

All our energy.  
All the time.



August 22, 2023

Island Regulatory and Appeals Commission  
PO Box 577  
Charlottetown PE C1A 7L1

Dear Commissioners:

***Debt Issue***

Please find enclosed five copies of Maritime Electric's Application for approval to issue \$60.0 million in First Mortgage Bonds. An electronic copy will be forwarded as well.

If you have any questions, please do not hesitate to contact me at 902-629-3641.

Yours truly,

MARITIME ELECTRIC

A handwritten signature in blue ink that reads "Gloria Crockett".

Gloria Crockett, CPA, CA  
Manager, Regulatory & Financial Planning

GCC13  
Enclosure

C A N A D A

PROVINCE OF PRINCE EDWARD ISLAND

**BEFORE THE ISLAND REGULATORY  
AND APPEALS COMMISSION**

**IN THE MATTER** of Section 12(1) of the *Electric Power Act* (R.S.P.E.I. 1988, Cap. E-4) and **IN THE MATTER** of the Application of Maritime Electric Company, Limited for an order of the Commission approving an issue of \$60.0 million in first mortgage bonds to be issued and secured in accordance with the terms of the Deed of Trust and Mortgage of Maritime Electric dated May 1, 1955 as amended by various Supplementary Deeds of Trust and Mortgage and for certain approvals incidental to such an order.

**Date: August 22, 2023**

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1 **1.0 APPLICATION**

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2  
3 **C A N A D A**  
4  
5 **PROVINCE OF PRINCE EDWARD ISLAND**

6  
7 **BEFORE THE ISLAND REGULATORY**  
8 **AND APPEALS COMMISSION**  
9

10 **IN THE MATTER** of Section 12(1) of the *Electric*  
11 *Power Act* (R.S.P.E.I. 1988, Cap. E-4) and **IN THE**  
12 **MATTER** of the Application of Maritime Electric  
13 Company, Limited for an order of the Commission  
14 approving an issue of \$60.0 million in first mortgage  
15 bonds to be issued and secured in accordance with  
16 the terms of the Deed of Trust and Mortgage of  
17 Maritime Electric dated May 1, 1955 as amended by  
18 various Supplementary Deeds of Trust and  
19 Mortgage and for certain approvals incidental to  
20 such an order.  
21

22 **Introduction**

23  
24 1. Maritime Electric Company, Limited (“Maritime Electric” or the “Company”) is a public utility  
25 subject to the *Electric Power Act* engaged in the production, purchase, transmission and  
26 distribution and sale of electricity within Prince Edward Island.  
27

28 **Application**

- 29  
30 2. Maritime Electric hereby applies for an order of the Island Regulatory and Appeals  
31 Commission (“IRAC” or the “Commission”) approving an issue of \$60.0 million in long-  
32 term first mortgage bonds.  
33  
34 3. The proposals contained in this Application represent a just and reasonable balance of  
35 the interests of Maritime Electric and those of its customers and will, if approved, allow the  
36 Company to continue to provide a high level of service at prices that are, in all  
37 circumstances, reasonable.

**SECTION 1 - APPLICATION**

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1 **Procedure**

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4. Filed herewith is the Affidavit of Jason C. Roberts and T. Michelle Francis which contains the evidence on which Maritime Electric relies in this Application.

Dated at Charlottetown, Province of Prince Edward Island, this 22<sup>nd</sup> day of August, 2023.



---

**D. Spencer Campbell, Q.C.**

STEWART MCKELVEY  
65 Grafton Street, PO Box 2140  
Charlottetown PE C1A 8B9  
Telephone: (902) 629-4549  
Solicitors for Maritime Electric Company, Limited

1 **2.0 AFFIDAVIT**

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2  
3 **C A N A D A**

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5 **PROVINCE OF PRINCE EDWARD ISLAND**

6  
7 **BEFORE THE ISLAND REGULATORY**  
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10 **IN THE MATTER** of Section 12(1) of the *Electric*  
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13 Company, Limited for an order of the Commission  
14 approving an issue of \$60.0 million in first mortgage  
15 bonds to be issued and secured in accordance with  
16 the terms of the Deed of Trust and Mortgage of  
17 Maritime Electric dated May 1, 1955 as amended by  
18 various Supplementary Deeds of Trust and  
19 Mortgage and for certain approvals incidental to  
20 such an order.

21  
22 **AFFIDAVIT**

23  
24 We, Jason C. Roberts of Suffolk and T. Michelle Francis of Emyvale, in Queens County, Province  
25 of Prince Edward Island, MAKE OATH AND SAY AS FOLLOWS:

- 26  
27 1. We are the President and Chief Executive Officer and Vice President, Finance and Chief  
28 Financial Officer for Maritime Electric, respectively, and as such have personal knowledge  
29 of the matters deposed to herein, except where noted, in which case we rely upon the  
30 information of others and in which case we verily believe such information to be true.  
31  
32 2. Maritime Electric is a public utility subject to the provisions of the *Electric Power Act*  
33 engaged in the production, purchase, transmission, distribution and sale of electricity  
34 within Prince Edward Island.

**SECTION 2 - AFFIDAVIT**


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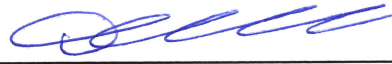
- 1 3. We prepared or supervised the preparation of the evidence and to the best of our  
2 knowledge and belief the evidence is true in substance and in fact. A copy of the evidence  
3 is attached to this, our Affidavit, and is collectively known as Exhibit "A", contained in  
4 Sections 3 and 4 and Appendices A through E inclusive.  
5
- 6 4. Section 5 contains a proposed Order of the Commission based on the Company's  
7 Application.  
8

9 SWORN TO SEVERALLY at  
10 Charlottetown, Prince Edward  
11 Island, the 22<sup>nd</sup> day of August, 2023.  
12 Before me:

13   
14 \_\_\_\_\_

15 Jason C. Roberts  
16

17   
18 \_\_\_\_\_  
19 T. Michelle Francis  
20

21   
22 \_\_\_\_\_  
23 A Commissioner for taking affidavits  
24 in the Supreme Court of Prince Edward Island.  
25

1 **3.0 INTRODUCTION**

---

2

3 **3.1 Corporate Profile**

4 Maritime Electric owns and operates a fully integrated system providing for the purchase,  
5 generation, transmission, distribution and sale of electricity throughout Prince Edward  
6 Island (“PEI”). The Company’s head office is located in Charlottetown with generating  
7 facilities in Charlottetown and Borden-Carleton.

8

9 Maritime Electric is the primary provider of electricity on PEI delivering approximately 90  
10 per cent of the energy on PEI. To meet customers’ energy demand and supply  
11 requirements, the Company has contractual entitlement to capacity and energy from NB  
12 Power’s Point Lepreau Nuclear Generating Station and an agreement for the purchase of  
13 capacity and system energy from NB Power, delivered via four submarine cables owned  
14 by the Province of PEI. The Company purchases 92.5 megawatts (“MW”) of wind powered  
15 energy through various contracts with the PEI Energy Corporation. In the event that the  
16 contractual agreements fail to provide all the energy required by customers, the Company  
17 owns and operates approximately 89 MW of on-Island backup generation.

18

19 **3.2 Overview of Evidence**

20 This evidence is filed in support of the Company’s Application for the issuance of  
21 \$60.0 million of long-term first mortgage bonds. The Application is filed pursuant to Section  
22 12(1) of the *Electric Power Act*.



