cash and cash equivalents and net deferred tax assets or liabilities, based on the applicable Energy Plus Closing Financial Statements;
- (xxvii) **“Energy+ Closing Working Capital”** means the sum of the Current Assets of Energy+ *less* the Current Liabilities of Energy+, in each case as determined in accordance with IFRS, consistently applied and as shown on the applicable Energy Plus Closing Financial Statements;
- (xxviii) **“Energy+ Target Closing Net Fixed Assets”** means \$174,016,000;
- (xxix) **“Energy+ Target Closing Net Other Assets and Liabilities”** means \$7,290,000;
- (xxx) **“Energy+ Target Closing Net Regulatory Balance”** means \$6,280,000;
- (xxxi) **“Energy+ Target Closing Total Net Debt”** means (\$105,985,000);
- (xxxii) **“Energy+ Target Closing Working Capital”** means \$18,145,000;
- (xxxiii) **“GRE Closing Adjusted Net Income/(Loss) and Other Comprehensive Income/(Loss)”** means: 1/3 of the aggregate of (i) the net income/(loss) and comprehensive (loss) as determined in accordance with IFRS, consistently applied, and as shown on the GRE Financial Statements for the fiscal year ended December 31, 2021 plus the fiscal period up to the Closing Date, and

(ii) adjusted to exclude any unrealized gains or losses on derivatives for the same periods, net of any related deferred taxes; and

(xxxiv) **“GRE Target Closing Adjusted Net Income/(Loss) and Other Comprehensive Income/(Loss)”** means (\$25,000), representing one-third of the total GRE Closing Adjusted Net Income/(Loss) and Other Comprehensive Income/(Loss).

(xxxv) **“MTS Appraisal”** is defined in Section 2.4(e).

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

2.6 Implementation of Adjustments

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

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

(ii) Cambridge and North Dumfries shall send a redemption notice to Amalco Holdco in accordance with the redemption terms attached to their Class A Special Shares (excluding their Class C Special Shares, the redemption of which shall be governed by Section 2.6(a)(iii)) if the Energy Plus Group Adjustment Amount as a percentage of the Energy Plus Group Valuation Amount is higher than the BEC Group Adjustment Amount as a percentage of the BEC Group Valuation Amount. Such redemption notice shall notify Amalco Holdco of Cambridge and North Dumfries’ intention to redeem the Class A Special Shares each holds in Amalco Holdco. Amalco Holdco, in accordance with the redemption terms applicable to the Class A Special Shares, shall pay to Cambridge and North Dumfries, and Cambridge and North Dumfries shall be entitled to receive from Amalco Holdco, the Net Adjustment Amount. In this situation, Brantford shall send a redemption

notice to Amalco Holdco in accordance with the redemption terms applicable to the Class B Special Shares, notifying Amalco Holdco of its intention to have its Class B Special Shares redeemed for the price of \$1.00, in the aggregate.

- (iii) Cambridge and North Dumfries shall send a redemption notice to Amalco Holdco in accordance with the redemption terms attached to their Class C Special Shares if the IESO Settlement Amount is received by Energy+ prior to the Closing Date notifying Amalco Holdco of their intention to have its Class C Special Shares redeemed for the price of \$1.00 in the aggregate. Cambridge and North Dumfries shall send a redemption notice to Amalco Holdco in accordance with the redemption terms attached to their Class C Special Shares if the IESO Settlement Amount is received by LDC Amalco at any point following the Closing Date, following which Amalco Holdco, shall in accordance with the redemption terms applicable to the Class C Special Shares, pay to Cambridge and North Dumfries, the redemption amount equal to the IESO Settlement Amount, less tax savings.
 - (iv) Brantford shall send a redemption notice to Amalco Holdco in accordance with the redemption terms attached to its Class D Special Shares if the whole BPI COVID-19 Deferral and Variance Amount is approved for recovery by the OEB prior to the Closing Date notifying Amalco Holdco of its intention to have its Class D Special Shares redeemed for the price of \$1.00 in the aggregate. Brantford shall send a redemption notice to Amalco Holdco in accordance with the redemption terms attached to its Class D Special Shares if the whole or any portion of the BPI COVID-19 Deferral and Variance Amount is received by LDC Amalco at any point following the Closing Date, following which Amalco Holdco, shall in accordance with the redemption terms applicable to the Class D Special Shares, pay to Brantford the redemption amount equal to the BPI COVID-19 Deferral and Variance Amount approved for recovery by the OEB, net of taxes.
 - (v) Each of Brantford, Cambridge and North Dumfries shall send a redemption notice to Amalco Holdco in accordance with the redemption terms applicable to the Class A Special Shares and Class B Special Shares held by each of them notifying Amalco Holdco of their intention to have their respective Special Shares redeemed for the price of \$1.00, in the aggregate if the Net Adjustment Amount is zero.
 - (vi) Illustrative examples of the calculations of the BEC Group Adjustment Amount and the Energy Plus Group Adjustment Amount are set out in Schedule D.
- (b) The redemption terms applicable to the Special Shares shall provide, among other things, that Amalco Holdco shall pay the aggregate redemption amount to the redeeming shareholder as follows:

- (i) up to a maximum of \$2,000,000 within 10 Business Days following receipt of the redemption notices; and
- (ii) for any amounts in excess of \$2,000,000 (the “**Unpaid Redemption Amount**”), upon the following terms:
 - (A) the Unpaid Redemption Amount will be payable in annual instalments not to exceed \$2,000,000 per year commencing on one year after the Closing Date and bear interest at the Prime Rate; and
 - (B) Amalco Holdco shall be entitled, at its option and on two Business Days’ notice, to prepay all or any portion of the Unpaid Redemption Amount and any accrued and unpaid interest without bonus or penalty.
- (c) Subject to Section 2.6(d), each of LDC Amalco, Energy Plus Solutions and BHI, as applicable, will declare dividends in such amounts as may be required by Amalco Holdco to fund the payment of the redemption of any Special Shares.
- (d) If the declaration of any dividend by LDC Amalco, Energy Plus Solutions and/or BHI pursuant to Section 2.6(c) and/or the payment of any redemption amount payable to a shareholder under Section 2.6(b) would result in a breach by Amalco Holdco, LDC Amalco, Energy Plus Solutions and/or BHI of applicable Law (including the solvency requirements of the OBCA) or would breach a covenant under Amalco Holdco, LDC Amalco, Energy Plus Solutions and/or BHI’s respective financing arrangements, such payment shall not be paid but will be held in abeyance until such time that it can be paid without any such breach.

2.7 COVID-19 Acknowledgement Re. Target Balances

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

2.8 Nature and Intent of Adjustments (No Double Counting)

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

ARTICLE 3 GENERAL REPRESENTATIONS AND WARRANTIES

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

3.1 Corporate Existence

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

3.2 Capacity to Enter Agreement

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

3.3 Binding Obligation

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

3.4 Absence of Conflict

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

- (a) result in or constitute a breach of any term or provision of, or constitute a default under, the Corporate Articles, by-laws or other constating documents of such entity, or any Contract to which such entity is a party or by which such entity's undertakings, property or assets are bound or affected;
- (b) result in the creation or imposition of any Encumbrance on any of the assets of such entity;
- (c) subject to obtaining the regulatory approvals set forth in Article 9, contravene any applicable Law; or

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

ARTICLE 4

REPRESENTATIONS AND WARRANTIES OF BRANTFORD

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

4.1 Residence

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

4.2 Regulatory Approvals

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

4.3 Consents

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

4.4 Share Ownership, Etc.

- (a) As at the date hereof, Brantford is the legal and beneficial owner of 2,001 common shares of BEC with good and marketable title thereto, free and clear of all Encumbrances, being in aggregate all of the issued and outstanding shares of BEC. Immediately prior to Closing, Brantford will be the legal and beneficial owner of all of the issued and outstanding common shares of BEC with good and marketable title thereto, free and clear of all Encumbrances.
- (b) Brantford is the legal and beneficial owner of a promissory note issued by BPI with the principal sum of \$24,189,168 due February 1, 2026 and an interest rate of 3.95% and a promissory note issued by BHI in the amount with the principal sum of \$1,303,335 due February 1, 2026 and an interest rate of 3.95% (together, the “**Brantford Promissory Notes**”).
- (c) BEC is the legal and beneficial owner of 1,001 common shares of BPI with good and marketable title thereto, free and clear of all Encumbrances (other than

Permitted Encumbrances), being in aggregate all of the issued and outstanding shares of BPI.

- (d) BEC is the legal and beneficial owner of 1,001 common shares of BHI with good and marketable title thereto, free and clear of all Encumbrances (other than Permitted Encumbrances), being in aggregate all of the issued and outstanding shares of BHI.
- (e) Except as disclosed in the Brantford Disclosure Schedule, the BEC Group does not own or hold, directly or indirectly, any Securities of, or have any other interest in, any Person, and no member of the BEC Group has entered into any agreement to acquire any such interests.

4.5 Corporate Existence of the BEC Group

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

4.6 Corporate Articles

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

4.7 Capacity and Powers of the BEC Group

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

4.8 Jurisdictions

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

4.9 Options, Etc.

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

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

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

4.10 Corporate Records/Directors

- (a) The corporate records and minute books of the BEC Group which have been made available contain in all material respects complete and accurate minutes of all meetings of, and all written resolutions passed by, the directors and shareholders of the BEC Group, held or passed since incorporation. All those meetings were held, all those resolutions were passed, and the share certificate books, registers of shareholders, registers of transfers and registers of directors of the applicable member of the BEC Group are complete and accurate in all material respects.
- (b) The Brantford Disclosure Schedule contains the name of each director of the applicable member of the BEC Group, including the date on which each of such director was most recently elected as a director, and each such individual has been duly elected a director of the respective member of the BEC Group.

4.11 Books and Records

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

4.12 Financial Statements

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

- (a) the assets, liabilities (whether accrued, absolute, contingent or otherwise) and the financial condition of each member of the BEC Group as at the respective dates thereof; and
- (b) the sales, earnings and results of the operations of the applicable member of the BEC Group during the periods covered by such BEC Financial Statements, BPI Financial Statements and BHI Financial Statements;

but the unaudited interim financial statements:

- (c) do not contain all notes required under IFRS; and
- (d) are subject to normal year-end audit adjustments.

4.13 Tax Matters

- (a) The members of the BEC Group are exempt from Tax under the ITA, CTA and TA but each of them is required to make PILs payments under the EA in an amount equal to the Tax that it would be liable to pay under the ITA, CTA and TA if it were not exempt from Tax under those statutes.
- (b) The members of the BEC Group have filed in the prescribed manner and within the prescribed times all Tax Returns required to be filed by it in all applicable jurisdictions on a timely basis. All such Tax Returns are complete and correct and disclose all Taxes required to be paid for the periods covered thereby. No member of the BEC Group has been required to file any Tax Returns with, and have never been liable to pay or remit Taxes to, any Governmental Authority outside Canada. The BEC Group have paid all Taxes and all instalments of Taxes due on or before the date hereof. Brantford has furnished to Cambridge and North Dumfries true, complete and accurate copies of all Tax Returns and any amendments thereto filed by the members of the BEC Group since December 31, 2013 and all notices of assessment (up to December 31, 2019) and reassessment and all correspondence with Governmental Authorities relating thereto.
- (c) Assessments under the EA have been issued to the BEC Group covering all periods up to and including its fiscal year ended December 31, 2020.
- (d) There are no audits, assessments, reassessments or other Claims in progress or, to the Knowledge of Brantford, threatened against any member of the BEC Group, in respect of any Taxes and, in particular, there are no currently outstanding reassessments or written enquiries which have been issued or raised by any Governmental Authority relating to any such Taxes. To the Knowledge of Brantford, there is no contingent liability of any member of the BEC Group for Taxes or any grounds that could prompt an assessment or reassessment for Taxes. No member of the BEC Group has received any indication from any Governmental Authority that any assessment or reassessment is proposed.
- (e) No member of the BEC Group has entered into any transactions with any non-resident of Canada (for the purposes of the ITA) with whom such member of the BEC Group was not dealing at arm's length (within the meaning of the ITA). No member of the BEC Group has acquired property from any Person in circumstances where such member of the BEC Group did or could have become liable for any Taxes payable by that Person.
- (f) No member of the BEC Group will be required to include in a taxable period ending after the Closing Date any material taxable income attributable to income that accrued in a taxable period prior to the Closing Date but was not recognized for Tax purposes in such prior taxable period (or to exclude from taxable income in a taxable period ending after the Closing Date any material deduction the recognition of which was accelerated from such taxable period to a taxable period prior to the Closing Date).

- (g) There are no circumstances existing which could result in, or which have existed and resulted in, the application of section 78 of the ITA, as it applies for purposes of the EA, in respect of an amount owing by a member of the BEC Group on the Closing Date.
- (h) No member of the BEC Group has entered into any agreements, waivers or other arrangements with any Governmental Authority providing for an extension of time with respect to the issuance of any assessment or reassessment, the filing of any Tax Return, or the payment of any Taxes by or in respect of such member of the BEC Group except with respect to the 2015 Tax year in respect of BPI and BHI. Neither BEC nor BPI is party to any agreements or undertakings with respect to Taxes.
- (i) The BEC Group are registrants for purposes of the ETA and BEC's registration number is 875041329 RT0001, BPI's registration number is 865858773 RT0001 and BHI's registration number is 875041121 RT0001. All input tax credits claimed by each member of the BEC Group pursuant to the ETA have been proper, correctly calculated and documented. Each member of the BEC Group has collected, paid and remitted when due all Taxes, including goods and services tax, harmonized sales tax and retail sales tax, collectible, payable or remittable by them.
- (j) Each member of the BEC Group has remitted to the appropriate Governmental Authority when required by Law to do so all amounts collected by it on account of sales taxes including goods and services tax and harmonized sales tax imposed under the ETA.
- (k) Each member of the BEC Group maintains its Books and Records in compliance with section 230 of the ITA.

4.14 Absence of Changes

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

- (a) any change in the financial condition, operations, results of operations, or business of any member of the BEC Group which has had a Material Adverse Effect, nor has there been any occurrence or circumstances which, to the Knowledge of Brantford, with the passage of time might reasonably be expected to have a Material Adverse Effect; or
- (b) any Loss, labour trouble, or other event, development or condition of any character (whether or not covered by insurance) suffered by the BEC Group which, to the Knowledge of Brantford, has had, or may reasonably be expected to have, a Material Adverse Effect.

4.15 Absence of Undisclosed Liabilities

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

- (a) disclosed in the Brantford Disclosure Schedule; or
- (b) incurred in the ordinary course of the BEC Business;

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

4.16 Absence of Unusual Transactions

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

- (a) given any guarantee of any debt, liability or obligation of any Person;
- (b) subjected any of its assets, or permitted any of its assets to be subjected, to any Encumbrance other than the Permitted Encumbrances;
- (c) acquired, sold, leased or otherwise disposed of or transferred any assets other than in the ordinary course of the BEC Business;
- (d) made or committed to any capital expenditures other than in the ordinary course of the BEC Business;
- (e) declared or paid any dividend or otherwise made any distribution or other payment of any kind or nature to its shareholder or any other non-arm's length Person except as set forth in Section 6.3(e) or taken any corporate proceedings for that purpose;
- (f) redeemed, purchased or otherwise retired any of its shares or otherwise reduced its stated capital;
- (g) entered into or become bound by any Contract except in the ordinary course of the BEC Business (other than this Agreement);
- (h) modified, amended or terminated any Contract (except for Contracts which expire by the passage of time) resulting in a Material Adverse Effect;
- (i) waived or released any right or rights which it has or had, or a debt or debts owed to it resulting, collectively or individually, in a Material Adverse Effect;

- (j) made any change in any compensation arrangement or agreement with any BEC Group Employee except for annual merit pay increases and incentive payments consistent with the ordinary course of the BEC Business;
- (k) made any change in any method of accounting or auditing practice (other than as disclosed in the BEC Financial Statements, BPI Financial Statements or BHI Financial Statements and/or in order to make its financial disclosure consistent with the financial disclosure of the BEC Group as regards to accrued conservation and demand management (“CDM”) bonus or as regards to loss revenue adjustment mechanism recoveries); or
- (l) agreed or offered to do any of the things described in this Section 4.16.

4.17 Title to and Condition of Assets

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

4.18 Real Property

- (a) The Brantford Disclosure Schedule contains a complete and accurate list of the BEC Group Owned Lands, including complete legal descriptions, and the particulars of the BEC Group Leased Premises and BEC Real Property Leases. No member of the BEC Group owns any real property and does not lease and has not agreed to acquire or lease any real property other than as listed in the Brantford Disclosure Schedule.
- (b) Each member of the BEC Group has all Easements that are necessary for it to carry on the BEC Business as it is currently operated by it.
- (c) No member of the BEC Group has received any, nor to the Knowledge of Brantford are there any pending or threatened, notices of violation or alleged violation of any Laws against or affecting any BEC Group Owned Lands or BEC Group Leased Premises or BEC Group Easements.
- (d) The buildings and other structures and improvements located on the BEC Group Owned Lands or forming part of the BEC Group Leased Premises, and their operation and maintenance, comply with all applicable Laws, and none of those

buildings or structures or improvements encroaches upon any land not owned or leased by the applicable member of the BEC Group.

- (e) There are no restrictive covenants or Laws which in any way restrict or prohibit any part of the present use of the BEC Group Owned Lands or BEC Group Leased Premises or BEC Group Easements, other than the Permitted Encumbrances. Each member of the BEC Group has such rights of entry and exit to and from the BEC Group Owned Lands and the BEC Group Leased Premises and the BEC Group Easements as are reasonably necessary to carry on the BEC Business.
- (f) Except as disclosed in the Brantford Disclosure Schedule, no Person has any right to purchase any of the BEC Group Owned Lands and no Person other than BPI is using or has any right to use, is in possession or occupancy, of any part of the BEC Group Owned Lands. There exists no option, right of first refusal or other contractual rights with respect to any of the BEC Group Owned Lands.
- (g) There are no expropriation or similar proceedings, actual or threatened, of which any member of the BEC Group or Brantford have received notice, against any of the BEC Group Owned Lands or BEC Group Leased Premises or BEC Group Easements.
- (h) The BEC Group Owned Lands are owned in fee simple, free and clear of all Encumbrances, except Permitted Encumbrances. No member of the BEC Group has entered into any contract to sell, transfer, encumber, or otherwise dispose of or impair the right, title and interest of such member of the BEC Group in and to the BEC Group Owned Lands or the air, density and easement rights relating to such BEC Group Owned Lands.
- (i) All of the BEC Real Property Leases are in full force and effect, unamended, and none of them are, to the Knowledge of Brantford, under any threat of termination.
- (j) All of the BEC Group Easements are in full force and effect and none of them are, to the Knowledge of Brantford, under any threat of termination.
- (k) Neither Brantford nor any member of the BEC Group has received any notification of, nor are there any outstanding or incomplete work orders in respect of any Fixed Assets on the BEC Group Owned Lands, BEC Group Leased Premises or BEC Group Easements, or of any current noncompliance (other than non-compliances which are legal non-conforming under relevant zoning by-laws) with applicable statutes and regulations or building and zoning by-laws and regulations.
- (l) All accounts for work and services performed or materials placed or furnished upon or in respect of the construction and completion of any Fixed Assets constructed on the BEC Group Owned Lands or the BEC Group Leased Premises or the BEC Group Easements have been fully paid to the extent due and no Person is entitled to claim a lien under the *Construction Act* (Ontario) or other similar legislation for such work.

