

SHAREHOLDERS AGREEMENT

THIS AGREEMENT made as of April 30, 2007;

B E T W E E N:

TAY HYDRO INC. (hereinafter referred to as "Tay Holdco")

- and -

NEWMARKET HYDRO HOLDINGS INC. (hereinafter referred to as "Newmarket Holdco")

- and -

[NEWMARKET - TAY POWER DISTRIBUTION LTD.], a corporation incorporated under the laws of the Province of Ontario (hereinafter referred to as the "Corporation"),

- and -

THE CORPORATION OF THE TOWNSHIP OF TAY, (hereinafter referred to as "Tay"),

- and -

THE CORPORATION OF THE TOWN OF NEWMARKET, (hereinafter referred to as "Newmarket")

WHEREAS the authorized capital of the Corporation consists of an unlimited number of Shares, of which 10,000 Shares are issued and outstanding;

AND WHEREAS at the date hereof all of the issued Shares of the Corporation are beneficially owned as follows:

<u>SHAREHOLDERS</u>	<u>SHARES</u>
Tay Holdco	730
Newmarket Holdco	9,270

AND WHEREAS at the date hereof all of the issued shares of Tay Holdco are owned by Tay;

AND WHEREAS at the date hereof all of the issued shares of Newmarket Holdco are owned by Newmarket;

AND WHEREAS the Shareholders acknowledge that the number or allocation of the issued and outstanding Shares may change to accommodate any post-amalgamation adjustment contemplated by the Amalgamation Participation Agreement dated as of June 21, 2006 between Tay and Newmarket;

AND WHEREAS the Participating Municipalities, the Shareholders and the Corporation have agreed to enter into this Agreement as being in their respective best interests and for the purpose of providing for the operation of the Corporation and its Subsidiaries;

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the premises and the mutual covenants and agreements herein contained the parties hereto agree as follows:

ARTICLE 1 -INTERPRETATION

1.01 Definitions

In this Agreement, unless something in the subject matter or context is inconsistent therewith:

“Agreement” means this agreement and all schedules attached hereto and all amendments made thereto and thereto by written agreement among the Participating Municipalities, the Shareholders and the Corporation.

“Asset Value” means the value of all of the assets of the Corporation together with its Subsidiaries as determined by the annual audited consolidated financial statements of the Corporation for its immediately previous financial year and pending the preparation of the first such financial statements, it means the aggregate fair market value on the date hereof of the assets of the Corporation together with its Subsidiaries.

“Auditor” means the auditor of the Corporation and its Subsidiaries appointed from time to time.

“Business Corporations Act” means the *Business Corporations Act* (Ontario), as now enacted or as the same may from time to time be amended, re-enacted or replaced.

“Business” means:

- (a) the distribution of electricity and other activities permitted by its distribution licence issued by the OEB; and
- (b) in respect of the Corporation and any Subsidiary, such business activities (other than distribution) carried on in Ontario as are permitted by the Ontario Energy Board Act and approved by the board of directors of the Corporation.

“Business Day” means a day other than a Saturday, Sunday or statutory holiday in Ontario.

“Communication” has the meaning set out in Section 6.07.

"Distribute" has the meaning ascribed thereto in the Electricity Act and **"distribution"** has a corresponding meaning.

"Electricity Act" means the *Electricity Act, 1998* (Ontario) as now enacted or as the same may from time to time be amended, re-enacted or replaced, and any regulations thereunder.

"Holdco Corporations" means, collectively, Tay Holdco and Newmarket Holdco and **"Holdco Corporation"** means either one of them.

"Material Change" means any change in the nature of the Business of the Corporation or any Subsidiary which could result in a positive or negative financial impact on the assets of the Corporation together with its Subsidiaries of more than 20 per cent of the Asset Value.

"Non-Municipal Appointee" means an individual who is neither a member of the Council of either of the Participating Municipalities, nor an employee of any of the Participating Municipalities, the Shareholders, the Corporation, or any Subsidiary.

"Notice" has the respective meanings set out in Sections 4.03(1) and 4.04(2).

"OEB" means the Ontario Energy Board.

"Offer to Purchase" has the meaning set out in Section 4.04(1).

"Offered Shares" has the meaning set out in Section 4.03(1).

"Offeree" has the meaning set out in Section 4.03(1).

"Offeror" has the meaning set out in Section 4.03(1).