1 **4.0 BACKGROUND**

---

2  
3 **4.1 Description of Long-Term Debt to be Issued**

4 Maritime Electric proposes to issue \$60.0 million in asset backed, or secured, long-term  
5 first mortgage bonds. The bonds will be direct senior secured obligations of the Company  
6 and will rank pari passu (with equal rights of payment) with all existing and future first  
7 mortgage bonds of the Company issued pursuant to the 1955 Deed of Trust and Mortgage  
8 (“Deed of Trust”). A copy of the Deed of Trust is attached herein as Appendix A. This is a  
9 private placement and will be offered to existing bondholders as well as any potential new  
10 investors that may be identified.

11  
12 The proceeds of the issue, net of estimated issue cost of approximately \$510,000 (or 0.85  
13 per cent of principal), will be used to repay outstanding short-term borrowings  
14 accumulated through the Company’s normal business activities and capital program,  
15 which is further discussed in Section 4.3.

16  
17 Maritime Electric plans to price and close the debt issue by mid-September, 2023. The  
18 terms of the debt issue will be determined just prior to the execution of the private  
19 placement and will be driven primarily by market conditions and demand for various term  
20 lengths at the time. The Company’s two most recent debt issues in 2018 and 2021 were  
21 issued at tenures of 40 years and 30 years, respectively. Based on recent market  
22 conditions, it is expected that the optimal term length for the proposed debt issue will be  
23 30 years.

24  
25 The interest rate on the debt is “priced” based on the prevailing rate for 30 year long-term  
26 Government of Canada (“GOC”) bonds with an associated premium based on the  
27 Company’s corporate credit rating of BBB+ (stable) and senior secured long-term debt  
28 rating which is currently set at A by Standard and Poor’s (“S&P”), attached herein as  
29 Appendix B. The interest rate may also be impacted by variances of the selected term  
30 length from the 30-year GOC benchmark rate.

1 **4.2 Process**

2 On July 20, 2023, the Company’s Board of Directors approved a resolution authorizing the  
3 Company to issue first mortgage bonds secured under the Deed of Trust, subject to  
4 Commission approval. Consistent with previous debt issuances, this issue must meet the  
5 requirements of the covenants contained in Sections 5.07 and 5.08 of the Deed of Trust,  
6 including a Negative Pledge related to interest coverage as well as a Limitation on  
7 Additional Indebtedness related to the value of assets pledged as security.

8  
9 These covenants deal with the expected mode of operation of the Company and certain  
10 conditions precedent to the issue of long-term debt. It is the Company’s position that it is  
11 in, and will remain in, compliance with these covenants and will meet the terms of the  
12 associated Net Earnings Test and the Assets to be Pledged Test as set out in the Deed  
13 of Trust. The definition of these covenants and the associated certificates for the tests (in  
14 draft form) are included under Appendices C and D. Final copies of these tests will be  
15 included in the closing documents at the time the debt is issued.

16  
17 In preparation for seeking Board of Directors’ approval, Management contacted RBC  
18 Capital Markets (“RBC”) and Scotia Capital Inc. (“Scotiabank”) to obtain proposals and  
19 indicative pricing for acting as Agent and Arranger for the planned private placement.  
20 Upon review of the proposals, Scotiabank was selected to act as sole Agent and Arranger.

21  
22 Scotiabank’s role is to provide market expertise to secure, on behalf of the Company, the  
23 lowest possible coupon rate on the debt. In order to meet this objective, Scotiabank will  
24 initiate discussions with existing and potential new bondholders to stimulate interest in the  
25 issue and force downward pressure on the expected premium over long-term GOC bonds.  
26 A draft Illustrative Term Sheet has been prepared, herein attached as Appendix E, and  
27 will be used by the Company when meeting with potential investors.

**SECTION 4 - BACKGROUND**

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1           Once Commission approval of the Application has been granted, the Company will  
2           complete negotiations with the potential bondholders. It is the Company’s desire to  
3           expedite the closing of this long-term debt issue on a timely basis in order to capitalize  
4           upon current market conditions.

5  
6           **4.3    Outstanding Short-Term Borrowings**

7           Maritime Electric has a \$90 million unsecured committed revolving credit facility. At the  
8           time of filing this Application, there was a balance of \$75 million outstanding as of July 31,  
9           2023. As such the proceeds of the debt issue will be used to repay the outstanding credit  
10          facility balance. Subsequently, the Company will reduce the credit facility’s borrowing limit  
11          from \$90 million to \$50 million.<sup>1</sup>

12  
13          **4.4    Outstanding First Mortgage Bonds**

14          Maritime Electric has a total of \$260.0 million in long-term debt outstanding with various  
15          insurance companies as of August 22, 2023. The following schedule outlines the terms of  
16          the existing long-term debt.

17

<b>SCHEDULE 1</b>		
<b>Outstanding First Mortgage Bonds</b>		
<b>Maturity Date</b>	<b>Coupon Rate</b>	<b>Principal</b>
2025	7.570%	\$15,000,000
2027	8.625%	\$15,000,000
2031	8.920%	\$20,000,000
2038	6.054%	\$60,000,000
2051	3.440%	\$40,000,000
2056	3.657%	\$40,000,000
2058	4.148%	\$40,000,000
2061	4.915%	\$30,000,000
<b>Total</b>		<b>\$260,000,000</b>

18

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<sup>1</sup> The credit facility limit was temporarily increased to finance the restoration costs associated with Hurricane Fiona.

1 **4.5 Potential Investors**

2 Maritime Electric’s long-term First Mortgage Bonds have traditionally been issued as a  
3 private placement with insurance companies who tend to be most active in this type of  
4 market. There has been significant consolidation within the insurance industry in recent  
5 years, which in combination with the relatively small size of the private placement, reduces  
6 the number of potential investors who have an interest in this form of an investment  
7 product. Where appropriate, steps will be taken to invite other potential new investors to  
8 participate in the proposed issue.

9

10 **4.6 Summary**

11 Based on discussions with Scotiabank to date, Maritime Electric views this to be an  
12 opportune time in the market to obtain long-term financing. The expected amount of  
13 \$60.0 million will be used to extinguish outstanding short-term borrowings accumulated  
14 through the Company’s normal business activities and capital program. This will be a  
15 private placement with marketing of the issue directed towards existing bondholders as  
16 well as potential new investors.

1 **5.0 PROPOSED ORDER**

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2  
3 **C A N A D A**

4  
5 **PROVINCE OF PRINCE EDWARD ISLAND**

6  
7 **BEFORE THE ISLAND REGULATORY**  
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14 approving an issue of \$60.0 million in first mortgage  
15 bonds to be issued and secured in accordance with  
16 the terms of the Deed of Trust and Mortgage of  
17 Maritime Electric dated May 1, 1955 as amended by  
18 various Supplementary Deeds of Trust and  
19 Mortgage for certain approval incidentals to such an  
20 order.  
21

22 **UPON** receiving an Application by Maritime Electric Company, Limited (the “Company”)  
23 for approval of the issue of \$60.0 million in long-term first mortgage bonds;

24  
25 **AND UPON** considering the Application as well as the Evidence of the Company;

26  
27 **NOW THEREFORE** for the reasons given in the annexed Reasons for Order;

28  
29 **IT IS ORDERED THAT:**

**SECTION 5 – PROPOSED ORDER**

---

1 1. Approval be and is hereby granted for Maritime Electric to proceed with the issuance and  
2 sale of first mortgage bonds, PROVIDED THAT:

- 3  
4 a. the principal amount is not to exceed \$60.0 million;  
5 b. the issue is not to mature later than 30 years; and  
6 c. the coupon interest rate must be established through a competitive market pricing  
7 process.