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

4.19 Intellectual Property

- (a) The Brantford Disclosure Schedule includes a list of all Intellectual Property that is registered with any Governmental Authority and that is used in connection with the conduct of the BEC Business, including all trade-marks and trade-mark applications, trade names, certification marks, patents and patent applications, copyrights, domain names, industrial designs, trade secrets, know-how, formulae, processes, inventions, technical expertise, research data and other similar property, all associated registrations and applications for registration, and all associated rights, including moral rights, the jurisdictions (if any) in which that Intellectual Property is registered (or in which application for registration has been made) and the applicable expiry dates of all listed registrations.
- (b) All necessary legal steps have been taken by the BEC Group to preserve their respective rights to the Intellectual Property listed in the Brantford Disclosure Schedule. The Brantford Disclosure Schedule also includes a list of all licence agreements pursuant to which BEC Group have been granted a right to use, or otherwise exploit Intellectual Property owned by third parties, other than “off-the-shelf” software license agreements.
- (c) The Intellectual Property that is owned by the members of the BEC Group (as applicable) is owned free and clear of any Encumbrances other than Permitted Encumbrances, and no Person other than the applicable member of the BEC Group has any right to use that Intellectual Property except as disclosed in the Brantford Disclosure Schedule.
- (d) The use by the members of the BEC Group of any Intellectual Property owned by third parties is valid, and the BEC Group is not in default or breach of any licence agreement relating to that Intellectual Property, and there exists no state of facts which, after notice or lapse of time or both, would constitute a default or breach.
- (e) The conduct by the members of the BEC Group of the BEC Business does not infringe the Intellectual Property of any Person.

4.20 Accounts Receivable

All Accounts Receivable reflected in the BEC Financial Statements, BPI Financial Statements and the BHI Financial Statements, as applicable, or which have come into existence since the date of the most recent BEC Financial Statements, BPI Financial Statements and BHI Financial Statements, were created in the ordinary and customary course of the BEC Business from bona

vide arm's length transactions, and, except to the extent that they have been paid in the ordinary course of such BEC Business since the date of the BEC Financial Statements, BPI Financial Statements and the BHI Financial Statements, are valid and enforceable and collectible in full, without, to the Knowledge of Brantford, any right of set-off or counterclaim or any reduction for any credit or allowance made or given, except to the extent of the allowance for doubtful accounts which will be included in the Brantford Closing Financial Statements.

4.21 Material Contracts

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

4.22 Accounts and Powers of Attorney

Each member of the BEC Group has previously disclosed:

- (a) the name of each bank or other depository in which such member of the BEC Group maintains any bank account, trust account or safety deposit box and the names of all individuals authorized to draw on them or who have access to them; and
- (b) the name of each Person holding a general or special power of attorney from BEC Group and a summary of its terms.

4.23 Compliance with Laws, Permits

- (a) Each member of the BEC Group is conducting the BEC Business in compliance with all applicable Laws where the failure to do so (either individually or in the aggregate) would have a Material Adverse Effect.
- (b) All Permits held by or granted to each member of the BEC Group are listed in the Brantford Disclosure Schedule. Such Permits are the only authorizations, registrations, permits, approvals, grants, licences, quotas, consents, commitments, rights or privileges (other than those relating to Intellectual Property) required to enable each member of the BEC Group to carry on the BEC Business as currently conducted and to enable each member of the BEC Group to own, lease and operate its assets. All such Permits are valid, subsisting, in full force and effect and unamended, and no member of the BEC Group is in default or breach of any such

Permit; no proceeding is pending or, to the Knowledge of Brantford, threatened to revoke or limit any such Permit, and the completion of the transactions contemplated by this Agreement will not result in the revocation of any such Permit or the breach of any term, provision, condition or limitation affecting the ongoing validity of any such Permit.

4.24 Environmental Conditions

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

- (a) the conduct of the BEC Business by the members of the BEC Group, and the current use and condition of each of the BEC Group Leased Premises and BEC Group Owned Lands have been and are in compliance with all applicable Environmental Laws in all material respects, and, to the Knowledge of Brantford, there are no facts which would give rise to any such non-compliance of any member of the BEC Group with any Environmental Laws either in the conduct of the BEC Business or in the current uses and condition of each of the BEC Group Leased Premises and the BEC Group Owned Lands;
- (b) each member of the BEC Group has all Permits required by all Environmental Laws for the conduct by the BEC Group of the BEC Business (“**BEC Environmental Approvals**”), which BEC Environmental Approvals are valid and in full force and effect and listed in the Brantford Disclosure Schedule. Each member of the BEC Group is in compliance with all those BEC Environmental Approvals, and there have not been and there are no proceedings commenced or threatened to revoke or amend any such BEC Environmental Approvals in a manner that could reasonably be expected to have a Material Adverse Effect;
- (c) each member of the BEC Group and each Person for whom such members of the BEC Group are responsible pursuant to all Environmental Laws, have imported, manufactured, processed, distributed, used, treated, stored, disposed of, transported, exported or handled Hazardous Substances in compliance with all Environmental Laws;
- (d) to the Knowledge of Brantford, no Hazardous Substances have been disposed of on any of the BEC Group Leased Premises or the BEC Group Owned Lands, and there are no underground storage tanks on the BEC Group Leased Premises or the BEC Group Owned Lands and any underground storage tanks formerly on the BEC Group Leased Premises or the BEC Group Owned Lands have been removed and any affected soil, surface water or ground water has been remediated in compliance with all applicable Laws including Environmental Laws;
- (e) no part of the BEC Group Owned Lands has ever been used as a landfill or for the disposal of waste;
- (f) there has been no Release of any Hazardous Substance in the course of the BEC Business from, at, on, or under the BEC Group Leased Premises or the BEC Group

Owned Lands or, to the Knowledge of Brantford, from or on to any other properties, except in compliance with all Environmental Laws;

- (g) no member of the BEC Group has received any notice of any kind of any Release or possible Release of any Hazardous Substance from, at, on, or under any of the BEC Group Leased Premises or BEC Group Owned Lands, or from or on to any other properties;
- (h) to the Knowledge of Brantford, there are no Hazardous Substances on any adjoining properties to any of the BEC Group Leased Premises or BEC Group Owned Lands which may adversely affect the BEC Business, or any of the BEC Group Leased Premises or BEC Group Owned Lands;
- (i) there has been no Remedial Order issued to any member of the BEC Group in respect of the BEC Business, or with respect to any of the BEC Group Leased Premises or the BEC Group Owned Lands and, to the Knowledge of Brantford, no Remedial Orders are threatened, and there are no facts which could reasonably be expected to give rise to any Remedial Orders;
- (j) no member of the BEC Group has received any notice of Claim, summons, order, direction or other communication relating to non-compliance with any Environmental Laws from any Governmental Authority or other third party, and to the Knowledge of Brantford, there is no pending or threatened matter, act or fact which could cause the members of the BEC Group, the conduct of the BEC Business, or any of the BEC Group Leased Premises or BEC Group Owned Lands to no longer be in compliance with all applicable Environmental Laws; and
- (k) no asbestos, asbestos containing materials, polychlorinated biphenyls (“PCBs”) and PCB wastes are used, stored or otherwise present in or on the BEC Group Owned Lands except for PCBs contained in the electrical transformers which are in service and which form an integral part of, and are necessary for the operation of, the BEC Business. Brantford has disclosed or made available all inspection reports received from the Ministry of the Environment in connection with the handling, transportation and storage of PCBs by the applicable members of the BEC Group.

4.25 Suppliers and Customers

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

4.26 Rights to Use Personal Information

- (a) All Personal Information in the possession of the BEC Group has been collected, used and disclosed in compliance with all applicable Privacy Laws in those jurisdictions in which the BEC Group conducts, or is deemed by operation of law in those jurisdictions to conduct, the BEC Business.
- (b) Brantford has disclosed or made available all Contracts and facts concerning the collection, use, retention, destruction and disclosure of Personal Information by the applicable members of the BEC Group and there are no other Contracts, or facts which, on completion of the transactions contemplated by this Agreement, would restrict or interfere with the use of any Personal Information by the applicable members of the BEC Group in the continued operation of the BEC Business as conducted before the Closing.
- (c) Except as disclosed in the Brantford Disclosure Schedule, there are no Claims pending or, to the Knowledge of Brantford, threatened, with respect to the collection, use or disclosure of Personal Information by the applicable members of the BEC Group.

4.27 Employees and Employment Contracts

- (a) Brantford has made available in the Data Room the names, titles and status (active or non-active, and if not active, reason why and period of time not active) of all BEC Group Employees together with particulars of the material terms and conditions of their employment or engagement, including current rates of remuneration, perquisites, commissions, bonus or other incentive compensation (monetary or otherwise), most recent hire date, cumulative years of service, start and end dates of all previous periods of service, benefits, vacation or personal time off entitlements, current positions held and, if available, projected rates of remuneration, and whether the employee is a member of a collective bargaining union or agency and whether the employee is subject to the BEC Collective Agreement.
- (b) To the Knowledge of Brantford, no BEC Group Employee nor any consultant with whom the applicable members of the BEC Group has contracted, is in violation of any term of any employment contract, contract of engagement, services agreement, proprietary information agreement or any other agreement relating to the right of that individual to be employed, engaged or retained by the applicable members of the BEC Group in any material respect, and, to the Knowledge of Brantford, the continued employment or engagement by the members of the BEC Group of the BEC Group Employees will not result in any such violation. No member of the BEC Group has received any notice alleging that any such violation has occurred.
- (c) Except as disclosed in the Data Room, all of the BEC Group Employees are employed, engaged or retained for an indefinite term and none are subject to written employment agreements, contracts of engagement or services agreements.

Brantford has made available in the Data Room true and complete copies of any written employment agreements, contracts of engagement or services agreements of all BEC Group Employees. No officer has given notice, oral or written, of an intention to cease being employed with the BEC Group (other than the pending employee retirements disclosed in the Brantford Disclosure Schedule), and no member of the BEC Group intends to terminate the employment of any officer.

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

4.28 Unions

- (a) Except as disclosed in the Brantford Disclosure Schedule, there are no apparent or, to the Knowledge of Brantford, threatened union organizing activities involving BEC Group Employees.
- (b) No member of the BEC Group has any labour problems that would reasonably be expected to result in a Material Adverse Effect, or lead to any interruption of operations at any location.
- (c) No member of the BEC Group has engaged in any lay-off or other activities within the last three years in respect of the BEC Business that would violate or in any way subject the members of the BEC Group to the group termination or lay-off requirements of the Laws of any jurisdiction that apply to the members of the BEC Group.
- (d) Except as disclosed in the Brantford Disclosure Schedule, no member of the BEC Group is bound by or a party to, either directly or by operation of law, any collective bargaining agreement (the **“BEC Collective Agreement”**) with any trade union or association which might qualify as a trade union, and no trade union, association, council of trade unions, employee bargaining agency or affiliated bargaining agent:
 - (i) holds bargaining rights with respect to any of the BEC Group Employees by way of certification, interim certification, voluntary recognition, designation or successor rights;

- (ii) has, to the Knowledge of Brantford, applied to be certified or requested to be voluntarily recognized as the bargaining agent of any of the BEC Group Employees;
- (iii) has, to the Knowledge of Brantford, applied to have any member of the BEC Group declared a related or successor employer under applicable provincial labour or employment Law; or
- (iv) has, to the Knowledge of Brantford, filed a complaint or charge under applicable provincial labour or employment Law within the last three years.

4.29 Employee Benefits Matters

- (a) Except as disclosed in the Brantford Disclosure Schedule, the members of the BEC Group are not:
 - (i) a party to, bound by or subject to, and do not have any liability or contingent liability relating to, any employment agreement or any other agreement or arrangement relating to Employee Benefits;
 - (ii) in arrears in the payment of any contribution or assessment required to be made by them pursuant to any agreements or arrangements relating to Employee Benefits; or
 - (iii) a party to or bound by or subject to any agreement or arrangement with any labour union or employee association in respect of Employee Benefits and has not made any commitment to or conducted any negotiation or discussion with any labour union or employee association with respect to any future agreement or arrangement in respect of Employee Benefits.
- (b) All agreements and arrangements relating to Employee Benefits in respect of BEC Group Employees set forth in the Brantford Disclosure Schedule (other than OMERS, with respect to which Brantford makes no representation under this Section 4.29(b)) are, and have been, established, registered (where required), and administered without default, in material compliance with (i) the terms thereof; and (ii) all applicable Laws; and no member of the BEC Group has received, in the last four years, any notice from any Person questioning or challenging such compliance (other than in respect of any claim related solely to that Person), nor does Brantford have any Knowledge of any such notice from any Person questioning or challenging such compliance beyond the last four years. Except as disclosed in the Brantford Disclosure Schedule or the BEC Collective Agreement, there have been no improvements, increases or changes to, or promised improvements, increases or changes to, the benefits provided under any such agreement or arrangement within the last four years, nor does any such agreement or arrangement provide for benefit increases or the acceleration of funding obligations that are contingent upon or will be triggered by the execution of this Agreement or the Closing.

- (c) Except as disclosed in Brantford Disclosure Schedule, no BEC Group Employee is on long-term disability leave, extended absence or receiving benefits pursuant to the *Workplace Safety and Insurance Act, 1997* (Ontario).
- (d) Except as disclosed in the Brantford Disclosure Schedule, no agreement or arrangement, other than OMERS, provides benefits beyond retirement or other termination of service to employees or former employees of any member of the BEC Group or to the beneficiaries or dependants of such employees or former employees. Other than OMERS, no such agreement or arrangement requires or permits a retroactive increase in premiums or payments.
- (e) All assessments under the *Workplace Safety and Insurance Act, 1997* (Ontario) in relation to the BEC Business have been paid or accrued and no member of the BEC Group is subject to any special or penalty assessment under such legislation which has not been paid.

4.30 Pension Plans

- (a) Except as disclosed in the Brantford Disclosure Schedule, OMERS is the only pension or retirement plan or arrangement in which BEC Group Employees participate and/or to which the BEC Group contributes as a participating employer.
- (b) All obligations of the BEC Group to or under OMERS (whether pursuant to the terms thereof or any applicable Laws) have been satisfied, and there are no outstanding defaults or violations thereunder by any member of the BEC Group or by any predecessor thereof.
- (c) There are no going concerns with respect to unfunded actuarial liabilities, past service unfunded liabilities or solvency deficiencies respecting the BEC Group's participation in OMERS.
- (d) All employee data necessary to administer the BEC Group's participation in OMERS and any other agreement or arrangement listed in the Brantford Disclosure Schedule is in the possession of the BEC Group and is complete, correct and in a form which is sufficient for the proper administration of the BEC Group's participation in OMERS in accordance with the terms thereof and all applicable Laws.
- (e) All employer or employee payments, contributions or premiums required to be remitted or paid by the BEC Group to or in respect of OMERS have been paid or remitted in a timely fashion in accordance with the terms thereof and all Laws, and no Taxes, penalties or fees are owing or exigible on any member of the BEC Group under OMERS.

4.31 Insurance Policies

The Brantford Disclosure Schedule lists all Insurance Policies, and also specifies the insurer, the amount of the coverage, the type of insurance, the policy number and any pending Claims with

respect to each such Insurance Policy. The Insurance Policies insure all the property and assets of the BEC Group against Loss by all insurable hazards of risk commonly insured against in the industry. All Insurance Policies are in full force and effect and no member of the BEC Group:

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

4.32 Litigation

- (a) Except as disclosed or referred to in the Brantford Disclosure Schedule, there are no Claims, whether or not purportedly on behalf of BEC Group, pending, commenced, or, to the Knowledge of Brantford, threatened, which might reasonably be expected to have a Material Adverse Effect on any member of the BEC Group or which might involve the possibility of an Encumbrance against the assets of any member of the BEC Group.
- (b) There is no outstanding judgment, decree, order, ruling or injunction involving any member of the BEC Group or relating in any way to the transactions contemplated by this Agreement.

4.33 Withholding

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

4.34 No Expropriation

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

4.35 Absence of Conflict

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

- (a) result in or constitute a breach of any term or provision of, or constitute a default under, the Corporate Articles or the by-laws of such entity, or any Contract to which

such entity is a party or by which any of such entity's undertakings, property or assets is bound or affected;

- (b) subject to obtaining the third party consents contemplated by Section 7.1(c), constitute an event which would permit any party to any Material Contract with BEC Group to terminate or sue for damages with respect to that Material Contract, or to accelerate the maturity of any indebtedness of BEC Group, or other obligation of BEC Group under that Material Contract;
- (c) subject to obtaining the regulatory approvals set forth in Article 9, contravene any applicable Law; or
- (d) contravene any judgment, order, writ, injunction or decree of any Governmental Authority.

4.36 Restrictive Covenants

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

4.37 BEC Group Business

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

4.38 Compliance with Privacy Laws

With respect to the BEC Business:

- (a) Each member of the BEC Group has made available to Cambridge and North Dumfries the Privacy Statements contained in the Brantford Disclosure Schedule.
- (b) Each member of the BEC Group: (i) complies with the Privacy Statements with respect to all personal information collected, used and/or disclosed by each member of the BEC Group; (ii) complies with all applicable Privacy Laws; and (iii) takes appropriate measures to protect and maintain the security of the personal information in the possession of each member of the BEC Group and/or which each member of the BEC Group has access.
- (c) The change of control of each member of the BEC Group pursuant to the terms of this Agreement and the transactions contemplated hereunder (including the disclosures made by each member of the BEC Group in the course of the due diligence in anticipation of the transactions contemplated by this Agreement), is in compliance with the terms of the Privacy Statement and all applicable Privacy Laws.