"Ontario Energy Board Act" means the *Ontario Energy Board Act, 1998* (Ontario) as now enacted or as the same may from time to time be amended, re-enacted or replaced, and any regulations thereunder.

"Participating Municipalities" means, collectively, Tay and Newmarket, collectively, and **"Participating Municipality"** means either one of them;

"Purchase Price" has the meaning set out in Section 4.04(2).

"Selling Shareholder" has the meaning set out in Section 4.04(5).

"Shares" means the common shares of the Corporation that the Shareholders at the date hereof or hereafter may beneficially own.

"Shareholder" means Tay Holdco and Newmarket Holdco, together with such other persons as may acquire Shares and become parties to this Agreement, collectively, and **"Shareholder"** means any one of such persons individually.

"Subsidiary" means any corporation which may hereafter become a direct or indirect subsidiary of the Corporation as determined in accordance with the Business Corporations Act.

“Third Party” has the meaning set out in Section 4.04(1).

“Third Party Offer” has the meaning set out in Section 4.03(1).

“Third Party Offeree” has the meaning set out in Section 4.04(1).

1.02 Sections and Headings

The division of this Agreement into Articles and Sections and the insertions of headings are for the convenience of reference only and shall not affect the construction or interpretations of this Agreement. The terms “this Agreement”, “hereof”, “hereunder” and similar expressions refer to this Agreement and not to any particular Article, Section or other portion hereof and include any agreement or instrument supplemental or ancillary hereto. Unless something in the subject matter or context is inconsistent therewith, references herein to Articles and Sections are to Articles and Sections of this Agreement.

1.03 Number

Words importing the singular number only shall include the plural and vice versa, words importing the masculine gender shall include the feminine and neuter genders and vice versa and words importing persons shall include individuals, partnerships, associations, trusts, unincorporated organizations and corporations.

1.04 Accounting Principles

Wherever in this Agreement reference is made to generally accepted accounting principles, such reference shall be deemed to be the generally accepted accounting principles from time to time approved by the Canadian Institute of Chartered Accountants, or any successor institute, applicable as at the date on which such calculation is made or required to be made in accordance with generally accepted accounting principles.

1.05 Unanimous Shareholder Agreement

(1) To the extent that this Agreement specifies that any matters relating to the Corporation may only be, or shall be dealt with or approved by, or shall require action by the Shareholders, the discretion and powers of the directors of the Corporation to manage and to supervise the management of the business and affairs of the Corporation with respect to such matters are correspondingly restricted. For greater certainty, the parties agree that this Agreement is intended to operate as a unanimous shareholders agreement with respect to the Corporation, within the meaning of the Business Corporations Act.

(2) To the extent that this Agreement specifies that any matters relating to any Subsidiary may only be, or shall be dealt with or approved by, or shall require action by the Shareholders or the directors of the Corporation, the discretion and powers of the directors of such Subsidiary to manage and to supervise the management of the business and affairs of such Subsidiary with respect to such matters are correspondingly restricted. For greater certainty, the parties agree that this Agreement is a unanimous shareholder declaration by the Corporation in respect of each Subsidiary, within the meaning of the Business Corporations Act.

ARTICLE 2 -OBJECTIVES AND GUIDING PRINCIPLES

2.01 Objectives and Guiding Principles

The parties recognize the following as the objectives and guiding principles of the Corporation and its Subsidiaries:

Business: *The Corporation and its Subsidiaries will engage in those areas of business, permitted by the Ontario Energy Board Act, in which they have expertise and which are related to the Corporation's core business of electricity distribution.*

The Corporation and its Subsidiaries, will, within six (6) months after the date of this Agreement, seek to develop a business plan based upon a review of opportunities which are available, which are consistent with the Ontario Energy Board Act, and which build upon the Corporation's excellence in electricity distribution.

In all cases, business expansion will only occur where there is a valid business case which demonstrates that the expansion will add value to the Corporation.