8  
9 2. Upon completion of the issue and sale of the first mortgage bonds, Maritime Electric shall  
10 file with the Commission a copy of all documents delivered at the closing of the transaction.

11  
12 **DATED** at Charlottetown this \_\_\_ day of \_\_\_\_\_, 2023.

13  
14 **BY THE COMMISSION:**

15  
16 \_\_\_\_\_  
17 Chair

18  
19  
20 \_\_\_\_\_  
21 Commissioner

22  
23  
24 \_\_\_\_\_  
25 Commissioner

26



## **APPENDIX A**

### **Maritime Electric Deed of Trust and Mortgage**

DATED AS OF MAY 1<sup>ST</sup>, 1955

# **DEED OF TRUST AND MORTGAGE**

FROM  
**MARITIME ELECTRIC COMPANY, LIMITED**

IN FAVOUR OF  
**MONTREAL TRUST COMPANY**

TRUSTEE

SECURING  
**FIRST MORTGAGE SINKING FUND BONDS**

DIXON, SENEAL, TURNBULL, MITCHELL & STAIRS  
ADVOCATES  
MONTREAL, QUEBEC

CONSOLIDATED AS OF SEPTEMBER 30, 2005



This Indenture made as of the first day of May in the year of Our Lord One Thousand Nine Hundred and Fifty-Five.

BETWEEN

MARITIME ELECTRIC COMPANY, LIMITED having its head office or chief place of business in the City of Charlottetown, in the Province of Prince Edward Island, (hereinafter called "the Company"),

OF THE FIRST PART

AND

MONTREAL TRUST COMPANY, a Company having its head office or chief place of business in the City of Montreal, in the Province of Quebec, (hereinafter called "the Trustee"),

OF THE SECOND PART

WHEREAS the Company has deemed it necessary for its corporate purposes to create and issue its First Mortgage Bonds to be dated, constituted and secured in the manner hereinafter appearing;

AND WHEREAS the Company, under the laws relating thereto is duly authorized to create and issue the Bonds to be issued as herein provided and to secure the same by this Deed of Trust and Mortgage;

AND WHEREAS all necessary by-laws and resolutions of the Directors and Shareholders of the Company have been duly passed and other matters and things have been done and performed to authorize the creation and issue of the Bonds intended to be hereby secured and the execution of these presents and to make the said Bonds and there presents legal and valid and binding upon the Company in accordance with the laws relating to the Company;

AND WHEREAS the foregoing recitals are made as representations and statements of fact by the Company and not by the Trustee;

NOW THIS INDENTURE WITNESSETH AND IT IS HEREBY AGREED AND DECLARED AS FOLLOWS:

**ARTICLE I  
INTERPRETATION OF TERMS**

- 1.01 In these presents (including this Clause), and in the Bonds and Coupons, unless there is something in the subject or context inconsistent therewith, the expressions following shall have the following meanings, namely: -
- a. "This Deed," "this Mortgage," "this Deed of Trust," "this Deed of Trust and Mortgage," "this Mortgage or Deed of Trust," "this Trust Deed," "these presents," "herein," "hereby," "hereunder," refer to this Indenture and the said expressions and "this Indenture" are to be deemed to include any and every deed or other instrument of charge supplemental or auxiliary hereto or in implement hereof; and "lien hereof," or "lien hereunder," means the security hereby constituted in any manner whatsoever created.
  - b. "The Bonds" means the Bonds and the registered Debenture Stock of the Company issued hereunder and for the time being outstanding and entitled to the benefit of the security hereby created.
  - c. "The Bondholders" or "holders" means as regards any Bonds registered as to principal or as to principal and interest or any registered Debenture Stock, the several persons for the time being entered in the Register or Registers as holders of any thereof, and as regards unregistered Bonds, the bearers thereof for the time being.
  - d. "The Coupons" means the interest coupons attached to Bonds registerable as to principal only.
  - e. "Specifically mortgaged premises" means the property real or immovable and personal or movable, expressed herein, or in any deed supplemental hereto, to be now or hereafter mortgaged, pledged and charged by way of a fixed and specific first charge, or intended so to be with payment of the moneys hereby secured.
  - f. "Floating charge" means the charge hereinafter created upon all the property and assets of the Company, present and future, which are not included in the specifically mortgaged premises.
  - g. "The mortgaged premises" means and includes the specifically mortgaged premises, and the property and assets covered by the floating charge collectively.
  - h. "The Trustee" means the said party of the second part, or the trustee or trustees for the time being of this Mortgage or Deed of Trust.
  - i. "The Directors" means the Board of Directors of the Company for the time being, and reference without more to action by the Directors shall mean

action by the Directors as a Board or by any duly authorized committee thereof.

- j. For every purpose of this Mortgage or Deed of Trust the term "Company" includes and means not only Maritime Electric Company, Limited, but also every successor corporation. Subject to the provisions of Article XVIII hereof, every successor corporation shall possess and from time to time may exercise each and every right and power hereunder of Maritime Electric Company, Limited, in its name or otherwise, and any act or proceeding by any provision of this Deed required to be done or performed by any Board or officers of the Company may be done and performed with like force and effect by the like Board or officers of any corporation that shall at the time be the lawful successor of the Company.
- k. "Net Earnings Certificate" means a certificate signed and verified by affidavit or statutory declaration by the President or a Vice-President and by the Secretary or an Assistant Secretary of the Company, stating the net earnings of the Company for a specified period and showing in reasonable detail how the same have been calculated.

- I. "Net Earnings of the Company" means the amount remaining after deducting from the gross revenues and income from all sources of the Company and of the Pledged Subsidiary Companies (after eliminating all intercorporate receipts, payments, debits and credits between the Company and the Pledged Subsidiary Companies, and between one Pledged Subsidiary Company and another), all expenses of management and operation of the Company and of the Pledged Subsidiary Companies, including (but without limiting the generality of the foregoing) taxes (except excess or other profits taxes and income taxes), rentals, insurances and reasonable charges for current repairs and maintenance, but excluding depreciation, renewals, replacements, interest on funded debt, sinking fund payments and other mandatory payments required to retire the Bonds; provided that if any of the property owned by the Company or by a Pledged Subsidiary Company at the time of the making of any Net Earnings Certificate shall not have been so owned during the whole or any part of any period for which net earnings are to be computed, the net earnings of such property (computed in the manner hereinabove specified) during such period or such part of such period as shall have preceded the acquisition thereof by the Company, or by such Pledged Subsidiary Company, may be treated as Net Earnings of the Company for the purposes hereof, to the extent that the same have not been otherwise included, unless such property was acquired in exchange for property the earnings of which have been included.<sup>1</sup>

---

<sup>1</sup> Note: Clause 6 of the Fifth, Sixth and Seventh Supplementary Trust Deeds provide (as did the Ninth and Tenth, however these have matured) as follows:

6. No Additional Bonds (except Additional Bonds which may be issued under Clause 5.02 of the Principal Deed) shall in the future be certified or delivered under Article V of the Principal Deed unless the "Net Earnings of the Company" to be shown by a Net Earnings Certificate as provided in Clause 5.07 of the Principal Deed are calculated as follows:

"Net Earnings of the Company" means the amount remaining after deducting from the gross revenues and income from all sources of the Company and of the Pledged Subsidiary Companies (after eliminating all intercorporate receipts, payments, debits and credits between the Company and the Pledged Subsidiary Companies, and between one Pledged Subsidiary Company and another), all expenses of management and operation of the Company and of the Pledged Subsidiary Companies, including (but without limiting the generality of the foregoing) taxes (except excess or other profits taxes and income taxes), rentals, insurances and reasonable charges for current repairs and maintenance and **depreciation**, but excluding renewals, replacements, interest on funded debt, sinking fund payments and other mandatory payments required to retire the Bonds; provided that if any of the property owned by the Company or by a Pledged Subsidiary Company at the time of the making of any Net Earnings Certificate shall not have been so owned during the whole or any part of any period for which net earnings are to be computed, the net earnings of such property (computed in the manner hereinabove specified) during such period or such part of such period as shall have preceded the acquisition thereof by the Company, or by such Pledged Subsidiary Company, may be treated as Net Earnings of the Company for the purposes hereof, to the extent that the same have not been otherwise included, unless such property was acquired in exchange for property the earnings of which have been included."