- (d) All Personal Information disclosed to each member of the Energy Plus Group pursuant to the transaction contemplated by this Agreement relates directly to the part of BEC Business that is covered by the transactions contemplated by this Agreement.
- (e) No member of the BEC Group is aware of any complaint made or any audit, investigation, claim or proceeding including court proceeding against any member of the BEC Group by the Office of the Privacy Commissioner of Canada or any other Governmental Authority, or by any Person in respect of the collection, retention, use, disclosure, safeguarding or distribution of Personal Information by any Person in connection with the BEC Business, nor is any member of the BEC Group aware of any facts which may give rise to any such complaint or audit, proceeding, investigation or claim.
- (f) All Electronic Addresses have been acquired, maintained, updated (including operationalizing opt-out requests) and stored, and all Electronic Messages sent and/or delivered by or on behalf of each member of the BEC Group have been sent and/or delivered, in accordance with all applicable Laws, including but not limited to Anti-Spam Laws and Privacy Laws.
- (g) In the last five years, there has been no unauthorized access, use, intrusion or breach of security, or failure, breakdown, performance reduction or other adverse event affecting any BEC Group Systems, that has caused or could reasonably be expected to cause any: (i) substantial disruption of or interruption in or to the use of such BEC Group Systems or the conduct of the BEC Business; (ii) loss, destruction, damage or harm of or to any member of the BEC Group or its respective operations, personnel, property or other assets; or (iii) liability of any kind to the applicable member of the BEC Group. Each member of the BEC Group has taken reasonable actions, consistent with applicable industry practices, to protect the integrity and security of BEC Group Systems and the data and other information stored thereon.
- (h) Each member of the BEC Group maintains commercially reasonable back-up and data recovery, disaster recovery and business continuity plans, procedures and facilities, acts in material compliance therewith, and tests such plans and procedures on a regular basis, and such plans and procedures have been proven effective upon such testing.
- (i) Each member of the BEC Group maintains policies and procedures regarding data security and privacy that are intended to ensure that each member of the BEC Group is in compliance with all applicable Laws and that are consistent with or exceed customary industry practices. Each member of the BEC Group is, and has been, in compliance in all material respects with (i) such foregoing policies and procedures, and (ii) all applicable data protection laws or Privacy Laws governing the use, collection, storage, disclosure and transfer of any personally identifiable information of third parties collected by each member of the BEC Group. There have not been any (1) losses or thefts of data or security breaches relating to data used or stored in the BEC Business, (2) violations of any security policy regarding

any such data, (3) unauthorized access or unauthorized use of any such data, or (4) unintended or improper disclosure of any personally identifiable information in the possession, custody or control of each member of the BEC Group or a contractor or agent acting on behalf of each member of the BEC Group. There have not been any written complaints, written notices or legal proceedings or other written claims related to any of the foregoing in clauses (ii) or (1) through (4) above. Without limiting the foregoing, each member of the BEC Group and its operation of the BEC Business complies in all material respects with all Privacy Laws applicable thereto, and there is no action, suit, claim, proceeding or investigation pending, or, nor to the Knowledge of Brantford, threatened against each member of the BEC Group alleging any failure by each member of the BEC Group to comply with any such Laws.

ARTICLE 5 REPRESENTATIONS AND WARRANTIES OF CAMBRIDGE AND NORTH DUMFRIES

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

5.1 Residence

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

5.2 Regulatory Approvals

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

5.3 Consents

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

5.4 Share Ownership, Etc.

- (a) As at the date hereof, Cambridge is the legal and beneficial owner of 2,763 common shares of Energy Plus Holdings with good and marketable title thereto, free and clear of all Encumbrances.
- (b) As at the date hereof, North Dumfries is the legal and beneficial owner of 237 common shares of Energy Plus Holdings with good and marketable title thereto, free and clear of all Encumbrances.
- (c) The common shares held by Cambridge and North Dumfries pursuant to Section 5.4(a) and Section 5.4(b) constitute all of the issued and outstanding shares of Energy Plus Holdings. Immediately prior to Closing, Cambridge and North Dumfries will be the legal and beneficial owner of all of the issued and outstanding common shares of Energy Plus Holdings with good and marketable title thereto, free and clear of all Encumbrances.
- (d) Energy Plus Holdings is the legal and beneficial owner of 1,001 common shares of Energy+ with good and marketable title thereto, free and clear of all Encumbrances (other than Permitted Encumbrances), being in aggregate all of the issued and outstanding shares of Energy+.
- (e) Energy Plus Holdings is the legal and beneficial owner of 1,001 common shares of Energy Plus Solutions with good and marketable title thereto, free and clear of all Encumbrances (other than Permitted Encumbrances), being in aggregate all of the issued and outstanding shares of Energy Plus Solutions.
- (f) Energy Plus Solutions is the legal and beneficial owner of 1,600,000 common shares in the capital of GRE with good and marketable title thereto, free and clear of all Encumbrances (other than Permitted Encumbrances), being in aggregate a 1/3 equity interest in GRE.
- (g) Except as disclosed in the Energy Plus Disclosure Schedule, the Energy Plus Group does not own or hold, directly or indirectly, any Securities of, or have any other interest in, any Person, and no member of the Energy Plus Group has entered into any agreement to acquire any such interests.

5.5 Corporate Existence of the Energy Plus Group

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

5.6 Corporate Articles

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

5.7 Capacity and Powers of the Energy Plus Group

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

5.8 Jurisdictions

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

5.9 Options, Etc.

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

- (a) the purchase of any Securities of any member of the Energy Plus Group; or
- (b) the purchase of any of the assets of any member of the Energy Plus Group other than in the ordinary course of the Energy Plus Business.

5.10 Corporate Records/Directors

- (a) The corporate records and minute books of the Energy Plus Group which have been made available contain in all material respects complete and accurate minutes of all meetings of, and all written resolutions passed by, the directors and shareholders of the Energy Plus Group, held or passed since incorporation. All those meetings were held, all those resolutions were passed, and the share certificate books, registers of shareholders, registers of transfers and registers of directors of the applicable member of the Energy Plus Group are complete and accurate in all material respects.
- (b) The Energy Plus Disclosure Schedule contains the name of each director of the applicable member of the Energy Plus Group, including the date on which each of such director was most recently elected as a director, and each such individual has been duly elected a director of the respective member of the Energy Plus Group.

5.11 Books and Records

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

5.12 Financial Statements

Copies of the Energy Plus Holdings Financial Statements, Energy+ Financial Statements, and Energy Plus Solutions Financial Statements are attached to the Energy Plus Disclosure Schedule. Such Energy Plus Holdings Financial Statements, Energy+ Financial Statements, and Energy Plus Solutions Financial Statements have been prepared in accordance with IFRS and present fairly:

- (a) the assets, liabilities (whether accrued, absolute, contingent or otherwise) and the financial condition of each member of the Energy Plus Group as at the respective dates thereof; and
- (b) the sales, earnings and results of the operations of the applicable member of the Energy Plus Group during the periods covered by such Energy Plus Holdings Financial Statements, Energy+ Financial Statements, and Energy Plus Solutions Financial Statements;

but the unaudited interim financial statements:

- (c) do not contain all notes required under IFRS; and
- (d) are subject to normal year-end audit adjustments.

5.13 Tax Matters

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

- (c) Assessments under the EA have been issued to the Energy Plus Group covering all periods up to and including its fiscal year ended December 31, 2020.
- (d) There are no audits, assessments, reassessments or other Claims in progress or, to the Knowledge of Cambridge and North Dumfries, threatened against any member of the Energy Plus Group, in respect of any Taxes and, in particular, there are no currently outstanding reassessments or written enquiries which have been issued or raised by any Governmental Authority relating to any such Taxes. To the Knowledge of Cambridge and North Dumfries, there is no contingent liability of any member of the Energy Plus Group for Taxes or any grounds that could prompt an assessment or reassessment for Taxes. No member of the Energy Plus Group has received any indication from any Governmental Authority that any assessment or reassessment is proposed.
- (e) No member of the Energy Plus Group has entered into any transactions with any non-resident of Canada (for the purposes of the ITA) with whom such member of the Energy Plus Group was not dealing at arm's length (within the meaning of the ITA). No member of Energy Plus Group has acquired property from any Person in circumstances where such member of the Energy Plus Group did or could have become liable for any Taxes payable by that Person.
- (f) No member of the Energy Plus Group will be required to include in a taxable period ending after the Closing Date any material taxable income attributable to income that accrued in a taxable period prior to the Closing Date but was not recognized for Tax purposes in such prior taxable period (or to exclude from taxable income in a taxable period ending after the Closing Date any material deduction the recognition of which was accelerated from such taxable period to a taxable period prior to the Closing Date).
- (g) There are no circumstances existing which could result in, or which have existed and resulted in, the application of section 78 of the ITA, as it applies for purposes of the EA, in respect of an amount owing by a member of the Energy Plus Group on the Closing Date.
- (h) No member of the Energy Plus Group has entered into any agreements, waivers or other arrangements with any Governmental Authority providing for an extension of time with respect to the issuance of any assessment or reassessment, the filing of any Tax Return, or the payment of any Taxes by or in respect of such member of the Energy Plus Group. No member of the Energy Plus Group is party to any agreements or undertakings with respect to Taxes.
- (i) The Energy Plus Group are registrants for purposes of the ETA and Energy Plus Holdings registration number is 88102 0127 RT0001, Energy Plus Solutions' registration number is 88102 0325 RT0001 and Energy+ registration number is 86569 7585 RT0001. All input tax credits claimed by each member of the Energy Plus Group pursuant to the ETA have been proper, correctly calculated and documented. Each member of the Energy Plus Group has collected, paid and

remitted when due all Taxes, including goods and services tax, harmonized sales tax and retail sales tax, collectible, payable or remittable by them.

- (j) Each member of the Energy Plus Group has remitted to the appropriate Governmental Authority when required by Law to do so all amounts collected by it on account of sales taxes including goods and services tax and harmonized sales tax imposed under the ETA.
- (k) Each member of the Energy Plus Group maintains its Books and Records in compliance with section 230 of the ITA.

5.14 Absence of Changes

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

- (a) any change in the financial condition, operations, results of operations, or business of any member of the Energy Plus Group which has had a Material Adverse Effect, nor has there been any occurrence or circumstances which, to the Knowledge of Cambridge and North Dumfries, with the passage of time might reasonably be expected to have a Material Adverse Effect; or
- (b) any Loss, labour trouble, or other event, development or condition of any character (whether or not covered by insurance) suffered by Energy Plus Group which, to the Knowledge of Cambridge and North Dumfries, has had, or may reasonably be expected to have, a Material Adverse Effect.

5.15 Absence of Undisclosed Liabilities

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

- (a) disclosed in the Energy Plus Disclosure Schedule; or
- (b) incurred in the ordinary course of the Energy Plus Business;

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

5.16 Absence of Unusual Transactions

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

- (a) given any guarantee of any debt, liability or obligation of any Person;
- (b) subjected any of its assets, or permitted any of its assets to be subjected, to any Encumbrance other than the Permitted Encumbrances;
- (c) acquired, sold, leased or otherwise disposed of or transferred any assets other than, in the case of Energy+, in the ordinary course of the Energy Plus Business;
- (d) made or committed to any capital expenditures, except, in the case of Energy+, in the ordinary course of the Energy Plus Business;
- (e) declared or paid any dividend or otherwise made any distribution or other payment of any kind or nature to any of its shareholders or any other non-arm's length Person except as set forth in Section 6.3(e) or taken any corporate proceedings for that purpose;
- (f) redeemed, purchased or otherwise retired any of its shares or otherwise reduced its stated capital;
- (g) entered into or become bound by any Contract, except, in the case of Energy+, in the ordinary course of the Energy Plus Business (other than this Agreement);
- (h) modified, amended or terminated any Contract (except for Contracts which expire by the passage of time) resulting in a Material Adverse Effect;
- (i) waived or released any right or rights which it has or had, or a debt or debts owed to it resulting, collectively or individually, in a Material Adverse Effect;
- (j) except for annual merit pay increases and incentive payments consistent with the ordinary course of the Energy Plus Business;
- (k) made any change in any method of accounting or auditing practice (other than as disclosed in the Energy Plus Holdings Financial Statements, Energy+ Financial Statements, or the Energy Plus Solutions Financial Statements and/or in order to make its financial disclosure consistent with the financial disclosure of Energy Plus Group as regards to accrued CDM bonus or as regards to loss revenue adjustment mechanism recoveries); or
- (l) agreed or offered to do any of the things described in this Section 5.16.

5.17 Title to and Condition of Assets

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

5.18 Real Property

- (a) The Energy Plus Disclosure Schedule contains a complete and accurate list of the Energy Plus Group Owned Lands, including complete legal descriptions, and the particulars of the Energy Plus Group Leased Premises and Energy Plus Group Real Property Leases. The Energy Plus Group does not own any real property and does not lease and has not agreed to acquire or lease any real property other than as listed in the Energy Plus Disclosure Schedule.
- (b) Each member of the Energy Plus Group has all Easements that are necessary for it to carry on the Energy Plus Business as it is currently operated by such member of the Energy Plus Group.
- (c) No member of the Energy Plus Group has received any, nor to the Knowledge of Cambridge and North Dumfries are there any pending or threatened, notices of violation or alleged violation of any Laws against or affecting any Energy Plus Group Owned Lands or Energy Plus Group Leased Premises or Energy Plus Group Easements.
- (d) The buildings and other structures and improvements located on the Energy Plus Group Owned Lands or forming part of the Energy Plus Group Leased Premises, and their operation and maintenance, comply with all applicable Laws, and none of those buildings or structures or improvements encroaches upon any land not owned or leased by the applicable member of the Energy Plus Group.
- (e) There are no restrictive covenants or Laws which in any way restrict or prohibit any part of the present use of the Energy Plus Group Owned Lands or Energy Plus Group Leased Premises or Energy Plus Group Easements, other than the Permitted Encumbrances. Each member of the Energy Plus Group has such rights of entry and exit to and from the Energy Plus Group Owned Lands and the Energy Plus Group Leased Premises and the Energy Plus Group Easements as are reasonably necessarily to carry on the Energy Plus Business.

- (f) Except as disclosed in the Energy Plus Disclosure Schedule, no Person has any right to purchase any of the Energy Plus Group Owned Lands and no Person other than Energy+ is using or has any right to use, is in possession or occupancy, of any part of the Energy Plus Group Owned Lands. There exists no option, right of first refusal or other contractual rights with respect to any of the Energy Plus Group Owned Lands.
- (g) There are no expropriation or similar proceedings, actual or threatened, of which any member of the Energy Plus Group or Cambridge and North Dumfries have received notice, against any of the Energy Plus Group Owned Lands or Energy Plus Group Leased Premises or Energy Plus Group Easements.
- (h) The Energy Plus Group Owned Lands are owned in fee simple, free and clear of all Encumbrances, except Permitted Encumbrances. No member of the Energy Plus Group has entered into any contract to sell, transfer, encumber, or otherwise dispose of or impair the right, title and interest of such member of the Energy Plus Group in and to the Energy Plus Group Owned Lands or the air, density and easement rights relating to such Energy Plus Group Owned Lands.
- (i) All of the Energy Plus Group Real Property Leases are in full force and effect, unamended, and none of them are, to the Knowledge of Cambridge and North Dumfries, under any threat of termination.
- (j) All of the Energy Plus Group Easements are in full force and effect and none of them are, to the Knowledge of Cambridge and North Dumfries, under any threat of termination.
- (k) Neither Cambridge and North Dumfries nor any member of the Energy Plus Group has received any notification of, nor are there any outstanding or incomplete work orders in respect of any Fixed Assets on the Energy Plus Group Owned Lands, Energy Plus Group Leased Premises or Energy Plus Group Easements, or of any current noncompliance (other than non-compliances which are legal non-conforming under relevant zoning by-laws) with applicable statutes and regulations or building and zoning by-laws and regulations.
- (l) All accounts for work and services performed or materials placed or furnished upon or in respect of the construction and completion of any Fixed Assets constructed on the Energy Plus Group Owned Lands or the Energy Plus Group Leased Premises or the Energy Plus Group Easements have been fully paid to the extent due and no Person is entitled to claim a lien under the *Construction Act* (Ontario) or other similar legislation for such work.
- (m) To the Knowledge of Cambridge and North Dumfries, there are no matters affecting the right, title and interest of any member of the Energy Plus Group in and to the Energy Plus Group Owned Lands or the Energy Plus Group Leased Premises or the Energy Plus Group Easements (other than the Permitted Encumbrances) or which, in the aggregate, would materially and adversely affect the ability of such member

of the Energy Plus Group to carry on the Energy Plus Business upon such Energy Plus Group Owned Lands or the Energy Plus Group Leased Premises or the Energy Plus Group Easements, as applicable.

5.19 Intellectual Property

- (a) The Energy Plus Disclosure Schedule includes a list of all Intellectual Property that is registered with any Governmental Authority and that is used in connection with the conduct of the Energy Plus Business, including all trade-marks and trade-mark applications, trade names, certification marks, patents and patent applications, copyrights, domain names, industrial designs, trade secrets, know-how, formulae, processes, inventions, technical expertise, research data and other similar property, all associated registrations and applications for registration, and all associated rights, including moral rights, the jurisdictions (if any) in which that Intellectual Property is registered (or in which application for registration has been made) and the applicable expiry dates of all listed registrations.
- (b) All necessary legal steps have been taken by the Energy Plus Group to preserve their respective rights to the Intellectual Property listed in the Energy Plus Disclosure Schedule. The Energy Plus Disclosure Schedule also includes a list of all licence agreements pursuant to which Energy Plus Group have been granted a right to use, or otherwise exploit Intellectual Property owned by third parties, other than “off-the-shelf” software license agreements.
- (c) The Intellectual Property that is owned by the members of the Energy Plus Group (as applicable) is owned free and clear of any Encumbrances other than Permitted Encumbrances, and no Person other than the applicable member of the Energy Plus Group has any right to use that Intellectual Property except as disclosed in the Energy Plus Disclosure Schedule.
- (d) The use by the members of the Energy Plus Group of any Intellectual Property owned by third parties is valid, and the Energy Plus Group is not in default or breach of any licence agreement relating to that Intellectual Property, and there exists no state of facts which, after notice or lapse of time or both, would constitute a default or breach.
- (e) The conduct by the members of the Energy Plus Group of the Energy Plus Business does not infringe the Intellectual Property of any Person.

5.20 Accounts Receivable

All Accounts Receivable reflected in the Energy Plus Holdings Financial Statements, Energy+ Financial Statements, and Energy Plus Solutions Financial Statements, as applicable, or which have come into existence since the date of the most recent Energy Plus Holdings Financial Statements, Energy+ Financial Statements, and Energy Plus Solutions Financial Statements, were created in the ordinary and customary course of the Energy Plus Business from bona fide arm’s length transactions, and, except to the extent that they have been paid in the ordinary course of such Energy Plus Business since the date of the Energy Plus Holdings Financial Statements,

Energy+ Financial Statements, and Energy Plus Solutions Financial Statements, are valid and enforceable and collectible in full, without, to the Knowledge of Cambridge and North Dumfries, any right of set-off or counterclaim or any reduction for any credit or allowance made or given, except to the extent of the allowance for doubtful accounts which will be included in the Closing Financial Statements for Energy Plus Holdings.

5.21 Material Contracts

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

5.22 Accounts and Powers of Attorney

Each member of the Energy Plus Group has previously disclosed:

- (a) the name of each bank or other depository in which such member of the Energy Plus Group maintains any bank account, trust account or safety deposit box and the names of all individuals authorized to draw on them or who have access to them; and
- (b) the name of each Person holding a general or special power of attorney from Energy Plus Group and a summary of its terms.