For-Profit Corporation: *The Corporation and its Subsidiaries will be for-profit corporations. Subject to OEB regulation, the Corporation will have the objective of providing a reasonable rate of return to the Shareholders.*

Dividends and Capital Structure: *The Corporation's board of directors will establish policies to develop and to maintain a financial and capitalization structure for the Corporation and its Subsidiaries consistent with industry standards and sound financial principles in order to provide the Shareholders with regular dividends or interest payments on any debt (or both) to the Participating Municipalities or to the Shareholders consistent with the preceding paragraph. The Corporation will present, on an annual basis in June of each year, updated dividend and promissory note interest payment projections for the next four (4) financial years of the Corporation.*

Shareholders: *The Shareholders are municipalities which have agreed that each of them will ensure equitable treatment of each other in connection with the operations of the Corporation and its Subsidiaries and with the provisions of this Agreement. It is recognized that the Corporation is integral to the prosperity and infrastructure of the communities in which it operates. The Shareholders understand that the Corporation will best serve the communities through the delivery of efficient and high quality services. The Corporation will, at all times, provide equitable treatment to both Participating Municipalities and their respective constituencies.*

Customers: *The customers of the Corporation and its Subsidiaries are the focus of the Corporation. The Corporation and its Subsidiaries, will provide a reliable, effective and efficient electricity distribution system and will endeavour to respond to customer demands by providing other quality products and services.*

Employees: *The Corporation and its Subsidiaries will treat all employees in a fair and equitable manner. The Corporation will endeavour to provide meaningful employment to*

all employees of the amalgamated utilities. The Corporation and its Subsidiaries will develop with their employees a shared commitment towards effective and efficient customer service, improved productivity, and work place safety.

The Corporation and its Subsidiaries will endeavour to ensure that all staff understand the Corporation's business plan and direction, and that they have the skills required to fulfill their part in achieving those goals.

Community: *The Corporation and its Subsidiaries will be part of the local communities in which they operate. The Corporation and its Subsidiaries will strive to be good corporate citizens.*

The Shareholders and the directors and management of the Corporation and of the Subsidiaries, in exercising their respective rights and duties, shall give due consideration to the above objectives and guiding principles.

ARTICLE 3 -MANAGEMENT

3.01 Carrying out of the Agreement

The Shareholders shall at all times carry out and cause the Corporation and the Subsidiaries to carry out the provisions of this Agreement.

3.02 Idem

The Corporation confirms its knowledge of this Agreement and will carry out and be bound by the provisions of this Agreement to the full extent that it has the capacity and power at law to do so. The Corporation shall at all times cause each of its Subsidiaries to comply with the provisions of this Agreement.

3.03 Directors

(1) The board of directors of the Corporation shall consist of seven (7) directors, four (4) of whom shall be Non-Municipal Appointees, one (1) of whom shall be the Mayor of Tay, one (1) of whom shall be the Mayor of Newmarket, and one (1) of whom shall be the chief executive officer of the Corporation. The chair of the board of directors shall be a Non-Municipal Appointee designated by the other six (6) directors.

(2) Prior to each annual general meeting, the then board of directors shall, with input from a professional recruiting firm and utilizing corporate governance best practices, provide the Shareholders with a recommended list of candidates from which to select nominees to be elected directors with respect to all then vacant director positions or all director positions which will be vacant as at the next annual general meeting of the Corporation. For each Non-Municipal Appointee director position which may be filled by a then non-incumbent director, there shall be no less than two (2) candidates recommended by the board of directors to the Shareholders to fill each such position. Upon receipt of the recommended list of candidates from the board of directors, the Participating Municipalities shall strike a five (5) person ad-hoc joint committee consisting of two (2) Councillors from each of Tay and Newmarket and a joint committee chair

for the express purposes of considering the candidates and of making a selection from the recommended list of candidates for consideration for election by the Shareholders to the board of directors at the next annual general meeting of the Corporation.

(3) Elected directors shall be elected for a three (3) year term. All elected directors shall be eligible for election for a total of three (3) consecutive terms. Directors shall be elected by a majority of the votes cast at the relevant Shareholders' meeting.

(4) In the event that the Mayor of Tay or the Mayor of Newmarket is unable to attend a meeting of the board of directors, the Shareholder, which is represented by such director, shall be entitled to have a representative present at such meeting. Such representative may request to be heard at any such meeting, but shall not be entitled to vote on any matter.

(5) The Chief Administrative Officer of each of Tay and Newmarket shall be invited to attend all meetings of the board of directors. Each may request to be heard at any such meeting, but shall not be entitled to vote on any matter.

(6) Until otherwise agreed to by the Shareholders, each Subsidiary shall have a board of directors consisting of one (1) director chosen by the board of directors of the Corporation from the then officers of the Corporation.