- m. "Property Additions" means real estate, dams, power houses, generating stations, buildings, machinery, plant and equipment, transmission lines, distribution, service and supply systems, pipe lines, pole lines, paving, roads, reservoirs, canals, works, structures, and water works and other property of a permanent nature, and permanent improvements, extensions and additions thereto, acquired or constructed by the Company after the 1<sup>st</sup> day of January, 1955, or, if in process of construction or erection by the Company, so far as actually constructed or erected subsequent to the 1<sup>st</sup> day of January, 1955, **or any interest consisting of a co-tenancy or a tenancy in common therein**; provided, however, that such property be useful in, adapted to or available for or in connection with any business which the Company is at the time of the issue of additional bonds hereunder authorized to carry on. [As amended by Clause 6(b) of the Ninth Supplementary Deed of Trust and Mortgage, dated as of November 2, 1981.]

The term "Property Additions" as used herein shall include

- a. property of the character described in the immediately preceding paragraph of this paragraph (m) (other than transmission lines and distribution, service and supply systems) acquired or constructed by the Company subsequent to the 1<sup>st</sup> day of January, 1955 or if in process of construction or erection by the Company, so far as actually constructed or erected subsequent to the 1<sup>st</sup> day of January, 1955, and made, erected or constructed on lands or premises held by the Company under lease or license and
- b. transmission lines and distribution, service and supply systems acquired or constructed by the Company subsequent to the 1<sup>st</sup> day of January, 1955 or if in process of construction or erection by the Company, so far as actually constructed or erected subsequent to the 1<sup>st</sup> day of January, 1955, and made, erected or constructed on lands or premises held or occupied by the Company under or pursuant to lease, easement, license or permit or statutory or other right irrespective of the duration thereof.
- n. "Pledged Subsidiary Company" means any other company having authority to carry on and carrying on a public utility business and all the issued shares of which (except directors' qualifying shares) and all of the bonds, debentures and other securities of which (except as provided in Clause 10.01 (m) hereof), at any time form part of the specifically mortgaged premises.
- o. "Pledged Subsidiary Property Additions" has the same meaning with respect to the property of any Pledged Subsidiary Company owned and/or held by it at the date it becomes a Pledged Subsidiary Company and/or acquired or constructed by it subsequent to such date as "Property Additions" has under sub-clause (m) of this Clause 1.01 with respect to the

property of the Company acquired or constructed by the Company after the 1<sup>st</sup> day of January, 1955; provided that all Pledged Subsidiary Property Additions shall be subject by way of first fixed and specific mortgage, pledge and charge, to the lien of the mortgage or deed of trust securing the first mortgage bonds of the Pledged Subsidiary Company concerned, required to be deposited with the Trustee pursuant to the provisions of Clause 5.06 hereof.

- p. "Pledged Securities" means and includes all shares, stocks, bonds, debentures and other securities at any time forming or required to form part of the specifically mortgaged premises under any of the provisions of this Deed.
- q. "Opinion of Counsel" means an opinion in writing signed by counsel, who may be of counsel to the Company, approved by the Trustee; the acceptance of any such opinion by the Trustee shall be sufficient evidence of its approval of the signer thereof.
- r. And unless the context otherwise requires words importing the singular number only shall include the plural and *vice versa*, and words importing the masculine gender shall include the feminine gender, and words importing persons shall include firms and corporations, and *vice versa*.

## **ARTICLE II FORM AND EXECUTION OF BONDS**

- 2.01 The bonds to be issued under and secured by this Deed may be issued originally in whole or in part either as coupon bonds, with or without privilege of registration as to principal, or as fully registered bonds without coupons, or, subject as hereinafter provided, as registered Debenture Stock. The coupon bonds and fully registered bonds, together with the interest coupons appertaining to the coupon bonds, shall be substantially in the forms marked "Y" and "Z", set out in the First Schedule hereof, with appropriate insertions, omissions, substitutions and variations, as may be required or permitted by the terms of this Deed. The bonds may be issued in series, limited or unlimited in aggregate principal amount, and all bonds of any one series shall be identical except to the extent of such appropriate differences authorized or permitted by this Deed between bonds of the different denominations and between coupon bonds and registered bonds as may be determined by the Directors at the creation of such series. At the option of the Company the maximum principal amount of bonds issuable of any series may be limited and may be expressed in the bonds of such series. The bonds of each particular series shall be designated by a distinguishing letter or otherwise, and may also be designated by appropriate words, and may be numbered in any manner prescribed by the Company with the approval of the Trustee. Coupon bonds of each series shall bear a date to be fixed by the directors at the time such series is created. Fully registered bonds without coupons shall bear the date of their certification respectively, and shall bear interest from the next preceding interest date, unless the date of certification is an interest date, when they shall bear interest from date of certification. The bonds of each particular series shall be of such denominations, interchangeable or not, shall be made payable at such

date, and shall bear interest at such rate as may from time to time be determined by the Directors and expressed in the Bonds of such Series, payable semi-annually or quarterly on such dates, and shall be payable as to principal and interest at such places, in such currencies, and at such specified rate or rates of exchange, if any, as shall be determined by the Directors at the time such Series is created and shall be expressed in the Bonds of such series; provided, however, that Bonds payable in other than Canadian currency shall for all purposes of computation of the limitations of amount of Bonds, exchange, convertibility, voting power and the like be taken as of equivalent amount to Bonds in Canadian currency at the rate of exchange as shall be determined by the Directors from time to time. The Bonds of any particular Series may be made redeemable before maturity at the option of the Company and may be made convertible at the option of the several holders thereof into capital stock or bonds or debenture stock of the Company, and such redemption or conversion may be at such prices and rates, upon such terms and conditions and during such periods as shall be determined by the Directors at the time such Series is created, and shall be expressed in the Bonds of such Series. Bonds of any particular Series may, to any specified extent, be made payable as to principal or interest or both without deduction for taxes payable thereon, or deductible therefrom, under the laws of any country where the same are payable, or may entitle the holders thereof to certain rights with respect to the refund of any specified taxes, the whole as shall be determined by the Directors at the time such Series is created and as shall be expressed in the Bonds of such Series or in a deed supplemental hereto.