5.23 Compliance with Laws, Permits

- (a) Each member of the Energy Plus Group is conducting the Energy Plus Business in compliance with all applicable Laws where the failure to do so (either individually or in the aggregate) would have a Material Adverse Effect.
- (b) All Permits held by or granted to each member of the Energy Plus Group are listed in the Energy Plus Disclosure Schedule. Such Permits are the only authorizations, registrations, permits, approvals, grants, licences, quotas, consents, commitments, rights or privileges (other than those relating to Intellectual Property) required to enable each member of the Energy Plus Group to carry on the Energy Plus Business as currently conducted and to enable each member of the Energy Plus Group to own, lease and operate its assets. All such Permits are valid, subsisting, in full force and effect and unamended, and Energy+ is not in default or breach of any such

Permit; no proceeding is pending or, to the Knowledge of Cambridge and North Dumfries, threatened to revoke or limit any such Permit, and the completion of the transactions contemplated by this Agreement will not result in the revocation of any such Permit or the breach of any term, provision, condition or limitation affecting the ongoing validity of any such Permit.

5.24 Environmental Conditions

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

- (a) the conduct of the Energy Plus Business by the members of the Energy Plus Group, and the current use and condition of each of the Energy Plus Group Leased Premises and Energy Plus Group Owned Lands have been and are in compliance with all applicable Environmental Laws in all material respects, and, to the Knowledge of Cambridge and North Dumfries, there are no facts which would give rise to any such non-compliance of any member of the Energy Plus Group with any Environmental Laws either in the conduct of the Energy Plus Business or in the current uses and condition of each of the Energy Plus Group Leased Premises and the Energy Plus Group Owned Lands;
- (b) each member of the Energy Plus Group has all Permits required by all Environmental Laws for the conduct by the Energy Plus Group of the Energy Plus Business (“**Energy Plus Environmental Approvals**”), which Energy Plus Environmental Approvals are valid and in full force and effect and listed in the Energy Plus Disclosure Schedule. Each member of the Energy Plus Group is in compliance with all those Energy Plus Environmental Approvals, and there have not been and there are no proceedings commenced or threatened to revoke or amend any such Energy Plus Environmental Approvals in a manner that could reasonably be expected to have a Material Adverse Effect;
- (c) each member of the Energy Plus Group and each Person for whom such members of the Energy Plus Group are responsible pursuant to all Environmental Laws, have imported, manufactured, processed, distributed, used, treated, stored, disposed of, transported, exported or handled Hazardous Substances in compliance with all Environmental Laws;
- (d) to the Knowledge of Cambridge and North Dumfries, no Hazardous Substances have been disposed of on any of the Energy Plus Group Leased Premises or the Energy Plus Group Owned Lands, and there are no underground storage tanks on the Energy Plus Group Leased Premises or the Energy Plus Group Owned Lands and any underground storage tanks formerly on the Energy Plus Group Leased Premises or the Energy Plus Group Owned Lands have been removed and any affected soil, surface water or ground water has been remediated in compliance with all applicable Laws including Environmental Laws;

- (e) no part of the Energy Plus Group Owned Lands has ever been used as a landfill or for the disposal of waste;
- (f) there has been no Release of any Hazardous Substance in the course of the Energy Plus Business from, at, on, or under the Energy Plus Group Leased Premises or the Energy Plus Group Owned Lands or, to the Knowledge of Cambridge and North Dumfries, from or on to any other properties, except in compliance with all Environmental Laws;
- (g) Energy+ has not received any notice of any kind of any Release or possible Release of any Hazardous Substance from, at, on, or under any of the Energy Plus Group Leased Premises or Energy Plus Group Owned Lands, or from or on to any other properties;
- (h) to the Knowledge of Cambridge and North Dumfries, there are no Hazardous Substances on any adjoining properties to any of the Energy Plus Group Leased Premises or Energy Plus Group Owned Lands which may adversely affect the Energy Plus Business, or any of the Energy Plus Group Leased Premises or Energy Plus Group Owned Lands;
- (i) there has been no Remedial Order issued to any member of the Energy Plus Group in respect of the Energy Plus Business, or with respect to any of the Energy Plus Group Leased Premises or the Energy Plus Group Owned Lands and, to the Knowledge of Cambridge and North Dumfries, no Remedial Orders are threatened, and there are no facts which could reasonably be expected to give rise to any Remedial Orders;
- (j) no member of the Energy Plus Group has received any notice of Claim, summons, order, direction or other communication relating to non-compliance with any Environmental Laws from any Governmental Authority or other third party, and to the Knowledge of Cambridge and North Dumfries, there is no pending or threatened matter, act or fact which could cause the members of the Energy Plus Group, the conduct of the Energy Plus Business, or any of the Energy Plus Group Leased Premises or Energy Plus Group Owned Lands to no longer be in compliance with all applicable Environmental Laws; and
- (k) no asbestos, asbestos containing materials, PCBs and PCB wastes are used, stored or otherwise present in or on the Energy Plus Group Owned Lands except for PCBs contained in the electrical transformers which are in service and which form an integral part of, and are necessary for the operation of, the Energy Plus Business. Cambridge and North Dumfries has disclosed or made available all inspection reports received from the Ministry of the Environment in connection with the handling, transportation and storage of PCBs by the applicable members of the Energy Plus Group.

5.25 Suppliers and Customers

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

5.26 Rights to Use Personal Information

- (a) All Personal Information in the possession of the Energy Plus Group has been collected, used and disclosed in compliance with all applicable Privacy Laws in those jurisdictions in which the Energy Plus Group conducts, or is deemed by operation of law in those jurisdictions to conduct, the Energy Plus Business.
- (b) Cambridge and North Dumfries has disclosed or made available all Contracts and facts concerning the collection, use, retention, destruction and disclosure of Personal Information by the applicable members of the Energy Plus Group and there are no other Contracts, or facts which, on completion of the transactions contemplated by this Agreement, would restrict or interfere with the use of any Personal Information by the applicable members of the Energy Plus Group in the continued operation of the Energy Plus Business as conducted before the Closing.
- (c) Except as disclosed in the Energy Plus Disclosure Schedule, there are no Claims pending or, to the Knowledge of Cambridge and North Dumfries, threatened, with respect to the collection, use or disclosure of Personal Information by the applicable members of the Energy Plus Group.

5.27 Employees and Employment Contracts

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

- (b) To the Knowledge of Cambridge and North Dumfries, no Energy Plus Group Employee nor any consultant with whom the applicable members of the Energy Plus Group has contracted, is in violation of any term of any employment contract, contract of engagement, services agreement, proprietary information agreement or any other agreement relating to the right of that individual to be employed, engaged or retained by the applicable members of the Energy Plus Group in any material respect, and, to the Knowledge of Cambridge and North Dumfries, the continued employment or engagement by the members of the Energy Plus Group of the Energy Plus Group Employees will not result in any such violation. No member of the Energy Plus Group has received any notice alleging that any such violation has occurred.
- (c) Except as disclosed in the Data Room, all of the Energy Plus Group Employees are employed, engaged or retained for an indefinite term and none are subject to written employment agreements, contracts of engagement or services agreements. Cambridge and North Dumfries has made available in the Data Room true and complete copies of any written employment agreements, contracts of engagement or services agreements of all Energy Plus Group Employees. No officer has given notice, oral or written, of an intention to cease being employed with the Energy Plus Group (other than the pending employee retirements disclosed in the Energy Plus Disclosure Schedule), and no members of the Energy Plus Group intends to terminate the employment of any officer.
- (d) The members of the Energy Plus Group have operated in compliance with all Laws relating to employees in all material respects, including employment standards and all Laws relating in whole or in part to the protection of employee health and safety, human rights, labour relations and pay equity. Except as disclosed or referred to in the Energy Plus Disclosure Schedule, there have been no Claims within the past three years nor, to the Knowledge of Cambridge and North Dumfries, are there any threatened complaints, under such Laws against the members of the Energy Plus Group. To the Knowledge of Cambridge and North Dumfries, nothing has occurred which might lead to a Claim or complaint against the members of the Energy Plus Group under any such Laws. There are no outstanding decisions or settlements or pending settlements which place any obligation upon the members of the Energy Plus Group to do or refrain from doing any act.
- (e) There is no strike or lockout occurring or affecting, or to the Knowledge of Cambridge and North Dumfries, threatened against any member of the Energy Plus Group.

5.28 Unions

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

- (b) No member of the Energy Plus Group has any labour problems that would reasonably be expected to result in a Material Adverse Effect, or lead to any interruption of operations at any location.
- (c) No member of the Energy Plus Group has engaged in any lay-off or other activities within the last three years in respect of the Energy Plus Business that would violate or in any way subject the members of the Energy Plus Group to the group termination or lay-off requirements of the Laws of any jurisdiction that apply to the members of the Energy Plus Group.
- (d) Except as disclosed in the Energy Plus Disclosure Schedule, no member of the Energy Plus Group is bound by or a party to, either directly or by operation of law, any collective bargaining agreement (the “**Energy Plus Collective Agreement**”) with any trade union or association which might qualify as a trade union, and no trade union, association, council of trade unions, employee bargaining agency or affiliated bargaining agent:
 - (i) holds bargaining rights with respect to any of the Energy Plus Group Employees by way of certification, interim certification, voluntary recognition, designation or successor rights;
 - (ii) has, to the Knowledge of Cambridge and North Dumfries, applied to be certified or requested to be voluntarily recognized as the bargaining agent of any of the Energy Plus Group Employees;
 - (iii) has, to the Knowledge of Cambridge and North Dumfries, applied to have any member of the Energy Plus Group declared a related or successor employer under applicable provincial labour or employment Law; or
 - (iv) has, to the Knowledge of Cambridge and North Dumfries, filed a complaint or charge under applicable provincial labour or employment Law within the last three years.

5.29 Employee Benefits Matters

- (a) Except as disclosed in the Energy Plus Disclosure Schedule, the members of the Energy Plus Group are not:
 - (i) a party to, bound by or subject to, and do not have any liability or contingent liability relating to, any employment agreement or any other agreement or arrangement relating to Employee Benefits;
 - (ii) in arrears in the payment of any contribution or assessment required to be made by them pursuant to any agreements or arrangements relating to Employee Benefits; or
 - (iii) a party to or bound by or subject to any agreement or arrangement with any labour union or employee association in respect of Employee Benefits and

has not made any commitment to or conducted any negotiation or discussion with any labour union or employee association with respect to any future agreement or arrangement in respect of Employee Benefits.

- (b) All agreements and arrangements relating to Employee Benefits in respect of Energy Plus Group Employees set forth in the Energy Plus Disclosure Schedule (other than OMERS, with respect to which Cambridge and North Dumfries makes no representation under this Section 5.29(b)) are, and have been, established, registered (where required), and administered without default, in material compliance with (i) the terms thereof; and (ii) all applicable Laws; and no member of the Energy Plus Group has received, in the last four years, any notice from any Person questioning or challenging such compliance (other than in respect of any claim related solely to that Person), nor does Cambridge and North Dumfries have any Knowledge of any such notice from any Person questioning or challenging such compliance beyond the last four years. Except as disclosed in the Energy Plus Disclosure Schedule or the Energy Plus Collective Agreement, there have been no improvements, increases or changes to, or promised improvements, increases or changes to, the benefits provided under any such agreement or arrangement within the last four years, nor does any such agreement or arrangement provide for benefit increases or the acceleration of funding obligations that are contingent upon or will be triggered by the execution of this Agreement or the Closing.
- (c) Except as disclosed in Energy Plus Disclosure Schedule, no Energy Plus Group Employee is on long-term disability leave, extended absence or receiving benefits pursuant to the *Workplace Safety and Insurance Act, 1997* (Ontario).
- (d) Except as disclosed in the Energy Plus Disclosure Schedule, no agreement or arrangement, other than OMERS, provides benefits beyond retirement or other termination of service to employees or former employees of any member of the Energy Plus Group or to the beneficiaries or dependants of such employees or former employees. Other than OMERS, no such agreement or arrangement requires or permits a retroactive increase in premiums or payments.
- (e) All assessments under the *Workplace Safety and Insurance Act, 1997* (Ontario) in relation to the Energy Plus Business have been paid or accrued and no member of the Energy Plus Group is subject to any special or penalty assessment under such legislation which has not been paid.

5.30 Pension Plans

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

- (b) All obligations of the Energy Plus Group to or under OMERS (whether pursuant to the terms thereof or any applicable Laws) have been satisfied, and there are no outstanding defaults or violations thereunder by any member of the Energy Plus Group or by any predecessor thereof.
- (c) There are no going concerns with respect to unfunded actuarial liabilities, past service unfunded liabilities or solvency deficiencies respecting the Energy Plus Group's participation in OMERS.
- (d) All employee data necessary to administer the Energy Plus Group's participation in OMERS and any other agreement or arrangement listed in the Energy Plus Disclosure Schedule is in the possession of the Energy Plus Group and is complete, correct and in a form which is sufficient for the proper administration of the Energy Plus Group's participation in OMERS in accordance with the terms thereof and all applicable Laws.
- (e) All employer or employee payments, contributions or premiums required to be remitted or paid by the Energy Plus Group to or in respect of OMERS have been paid or remitted in a timely fashion in accordance with the terms thereof and all Laws, and no Taxes, penalties or fees are owing or exigible on any member of the Energy Plus Group under OMERS.

5.31 Insurance Policies

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

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

5.32 Litigation

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

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

5.33 Withholding

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

5.34 No Expropriation

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

5.35 Absence of Conflict

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

- (a) result in or constitute a breach of any term or provision of, or constitute a default under, the Corporate Articles or the by-laws of such entity, or any Contract to which such entity is a party or by which any of such entity's undertakings, property or assets is bound or affected;
- (b) subject to obtaining the third party consents contemplated by Section 7.3(c), constitute an event which would permit any party to any Material Contract with Energy Plus Group to terminate or sue for damages with respect to that Material Contract, or to accelerate the maturity of any indebtedness of Energy Plus Group, or other obligation of Energy Plus Group under that Material Contract;
- (c) subject to obtaining the regulatory approvals set forth in Article 9, contravene any applicable Law; or
- (d) contravene any judgment, order, writ, injunction or decree of any Governmental Authority.

5.36 Restrictive Covenants

No member of the Energy Plus Group is a party to, or bound or affected by, any Contract containing any covenant expressly limiting its ability to compete in any line of business or to

transfer or move any of its assets or operations, or which could reasonably be expected to have a Material Adverse Effect on the Energy Plus Business carried on by the applicable member of the Energy Plus Group.

5.37 Energy Plus Group Business

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

5.38 Compliance with Privacy Laws

With respect to the Energy Plus Business:

- (a) Each member of the Energy Plus Group has made available to Brantford the Privacy Statements contained in the Energy Plus Disclosure Schedule.
- (b) Each member of the Energy Plus Group: (i) complies with the Privacy Statements with respect to all personal information collected, used and/or disclosed by each member of the Energy Plus Group; (ii) complies with all applicable Privacy Laws; and (iii) takes appropriate measures to protect and maintain the security of the personal information in the possession of each member of the Energy Plus Group and/or which each member of the Energy Plus Group has access.
- (c) The change of control of each member of the Energy Plus Group pursuant to the terms of this Agreement and the transactions contemplated hereunder (including the disclosures made by each member of the Energy Plus Group in the course of the due diligence in anticipation of the transactions contemplated by this Agreement), is in compliance with the terms of the Privacy Statement and all applicable Privacy Laws.
- (d) All Personal Information disclosed to each member of the Energy Plus Group pursuant to the transaction contemplated by this Agreement relates directly to the part of Energy Plus Business that is covered by the transactions contemplated by this Agreement.
- (e) No member of the Energy Plus Group is aware of any complaint made or any audit, investigation, claim or proceeding including court proceeding against any member of the Energy Plus Group by the Office of the Privacy Commissioner of Canada or any other Governmental Authority, or by any Person in respect of the collection, retention, use, disclosure, safeguarding or distribution of Personal Information by any Person in connection with the Energy Plus Business, nor is any member of the Energy Plus Group aware of any facts which may give rise to any such complaint or audit, proceeding, investigation or claim.
- (f) All Electronic Addresses have been acquired, maintained, updated (including operationalizing opt-out requests) and stored, and all Electronic Messages sent and/or delivered by or on behalf of each member of the Energy Plus Group have been sent and/or delivered, in accordance with all applicable Laws, including but not limited to Anti-Spam Laws and Privacy Laws.

- (g) In the last five years, there has been no unauthorized access, use, intrusion or breach of security, or failure, breakdown, performance reduction or other adverse event affecting any Energy Plus Group Systems, that has caused or could reasonably be expected to cause any: (i) substantial disruption of or interruption in or to the use of such Energy Plus Group Systems or the conduct of the Energy Plus Business; (ii) loss, destruction, damage or harm of or to any member of the Energy Plus Group or its respective operations, personnel, property or other assets; or (iii) liability of any kind to the applicable member of the Energy Plus Group. Each member of the Energy Plus Group has taken reasonable actions, consistent with applicable industry practices, to protect the integrity and security of Energy Plus Group Systems and the data and other information stored thereon.
- (h) Each member of the Energy Plus Group maintains commercially reasonable back-up and data recovery, disaster recovery and business continuity plans, procedures and facilities, acts in material compliance therewith, and tests such plans and procedures on a regular basis, and such plans and procedures have been proven effective upon such testing.
- (i) Each member of the Energy Plus Group maintains policies and procedures regarding data security and privacy that are intended to ensure that each member of the Energy Plus Group is in compliance with all applicable Laws and that are consistent with or exceed customary industry practices. Each member of the Energy Plus Group is, and has been, in compliance in all material respects with (i) such foregoing policies and procedures, and (ii) all applicable data protection laws or Privacy Laws governing the use, collection, storage, disclosure and transfer of any personally identifiable information of third parties collected by each member of the Energy Plus Group. There have not been any (1) losses or thefts of data or security breaches relating to data used or stored in the Energy Plus Business, (2) violations of any security policy regarding any such data, (3) unauthorized access or unauthorized use of any such data, or (4) unintended or improper disclosure of any personally identifiable information in the possession, custody or control of each member of the Energy Plus Group or a contractor or agent acting on behalf of each member of the Energy Plus Group. There have not been any written complaints, written notices or legal proceedings or other written claims related to any of the foregoing in clauses (ii) or (1) through (4) above. Without limiting the foregoing, each member of the Energy Plus Group and its operation of the Energy Plus Business complies in all material respects with all Privacy Laws applicable thereto, and there is no action, suit, claim, proceeding or investigation pending, or, nor to the Knowledge of Cambridge and North Dumfries, threatened against each member of the Energy Plus Group alleging any failure by each member of the Energy Plus Group to comply with any such Laws.

5.39 Matters with Respect to GRE

To the actual knowledge of management of Energy Plus Solutions, without any duty of further inquiry, the representations and warranties contained in Sections 5.1 (Residence), 5.2 (Regulatory Approvals), 5.3 (Consents), 5.5 (Corporate Existence), 5.7 (Capacity and Powers), 5.8

(Jurisdictions), 5.9 (Options, Etc.), 5.13 (Tax Matters), 5.17 (Title to and Condition of Assets), 5.18(g) (Real Property), 5.23 (Compliance with Laws, Permits), 5.24 (Environmental Conditions), 5.26 (Rights to Use Personal Information), 5.32 (Litigation), 5.33 (Withholding), 5.34 (No Expropriation), 5.35(Absence of Conflict), 5.36 (Restrictive Covenants) and 5.38 (Compliance with Privacy Laws) would, if made with respect GRE, with references in such representations and warranties to the Energy Plus Business being deemed for such purpose to be references to GRE's business, *mutatis mutandis*, be true and correct.