(7) All directors of the Corporation and of each Subsidiary shall act honestly and in good faith with a view to the best interests of the Corporation and of such Subsidiary respectively and shall exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. Each Shareholder entitled herein to nominate a director of the Corporation agrees to nominate individuals (in conformity with the provisions of this Agreement) who appear to be capable of meeting this standard of care and who appear to have appropriate skills and experience.

(8) Each Shareholder agrees in good faith, and shall use commercially reasonable efforts, to ensure that it is represented at all meetings of the Shareholders and of directors of the Corporation in order to ensure that the quorum requirements for such meetings are met.

3.04 Auditor and Financial Reporting

(1) The Shareholders shall appoint the Auditor of the Corporation and its Subsidiaries.

(2) The financial year end of the Corporation and its Subsidiaries shall be December 31. Audited annual financial statements for the Corporation and its Subsidiaries, prepared on a consolidated basis, shall be presented to the Shareholders and the directors of the Corporation no later than 120 days after the financial year end of the Corporation. Unaudited quarterly financial statements for the Corporation and each Subsidiary shall be presented to the Shareholders and the Directors of the Corporation no later than 60 days after the end of each applicable quarter.

3.05 Approval of Matters by the Shareholders

In addition to the requirements of the *Business Corporations Act*, none of the following actions shall be taken by the Corporation or any Subsidiary, as applicable, unless all of the

Shareholders enact an approving resolution at a duly called Shareholders' meeting or consent to such action by an instrument or instruments in writing (which consent shall not be unreasonably withheld or delayed):

- (a) any action which could lead to or result in a Material Change in the nature of the Business of the Corporation or any Subsidiary;
- (b) taking of any steps to wind-up, dissolve or terminate the corporate existence of the Corporation or any Subsidiary;
- (c) the sale, lease, exchange or disposition of any shares of any Subsidiary;
- (d) the entering into of an amalgamation, merger or consolidation with any other body corporate by the Corporation or any Subsidiary;
- (e) any change in the issued capital of the Corporation or any Subsidiary;
- (f) the determination of the remuneration of the directors of the Corporation or any Subsidiary and any change thereto;
- (g) any change in the articles or by-laws of the Corporation or any Subsidiary;
- (h) the Corporation or any Subsidiary entering into any agreement other than in the ordinary course of the Business;
- (i) the borrowing of any money, the giving of any security or the making or incurring of any single capital expenditure by the Corporation and its Subsidiaries on a consolidated basis, in each case in excess of 15 per cent of the Asset Value, or any such capital expenditures which, in the aggregate, are in excess of 20 per cent of the Asset Value in any financial year of the Corporation;
- (j) the sale, lease, exchange or disposition (other than in the ordinary course of the Business) of assets of the Corporation and its Subsidiaries on a consolidated basis, having a value in excess of 20 per cent of the Asset Value;
- (k) the Corporation entering into a partnership, strategic alliance, joint venture, union of interests or reciprocal concession with any party or any other arrangement with any party for the sharing of profits exceeding in value an amount equal to 20 per cent of the Asset Value;
- (l) the purchase of any assets or business by the Corporation or any Subsidiary, other than the ordinary course of Business, having a value in excess of 20 percent of the Asset Value;
- (m) the establishment of any new Subsidiary; or
- (n) the approval of any dividend policy and any proposal relating to the capital structure of the Corporation and its subsidiaries.

Each Shareholder agrees to use its best efforts, in good faith, to ensure that it is duly represented at all Shareholders' meetings. Each Shareholder's representative at any meeting of the Shareholders shall present a proxy of the applicable Shareholder duly evidencing the authority of such representative to be present on behalf of such Shareholder.

ARTICLE 4 -DEALING WITH SHARES

4.01 No Transfer of Shares

(1) Except as expressly provided for in this Article 4, no Shareholder shall sell, transfer, assign, pledge, charge, mortgage or in any other way dispose of or encumber their Shares or their rights under this Agreement unless prior to doing so the other Shareholder consents in writing provided, however, in no event shall either Shareholder exercise its rights under Sections 4.03 or 4.04 at any time prior to the fourth anniversary of the date of this Agreement.