When Bonds of a Series are issued in several denominations, Bonds of such denominations may be made interchangeable, and when Bonds of a Series are issued both as coupon Bonds and as fully registered Bonds without coupons, such coupon and fully registered Bonds may be made interchangeable, the whole as shall be determined by the Directors at the time such Series is created, and as shall be expressed in the Bonds of such Series, and shall be subject to such reasonable regulations as the Company and the Trustee may from time to time prescribe in regard to such interchange and all other matters not expressly provided for by this Deed.

Such Bonds may have imprinted thereon any legend, in such form as may be required to conform to the rules of any stock exchange or to custom, referring to the right to exchange coupon Bonds and registered Bonds or Bonds of different denominations.

All exchanges of Bonds shall be made only at the office of the Trustee in the City of Montreal, and/or at such other place or places as may be specified in the Bonds to be exchanged or designated by the Company for such purpose with the approval of the Trustee.

- 2.02 Notwithstanding anything herein contained, the Company may issue and the Trustee certify in place of all or any of the Bonds of any Series authorized to be issued hereunder registered Debenture Stock, payable in any one or more currencies in which the Bonds of such Series are or might be made payable and which shall confer upon the holders thereof as nearly as may be the same rights as would have been conferred by registered Bonds of the same nominal amount of the Series concerned. Such registered Debenture Stock shall rank and be

entitled to the security hereby constituted *pari passu* in all respects with the Bonds secured hereby. The company may at any time execute, in concurrence with the Trustee, such supplemental deed not inconsistent with the terms of this Indenture as the Trustee in its discretion may require, dealing with the issue of such registered Debenture Stock, the form of the certificates, the conditions and regulations subject to which the same may be issued and transferred, and such other matters as the Trustee may require, and the provisions of such supplemental deed when executed shall be taken to be incorporated in and to form part of these presents. Such supplemental deed shall expressly provide that the registered Debenture Stock shall not confer upon the holders thereof any higher rights or greater security than is enjoyed by the holders of the Bonds of the same Series. Such supplemental deed shall also provide that at meetings of bondholders, the holders of registered Debenture Stock shall have, as nearly as may be, the same voting rights as they would have had if they had held Bonds of corresponding principal amount to the registered Debenture Stock held by them.

Registered Debenture Stock of any series payable in sterling in Great Britain may be made interchangeable with bonds of the same series payable in lawful currency of Canada, and/or other currencies, in such manner and on such terms as may be determined by the Directors upon the creation of such series.

2.03 All Bonds issued, pledged and secured hereby shall be under the seal of the Company, and shall be signed by the President or a Vice-President of the Company and countersigned by the Secretary or an Assistant Secretary of the Company holding office at the time of signing. The signature of the President or Vice-President and the Secretary or an Assistant Secretary may be engraved, lithographed or otherwise mechanically reproduced on the Bonds, and such engraved or lithographed or otherwise mechanically reproduced signature shall for all purposes be deemed the signature of such officer, and shall be binding upon the Company. Notwithstanding any change in any of the persons holding said offices between the time of actual signing and the certifying and delivery of the Bonds, and notwithstanding that the President or Vice-President or Secretary or Assistant Secretary signing may not have held office at the date of this Deed, or at the date of the Bonds, or at the date of the certifying and delivery thereof, the Bonds so signed shall be valid and binding upon the Company, and entitled to the security of this Deed. Interest coupons attached to the Bonds shall have engraved, lithographed or otherwise mechanically reproduced thereon the signature of the Secretary or an Assistant Secretary of the Company, and such signature shall for all purposes be deemed the signature of such officer, and shall be binding upon the Company notwithstanding that the person whose signature may have been so engraved, lithographed, or otherwise mechanically reproduced is not at the date of this Deed or at the date of the Bonds, or at the date of the certifying and delivery thereof or at the date when a coupon is presented for payment the Secretary or an Assistant Secretary of the Company.

**2.03(a) Wherever any proceeding, action, instrument, certificate or other document or thing is by this Deed or any deed or indenture supplemental hereto, required or permitted to be done by the President of the Company, either acting alone or with any other officer or person, the same may also be done, performed or carried out by the Chairman of the Board of the Company in place of the President with full effect as if done, performed or carried out by**



**the said President.** [As amended by Clause 6(b) of the Tenth Supplementary Deed of Trust and Mortgage, dated as of June 29, 1982.]

- 2.04 No Bond shall be issued, or if issued shall be obligatory or entitle the holder to the benefit of the security hereby created, until it has been certified by or on behalf of the Trustee in substantially the form set out in the First Schedule hereof, or in some other form approved by the Trustee, and such certificate on any Bond shall be conclusive evidence that it is duly issued, is a valid obligation of the Company, and is secured hereby.

The certificate of the Trustee endorsed on the Bonds issued hereunder shall not be construed as a representation or warranty by the Trustee as to the validity or security of this Deed or of said Bonds, and the said Trustee shall in no respect be liable or answerable for the use made of said Bonds or any of them or the proceeds thereof.

No Bonds, except upon transfer or in exchange for any Bonds, or in case of mutilated, stolen, lost or destroyed Bonds, shall be certified or delivered by the Trustee, if the Company is at the time, to the knowledge of the Trustee, in default under any of the provisions of this Deed.

If the Company shall so request, Bonds, Interim or Temporary Bonds, or Interim Certificates of the Trustee, or scrip for registered Debenture Stock, may be certified and delivered hereunder in advance of the registration of this Deed, but in such event the Company shall cause this Deed to be registered with all convenient speed in all places where the registration thereof in the opinion of counsel may be necessary to secure the lien hereof.

- 2.05 Pending the delivery of definitive lithographed, engraved or printed Bonds to the Trustee, the Company may execute and the Trustee certify in lieu thereof interim or temporary bonds or interim certificates, with or without coupons, in such forms and in such denominations as the Trustee and the Company may approve, entitling the holders thereof to definitive lithographed, engraved or printed Bonds with all coupons representing unpaid interest thereto attached when the same are ready for delivery, or the Company may execute and deliver to the Trustee an interim or temporary bond or bonds for the aggregate principal amount of Bonds authorized from time to time to be issued hereunder, and thereupon the Trustee may certify and hold the same pending the delivery of definitive bonds and may issue its interim certificates in such form and in such amounts not exceeding in the aggregate the principal amount of the interim or temporary bond or bonds so delivered to it as the Company and the Trustee may approve, entitling the holders thereof to definitive lithographed, engraved or printed Bonds with all coupons representing unpaid interest thereto attached, when same are ready for delivery, and interim or temporary bonds or interim certificates when executed and, if so required, certified and issued in accordance herewith, shall for all purposes rank in respect of this Deed equally with Bonds duly issued hereunder, and pending their exchange for definitive Bonds the holders of such interim or temporary bonds or interim certificates shall be deemed to be bondholders and entitled to the benefit and security of such Deed to the same extent and in the same manner as though such exchange had actually been made. The exchange of definitive Bonds for interim or temporary bonds or interim certificates will be made without charge on

surrender of such interim or temporary bonds or interim certificates at the office of the Trustee in Montreal and/or such other place or places as may be specified therein or designated by the Company with the approval of the Trustee, and upon such exchange such interim or temporary bonds or interim certificates shall be forthwith cancelled.

- 2.06 The Bonds may from time to time be issued in such amounts, to such persons, on such terms not inconsistent with any of the provisions of this Trust Deed, either absolutely or as security for loans or advances to the Company, or for indebtedness or other obligations of the Company, and either at par or at a discount or at a premium as the Directors may determine.

All Bonds issued and certified under any provision hereof shall be secured hereby and shall rank *pari passu* and be secured equally and ratably without discrimination or preference whatever may be the date or terms of the issue thereof respectively.