ARTICLE 6 COVENANTS

6.1 Covenants of Brantford

- (a) **Conduct of Business Before Closing.** During the period beginning on the date of this Agreement and ending at the Closing Time, Brantford will cause the BEC Group:
 - (i) to conduct the BEC Business in the ordinary course substantially consistent with past practice (except as may be otherwise required or contemplated by the provisions of this Agreement or with the prior written consent of Cambridge and North Dumfries, which shall not be unreasonably withheld);
 - (ii) except as required by the terms of and in accordance with the BEC Collective Agreement (including as may be required in connection with the renewal of the BEC Collective Agreement) or applicable Law, or with the prior written consent of Cambridge and North Dumfries, which shall not be unreasonably withheld, to refrain from:
 - (A) hiring, engaging or retaining any new employees or independent contractors to be employed, engaged or retained in connection with the BEC Business except for the engagement of new independent contractors with a term of no greater than 9 months and compensation that does not exceed an aggregate of \$75,000 per independent contractor;
 - (B) terminating any BEC Group Employees or transferring any BEC Group Employees to any other position;
 - (C) increasing remuneration of BEC Group Employees before the Closing Date, except as consistent with its past practice; and
 - (D) taking any action to materially amend any Contract with any BEC Group Employee;

- (iii) except with the prior written consent of Cambridge and North Dumfries (which shall not be unreasonably withheld), to refrain from entering into any Material Contract;
- (iv) to continue in full force the Insurance Policies;
- (v) to comply in all material respects with all Laws applicable the BEC Business; and
- (vi) to apply for, maintain in good standing and renew all Permits.

(b) **Access for Investigation**

- (i) Brantford will, and will cause the BEC Group to, permit Cambridge and North Dumfries through its authorized Representatives, until the Closing Date, to have reasonable access during normal business hours to the BEC Group Owned Lands and the BEC Group Leased Premises and to all the Books and Records of the BEC Group and to the properties and assets of the BEC Group.
- (ii) Brantford and the BEC Group will co-operate in good faith in arranging any such meetings as Cambridge and North Dumfries may reasonably request with:
 - (A) management of the BEC Group employed in the BEC Business; and
 - (B) suppliers, distributors, service providers or others who have a business relationship with the BEC Group in respect of the BEC Business.
- (iii) Brantford will also furnish to Cambridge and North Dumfries any financial and operating data and other information with respect to the BEC Business as Cambridge and North Dumfries reasonably requests to enable confirmation of the accuracy of the matters represented and warranted in Article 4.
- (iv) Cambridge and North Dumfries will be provided ample opportunity to make a full investigation of all aspects of the financial affairs of the BEC Group.
- (v) The exercise of any rights of inspection by or on behalf of Cambridge and North Dumfries under this Section 6.1(b) shall not mitigate or otherwise affect any of the representations and warranties of Brantford hereunder, which will continue in full force and effect as provided in Article 8.

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

- (d) **Articles of Amalgamation.** Immediately before Closing, Brantford shall cause the applicable members of the BEC Group to execute, deliver and duly file under the OBCA the articles of amalgamation that give effect to the Amalgamations.
- (e) **Disclosure Supplements.** During the period beginning on the date of this Agreement and ending at the Closing Time, Brantford will promptly notify Cambridge and North Dumfries with respect to any matter, condition or occurrence arising which, if existing at or occurring before or on the date of this Agreement, would have been required to be set out or described in the Brantford Disclosure Schedule. The Parties will use commercially reasonable efforts to resolve any issues arising from any such notification, including if necessary amending this Agreement. Where the Parties fail to resolve any such issues and where the effect of such notification would reasonably be expected to cause a Material Adverse Effect in respect of Amalco Holdco, then at the option of any Party, exercisable by written notice to each of the other Parties, this Agreement will terminate and be of no further force and effect with no liability to any of the Parties. Notification under this Section 6.1(e) will not, in any case, be deemed to cure any breach of any representation or warranty made in this Agreement or have any effect on the right of Cambridge and North Dumfries to indemnity provided for in under this Agreement or have any effect for the purpose of determining the satisfaction of the conditions set out in Article 7 or the compliance by Brantford with any covenants or agreements contained in this Agreement.
- (f) **Brantford Promissory Notes.** Immediately prior to Closing: (i) BEC will, with the approval of Brantford, and in consideration of the issuance by BPI and BHI to BEC of additional common shares in such corporations, assume BHI's and BPI's liabilities under the Brantford Promissory Notes; (ii) Brantford will commit to BEC by way of subscription agreement to invest an amount equal to all outstanding principal under the Brantford Promissory Notes in additional common shares of BEC; and (iii) the amount of Brantford's committed investment under the subscription agreement shall be set off against the outstanding principal under the Brantford Promissory Notes, and the additional common shares of BEC referred to in clause (ii) shall be issued to Brantford and the Brantford Promissory Notes shall be cancelled.
- (g) **Excluded Assets.** Prior to Closing, BPI will transfer the Excluded Assets to:
 - (i) a third party acting at arm's length (as such term is used in the ITA) to the BEC Group; or
 - (ii) Brantford or a Subsidiary of Brantford as a dividend in kind or in such other manner as BPI, BEC and Brantford may determine, provided that if Excluded Assets are transferred by way of a dividend in kind the deemed price for tax, accounting and regulatory purposes shall be equal to the greater of the market price (as determined by an independent, accredited appraiser acceptable to Cambridge and North Dumfries, each acting

reasonably) and the net book value, and, as applicable, in accordance with the Affiliate Relationships Code,

and some or all of the proceeds of such transfer(s) may be distributed by BPI by way of dividend to BEC, which may distribute by way of dividend some or all of the proceeds of such BPI dividend to Brantford.

- (h) **Excluded Debt.** Prior to Closing, BPI will repay all of the Excluded Debt and any Make-Whole Payment and arrange for the release and discharge of all Encumbrances held by Infrastructure Ontario and Lands Corporation as security for Excluded Debt.

6.2 Covenants of Cambridge and North Dumfries

- (a) **Conduct of Business Before Closing.** During the period beginning on the date of this Agreement and ending at the Closing Time, Cambridge and North Dumfries will cause the Energy Plus Group:
 - (i) to conduct the Energy Plus Business in the ordinary course substantially consistent with past practice (except as may be otherwise required or contemplated by the provisions of this Agreement or with the prior written consent of Brantford, which shall not be unreasonably withheld);
 - (ii) except as required by the terms of and in accordance with the Energy Plus Collective Agreement (including as may be required in connection with the renewal of the Energy Plus Collective Agreement) or applicable Law, or with the prior written consent of Brantford, which shall not be unreasonably withheld, to refrain from:
 - (A) hiring, engaging or retaining any new employees or independent contractors to be employed, engaged or retained in connection with the Energy Plus Business except for new independent contractors with a term of no greater than 9 months and compensation that does not exceed an aggregate of \$75,000 per independent contractor;
 - (B) terminating any Energy Plus Group Employees or transferring any Energy Plus Group Employees to any other position;
 - (C) increasing remuneration of Energy Plus Group Employees before the Closing Date, except as consistent with its past practice; and
 - (D) taking any action to materially amend any Contract with any Energy Plus Group Employee;
 - (iii) except with the prior written consent of Cambridge and North Dumfries (which shall not be unreasonably withheld), to refrain from entering into any Material Contract;

- (iv) to continue in full force the Insurance Policies;
 - (v) to comply in all material respects with all Laws applicable the Energy Plus Business; and
 - (vi) to apply for, maintain in good standing and renew all Permits.
- (b) **Access for Investigation.**
- (i) Cambridge and North Dumfries will, and will cause the Energy Plus Group to, permit Brantford through its authorized Representatives, until the Closing Date, to have reasonable access during normal business hours to the Energy Plus Group Owned Lands and the Energy Plus Group Leased Premises and to all the Books and Records of the Energy Plus Group and to the properties and assets of the Energy Plus Group.
 - (ii) Cambridge and North Dumfries and the Energy Plus Group will co-operate in good faith in arranging any such meetings as Brantford may reasonably request with:
 - (A) management of the Energy Plus Group employed in the Energy Plus Business; and
 - (B) suppliers, distributors, service providers or others who have a business relationship with the Energy Plus Group in respect of the Energy Plus Business.
 - (iii) Cambridge and North Dumfries will also furnish to Brantford any financial and operating data and other information with respect to the Energy Plus Business as Brantford reasonably requests to enable confirmation of the accuracy of the matters represented and warranted in Article 5.
 - (iv) Brantford will be provided ample opportunity to make a full investigation of all aspects of the financial affairs of the Energy Plus Group.
 - (v) The exercise of any rights of inspection by or on behalf of Brantford under this Section 6.2(b) shall not mitigate or otherwise affect any of the representations and warranties of Cambridge and North Dumfries hereunder, which will continue in full force and effect as provided in Article 8.
- (c) **Termination of Energy Plus Shareholder Agreement.** Before Closing, Cambridge and North Dumfries shall terminate the Energy Plus Shareholder Agreement.
- (d) **Articles of Amalgamation.** Immediately before Closing, Cambridge and North Dumfries shall cause the applicable members of the Energy Plus Group to execute,

deliver and duly file under the OBCA the articles of amalgamation that give effect to the Amalgamations.

- (e) **Disclosure Supplements.** During the period beginning on the date of this Agreement and ending at the Closing Time, Cambridge and North Dumfries will promptly notify Brantford with respect to any matter, condition or occurrence arising which, if existing at or occurring before or on the date of this Agreement, would have been required to be set out or described in the Energy Plus Disclosure Schedule. The Parties will use commercially reasonable efforts to resolve any issues arising from any such notification, including if necessary amending this Agreement. Where the Parties fail to resolve any such issues and where the effect of such notification would reasonably be expected to cause a Material Adverse Effect in respect of Amalco Holdco, then at the option of any Party, exercisable by written notice to each of the other Parties, this Agreement will terminate and be of no further force and effect with no liability to any of the Parties. Notification under this Section 6.2(e) will not, in any case, be deemed to cure any breach of any representation or warranty made in this Agreement or have any effect on the right of Cambridge and North Dumfries to indemnity provided for in under this Agreement or have any effect for the purpose of determining the satisfaction of the conditions set out in Article 7 or the compliance by Cambridge and North Dumfries with any covenants or agreements contained in this Agreement.

6.3 Mutual Covenants

- (a) **Actions to Satisfy Closing Conditions.** Each Party will take or cause to be taken all actions that are within its power to control, and will make all commercially reasonable best efforts to cause other actions to be taken which are not within its power to control, so as to ensure its compliance with, and satisfaction of, all conditions in Article 7 that are for the benefit of the other Parties.
- (b) **Personal Information.** The collection, use and disclosure of Personal Information by any of the Parties before the Closing is restricted to those purposes that relate to the transactions contemplated by this Agreement or to other purposes as may be permitted by applicable Law.
- (c) **Confidentiality.**
 - (i) The Parties shall treat as confidential this Agreement, the terms and conditions set out herein and all information provided to one another in accordance with this Agreement. All such information shall be deemed received pursuant to the terms of the Confidentiality Agreement, be kept in the strictest confidence and not divulged to any unrelated third party or used by any Party other than in accordance with the Confidentiality Agreement.
 - (ii) Each Party that is not a party to or bound by the Confidentiality Agreement hereby agrees, covenants and acknowledges to be bound by the terms and conditions of the Confidentiality Agreement as if it was an original

signatory thereto and acknowledges having received a copy of the Confidentiality Agreement on or before the date of this Agreement. Notwithstanding any other provision of this Agreement, nothing shall prevent the disclosure of any agreement or information, and no party shall be held liable for the disclosure of any agreement or information, if and to the extent that any such disclosure is required by applicable Law, including the *Municipal Act, 2001* (Ontario) and the *Municipal Freedom of Information and Protection of Privacy Act* (Ontario).

- (d) **Amalco Holdco Shareholders Agreement and Amended and Restated Shared Services and Obligations Agreement.** On Closing each of Brantford, Cambridge, North Dumfries, Amalco Holdco and LDC Amalco shall execute and deliver the Shareholders Agreement and Brantford and LDC Amalco shall enter into an Amended and Restated Shared Services and Obligations Agreement in the form of Exhibit B which shall replace and supercede the Shared Services Agreement.
- (e) **Equity Issuances/Dividends.**
 - (i) Except as contemplated by Section 6.1(f), Brantford shall ensure that no member of the BEC Group issues any additional equity at any time prior to the Closing Time.
 - (ii) Cambridge and North Dumfries shall ensure that no member of the Energy Plus Group issues any additional equity at any time prior to the Closing Time.
 - (iii) Cambridge and North Dumfries shall continue to accept payment of all dividends declared by Energy Plus Holdings in the ordinary course in accordance with past practice (and shall not defer payment of same) or dividends declared for the purpose of meeting the target closing amounts set forth in Section 2.5.
 - (iv) Brantford shall continue to accept payment of all dividends declared by BEC in the ordinary course in accordance with past practice (and shall not defer payment of same) or dividends declared for the purpose of meeting the target closing amounts set forth in Section 2.5.
- (f) **Location of Facilities.** Amalco Holdco will operate in compliance with Schedule E with respect to the location of its facilities, functions and personnel for a period of seven (7) years from the date of Closing, provided that, two years from the date of Closing, Amalco Holdco shall retain an independent consultant to assess whether efficiencies might be gained for Amalco Holdco by allocating functions and locating facilities and personnel in a manner other than that provided for in Schedule E and to deliver a confidential report setting out such assessment, and conclusions relating thereto, to Amalco Holdco, Brantford, Cambridge and North Dumfries within four months following such retainer. The contents of such report shall not be disclosed to any persons other than councillors, directors, officers and

advisors of Amalco Holdco, Brantford, Cambridge and North Dumfries without the consent of all four such parties.

ARTICLE 7 CLOSING CONDITIONS

7.1 Conditions for the Benefit of Cambridge and North Dumfries

The obligation of Cambridge and North Dumfries to complete the Amalgamations is subject to the fulfilment of the following conditions at or before the Closing Time:

- (a) **Representations, Warranties and Covenants.** The representations and warranties of Brantford made in this Agreement or in any other agreement or document delivered pursuant to this Agreement will be true and accurate at the Closing Time with the same force and effect as though those representations and warranties had been made as of the Closing Time. At Closing, Brantford and the members of the BEC Group will have performed or complied with all covenants and agreements agreed to be performed or complied with by them under this Agreement and any other agreement or document delivered pursuant to this Agreement at or before the Closing Time. In addition, each of Brantford and each of the members of the BEC Group will have delivered to Cambridge and North Dumfries a certificate of a senior officer confirming the same. The receipt of those certificates and the completion of the Closing will not be deemed to constitute a waiver of any of the representations, warranties or covenants of Brantford or the members of the BEC Group contained in this Agreement or in any other agreement or document delivered pursuant to this Agreement. Those representations, warranties and covenants will continue in full force and effect as provided in Article 8, or, if Article 8 does not apply, the terms of the agreement or document in which they are made.
- (b) **No Material Adverse Effect.** Since the date of this Agreement there will not have been any change in any of the assets, financial condition, earnings, results of operations or prospects of the BEC Group, or in the BEC Business (whether or not covered by insurance) that has had, or might reasonably be expected to have, a Material Adverse Effect.
- (c) **Consents and Regulatory Approvals.** All filings, notifications, approvals and consents with, to or from Governmental Authorities and third parties, including the parties to the Material Contracts and the lessors of the BEC Group Leased Premises, will have been made, given or obtained on terms acceptable to BEC, acting reasonably, so that the transactions contemplated by this Agreement may be completed without resulting in the violation of, or a default under, or any termination, amendment or acceleration of any obligation under any Permit, BEC Real Property Lease, or Material Contract of or affecting the BEC Business, including the OEB Approval and the Competition Act Approval.

- (d) **No Transfer Tax.** No Transfer Tax shall be payable by any Party to the Ontario Electricity Financial Corporation in connection with transactions contemplated by this Agreement.

7.2 Waiver or Termination by Cambridge and North Dumfries

The conditions contained in Section 7.1 are inserted for the exclusive benefit of Cambridge and North Dumfries and may be waived in whole or in part by them at any time without prejudice to any of their rights of termination in the event of non-performance of any other condition in whole or in part. If any of the conditions contained in Section 7.1 are not fulfilled or complied with by the time that is required under this Agreement, Cambridge and North Dumfries (acting jointly) may, at or before the Closing Time, terminate this Agreement by notice in writing after that time to Brantford. In that event, all Parties will be released from all obligations under this Agreement (except as set out in Section 8.3).

7.3 Conditions for the Benefit of Brantford

The obligation of Brantford to complete the Amalgamations and the other transactions contemplated by this Agreement is subject to the fulfilment of the following conditions at or before the Closing Time:

- (a) **Representations, Warranties and Covenants.** The representations and warranties of Cambridge and North Dumfries made in this Agreement or in any other agreement or document delivered pursuant to this Agreement will be true and accurate at the Closing Time with the same force and effect as though those representations and warranties had been made as of the Closing Time. At Closing, Cambridge, North Dumfries and the members of the Energy Plus Group will have performed or complied with all covenants and agreements agreed to be performed or complied with by them under this Agreement and any other agreement or document delivered pursuant to this Agreement at or before the Closing Time. In addition, each of Cambridge, North Dumfries and the applicable members of the Energy Plus Group will have delivered to Brantford a certificate of a senior officer of Cambridge, North Dumfries and the members of the Energy Plus Group confirming the same. The receipt of those certificates and the completion of the Closing will not be deemed to constitute a waiver of any of the representations, warranties or covenants of Cambridge, North Dumfries or the members of the Energy Plus Group contained in this Agreement or in any other agreement or document delivered pursuant to this Agreement. Those representations, warranties and covenants will continue in full force and effect as provided in Article 8 or, if Article 8 does not apply, the terms of the agreement or document in which they are made.
- (b) **No Material Adverse Effect.** Since the date of this Agreement there will not have been any change in any of the assets, financial condition, earnings, results of operations or prospects of Cambridge, North Dumfries, the Energy Plus Group or the Energy Plus Business (whether or not covered by insurance) that has had, or might reasonably be expected to have, a Material Adverse Effect.

- (c) **Consents and Regulatory Approvals.** All filings, notifications, approvals and consents with, to or from Governmental Authorities and third parties, including the parties to the Material Contracts and the lessors of the Energy Plus Group Leased Premises, will have been made, given or obtained on terms acceptable to Brantford, acting reasonably, so that the transactions contemplated by this Agreement may be completed without resulting in the violation of, or a default under, or any termination, amendment or acceleration of any obligation under any Permit, Energy Plus Group Real Property Lease, or Material Contract of or affecting the Energy Plus Business, including the OEB Approval and the Competition Act Approval.
- (d) **No Transfer Tax.** No Transfer Tax shall be payable by any Party to the Ontario Electricity Financial Corporation in connection with the transactions contemplated by this Agreement.