(2) Notwithstanding any other provision of this Article 4, no sale or transfer of Shares may be made if:

- (a) as a result, the remaining Shareholder, its Participating Municipality, the Corporation or any Subsidiary would become subject to any taxation or additional taxation to which they were not subject prior to the proposed sale unless the Shareholder and its Participating Municipality selling or transferring such Shares provides an indemnity for such transaction to the other Shareholder, its Participating Municipality, the Corporation and any relevant Subsidiary on such terms as the parties may reasonably agree;
- (b) the sale or transfer is not permitted by applicable law or any term of any agreement or other instrument affecting the Corporation or any Subsidiary, unless any required consent or approval is obtained; and
- (c) the proposed purchaser or transferee does not have the power and capacity, including financial, to carry out its obligations under this Agreement to the satisfaction of the remaining Shareholders, acting reasonably.

(3) No sale or transfer of Shares by a Shareholder may be completed unless the person to whom the Shares are to be sold or transferred enters into an agreement with the remaining Shareholders to become a party to this Agreement. If the Shareholder sells or transfers less than all of its Shares, the sale or transfer may not be completed unless the Shareholder, the third party purchaser and the other Shareholders enter into an agreement that will specify the rights and obligations of all the Shareholders.

4.02 Endorsement on Certificates

Share certificates of the Corporation and each Subsidiary shall bear the following language either as an endorsement or on the face thereof:

“The shares represented by this certificate are subject to all the terms and conditions of an agreement made as of •, 200•, as it may

be amended from time to time, a copy of which is on file at the registered office of the Corporation.”

4.03 Right of First Refusal

(1) If a Shareholder (the “Offeror”) receives a *bona fide* written offer (a “Third Party Offer”) from any person dealing at arm’s length (as defined in the Income Tax Act) with the Shareholder to purchase all but not less than all the Shares that the Shareholder beneficially owns (the “Offered Shares”), which Third Party Offer is acceptable to the Offeror, the Offeror must give notice of the Third Party Offer (the “Notice”) to the Corporation and to the other Shareholder (the “Offeree”). The Third Party Offer must be an offer to purchase only Shares and no other assets. The Notice must contain a copy of the Third Party Offer, disclose the identity of the person making the Third Party Offer and provide evidence sufficient to establish that such person has the power and capacity, including financial, to complete the purchase of the Offered Shares and that the conditions set out in Section 4.01(2) will be satisfied. Upon the Notice being given, the Offeree will have the right to purchase all, but not less than all, of the Offered Shares at the same price and upon the same terms and conditions as are contained in the Third Party Offer.

(2) The Offeree will be entitled to purchase the Offered Shares in accordance with the provisions of this Section 4.03 upon giving notice of such desire to the Offeror and to the Corporation within 60 Business Days of having been given the Notice.

(3) If the Offeree is willing to purchase all, but not less than all, of the Offered Shares, the transaction of purchase and sale will be completed in accordance with the terms set out in the Third Party Offer by delivery of the Offered Shares by the Offeror with good title, free and clear of all liens, charges, encumbrances and any other rights of others, against payment by certified cheque or bank draft by the Offeree. If, at the time of completion, any Offered Shares are subject to any lien, charge, encumbrance or other right of others, the Offeree will be entitled to deduct from the purchase money to be paid to the Offeror the amount required to discharge all such liens, charges, encumbrances or other rights of others and will apply such amount to the repayment, on behalf of the Offeror, of the obligations secured thereby.

(4) If the Offeror defaults in transferring the Offered Shares to the Offeree as provided in this Section 4.03, the Corporation is authorized and directed to receive the purchase money and thereupon to record the transfer of the Offered Shares, to enter the name of the Offeree in the registers of the Corporation as the holder of the Shares purchased by it, and to cause to be issued to the Offeree share certificates for the Offered Shares in the name of such Offeree. The Corporation will hold the purchase money received by it in trust on behalf of the Offeror and will not commingle the purchase money with the Corporation’s assets, except that any interest thereon will be for the account of the Corporation. The receipt by the Corporation of the purchase money will be a good discharge to the Offeree and, after its name has been entered in the registers of the Corporation, the transaction of purchase and sale will be deemed completed at the price and on the other terms and conditions contemplated herein and the Offeree will for all purposes own the Offered Shares purchased by it. Upon such registration, the Offeror will cease to have any right to or in respect of the Offered Shares except the right to

receive, without interest, the purchase price received by the Corporation upon surrender of any certificates that previously represented the Offered Shares.