- 2.07 Interest coupons matured at the date of the delivery, if any, on any Bonds shall, unless the same represent unpaid interest on outstanding interim Bonds or certificates, be detached from such Bonds and cancelled before delivery thereof.

- 2.08 In case any Bond or coupon issued and secured hereunder shall become mutilated or be lost, stolen or destroyed, the Company in its discretion may issue and thereupon the Trustee shall certify and deliver a new Bond or deliver a new coupon of like tenor as the one mutilated, lost, stolen or destroyed in exchange for and in place of and upon cancellation of the mutilated Bond or coupon, or in lieu of and substitution for the same, if lost, stolen or destroyed; and the substituted Bond or coupon shall be in a form approved by the Trustee and shall be secured hereby equally with all other Bonds or coupons issued or to be issued hereunder, and without preference or priority one over another.

In case of loss, theft or destruction, the applicant for a substituted Bond or coupon shall furnish to the Company and to the Trustee such evidence of the loss, theft or destruction of the Bond or coupon so lost, stolen or destroyed as shall be satisfactory to the Company and to the Trustee in their discretion, and such applicant shall also furnish indemnity satisfactory to them in their discretion and shall pay to the Company the cost of the substituted Bond, including the Trustee's fee for certification.

- 2.09 Bonds secured hereby pledged or sold or otherwise issued by the Company, upon being released from pledge, or upon being re-purchased or otherwise acquired by the Company (except when expressly required to be cancelled pursuant to any other provisions of this Indenture or of the Bonds) shall be treated as unissued Bonds, but such Bonds without re-execution and without recertification by the Trustee, or upon cancellation thereof fresh Bonds issued in substitution therefor, may, before but not after the maturity thereof, again be sold, pledged or otherwise issued, re-issued or disposed of by the Company as often as it may repossess or acquire the same, and thereupon shall again be entitled to the security of this Trust Deed as upon their original issue.

- 2.10 The Company shall at all times cause to be kept by and at the Office of the Trustee in the City of Montreal, and may cause to be kept at such other places and by such other Registrars as the Company with the approval of the Trustee may designate,

or as may be designated in the Bonds of any particular Series, registration books in which shall be entered the names and addresses of the holders of fully registered Bonds without coupons and particulars of the Bonds held by them respectively, and in which transfers of such fully registered Bonds shall be registered, and which at all reasonable times shall be open for inspection by the Trustee or by any Bondholder.

Transfers of any such fully registered Bonds shall be valid only if made on such books by the registered holder or his attorney duly appointed by an instrument in writing in form and execution satisfactory to the Trustee, or by the executors or administrators of such registered holder, upon compliance with such reasonable requirements as the Trustee and/or other registrar may prescribe and upon the surrender of such Bond to the Trustee for cancellation; whereupon a new fully registered Bond or Bonds of the same Series and aggregate principal amount shall be issued to the transferee in exchange therefor.

The registers of fully registered Bonds without coupons may be closed for periods of not exceeding twenty-one days immediately preceding the dates upon which interest is payable. As interest matures upon such Bonds, the Company, or the Trustee, shall forward, or cause to be forwarded, by post to the registered address of the holder for the time being of each such Bond a cheque on the Company's bankers for such interest, payable at par at any of the places where interest is payable, under the terms of such Bond. Such cheque shall be payable to the order of such holder or, in the case of joint holders, to the order of all such joint holders (failing written instructions from them to the contrary), and shall be sent to the address of that one of such joint holders whose name stands first in the register, and the payment by the Company's bankers of such cheque shall be an effective discharge to the Company.

- 2.11 When coupon Bonds of any Series are issued hereunder with privilege of registration as to principal only, the Company shall at all times cause to be kept by and at the office of the Trustee in the City of Montreal, and may cause to be kept at such other places and by such other Registrars as may be prescribed by the Company and approved by the Trustee, or designated in the Bonds of such Series, registration books in which the holders of such coupon Bonds may register the same as to principal only, and which at all reasonable times shall be open for inspection by the Trustee or by any Bondholder. Such registration shall be noted on the Bond, after which no transfer shall be valid unless made on the transfer book at the office where such Bond is registered, by the registered holder or his attorney duly appointed by an instrument in writing in form and execution satisfactory to the Trustee, or by the executors or administrators of such registered holder, upon compliance with such reasonable requirements as the Trustee and/or other Registrar may prescribe, and unless such transfer shall have been duly noted on such Bond by the Trustee or other Registrar; but any such Bond may be discharged from registry by being transferred to bearer, after which it shall be transferable by delivery, but may be again and from time to time registered and discharged from registry.

Notwithstanding registration of any coupon Bond as to principal, the coupons when detached shall continue to be payable to bearer and pass by delivery.

- 2.12 No notice of any trust shall be entered on any register of Bonds or otherwise recognized, but the Bonds may be registered in the name of a trustee or trustees, and in such case neither the Company nor the Trustee shall be deemed to have notice of the trust represented by such trustee or trustees or be bound to see to the execution of any trust, whether express, implied or constructive, in respect of Bonds registered in the name of a trustee or trustees.

The registered holder for the time being of any of the Bonds when registered, and the bearer thereof for the time being when not registered and, subject to the provisions of sub-clause (d) of Clause 10.01 hereof, the bearer of any interest coupons appertaining to any of the Bonds shall be entitled to the principal moneys, premium, (if any), and interest represented by such instruments respectively free from all equities or rights of set-off or counter-claim between the Company and the original or any intermediate holder thereof, and all persons may act accordingly, and the receipt of any such registered holder or bearer as the case may be for any such principal moneys, premium, if any, and interest shall be a good discharge to the Company or the Trustee for the same, and neither the Company nor the Trustee shall be affected by notice of or be bound to see to the execution of any trust or equity affecting the ownership of any Bond or coupons or the principal moneys or interest owing upon such instruments respectively, or, save as ordered by a court of competent jurisdiction, or as required by statute, be bound to enquire into the title to any Bond or coupon.

In the case of joint registered holders, the principal moneys and premium (if any) thereby secured shall be deemed to be owing to them upon a joint account and may be paid to the holder whose name appears first on the register, and the receipt of such holder therefor shall constitute a valid discharge to the Trustee and to the Company.

The registered holder or registered Bonds, and in the case of joint registered holders, the holder whose name appears first on the register, and the bearer of Bonds not registered, and the bearer of interest coupons may be treated by the Company and the Trustee as the absolute owner of such Bonds or coupons for all purposes.

- 2.13 In every case of transfer (other than of a coupon Bond registered as to principal) or exchange, the Bonds, and the coupon (if any), surrendered shall be cancelled. For any exchange between denominations the Trustee may charge a fee not exceeding one dollar (\$1) for each new Bond issued upon such exchange. A fee not exceeding fifty cents (50¢) shall be payable to the Trustee or Registrar for every registration (except upon original issue) or transfer of a Bond; provided that if two or more Bonds in bearer form or registered in the same name are presented together for registration of the transfer thereof to one person or to bearer, the fee payable to the Trustee or other Registrar shall be not exceeding fifty cents (50¢) for one Bond and twenty-five cents (25¢) for each additional Bond of those so presented together. Payment of such charges shall be made by the party requesting such registration, exchange or transfer as a condition precedent thereto.
- 2.14 The Company shall also cause to be kept by and at the office of the Trustee in the City of Montreal, and at such other place or places and by such other registrar or registrars as the Company with the approval of the Trustee may designate, a

register or registers in which shall be entered the name and post office address of every holder of any unregistered Bonds who may so require, and which at all reasonable times shall be open for inspection by the Trustee or by any bondholder.