7.4 Waiver or Termination by Brantford

The conditions contained in Section 7.3 are inserted for the exclusive benefit of Brantford and may be waived in whole or in part by it at any time without prejudice to any of its rights of termination in the event of non-performance of any other condition in whole or in part. If any of the conditions contained in Section 7.3 are not fulfilled or complied with by the time that is required under this Agreement, Brantford may, at or before the Closing Time, terminate this Agreement by notice in writing after that time to Cambridge and North Dumfries. In that event, all Parties will be released from all obligations under this Agreement (except as set out in Section 8.3).

7.5 Condition Precedent

The Amalgamations are subject to the following condition to be fulfilled at or before the Closing Time, which condition is a true condition precedent to the completion of the transactions contemplated by this Agreement:

- (a) No order of any Governmental Authority will be in force, and no action or proceeding will be pending or threatened by any Person:
 - (i) to restrain or prohibit the completion of the transactions contemplated in this Agreement, including the Amalgamations;
 - (ii) to restrain or prohibit the carrying on of the Energy Plus Business or the BEC Business, respectively; or
 - (iii) which would have a Material Adverse Effect (taken as a whole) on the BEC Group or on the Energy Plus Group (taken as a whole).

If this condition precedent has not been fulfilled at or before the Closing Time, unless otherwise agreed by the Parties in writing, this Agreement will be terminated and the Parties will be released from all obligations under this Agreement (except as set out in Section 8.3).

7.6 Termination

- (a) This Agreement may be terminated at any time prior to Closing by mutual written consent of Brantford, Cambridge and North Dumfries.
- (b) This Agreement may be terminated by Cambridge and North Dumfries or Energy Plus Holdings, on the one hand, or Brantford or BEC, on the other hand, by written notice to the other Parties if the Closing contemplated by this Agreement shall have not occurred on or before the earlier of (a) the second anniversary of the date of this Agreement, (b) 90 days following OEB Approval and (c) within 60 days following an Adverse Determination if the Parties cannot agree on any amendments to this Agreement. Upon such termination the Parties shall be released from all obligations then remaining under this Agreement, other than the obligations contained in Sections 6.3, 11.3 and 11.8 provided that the right to terminate this Agreement under this Section 7.6(b) shall not be available to a Party if the acts or omissions of that Party or any of its Affiliates have been the cause of, or result in, the failure of the Closing to occur on or before such date.
- (c) If any condition in Section 7.1 or 7.5 is not satisfied on or before the Closing Date, Cambridge and North Dumfries or Energy Plus Holdings may, by notice to the other Parties, terminate this Agreement and thereupon the Parties shall be released from all obligations then remaining under this Agreement, other than the obligations contained in Sections 6.3, 11.3 and 11.8; provided that Cambridge and North Dumfries, Energy Plus Holdings or Energy+ may also bring a Direct Claims against Brantford, BEC, BPI and BHI in accordance with Section 8.8 for Losses asserted against or suffered by Cambridge and North Dumfries, Energy Plus Holdings and Energy+, or any of them, as a result of the failure to complete the Amalgamations, where the non-performance or non-conformance of the relevant condition is as a result of a breach of covenant, representation or warranty by Brantford, BEC, BPI or BHI.
- (d) If any condition in Section 7.3 or 7.5 is not satisfied on or before the Closing Date, Brantford or BEC may, by notice to the other Parties, terminate this Agreement and thereupon the Parties shall be released from all obligations then remaining under this Agreement, other than the obligations contained in Sections 6.3, 11.3 and 11.8; provided that Brantford, BEC BPI or BHI may also bring a Direct Claim against Cambridge and North Dumfries, Energy Plus Holdings and Energy + in accordance with Section 8.8 for Losses asserted against or suffered by Brantford, BEC, BPI, BHI or any of them, as a result of the failure to complete the Amalgamations, where the non-performance or non-conformance of the relevant condition is as a result of a breach of covenant, representation or warranty by Cambridge, North Dumfries, Energy Plus Holdings or Energy +.

ARTICLE 8 SURVIVAL AND INDEMNIFICATION

8.1 Survival of Covenants and Representations and Warranties

All of the covenants and representations and warranties contained in this Agreement and in any other agreement or document delivered pursuant to this Agreement, including this Article 8, will survive the Closing.

8.2 Survival Following Termination

If this Agreement is terminated at or before the Closing Time pursuant to Sections 6.1(e)6.1(f), 7.2, 7.4 or 7.5, the provisions of Section 6.3(c) will remain in full force and effect.

8.3 Mutual Indemnifications for Breaches of Warranty, etc.

Subject to the remaining provisions of this Article 8:

- (a) Cambridge and North Dumfries agree that if Cambridge, North Dumfries or any member of the Energy Plus Group fails to observe or perform any covenant or obligation to be complied with or performed by them in this Agreement, or breach any of their representations and warranties contained in this Agreement (an **“Energy Plus Failure”**), Cambridge and North Dumfries will jointly and severally indemnify and hold harmless Brantford from and against the full amount of any Loss which Brantford may suffer as a result of such Energy Plus Failure; and
- (b) Brantford agrees that if Brantford or any member of the BEC Group fails to observe or perform any covenant or obligation to be complied with or performed by them in this Agreement, or breach any of their representations and warranties contained in this Agreement (a **“Brantford Failure”**), Brantford will indemnify and hold harmless Cambridge and North Dumfries from and against the full amount of any Loss which it/they may suffer as a result of such Brantford Failure;

(the Party or Parties making a Claim for indemnification under any provision of this Article 8 being the **“Indemnified Party”**, and the Party or Parties providing indemnification being the **“Indemnifying Party”** for the purposes of this Article 8).

8.4 Limitation on Mutual Indemnification

The indemnification obligations of Cambridge and North Dumfries (on the one hand) and Brantford (on the other hand) pursuant to Section 8.3 are:

- (a) limited to the sum of \$15,000,000, in the aggregate, in the case of all Brantford Failures, but there will be no limit with respect to any indemnification arising as a consequence of fraud, wilful misrepresentation or gross negligence on the part of Brantford or any member of the BEC Group;

- (b) limited to the sum of \$15,000,000, in the aggregate, in the case of all Energy Plus Failures, but there will be no limit with respect to any indemnification arising as a consequence of fraud, wilful misrepresentation or gross negligence on the part of Cambridge, North Dumfries or any member of the Energy Plus Group; and
- (c) not applicable to indemnify an Indemnified Party unless and until the aggregate of all of its Indemnity Claims exceeds \$250,000, in which case, the Indemnifying Party will be obligated to pay the entire amount owing in respect of those Claims without a deductible.

8.5 Cost Reimbursement and Indemnity for Excluded Assets

Brantford will reimburse the applicable members of the BEC Group for all costs and expenses incurred by each of them in connection with the transfers of the Excluded Assets described in Section 6.1(g). In addition, Brantford will indemnify and save harmless Amalco Holdco and LDC Amalco from and against the full amount of any Loss (including for certainty any liabilities for Taxes) arising from the transfers of the Excluded Assets and dividends described in Section 6.1(g). For the avoidance of doubt, the foregoing indemnification obligation of Brantford shall not be subject to the limitations set out in Section 8.4. For the avoidance of doubt, a reimbursement or indemnification as described in this Section 8.5 may be effected through a reduction in the sale proceeds distributed to Brantford as described in Section 6.1(g).

8.6 Notice of Claim

If an Indemnified Party becomes aware of a Loss or potential Loss in respect of which the Indemnifying Party has agreed to indemnify it under this Agreement, the Indemnified Party will promptly give written notice (an **“Indemnity Notice”**) of its Claim or potential Claim for indemnification (an **“Indemnity Claim”**) to the Indemnifying Party. An Indemnity Notice must specify whether the Indemnity Claim arises as the result of a Claim made against the Indemnified Party by a person who is not a Party (a **“Third Party Claim”**) or as a result of a Loss that was suffered directly by an Indemnified Party (a **“Direct Claim”**), and must also specify with reasonable particularity (to the extent that the information is available):

- (a) the factual basis for the Indemnity Claim; and
- (b) the amount of the Indemnity Claim, if known.

If, through the fault of the Indemnified Party, the Indemnifying Party does not receive an Indemnity Notice of an Indemnity Claim in time to effectively contest the determination of any liability capable of being contested, the Indemnifying Party will be entitled to set off against the amount claimed by the Indemnified Party the amount of any Loss incurred by the Indemnifying Party resulting from the Indemnified Party’s failure to give an Indemnity Notice on a timely basis.

8.7 Time Limits for Notice

- (a) Subject to, and other than for Indemnity Claims in respect of which a different time period is expressly set out in the remaining provisions of this Section 8.7, no Indemnity Claim may be made under Section 8.3 unless an Indemnity Notice of

that Indemnity Claim is delivered to the Indemnifying Party within 18 months after the Closing Date or, in respect of an Indemnity Claim.

- (b) No Indemnity Claim arising out of a breach by Brantford of Section 4.13, or the indemnity obligations of Brantford under Section 8.5, may be made unless an Indemnity Notice of that Indemnity Claim is delivered to Brantford within 180 days after the last day upon which any of the relevant Governmental Authorities is entitled to assess or reassess the BEC Group with respect to any Tax, having regard to any waivers given by the BEC Group in respect of Tax, and any entitlement of a Governmental Authority to assess or reassess in the event of fraud or misrepresentation or attributable to neglect, carelessness or wilful default.
- (c) No Indemnity Claim arising out of a breach by Cambridge and North Dumfries of Section 5.13 may be made unless an Indemnity Notice of that Indemnity Claim is delivered to Cambridge and North Dumfries within 180 days after the last day upon which any of the relevant Governmental Authorities is entitled to assess or reassess the Energy Plus Group with respect to any Tax, having regard to any waivers given by the Energy Plus Group in respect of Tax, and any entitlement of a Governmental Authority to assess or reassess in the event of fraud or misrepresentation or attributable to neglect, carelessness or wilful default.
- (d) An Indemnity Notice of an Indemnity Claim may be delivered to the Indemnifying Party at any time with respect to the following (subject to the applicable statute of limitations):
 - (i) a breach of the representations and warranties contained in Sections 3.1 (Corporate Existence), 3.2 (Capacity to Enter Agreement), 3.3 (Binding Obligation) or 3.4 (Absence of Conflict);
 - (ii) a breach of the representations and warranties of Brantford contained in Sections 4.4 (Share Ownership, Etc.), 4.5 (Corporate Existence of the BEC Group), 4.7 (Capacity and Powers of the BEC Group), 4.9 (Options, Etc.) or 4.35 (Absence of Conflict);
 - (iii) a breach of the representations and warranties of Cambridge and North Dumfries contained in Section 5.4 (Share Ownership, Etc.), 5.5 (Corporate Existence of the Energy Plus Group), 5.7 (Capacity and Powers of the Energy Plus Group), 5.9 (Options, Etc.) or 5.35 (Absence of Conflict);
 - (iv) a breach of any of the Indemnifying Party's covenants or representations and warranties, if that breach is attributable to fraud, wilful misrepresentation or gross negligence; and
 - (v) a breach of the covenants contained in Section 6.3(c) (as limited by the provisions of such Section).

8.8 Procedure for Direct Claims

Following receipt of an Indemnity Notice from the Indemnified Party of a Direct Claim, the Indemnifying Party will have 20 Business Days to make any investigations it considers necessary or desirable. For the purpose of those investigations, the Indemnified Party will make available to the Indemnifying Party the information relied upon by the Indemnified Party to substantiate the Direct Claim, together with all other information that the Indemnifying Party may reasonably request. If both Parties agree at or before the expiration of such period (or any mutually agreed upon extension) to the validity and amount of the Direct Claim, the Indemnifying Party will pay immediately to the Indemnified Party the full agreed upon amount of the Loss for which the Direct Claim is made, and no subsequent proceeding will be brought in any court of law concerning that Direct Claim.

8.9 Procedure for Third Party Claims

- (a) Despite any other provision of this Agreement, if the Indemnified Party is required by applicable Law to make a payment into court, into escrow, or to any third party, with respect to a Third Party Claim before the completion of related settlement negotiations or legal proceedings, the Indemnified Party may make the required payment and the Indemnifying Party will, promptly after demand by the Indemnified Party, reimburse the Indemnified Party for the required payment made. If the Indemnifying Party makes that reimbursement in full, and if the amount of any liability of the Indemnified Party under the Third Party Claim in respect of which the required payment was made, as finally determined, is less than the amount that was paid by the Indemnifying Party to the Indemnified Party, the Indemnified Party will, promptly after recovery of the surplus amount left over from the required payment, pay that surplus amount to the Indemnifying Party.
- (b) The Indemnified Party will promptly deliver to the Indemnifying Party copies of all correspondence, notices, assessments or other written Communication received by the Indemnified Party in respect of any Third Party Claim.
- (c) The Indemnified Party will not negotiate, settle, compromise or pay any Third Party Claim with respect to which it has asserted or proposes to assert an Indemnity Claim, without the prior written consent of the Indemnifying Party, which consent will not be unreasonably withheld.
- (d) The Indemnified Party will not cause or permit the termination of any right of appeal in respect of any Third Party Claim which is or might become the basis of an Indemnity Claim without giving the Indemnifying Party written notice of the contemplated or potential termination in time to grant the Indemnifying Party an opportunity to contest the Third Party Claim.
- (e) If the Indemnifying Party first acknowledges in writing its obligation to satisfy an Indemnity Claim to the extent of any binding determination or settlement in connection with a Third Party Claim (or enters into arrangements otherwise satisfactory to the Indemnified Party), in any legal or administrative proceeding in

connection with the matters forming the basis of a Third Party Claim, the following will apply:

- (i) the Indemnifying Party will have the right, subject to the rights of any Person having potential liability for it, by written notice delivered to the Indemnified Party within ten Business Days of receipt by the Indemnifying Party of an Indemnity Notice, to assume carriage and control of the negotiation, defence or settlement of a Third Party Claim and the conduct of any related legal or administrative proceedings at the expense of the Indemnifying Party and by its own counsel;
- (ii) if the Indemnifying Party elects to assume carriage and control, the Indemnified Party will have the right to participate at its own expense in the negotiation, defence or settlement of a Third Party Claim assisted by counsel of its own choosing;
- (iii) each of the Indemnified Party and the Indemnifying Party will make all reasonable efforts to make available to the Party, who has assumed carriage and control of the negotiation, defence or settlement of a Third Party Claim, those employees whose assistance or evidence is necessary to assist that Party in evaluating and defending that Third Party Claim and all documents, records and other materials in the possession or control of that Party required for use in the negotiation, defence or settlement of that Third Party Claim;
- (iv) despite Sections 8.9(e)(i), 8.9(e)(ii) and 8.9(e)(iii), the Indemnifying Party will not settle a Third Party Claim or conduct any related legal or administrative proceeding in a manner which would, in the opinion of the Indemnified Party, acting reasonably, have a material adverse effect on the Indemnified Party except with the Indemnified Party's prior written consent; and
- (v) subject to Section 8.9(e)(ii), the Indemnifying Party will indemnify and hold harmless the Indemnified Party from and against any Loss incurred or suffered as a result of the Indemnifying Party's settlement of the Third Party Claim or conduct of any related legal or administrative proceeding.
- (f) When the amount of the Loss with respect to a Third Party Claim is finally determined in accordance with this Section 8.9, including any amount described in Section 8.9(e)(v), the Indemnifying Party will immediately pay the full amount of that Loss to the Indemnified Party.
- (g) If the Indemnified Party has been permitted by the Indemnifying Party to assume the carriage and control of the negotiation, defence, or settlement of the Third Party Claim, the Indemnifying Party will not contest the amount of that Loss.

- (h) The Indemnifying Party will have no obligation to make any payment with respect to any Third Party Claim that is settled or contested in violation of the terms of this Section 8.9.

8.10 No Delay

Each Indemnifying Party will pursue any Indemnity Claim made by an Indemnified Party under this Agreement with reasonable diligence and dispatch, and without unnecessary delay, once the circumstances that give rise to that Indemnity Claim are known to it.

8.11 Set-off

Each Indemnified Party will be entitled to set-off the amount of any Loss for which it seeks indemnification under this Article 8 once, if applicable, finally determined in accordance with Section 8.8 or Section 8.9, as the case may be, as damages or by way of indemnification against any other amounts payable by it to the Indemnifying Party whether under this Agreement or otherwise.

8.12 Exclusive Remedy

- (a) Subject to Sections 2.4 and 8.12(b), the rights of indemnity in this Article 8 are the sole and exclusive remedy of each Party for any Loss suffered in connection with the transactions contemplated by this Agreement.
- (b) Nothing in this Section 8.12 will prevent a Party from seeking equitable remedies with respect to a breach of the confidentiality covenants contained in this Agreement.
- (c) Unless otherwise specifically agreed by the Parties, this Section 8.12 will remain in full force and effect in all circumstances and will not be terminated by any breach (fundamental, negligent or otherwise) by any Party of its covenants, representations or warranties in this Agreement or under any agreement or other document delivered pursuant to this Agreement, or by any termination or rescission of this Agreement.

ARTICLE 9 REGULATORY APPROVAL

9.1 OEB Approval and Competition Act Approval

- (a) Each of BPI and Energy+ will, as promptly as practicable after the execution of this Agreement (but in no event later than 60 days after the execution of this Agreement), file or caused to be filed with the OEB an application under the OEB Act for the OEB Approval.
- (b) The Parties will, as promptly as possible after the execution of this Agreement (but in no event later than 5 days after the execution of this Agreement), file with the Commissioner an application for an advance ruling certificate under section 102 of

the Competition Act or, alternatively, a No-Action Letter, in respect of the transactions contemplated by this Agreement. If an advance ruling certificate or No-Action Letter has not been obtained by the 45th day following such application, the Parties will prepare and file with the Commissioner a pre-merger notification in respect of the transactions contemplated by this Agreement under section 114 of the Competition Act.

- (c) BPI and Brantford and Cambridge, North Dumfries and Energy+ will share equally the cost of the filing fees in respect of the applications for the OEB Approval and the Competition Act Approval. Each of BPI and Brantford and Cambridge, North Dumfries and Energy+ will use its best efforts (which shall not be less than commercially reasonable efforts) to co-operate and assist the other, so that the OEB Approval and the Competition Act Approval can be obtained on or prior to December 31, 2021. To the extent the Parties incur costs from their own advisors, such costs shall be borne by the party incurring them.

9.2 Minister of Finance Notice

- (a) BPI and Energy+ will as promptly as practicable after the execution of this Agreement (but in no event later than 60 days prior to the Closing Date), jointly file or cause to be filed with the Ontario Minister of Finance the notification required under subsection 4(2) of Ontario Regulation 124/99 made under the EA.
- (b) Each Party will be responsible for the costs incurred by it in connection with the Minister of Finance Notice.