(5) If the Offeree does not give notice in accordance with the provisions of Section 4.03(2) that it is willing to purchase all the Offered Shares, the rights of the Offeree, except as hereinafter provided, to purchase the Offered Shares will terminate and the Offeror may, subject to the provisions of Section 4.04, sell all, but not less than all, of the Offered Shares to any person within four (4) months after the expiry of the 60 Business Day period specified in Section 4.03(2). Any such sale must be at a price not less than the purchase price contained in the Third Party Offer and on other terms no more favourable to such person than those contained in the Third Party Offer. If the Offered Shares are not sold within such four (4) month period on such terms, the rights of the Offeree pursuant to this Section 4.03 will again take effect.

4.04 Mandatory Offer to Purchase – Piggyback Rights

(1) In the event that the Offeree, as that term is defined in Section 4.03(1), does not purchase the Offered Shares from the Offeror in the manner provided for in Section 4.03, then if any third party (for the purposes of this Section 4.04(1) the "Third Party") agrees to acquire Shares from any Shareholder, the Third Party will only be permitted to acquire such Shares, and the Shareholder who is to sell such Shares to the Third Party will only be permitted to sell them, if the Third Party first makes an offer (an "Offer to Purchase") to the other Shareholder (the "Third Party Offeree") to purchase all, but not less than all, of the Shares then outstanding that the Third Party does not then own or have a right to acquire for cash at the price to be determined in accordance with the provisions of Section 4.04(2).

(2) The Offer to Purchase described in Section 4.04(1) must be given to the Third Party Offeree in a notice (the "Notice") which Notice must provide that the price to be paid for each Share and the other terms and conditions of the offer contained in the Offer to Purchase (the "Purchase Price") is the same as that upon which the Third Party has agreed to purchase from the Shareholder who has agreed to sell Shares.

(3) Within 60 Business Days of the Notice being given, the Third Party Offeree will be entitled to accept the Offer to Purchase by giving notice of the acceptance thereof to the Third Party and to the Corporation.

(4) The Third Party will purchase all the Shares beneficially owned by the Third Party Offeree who accepts the Offer to Purchase at the Purchase Price and the transaction of purchase and sale will be completed within 20 Business Days (or such longer period as may reasonably be required to comply with all applicable statutory and regulatory requirements) of the expiry of the 60 Business Day period specified in Section 4.04(3). The transaction will be completed at the Corporation's registered office where delivery of the Shares must be made by the Third Party Offeree accepting the Offer to Purchase with good title, free and clear of all liens, charges, encumbrances and any other rights of others, against payment by certified cheque or bank draft by the Third Party. If, at the time of completion, any Offered Shares are subject to any lien, charge, encumbrance or other right of others, the Third Party will be entitled to deduct from the purchase money to be paid to the Third Party Offeree the amount required to discharge

all such liens, charges, encumbrances or other rights of others and will apply such amount to the repayment, on behalf of the Third Party Offeree, of the obligations secured thereby.

(5) If the Shareholder obligated to sell in accordance with the foregoing provisions of this Section 4.04 (the "Selling Shareholder") defaults in transferring any of the Shares the Selling Shareholder is obligated to transfer to the Third Party as provided for in this Section 4.04, the Corporation is authorized and directed to receive the purchase money and thereupon to record the transfer of Shares, to enter the name of the Third Party in the registers of the Corporation as the holder of the Shares purchased by the Third Party, and cause to be issued to the Third Party share certificates for such Shares in the name of the Third Party. The Corporation will hold the purchase money received by it in trust on behalf of the Selling Shareholder and will not commingle the purchase money with the Corporation's assets, except that any interest accruing thereon will be for the account of the Corporation. The receipt by the Corporation of the purchase money will be a good discharge to the Third Party and, after the name of the Third Party has been entered in the registers of the Corporation, the purchase and sale will be deemed completed at the price and on the terms and conditions contemplated herein and the Third Party will for all purposes own the Shares purchased by it. Upon such registration, the Selling Shareholder will cease to have any right to or in respect of the Shares except the right to receive, without interest, the purchase price received by the Corporation upon surrender of any certificates that previously represented such Shares.