2.15 The Trustee shall be fully protected in acting thereon, if any request, direction, consent or notice of or from bondholders which this Deed may require or permit, be proved as follows:

- a. Any such request, direction, consent or notice may be in any number of concurrent instruments and may be executed by the holders of Bonds in person or by their agents or attorneys appointed in writing;
- b. The execution of any such request, direction, consent or notice by the holders of Bonds may be proved by the certificate of any Notary Public or other officer authorized to take acknowledgement of oaths or of deed to be recorded at the place where such certificate is made, certifying that the person executing acknowledged to him the execution thereof, or by any affidavit of a witness of such execution duly sworn to before any such Notary Public or officers or by the guarantee of signature by any barrister, attorney, solicitor, clergyman, Justice of the Peace, municipal officer or any officer of any bank or trust company, or by any stock brokerage firm;
- c. The amounts of unregistered Bonds held by any such bondholder and the Series and issue numbers of the Bonds so held by him and the date of his holding of same (which holding the Trustee may deem to continue until it receives notice in writing to the contrary) may be proved by a certificate executed by any trust company, bank or other depository, by a proper officer or representative, showing that at the date therein mentioned such person had deposited with such depository the Bonds therein described;
- d. The ownership of registered Bonds shall be proved by the books for the registration of such Bonds kept as herein provided, without actual production of the Bonds; and in the case of Bonds so registered on books kept by some other Registrar than the Trustee, a certificate by such other Registrar shall be proof of such registration.

Any request, direction, consent or notice by a person, natural or corporate, who by the provision of this clause 2.15, is treated as the owner of any such Bond, shall bind all future bearers, holders or owners of the same Bond and of all Bonds issued in exchange therefor or in lieu thereof, in respect of anything done or suffered by the Company or the Trustee in pursuance thereof.

2.16 Unless otherwise expressly provided in this Indenture or in any Bonds or any conditions endorsed thereon, all notices to be given hereunder to the Bondholders shall be and be deemed to be validly given if given in the manner set forth in Clause 8 of the Conditions to be endorsed on coupon Bonds as set out in the form marked "Y" in the First Schedule hereof, provided, however, that failure to send any such notice by post as therein provided shall not invalidate or otherwise prejudicially affect any proceedings referred to in such notice.

- 2.17 From time to time the Company and the Trustee may, when authorized by a resolution of the Directors and subject to the provisions of these presents, and they shall, when so required by these presents, execute, acknowledge and deliver by their proper officers, deeds or indentures supplemental hereto, which thereafter shall form part hereof, or may do and perform any other acts and things for any one or more or all of the following purposes: -
- a. Mortgaging, pledging or charging in favour of the Trustee, or assigning or transferring to the Trustee, any property, real, immovable, movable, personal or mixed, leases, contracts, franchises, agreements, shares of stock, bonds or other securities now owned or hereafter acquired by the Company;
  - b. Adding to the limitations or restrictions specified in these presents further limitations or restrictions, thereafter to be observed, upon the amount or the purposes of the issue of Bonds, or upon the payment of deposited moneys, or upon the dealing with the property of the Company, or upon the release of property from the lien hereof, provided that the Trustee shall be of opinion that such further limitations or restrictions shall not be prejudicial to the interests of the bondholders;
  - c. Adding to the covenants of the Company in these presents for the protection of holders of the bonds;
  - d. Making provision for the conversion (at the option of the holders) of Bonds of any Series into capital stock or bonds or Debenture Stock, or for the retirement through an additional sinking fund of anyone or more particular Series of Bonds;
  - e. Evidencing the succession (or successive successions) of another company to the Company and the covenants of and obligations assumed by such successor in accordance with the provisions of this Deed;
  - f. Establishing the terms, provisions and conditions of a particular issue or Series of Bonds as determined by the Directors and within the limitations herein expressed;
  - g. Providing for the issue of registered Debenture Stock in place of all or any part of the Bonds of any Series, the form of the certificates therefor, the conditions or regulations subject to which the same may be issued and transferred, and such other matters in regard thereto as the Trustee may require, the whole in the manner and subject to the conditions expressed in Clause 2.02 hereof;
  - h. Making such provisions not inconsistent with these presents as may be necessary or desirable with respect to matters or questions arising hereunder;
  - i. Providing for or altering the provisions hereof in respect of the exchange and transfer of Bonds;

- j. Providing for the issue of Bonds of denominations and varieties other than the denominations and varieties herein provided for;
- k. Consenting to the amendment, revision, extension, amplification, alteration or termination of any contract, agreement, lease, license or franchise forming part of the specifically mortgaged premises, provided that the Trustee shall be of the opinion that the giving of such assent shall not impair the security of the Bondholders hereunder, nor be prejudicial to their interests, and the Trustee may, before giving any such consent, consult any person whom it deems competent to advise on the matter, and in following the advice of such person or in acting upon its own initiative as herein permitted, the Trustee shall incur no responsibility whatsoever for the consequences following upon the giving of such consent;
- l. Making such provisions not inconsistent with these presents as may be necessary or desirable for the purpose of facilitating a listing or obtaining a quotation of the Bonds on the Montreal, London, New York or any other Stock Exchange or Bourse in Canada or elsewhere, including the making of any modifications in these presents or in the Schedules hereof, or in the form of the Bonds or coupons, which do not affect the substance thereof, and which, in the opinion of the Trustee, it may be expedient to make for the purpose aforesaid, provided that the Trustee shall be of opinion that such provisions and modifications will not be prejudicial to the interests of the Bondholders.

**ARTICLE III  
BONDS OF THE 4% SERIES DUE 1975**

3.01 Bonds of the first series to be issued and secured hereunder may be designated First Mortgage Sinking Fund Bonds, 4% Series due 1975, and are generally referred to herein as Bonds of the 4% Series due 1975, shall be unlimited in aggregate principal amount, shall mature May 1<sup>st</sup>, 1975, shall bear interest at the rate of four per centum (4%) per annum payable semi-annually on the first days of May and November in each year, shall be payable both as to principal and interest in lawful money of Canada, at any branch in Canada of The Royal Bank of Canada (far northern branches excepted).

The Bonds of the 4% Series due 1975 at any time outstanding shall be redeemable at any time prior to maturity, as a whole or in part at the option of the Company, subject to the provisions of Article XII hereof, at a premium of four per centum (4%) thereon if redeemed on or before April 30, 1959, the premium thereafter decreasing  $\frac{1}{4}$  of 1% each year or fraction thereof to and including April 30, 1975, and thereafter without premium, in each case with accrued interest to the date fixed for redemption.

The Bonds of the 4% Series due 1975 shall be issued as coupon Bonds with privilege of registration as to principal only or, at the option of the Company, may be issued in whole or in part as fully registered Bonds without coupons or as registered Debenture Stock.

Coupon Bonds of the 4% Series due 1975 shall be dated May 1<sup>st</sup>, 1955; shall have privilege of registration as to principal only; shall be issued in denominations of one thousand dollars (\$1,000) and five hundred dollars (\$500); and shall be interchangeable as between Coupon Bonds of the different denominations.

Fully registered Bonds without coupons of the 4% Series due 1975 shall be in such denominations and shall contain such provisions for interchange as between registered Bonds of different denominations or with coupon Bonds of the 4% Series due 1975 and other appropriate provisions, as the Directors may determine at the time of issue of such fully registered Bonds without coupons of the 4% Series due 1975, and as shall be set out therein.