9.3 OEB Approval Procedure

In the event that the BEC Group or Energy Plus Group, as applicable, is of the opinion, acting reasonably, that the OEB Approval will be obtained in whole or in part on terms that will (i) reduce the maximum allowable time and/or maximum amount of savings that may be allocated the shareholder of LDC Amalco pursuant to the policies of the OEB, and/or (ii) result in a material adverse change to the proposed rate structure and rate harmonization of LDC Amalco proposed in the application under the OEB Act for the OEB Approval pursuant to Section 9.1(a) following Closing (in each case, an “**Adverse Determination**”), either the BEC Group or Energy Plus Group, as applicable, may provide written notice to the other parties of such potential Adverse Determination. The Parties agree to cooperate and negotiate to reach agreement with respect to any desirable or required amendments to this Agreement to address a potential Adverse Determination.

ARTICLE 10 CLOSING ARRANGEMENTS

10.1 Closing

The Closing will take place at the Closing Time on the Closing Date at such place or places as the Parties may agree.

10.2 Closing Procedures

At the Closing Time, upon fulfilment of all the conditions set out in Article 7 that have not been waived in writing, each Party shall deliver or cause to be delivered to certificates, agreements, documents and instruments as required by the terms of the this Agreement.

ARTICLE 11 GENERAL

11.1 Submission to Jurisdiction

Each of the Parties irrevocably and unconditionally submits and attorns to the non-exclusive jurisdiction of the courts of the Province of Ontario to determine all issues, whether at law or in equity, arising from this Agreement. To the extent permitted by applicable Law, each of the Parties:

- (a) irrevocably waives any objection, including any Claim of inconvenient forum, that it may now or in the future have to the venue of any legal proceeding arising out of or relating to this Agreement in the courts of that Province, or that the subject matter of this Agreement may not be enforced in those courts;
- (b) irrevocably agrees not to seek, and waives any right to, judicial review by any court which may be called upon to enforce the judgment of the courts referred to in this Section 11.1, of the substantive merits of any suit, action or proceeding; and
- (c) to the extent a Party has or may acquire any immunity from the jurisdiction of any court or from any legal process, whether through service or notice, attachment before judgment, attachment in aid of execution, execution or otherwise, with respect to itself or its property, that Party irrevocably waives that immunity in respect of its obligations under this Agreement.

11.2 Tender

Any tender of documents or money under this Agreement may be made upon the Parties or their respective counsel.

11.3 Costs and Expenses

Except as otherwise specified in this Agreement, including Section 9.1(c) and Section 9.2(b), all costs and expenses (including the fees and disbursements of accountants, financial advisors, legal counsel and other professional advisers) incurred in connection with this Agreement, the obligations under this Agreement and the completion of the transactions contemplated by this Agreement, are to be paid by the Party incurring those costs and expenses, provided that any integration and transition costs and expenses incurred by the members of the BEC Group and the members of the Energy Plus Group after the effective date of this Agreement will be borne by the applicable members of the BEC Group and the Energy Plus Group in proportion to the number of Common Shares to be issued the capital of Amalco Holdco as set forth in Section 2.1(b). If there is a breach of this Agreement or this Agreement is terminated, the obligation of each Party to pay

its own costs and expenses is subject to each Party's respective rights arising from such breach or termination.

11.4 Time of Essence

Time is of the essence in all respects of this Agreement.

11.5 Notices

Any Communication must be in writing and either:

- (a) delivered personally or by courier;
- (b) sent by prepaid registered mail; or
- (c) transmitted by e-mail.

Any Communication must be sent to the intended recipient at its address as follows:

in the case of Brantford:

c/o The Corporation of the City of Brantford
100 Wellington Square
PO Box 818
Brantford, Ontario N3T 5R7

Attention: Brian Hutchings, Chief Administrative Officer
E-mail: bhutchings@brantford.ca

in the case of each member of the BEC Group:

c/o Brantford Energy Corporation
150 Savannah Oaks Dr.
Brantford, Ontario
N3V 1E8

Attention: Paul Kwasnik, President and Chief Executive Officer
E-mail: PKwasnik@brantford.ca

in the case of Cambridge:

c/o City of Cambridge
50 Dickson Street
P.O. Box 669
Cambridge, Ontario N1R 5W8

Attention: David Calder, City Manager
E-mail: calderd@cambridge.ca

in the case of North Dumfries:

c/o The Corporation of the Township of North Dumfries
North Dumfries Community Complex
2958 Greenfield Road
P.O. Box 1060
Ayr, Ontario N0B 1E0

Attention: Andrew McNeely, Chief Administrative Officer
E-mail: amcneely@northdumfries.ca

in the case of each member of the Energy Plus Group:

c/o Cambridge and North Dumfries Energy Plus Inc.
1500 Bishop Street North
Cambridge, Ontario N1R 5X6

Attention: Ian Miles, President and Chief Executive Officer
E-mail: imiles@energyplus.ca

or at any other address as any Party may at any time advise the other Parties by Communication given or made in accordance with this Section 11.5. Any Communication delivered to the Party to whom it is addressed will be deemed to have been given or made and received on the day it is delivered at that Party's address, provided that if that day is not a Business Day then the Communication will be deemed to have been given or made and received on the next Business Day. Any Communication sent by prepaid registered mail will be deemed to have been given or made and received on the fifth Business Day after which it is mailed. If a strike or lockout of postal employees is then in effect, or generally known to be impending, every Communication must be delivered personally or by courier or transmitted by e-mail. Any Communication transmitted by e-mail will be deemed to have been given or made and received on the day on which it is transmitted; but if the Communication is transmitted on a day which is not a Business Day or after 5:00 p.m. (local time of the recipient), the Communication will be deemed to have been given or made and received on the next Business Day.

11.6 Further Assurances

Each Party will, at that Party's own cost and expense, execute and deliver any further agreements and documents and provide any further assurances, undertakings and information as may be reasonably required by the requesting Party to give effect to this Agreement and, without limiting the generality of this Section 11.6, will do or cause to be done all acts and things, execute and deliver or cause to be executed and delivered all agreements and documents and provide any assurances, undertakings and information as may be required at any time by all Governmental Authorities.

11.7 No Broker

Each Party represents and warrants to the other Parties that all negotiations relating to this Agreement and the transactions contemplated by this Agreement have been carried on between them directly, without the intervention of any other Person on behalf of any Party in such manner as to give rise to any valid Claim against the BEC Group or the Energy Plus Group for a brokerage commission, finder's fee or other similar payment.

11.8 Public Notice

All public notices to third parties and all other announcements, press releases and publicity concerning this Agreement or the transactions contemplated by this Agreement, must be jointly planned and co-ordinated by each member of the BEC Group and Brantford, on the one hand, and the Energy Plus Group and Cambridge and North Dumfries, on the other hand, and no Party will act unilaterally in this regard without the prior consent of the other Parties.

11.9 Amendment and Waiver

No amendment, discharge, modification, restatement, supplement, termination or waiver of this Agreement or any Section of this Agreement is binding unless it is in writing and executed by the Party to be bound. No waiver of, failure to exercise or delay in exercising, any Section of this Agreement constitutes a waiver of any other Section (whether or not similar) nor does any waiver constitute a continuing waiver unless otherwise expressly provided.

11.10 Assignment and Enurement

Neither this Agreement nor any right or obligation under this Agreement may be assigned by any Party without the prior written consent of the other Parties, which consent will be within their sole discretion. This Agreement enures to the benefit of and is binding upon the Parties and their respective successors (including any successor by amalgamation or operation of law) and permitted assigns.

11.11 Severability

Each Section of this Agreement is distinct and severable. If any Section of this Agreement, in whole or in part, is or becomes illegal, invalid, void, voidable or unenforceable in any jurisdiction by any court of competent jurisdiction, the illegality, invalidity or unenforceability of that Section, in whole or in part, will not affect:

- (a) the legality, validity or enforceability of the remaining Sections of this Agreement, in whole or in part; or
- (b) the legality, validity or enforceability of that Section, in whole or in part, in any other jurisdiction.

11.12 Counterparts

This Agreement may be executed and delivered by the Parties in one or more counterparts, each of which will be an original, and those counterparts will together constitute one and the same instrument.


11.13 Electronic Execution


Delivery of this Agreement may be effected by one or more Parties by e-mail or other electronic transmission of the execution pages hereof to the other Parties. A Party or Parties so delivering this Agreement will thereafter forthwith deliver to the other Parties original execution pages hereof with its/their original signature(s) located thereon, provided, however, that any failure by a Party or Parties to so deliver such original execution pages will not affect the validity or enforceability hereof against that Party or Parties.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK

Each Party has executed and delivered this Agreement as of the date noted at the beginning of the Agreement.

**THE CORPORATION OF THE CITY OF
BRANTFORD**

Per: 
Name: Kevin Davis
Title: Mayor

Per: 
Name: ~~Tanya Daniels~~ *Chris Gauthier*
Title: City Clerk
Deputy

**THE CORPORATION OF THE CITY OF
CAMBRIDGE**

Per: _____
Name: Kathryn McGarry
Title: Mayor

Per: _____
Name: Danielle Manton
Title: City Clerk

**THE CORPORATION OF THE TOWNSHIP
OF NORTH DUMFRIES**

Per: _____
Name: Sue Foxton
Title: Mayor

Per: _____
Name: Ashley Sage
Title: Clerk

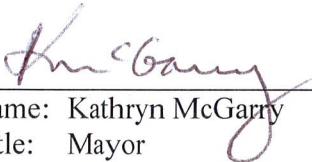
Each Party has executed and delivered this Agreement as of the date noted at the beginning of the Agreement.

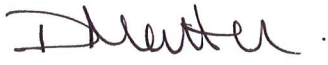
**THE CORPORATION OF THE CITY OF
BRANTFORD**

Per: _____
Name: Kevin Davis
Title: Mayor

Per: _____
Name: Tanya Daniels
Title: City Clerk

**THE CORPORATION OF THE CITY OF
CAMBRIDGE**

Per:  _____
Name: Kathryn McGarry
Title: Mayor

Per:  _____
Name: Danielle Manton
Title: City Clerk

**THE CORPORATION OF THE TOWNSHIP
OF NORTH DUMFRIES**

Per: _____
Name: Sue Foxton
Title: Mayor

Per: _____
Name: Ashley Sage
Title: Clerk

Each Party has executed and delivered this Agreement as of the date noted at the beginning of the Agreement.

**THE CORPORATION OF THE CITY OF
BRANTFORD**

Per: _____
Name: Kevin Davis
Title: Mayor


Per: _____
Name: Tanya Daniels
Title: City Clerk

**THE CORPORATION OF THE CITY OF
CAMBRIDGE**

Per: _____
Name: Kathryn McGarry
Title: Mayor


Per: _____
Name: Danielle Manton
Title: City Clerk

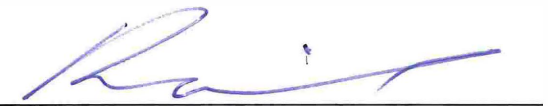
**THE CORPORATION OF THE TOWNSHIP
OF NORTH DUMFRIES**

Per:  _____
Name: Sue Foxton
Title: Mayor

Per:  _____
Name: Ashley Sage
Title: Clerk

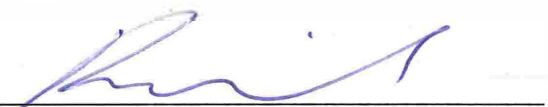
BRANTFORD ENERGY CORPORATION

Per: 
Name: Scott Saint
Title: Chair


Per: 
Name: Paul Kwasnik
Title: President and Chief Executive Officer

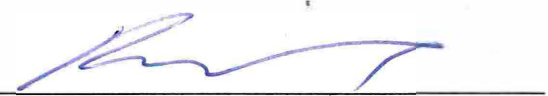
BRANTFORD HYDRO INC.

Per: 
Name: Craig Mann
Title: Chair


Per: 
Name: Paul Kwasnik
Title: President and Chief Executive Officer


BRANTFORD POWER INC.

Per: 
Name: Scott Saint
Title: Chair


Per: 
Name: Paul Kwasnik
Title: President and Chief Executive Officer

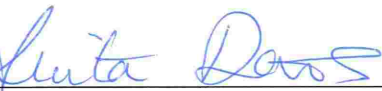
**CAMBRIDGE AND NORTH DUMFRIES
ENERGY PLUS INC.**

Per: 
Name: Ian Miles
Title: President and Chief Executive
Officer


Per: 
Name: Anita Davis
Title: Chair of the Board


ENERGY + INC.

Per: 
Name: Ian Miles
Title: President and Chief Executive
Officer

Per: 
Name: Anita Davis
Title: Chair of the Board

**CAMBRIDGE AND NORTH DUMFRIES
ENERGY SOLUTIONS INC.**

Per: 
Name: Ian Miles
Title: President and Chief Executive
Officer

Per: 
Name: Anita Davis
Title: Chair of the Board

SCHEDULE A
BRANTFORD DISCLOSURE SCHEDULE

See attached.

SCHEDULE B
BRANTFORD DISCLOSURE SCHEDULE

See attached.

SCHEDULE C SHARE CAPITAL

A. COMMON SHARES

The following are the rights, privileges, restrictions and conditions attaching to the Common Shares:

1. **Voting Rights:** The holders of the Common Shares shall be entitled to receive notice of and to attend and vote at all meetings of the shareholders of the Corporation and shall be entitled to one (1) vote per Common Share held, except meetings at which only holders of another class of shares are entitled to vote.
2. **Dividends:** The holders of the Common Shares shall be entitled to receive dividends if, as and when declared by the board of directors of the Corporation out of the assets of the Corporation properly applicable to the payment of dividends in such amounts and payable in such manner as the board of directors may from time to time determine.
3. **Participation upon Liquidation, Dissolution or Winding-Up:** In the event of the liquidation, dissolution or winding-up of the Corporation or other distribution of assets of the Corporation among its shareholders for the purpose of winding-up its affairs, the holders of the Common Shares shall be entitled to participate rateably in any distribution of the assets of the Corporation remaining after payment of the Total Class A Redemption Amount to the holders of the Class A Special Shares or the payment of the Class B Redemption Amount to the holders of the Class B Special Shares, as applicable.

B. CLASS A SPECIAL SHARES.

The following are the rights, privileges, restrictions and conditions attaching to the Class A Special Shares:

1. **Voting Rights:** The holders of Class A Special Shares shall not be entitled to receive notice of, attend or vote at any meeting of the Corporation's shareholders.
2. **No Dividends:** The holders of the Class A Special Shares shall not be entitled to receive any dividend payable by the Corporation.
3. **Redemption at the Option of the Holder:** Subject to the terms of the Merger Participation Agreement, any registered holder of Class A Special Shares may, at their option, upon giving notice as hereinafter described, require the Corporation, to redeem all of the Class A Special Shares held by such holder, and the Corporation shall pay to such holder for each Class A Special Share an amount equal to the Class A Redemption Amount (as defined below). The redemption right provided for herein may be exercised by notice in writing given by any Class A Special Shares shareholder to the Corporation within 30 days following the determination of the Net Adjustment Amount at the registered office of the Corporation or to any transfer agent or registrar for the Class A Special Shares, and such

notice shall be executed by the person registered on the books of the Corporation as the holder of the Class A Special Shares in respect of which such right is being exercised or by his duly authorized attorney and shall specify that the holder desires to have all such Class A Special Shares redeemed. The holder shall pay any governmental, transfer or other tax imposed in respect of such redemption. If the aggregate of all Class A Redemption Amounts payable to the holders of Class A Special Shares (“**Total Class A Redemption Amount**”) is less than or equal to \$2,000,000, then all such Class A Redemption Amounts shall be paid no later than 60 days following the determination of the Net Adjustment Amount. If the Total Class A Redemption Amount is greater than \$2,000,000 but less than or equal to \$4,000,000, then each such holder shall receive its Pro Rata Portion of \$2,000,000 no later than 60 days following the determination of the Net Adjustment Amount, and shall receive the balance of its Class A Redemption Amount no later than 10 days following the commencement of the second fiscal year of the Corporation. If the Total Class A Redemption Amount is greater than \$4,000,000, then each such holder shall receive its Pro Rata Portion of \$2,000,000 no later than 60 days following the determination of the Net Adjustment Amount, its Pro Rata Portion of \$2,000,000 no later than 10 days following the commencement of the second fiscal year of the Corporation, and its Pro Rata Portion of up to \$2,000,000 no later than 10 days following the commencement of each fiscal year thereafter until all Class A Redemption Amounts have been paid in full. If the payment of any Class A Redemption Amount would result in a breach by the Corporation of applicable law (including the solvency requirements of the *Business Corporations Act* (Ontario)) or would breach a covenant under the Corporation’s financing arrangements, such payment shall not be paid but will be held in abeyance until such time that it can be paid without any such breach.

“**Class A Redemption Amount**”, for each Class A Special Share, means an amount equal to the aggregate Net Adjustment Amount payable to the holders of Class A Special Shares, if any, divided by the aggregate number of Class A Special Shares issued to all holders of Class A Special Shares pursuant to section 2.1 of the Merger Participation Agreement, provided that if there is no Net Adjustment Amount payable to the holders of Class A Special Shares, then the Class A Redemption Amount for each Class A Special Share shall be an amount equal to \$1.00 divided by the aggregate number of Class A Special Shares issued to all holders of Class A Special Shares pursuant to section 2.1 of the Merger Participation Agreement.

“**Merger Participation Agreement**” means the merger participation agreement dated September 1, 2021 among The Corporation of the City of Brantford, The Corporation of the City of Cambridge, The Corporation of the Township of North Dumfries, Brantford Energy Corporation, Cambridge and North Dumfries Energy Plus Inc., Brantford Power Inc., Energy+ Inc. and Cambridge and North Dumfries Energy Solutions Inc.

“**Net Adjustment Amount**” has the meaning given to it in the Merger Participation Agreement.

“**Pro Rata Portion**” means in respect of any holder of Class A Special Shares, such holder’s ownership percentage of Class A Special Shares reflected by a fraction the

numerator of which is the number of Class A Special Shares owned by such holder and the denominator of which is the total number of issued and outstanding Class A Special Shares.

“**Total Class A Redemption Amount**” is defined in Section B.3 above.

4. **Redemption by Corporation:** If any holder of Class A Special Shares fails to deliver a redemption notice as specified in Section B.3 above within 30 days following the determination of the Net Adjustment Amount then the Corporation may, upon giving notice as hereinafter provided, redeem at any time and from time to time all of the then outstanding Class A Special Shares on payment of the Class A Redemption Amount for each share to be redeemed.