(6) For the purposes of this Section 4.04, the Corporation and the Shareholders acknowledge that no sale or transfer of Shares to any Third Party will be authorized or permitted and no such person (unless already a Shareholder) will be entitled to become a party to this Agreement unless and until the Offer to Purchase is made and, if accepted by one or more Shareholders, the purchase and sale of such Shares is completed.

4.05 Exclusivity of Sections

Each of Sections 4.03 and 4.04 are exclusive and the provisions thereof may only be relied upon by any party if the provisions of one of the other of such Sections are not at the same time being relied upon by the same or another party.

ARTICLE 5 - COVENANTS OF EACH PARTICIPATING MUNICIPALITY

5.01 Undertaking of Each Participating Municipality

Each of the Participating Municipalities agrees with the other Participating Municipality that it shall cause its respective Holdco Corporation to duly and punctually observe and perform each and every covenant of its Holdco Corporation contained in this Agreement.

5.02 Transfer of Holdco Corporation Shares

Each of the Participating Municipalities agrees with the other Participating Municipality that it shall not sell, transfer, assign, pledge, charge, mortgage or in any other way dispose of or encumber any of its shares in its respective Holdco Corporation without the prior written consent of the other Participating Municipality, such consent not to be unreasonably withheld or delayed.

5.03 Transfer and Repayment of Corporation Debt Owed to a Participating Municipality

Neither Participating Municipality shall:

- (a) sell, assign, pledge, charge, mortgage or in any other way dispose (a "Debt Transfer") of its interest in any indebtedness owed by the Corporation to the Participating Municipality as at the date hereof ("PM Debt") without giving the other Participating Municipality at least two (2) months' prior notice to the other Participating Municipality and the Corporation of its intention to make the Debt Transfer; or
- (b) receive any repayment of principal on any PM Debt owed to it without the Corporation having given the other Participating Municipality at least two (2) months' prior notice thereof and the opportunity to have the principal amount of its PM Debt repaid on a proportionate basis unless the other Participating Municipality agrees in writing with the Corporation that it does not wish to have its PM Debt repaid on such basis.

5.04 Related Business Opportunity

Each of the Participating Municipalities agrees with the other Participating Municipality that it, in its own capacity or otherwise through its respective Holdco Corporation or any other corporation or other business entity, will not enter into any agreement or arrangement with respect to any actual or potential opportunity to acquire any interest in any business in any way related to the Business without first giving the other Participating Municipality or its respective Holdco Corporation written notice of the opportunity and an opportunity to participate in such opportunity on a proportionate basis (provided that such opportunity to participate shall, unless exercised in writing, expire sixty (60) days after notice of such opportunity has been delivered).

ARTICLE 6 -GENERAL

6.01 Benefit of the Agreement

This Agreement shall enure to the benefit of and be binding upon the respective successors and permitted assigns of the parties hereto.

6.02 Entire Agreement

This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and cancels and supersedes any prior understandings and agreements between the parties hereto with respect thereto. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory, between the parties other than as expressly set forth in this Agreement.

6.03 Amendments and Waivers

No amendment to this Agreement shall be valid or binding unless set forth in writing and (i) either duly executed by all of the parties thereto, or (ii) at a meeting of Shareholders duly

called for the purpose of considering the proposed amendment, all of the votes are cast in favor of the action, in which event the amendment shall be deemed to be duly executed by all of the parties hereto. No waiver of any breach of any provision of this Agreement shall be effective or binding unless made in writing and signed by the party purporting to give the same and, unless otherwise provided in the written waiver, shall be limited to the specific breach waived.

6.04 Assignment

Except as may be expressly provided in this Agreement, none of the parties hereto may assign its rights or obligations under this Agreement without the prior written consent of all of the other parties hereto.

6.05 Termination

This Agreement shall terminate upon:

- (a) the written agreement of all of the Participating Municipalities and the Shareholders;
- (b) the dissolution or bankruptcy of the Corporation or the making by the Corporation of an assignment under the provisions of the *Bankruptcy and Insolvency Act*; or
- (c) one person becoming the beneficial owner of all of the Shares.

6.06 Severability

If any provision of this Agreement is determined to be invalid or unenforceable in whole or in part, such invalidity or unenforceability shall attach only to such provision or part thereof and the remaining part of such provision and all other provisions hereof shall continue in full force and effect.

6.07 Notices

Any demand, notice or other communication (hereinafter in this Section 6.07 referred to as a "Communication") to be given in connection with this Agreement shall be given in writing and may be given by personal delivery, by registered mail or by transmittal by facsimile transmission addressed to the recipient as follows:

To: Tay and Tay Holdco

450 Park St.
Victoria Harbour, ON
L0K 2A0

Attention: Chief Administrative Officer

Fax No: (705) 534-4470

To: Newmarket and Newmarket Holdco

395 Mulock Drive
P. O. Box 328 STN MAIN
Newmarket, Ontario
L3Y 4X7

Attention: Chief Administrative Officer

Fax No: (905) 953-5100

To: The Corporation

590 Steven Court
Newmarket, ON
L3Y 6Z2

Attention: Chief Executive Officer

Fax No: (905) 895-8931

or such other address, fax number or individual as may be designated by notice by any party to the other. Any Communication given by personal delivery shall be conclusively deemed to have been given on the day of actual delivery thereof and, if given by registered mail, on the third Business Day following the deposit thereof in the mail and, if given by facsimile transmission, on the day of transmittal thereof. If the party giving any Communication knows or ought reasonably to know of any difficulties with the postal system which might affect the delivery of mail, any such Communication shall not be mailed but shall be given by personal delivery or by facsimile transmission.

6.08 Governing Law

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

6.09 Dispute Resolution

(1) The parties will make good faith efforts to resolve any controversy, question, claim or other dispute arising out of or relating to this Agreement (a "Dispute") by negotiation between the Chief Administrative Officer and the Treasurer of each of Newmarket and Tay. Any party may give the another party or parties with which it has a Dispute written notice of a Dispute (which notice shall identify all the recipients of such notice). Within thirty (30) days after delivery of the notice, the receiving party or parties will submit a written response to the other recipient(s) of the notice of the Dispute. The notice(s) and the response(s) will include (a) a statement of the sending party's position and the arguments supporting that position, and (b) the name and title of the representative who will represent that party and of any other representative who will accompany the representative. Within thirty (30) days after delivery of the notice, the representatives of each relevant party or, with the consent of all relevant parties, any other representative not identified in a notice will meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary during the period of thirty (30) days (the "Meeting Period") after the initial meeting, to attempt to resolve the Dispute.

(2) In the event that the Dispute is not settled between the relevant parties by the completion of the Meeting Period, then the Dispute may be conclusively settled by submission to arbitration in accordance with the *Arbitration Act, 1991* (Ontario).

6.10 Force Majeure

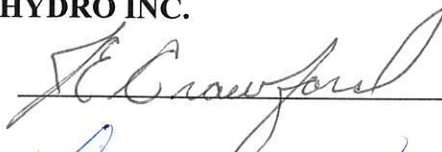

No party hereto shall be held responsible or liable or be deemed to be in default or in breach of this Agreement for its delay, failure or inability to meet any of its obligations under this Agreement (other than any obligation to pay money) caused by or arising from any cause which is unavoidable or beyond the reasonable control of such party, including war, warlike operations, riot, insurrection, orders of government, strikes, lockouts, disturbances or any act of God or other cause which frustrates the performance of this Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF the parties have executed this Agreement.


TAY HYDRO INC.

By:



NEWMARKET HYDRO HOLDINGS INC.

By:



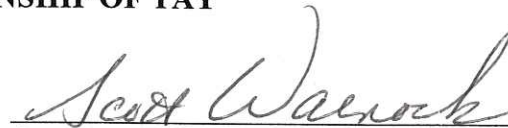
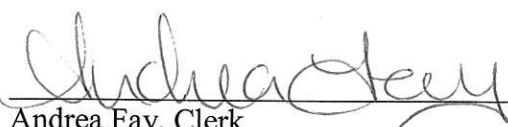
**NEWMARKET - TAY POWER
DISTRIBUTION LTD.**

By:

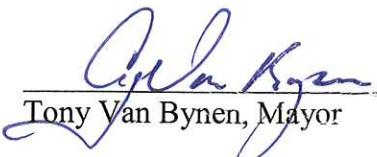

**THE CORPORATION OF THE
TOWNSHIP OF TAY**

By:


Scott Warnock, Mayor

Andrea Fay, Clerk

**THE CORPORATION OF THE TOWN
OF NEWMARKET**

By:


Tony Van Bynen, Mayor

Anita Moore, Clerk