Idem: In the case of redemption of Class A Special Shares by the Corporation, the Corporation shall, at least 10 days before the intended redemption date, mail to each person who at the date of mailing is a holder of the Class A Special Shares to be redeemed, a notice in writing of the intention of the Corporation to redeem such shares. Such notice shall be mailed by prepaid mail, addressed to each such holder at its address as it appears on the records of the Corporation or in the event of the address of any such holder not so appearing, then to the last known address of such holder; provided, however, that accidental failure to give any such notice to one or more of such holders shall not affect the validity of such redemption. Such notice shall set out the Class A Redemption Amount and the date on which redemption is to take place. On or after the date so specified for redemption, the Corporation shall pay or cause to be paid to or to the order of the holders of the Class A Special Shares to be redeemed the aggregate Class A Redemption Amount for the Class A Special Shares called for redemption. Such payment by the Corporation shall be made by way of a cheque payable at par at any branch of the Corporation’s bankers in Canada. From and after the date specified for redemption in any such notice, the holders of the Class A Special Shares called for redemption shall cease to be entitled to any of the rights of holders of Class A Special Shares in respect thereof, unless payment of the Class A Redemption Amount for each Class A Special Share to be redeemed is not made, in which case the rights of the holders of the said Class A Special Shares shall remain unaffected. The Corporation shall have the right at any time after the mailing of notice of its intention to redeem the Class A Special Shares to deposit the aggregate Class A Redemption Amount of the shares so called for redemption to a special account in any chartered bank or in any trust company in Canada, named, in such notice, to be paid without interest to or to the order of the respective holders of such Class A Special Shares called for redemption, and upon such deposit being made or upon the date specified for redemption in such notice, whichever is the later, the Class A Special Shares in respect whereof such deposit shall have been made shall be redeemed and the rights of the holders thereof after such deposit or such redemption date, as the case may be, shall be limited to receiving without interest their proportionate part of the Total Class A Redemption Amount and any interest allowed on such amount shall belong to the Corporation.

5. **Notice:** Where notice is required by the provisions hereof to be sent, the notice or the time for the notice may be waived or abridged at any time with the consent in writing of the person entitled thereto.
6. **Participation upon Liquidation, Dissolution or Winding-Up:** In the event of the liquidation, dissolution or winding-up of the Corporation or other distribution of assets of

the Corporation among its shareholders for the purpose of winding-up its affairs, the holders of the Class A Special Shares will be entitled to receive from the assets of the Corporation a sum equivalent to any then-outstanding Class A Redemption Amounts (if any) owing to them before any amount is paid or any assets are distributed to the holders of the Common Shares or shares of any class ranking junior to the Class A Special Shares.

C. CLASS B SPECIAL SHARES

The following are the rights, privileges, restrictions and conditions attaching to the Class B Special Shares:

1. **Voting Rights:** The holders of Class B Special Shares shall not be entitled to receive notice of, attend or vote at any meeting of the Corporation's shareholders.
2. **No Dividends:** The holders of the Class B Special Shares shall not be entitled to receive any dividend payable by the Corporation.
3. **Redemption at the Option of the Holder:** Subject to the terms of the Merger Participation Agreement, the registered holder of Class B Special Shares may, at its option, upon giving notice as hereinafter described, require the Corporation, to redeem all of the Class B Special Shares held it, and the Corporation shall pay to such holder for each such Class B Special Share an amount equal to the Class B Redemption Amount (as defined below). The redemption right provided for herein may be exercised by notice in writing given by any Class B Special Shares shareholder to the Corporation within 30 days following the determination of the Net Adjustment Amount at the registered office of the Corporation or to any transfer agent or registrar for the Class B Special Shares, and such notice shall be executed by the person registered on the books of the Corporation as the holder of the Class B Special Shares in respect of which such right is being exercised or by his duly authorized attorney and shall specify that the holder desires to have all such Class B Special Shares redeemed. The holder shall pay any governmental, transfer or other tax imposed in respect of such redemption. If the Class B Redemption Amount payable to the holder of Class B Special Shares is less than or equal to \$2,000,000, then such Class B Redemption Amount shall be paid no later than 60 days following the determination of the Net Adjustment Amount. If the Class B Redemption Amount is greater than \$2,000,000 but less than or equal to \$4,000,000, then such holder shall receive \$2,000,000 no later than 60 days following the determination of the Net Adjustment Amount, and shall receive the balance of its Class B Redemption Amount no later than 10 days following the commencement of the second fiscal year of the Corporation. If the Class B Redemption Amount is greater than \$4,000,000, then such holder shall receive \$4,000,000 no later than 60 days following the determination of the Net Adjustment Amount, \$2,000,000 no later than 10 days following the commencement of the second fiscal year of the Corporation, and up to \$2,000,000 no later than 10 days following the commencement of each fiscal year thereafter until the Class B Redemption Amount has been paid in full. If the payment of the Class B Redemption Amount would result in a breach by the Corporation of applicable law (including the solvency requirements of the *Business Corporations Act* (Ontario)) or would breach a covenant under the Corporation's

financing arrangements, such payment shall not be paid but will be held in abeyance until such time that it can be paid without any such breach.

“**Class B Redemption Amount**”, for each Class B Special Share, means an amount equal to the Net Adjustment Amount payable to the holder of Class B Special Shares, if any, divided by the aggregate number of Class B Special Shares issued to the holder of Class B Special Shares pursuant to section 2.1 of the Merger Participation Agreement, provided that if there is no Net Adjustment Amount payable to the holder of Class B Special Shares, then the Class B Redemption Amount for each Class B Special Share shall be an amount equal to \$1.00 divided by the aggregate number of Class B Special Shares issued to the holder of Class B Special Shares pursuant to section 2.1 of the Merger Participation Agreement.

4. **Redemption by Corporation:** If the holder of Class B Special Shares fails to deliver a redemption notice as specified in Section C.3 above within 30 days following the determination of the Net Adjustment Amount then the Corporation may, upon giving notice as hereinafter provided, redeem at any time and from time to time all of the then outstanding Class B Special Shares on payment of the Class B Redemption Amount for each share to be redeemed.

Idem: In the case of redemption of Class B Special Shares by the Corporation, the Corporation shall, at least 10 days before the intended redemption date, mail to the holder of the Class B Special Shares to be redeemed, a notice in writing of the intention of the Corporation to redeem such shares. Such notice shall be mailed by prepaid mail, addressed to each such holder at its address as it appears on the records of the Corporation or in the event of the address of any such holder not so appearing, then to the last known address of such holder; provided, however, that accidental failure to give any such notice to one or more of such holders shall not affect the validity of such redemption. Such notice shall set out the Class B Redemption Amount and the date on which redemption is to take place. On or after the date so specified for redemption, the Corporation shall pay or cause to be paid to or to the order of the holders of the Class B Special Shares to be redeemed the aggregate Class B Redemption Amount for the Class B Special Shares called for redemption. Such payment by the Corporation shall be made by way of a cheque payable at par at any branch of the Corporation's bankers in Canada. From and after the date specified for redemption in any such notice, the holder of the Class B Special Shares called for redemption shall cease to be entitled to any of the rights of a holder of Class B Special Shares in respect thereof, unless payment of the Class B Redemption Amount for each Class B Special Share to be redeemed is not made, in which case the rights of the holder of the said Class B Special Shares shall remain unaffected. The Corporation shall have the right at any time after the mailing of notice of its intention to redeem the Class B Special Shares to deposit the aggregate Class B Redemption Amount of the shares so called for redemption to a special account in any chartered bank or in any trust company in Canada, named, in such notice, to be paid without interest to or to the order of the holder of such Class B Special Shares called for redemption, and upon such deposit being made or upon the date specified for redemption in such notice, whichever is the later, the Class B Special Shares in respect whereof such deposit shall have been made shall be redeemed and the rights of the holder thereof after such deposit or such redemption date, as the case may be, shall be limited to receiving without interest the total Class B Redemption Amount so deposited and any interest allowed on such deposit shall belong to the Corporation.

5. **Notice:** Where notice is required by the provisions hereof to be sent, the notice of the time for the notice may be waived or abridged at any time with the consent in writing of the person entitled thereto.
6. **Participation upon Liquidation, Dissolution or Winding-Up:** In the event of the liquidation, dissolution or winding-up of the Corporation or other distribution of assets of the Corporation among its shareholders for the purpose of winding-up its affairs, the holders of the Class B Special Shares will be entitled to receive from the assets of the Corporation a sum equivalent to any then-outstanding Class B Redemption Amounts (if any) owing to them before any amount is paid or any assets are distributed to the holders of the Common Shares or shares of any class ranking junior to the Class B Special Shares.

D. CLASS C SPECIAL SHARES

The following are the rights, privileges, restrictions and conditions attaching to the Class C Special Shares:

1. **Voting Rights:** The holders of Class C Special Shares shall not be entitled to receive notice of, attend or vote at any meeting of the Corporation's shareholders.
2. **No Dividends:** The holders of the Class C Special Shares shall not be entitled to receive any dividend payable by the Corporation.
3. **Redemption at the Option of the Holder:** Subject to the terms of the Merger Participation Agreement, the registered holder of Class C Special Shares may, at its option, upon giving notice as hereinafter described, require the Corporation, to redeem all of the Class C Special Shares held it, and the Corporation shall pay to such holder for each such Class C Special Share an amount equal to the Class C Redemption Amount (as defined below). The redemption right provided for herein may be exercised by notice in writing given by any Class C Special Shares shareholder to the Corporation within 30 days following the determination of the IESO Settlement Amount (as such term is defined in the Merger Participation Agreement) at the registered office of the Corporation or to any transfer agent or registrar for the Class C Special Shares, and such notice shall be executed by the person registered on the books of the Corporation as the holder of the Class C Special Shares in respect of which such right is being exercised or by his duly authorized attorney and shall specify that the holder desires to have all such Class C Special Shares redeemed. The holder shall pay any governmental, transfer or other tax imposed in respect of such redemption. If the payment of the Class C Redemption Amount would result in a breach by the Corporation of applicable law (including the solvency requirements of the *Business Corporations Act* (Ontario)) or would breach a covenant under the Corporation's financing arrangements, such payment shall not be paid but will be held in abeyance until such time that it can be paid without any such breach.

"Class C Redemption Amount", for each Class C Special Share, means an amount equal to the IESO Settlement Amount, if any, divided by the aggregate number of Class C Special Shares issued to the holder of Class C Special Shares pursuant to section 2.1 of the Merger Participation Agreement, provided that if there is no IESO Settlement Amount payable to

the holder of Class C Special Shares, then the Class C Redemption Amount for each Class C Special Share shall be an amount equal to \$1.00 divided by the aggregate number of Class C Special Shares issued to the holder of Class C Special Shares pursuant to section 2.1 of the Merger Participation Agreement.

4. **Redemption by Corporation:** If the holder of Class C Special Shares fails to deliver a redemption notice as specified in Section D.3 above within 30 days following the determination of the IESO Settlement Amount then the Corporation may, upon giving notice as hereinafter provided, redeem at any time and from time to time all of the then outstanding Class C Special Shares on payment of the Class C Redemption Amount for each share to be redeemed.

Idem: In the case of redemption of Class C Special Shares by the Corporation, the Corporation shall, at least 10 days before the intended redemption date, mail to the holder of the Class C Special Shares to be redeemed, a notice in writing of the intention of the Corporation to redeem such shares. Such notice shall be mailed by prepaid mail, addressed to each such holder at its address as it appears on the records of the Corporation or in the event of the address of any such holder not so appearing, then to the last known address of such holder; provided, however, that accidental failure to give any such notice to one or more of such holders shall not affect the validity of such redemption. Such notice shall set out the Class C Redemption Amount and the date on which redemption is to take place. On or after the date so specified for redemption, the Corporation shall pay or cause to be paid to or to the order of the holders of the Class C Special Shares to be redeemed the aggregate Class C Redemption Amount for the Class C Special Shares called for redemption. Such payment by the Corporation shall be made by way of a cheque payable at par at any branch of the Corporation's bankers in Canada. From and after the date specified for redemption in any such notice, the holder of the Class C Special Shares called for redemption shall cease to be entitled to any of the rights of a holder of Class C Special Shares in respect thereof, unless payment of the Class C Redemption Amount for each Class C Special Share to be redeemed is not made, in which case the rights of the holder of the said Class C Special Shares shall remain unaffected. The Corporation shall have the right at any time after the mailing of notice of its intention to redeem the Class C Special Shares to deposit the aggregate Class C Redemption Amount of the shares so called for redemption to a special account in any chartered bank or in any trust company in Canada, named, in such notice, to be paid without interest to or to the order of the holder of such Class C Special Shares called for redemption, and upon such deposit being made or upon the date specified for redemption in such notice, whichever is the later, the Class C Special Shares in respect whereof such deposit shall have been made shall be redeemed and the rights of the holder thereof after such deposit or such redemption date, as the case may be, shall be limited to receiving without interest the total Class C Redemption Amount so deposited and any interest allowed on such deposit shall belong to the Corporation.

5. **Notice:** Where notice is required by the provisions hereof to be sent, the notice of the time for the notice may be waived or abridged at any time with the consent in writing of the person entitled thereto.
6. **Participation upon Liquidation, Dissolution or Winding-Up:** In the event of the liquidation, dissolution or winding-up of the Corporation or other distribution of assets of the Corporation among its shareholders for the purpose of winding-up its affairs, the

holders of the Class C Special Shares will be entitled to receive from the assets of the Corporation a sum equivalent to any then-outstanding Class C Redemption Amounts (if any) owing to them before any amount is paid or any assets are distributed to the holders of the Common Shares or shares of any class ranking junior to the Class C Special Shares.

E. CLASS D SPECIAL SHARES

The following are the rights, privileges, restrictions and conditions attaching to the Class D Special Shares:

1. **Voting Rights:** The holders of Class D Special Shares shall not be entitled to receive notice of, attend or vote at any meeting of the Corporation's shareholders.
2. **No Dividends:** The holders of the Class D Special Shares shall not be entitled to receive any dividend payable by the Corporation.
3. **Redemption at the Option of the Holder:** Subject to the terms of the Merger Participation Agreement, the registered holder of Class D Special Shares may, at its option, upon giving notice as hereinafter described, require the Corporation, to redeem all of the Class D Special Shares held it, and the Corporation shall pay to such holder for each such Class D Special Share an amount equal to the Class D Redemption Amount (as defined below). The redemption right provided for herein may be exercised by notice in writing given by any Class D Special Shares shareholder to the Corporation within 30 days following the Closing Date (as such term is defined the Merger Participation Agreement) at the registered office of the Corporation or to any transfer agent or registrar for the Class D Special Shares, and such notice shall be executed by the person registered on the books of the Corporation as the holder of the Class D Special Shares in respect of which such right is being exercised or by his duly authorized attorney and shall specify that the holder desires to have all such Class D Special Shares redeemed. The holder shall pay any governmental, transfer or other tax imposed in respect of such redemption. If the payment of the Class D Redemption Amount would result in a breach by the Corporation of applicable law (including the solvency requirements of the *Business Corporations Act* (Ontario)) or would breach a covenant under the Corporation's financing arrangements, such payment shall not be paid but will be held in abeyance until such time that it can be paid without any such breach.

"Class D Redemption Amount", for each Class D Special Share, means an amount equal to the BPI COVID-19 Deferral and Variance Amount (as such term is defined in the Merger Participation Agreement) approved for recovery by the OEB, if any, divided by the aggregate number of Class D Special Shares issued to the holder of Class D Special Shares pursuant to section 2.1 of the Merger Participation Agreement, provided that if there is no BPI COVID-19 Deferral and Variance Amount the Class D Redemption Amount for each Class D Special Share shall be an amount equal to \$1.00 divided by the aggregate number of Class D Special Shares issued to the holder of Class D Special Shares pursuant to section 2.1 of the Merger Participation Agreement.

4. **Redemption by Corporation:** If the holder of Class D Special Shares fails to deliver a redemption notice as specified in Section E.3 above within 30 days following the Closing Date then the Corporation may, upon giving notice as hereinafter provided, redeem at any time and from time to time all of the then outstanding Class D Special Shares on payment of the Class D Redemption Amount for each share to be redeemed.

Idem: In the case of redemption of Class D Special Shares by the Corporation, the Corporation shall, at least 10 days before the intended redemption date, mail to the holder of the Class D Special Shares to be redeemed, a notice in writing of the intention of the Corporation to redeem such shares. Such notice shall be mailed by prepaid mail, addressed to each such holder at its address as it appears on the records of the Corporation or in the event of the address of any such holder not so appearing, then to the last known address of such holder; provided, however, that accidental failure to give any such notice to one or more of such holders shall not affect the validity of such redemption. Such notice shall set out the Class D Redemption Amount and the date on which redemption is to take place. On or after the date so specified for redemption, the Corporation shall pay or cause to be paid to or to the order of the holders of the Class D Special Shares to be redeemed the aggregate Class D Redemption Amount for the Class D Special Shares called for redemption. Such payment by the Corporation shall be made by way of a cheque payable at par at any branch of the Corporation's bankers in Canada. From and after the date specified for redemption in any such notice, the holder of the Class D Special Shares called for redemption shall cease to be entitled to any of the rights of a holder of Class D Special Shares in respect thereof, unless payment of the Class D Redemption Amount for each Class D Special Share to be redeemed is not made, in which case the rights of the holder of the said Class D Special Shares shall remain unaffected. The Corporation shall have the right at any time after the mailing of notice of its intention to redeem the Class D Special Shares to deposit the aggregate Class D Redemption Amount of the shares so called for redemption to a special account in any chartered bank or in any trust company in Canada, named, in such notice, to be paid without interest to or to the order of the holder of such Class D Special Shares called for redemption, and upon such deposit being made or upon the date specified for redemption in such notice, whichever is the later, the Class D Special Shares in respect whereof such deposit shall have been made shall be redeemed and the rights of the holder thereof after such deposit or such redemption date, as the case may be, shall be limited to receiving without interest the total Class D Redemption Amount so deposited and any interest allowed on such deposit shall belong to the Corporation.

5. **Notice:** Where notice is required by the provisions hereof to be sent, the notice of the time for the notice may be waived or abridged at any time with the consent in writing of the person entitled thereto.
6. **Participation upon Liquidation, Dissolution or Winding-Up:** In the event of the liquidation, dissolution or winding-up of the Corporation or other distribution of assets of the Corporation among its shareholders for the purpose of winding-up its affairs, the holders of the Class D Special Shares will be entitled to receive from the assets of the Corporation a sum equivalent to any then-outstanding Class D Redemption Amounts (if any) owing to them before any amount is paid or any assets are distributed to the holders of the Common Shares or shares of any class ranking junior to the Class D Special Shares.

SCHEDULE D
ILLUSTRATIVE EXAMPLES OF THE CALCULATIONS OF THE BEC GROUP
ADJUSTMENT AMOUNT AND THE ENERGY PLUS GROUP ADJUSTMENT
AMOUNT

See attached.

SCHEDULE E
LOCATION OF AMALCO HOLDCO FACILITIES & FUNCTIONS

Facilities & functions to be located in Cambridge

39 Glebe Street

- Executive Functions (CEO, CFO, HR, Corporate Development)
- Finance Department
- Regulatory Department
- Engineering Services
- HR Department
- Billing Department

1500 Bishop Street

- Cambridge and North Dumfries Operations Department
- Vehicle garage, inventory, outdoor storage yard

Facilities & functions to be located in Brantford

150 Savannah Oaks Drive

- Executive Functions (COO, IT)
- Customer Service Department
- Engineering Services
- IT Department
- System Control Room
- Brantford and Brant County Operations Department
- Vehicle garage, inventory, outdoor storage yard
- Fibre optics affiliate
- Water heater rental affiliate

EXHIBIT A
AMALCO HOLDCO SHAREHOLDER AGREEMENT

See attached.

EXHIBIT B
AMENDED AND RESTATED SHARED SERVICES AND OBLIGATIONS AGREEMENT

See attached.