#### **ARTICLE IV INITIAL ISSUE OF BONDS**

- 4.01 The Bonds authorized to be issued and secured under this Trust Deed are limited in the first instance to Two Million Five Hundred Thousand Dollars (\$2,500,000) principal amount of the Bonds designated the 4% Series due 1975. Bonds of the same or of another or other series may from time to time be subsequently issued without limit as to aggregate principal amount, but subject to and in accordance with the provisions and restrictions hereinafter contained.
- 4.02 Two Million Five Hundred Thousand Dollars (\$2,500,000) principal amount of coupon Bonds of the 4% Series due 1975 shall forthwith be certified by the Trustee and delivered to the Company or upon its written order, without the Trustee receiving any consideration therefor.

#### **ARTICLE V ISSUE OF ADDITIONAL BONDS**

- 5.01 In addition to the Bonds authorized to be issued as provided in Article IV hereof, additional Bonds (hereinafter sometimes referred to as "Additional Bonds") may from time to time be issued by the Company and certified by the Trustee and delivered by the Trustee to the Company, or upon its written order, but only in accordance with and subject to the provisions, conditions and limitations set forth in this Article V.
- 5.02 Additional Bonds to the aggregate principal amount of Five Hundred Thousand Dollars (\$500,000) may be issued, certified and delivered without restriction as and when determined by the directors and the Trustee shall from time to time certify and deliver Additional Bonds up to the said aggregate principal amount to the Company or upon its written order without receiving any consideration therefor but only upon receipt by the Trustee of:
  - a. A copy of a resolution or resolutions of the directors certified by its Secretary or an Assistant Secretary under its corporate seal, authorizing the issue and requesting the certification and delivery of a specified amount of such Additional Bonds, and, if such Bonds are to be of a Series not theretofore created, authorizing and describing the new series then to be created, and, consistently with the provisions of this Deed, specifying the



particulars of such series and the provisions of the Bonds of such series; Bonds so certified and delivered shall conform to such specifications, and

- b. A deed supplemental hereto executed by duly authorized officers of the Company pursuant to a resolution of the directors and in form and execution satisfactory to the Trustee and to counsel, specifying the principal amount, date, maturity, interest rate, form, distinguishing designation of the series, and other particulars of the Additional Bonds the certification and delivery of which are then requested (within the limitations prescribed by this Deed), or the opinion of counsel that no such supplemental deed is necessary.
- 5.03 No Additional Bonds shall be certified or delivered under this Article V upon the basis of any expenditures for the purpose of keeping or maintaining the specifically mortgaged premises or the properties of the Pledged Subsidiary Companies in good and businesslike working order and condition and all Property Additions or Pledged Subsidiary Property Additions described in any certificate rendered with respect to any application under this Deed relating to any such Property Additions or Pledged Subsidiary Property Additions shall be subject to the deduction of an amount equal to the original cost of all property replaced or retired during the period covered by such certificate.
- 5.04 No Additional Bonds shall be certified or delivered under this Article V upon the basis (a) of Property Additions or Pledged Subsidiary Property Additions which have been previously used as the basis for the certification of Additional Bonds under this Article V or for the release of any property or for the withdrawal of any moneys from the Trustee under any of the provisions of this Deed; or (b) of property purchased or acquired by the Company from a Pledged Subsidiary Company or by a Pledged Subsidiary Company from the Company or by one Pledged Subsidiary Company from another Pledged Subsidiary Company.
- 5.05 No Additional Bonds shall be certified and delivered upon the basis of Property Additions or Pledged Subsidiary Property Additions of the nature referred to in sub-paragraph (a) of the second paragraph of sub-clause (m) of Clause 1.01 hereof, unless compensation is provided for at the termination of either the lease or license or any agreement ancillary thereto or by the laws or regulations under which the same is issued, or unless, in the case of a lease or license from the Government of Canada or any Province thereof or other public authority, the Trustee receives an opinion of counsel to the effect that the right of termination is not customarily exercised, or unless such lease or license will by the terms thereof terminate not earlier than the date of maturity of any such Additional Bonds; provided, however, that whenever the Company or a Pledged Subsidiary Company is entitled to one or more renewals of any such lease or license either by the express provisions thereof, or, in the case of a lease or license from the Government of Canada, or of any Province thereof or other public authority, by reason of custom theretofore established and then effective, then for the purpose of this Clause 5.05 such lease or license shall not be deemed to terminate until the expiry of the last permissible renewal thereof; provided further that the restriction recited in this Clause 5.05 shall not apply to Property Additions or Pledged Subsidiary Property Additions of the nature referred to in sub-paragraph (b) of the second paragraph of sub-clause (m) of Clause 1.01 hereof.

- 5.06 No Additional Bonds shall be certified or delivered under this Article V upon the basis of Pledged Subsidiary Property Additions unless previous thereto or contemporaneously therewith, the Company shall have deposited with the Trustee, to form part of the specifically mortgaged premises hereunder: (1) all the issued shares (except directors' qualifying shares) of the Pledged Subsidiary Company, of which the Pledged Subsidiary Property Additions are made the basis of the application for the certification and delivery of such Additional Bonds, and (2) all the bonds, debentures and other securities of such Pledged Subsidiary Company then outstanding (except as provided in Clause 10.01 (m) hereof), including in all cases first mortgage bonds of such Pledged Subsidiary Company not previously made the basis of the issue of additional Bonds, and at least equal in principal amount to the principal amount of the Additional Bonds then applied for and secured by first fixed and specific mortgage, pledge and charge upon such Pledged Subsidiary Property Additions; and which first mortgage bonds shall mature not later than the maturity date of the Additional Bonds so applied for, shall not be redeemable prior to maturity at less than the principal amounts thereof and accrued interest, shall carry interest at the same rate as such Additional Bonds, and shall be issued under a mortgage or deed of trust in such form and containing such provisions not inconsistent with the requirements of this Clause 5.06 as such Pledged Subsidiary Company may determine.
- 5.07 No additional Bonds (except Additional Bonds which may be issued under Clause 5.02 hereof) shall be certified or delivered under this Article V unless, as shown by a Net Earnings Certificate, the Net Earnings of the Company for a period which shall, at the opinion of the Company, be either (a) its fiscal year next preceding the date of application for the certification and delivery of Additional Bonds, or (b) any twelve consecutive calendar months within the sixteen calendar months immediately preceding the date of any such application, shall have been not less than twice the combined annual interest charges on all Bonds issued hereunder outstanding at the date of such application (excluding as outstanding any Bonds for the payment, redemption or other retirement of which cash shall at the time be deposited with the Trustee), and on all Additional Bonds the certification and delivery of which is then requested.
- 5.08 Additional Bonds (in addition to those provided for in Clause 5.02 hereof) may be certified and delivered under this Article V from time to time as follows:
1. In amounts not exceeding in the aggregate sixty-six and two-thirds per cent ( $66\frac{2}{3}\%$ ) of the cost or the then fair value to the Company, whichever is less, of Property Additions, such cost to the Company being deemed to be the sum of (a) any cash forming a part of such cost, and (b) an amount equivalent to the fair market value in cash of any shares or securities issued or delivered in payment therefor or for the acquisition thereof at the date of such issue or delivery.
  2. In amounts not exceeding in the aggregate sixty-six and two-thirds per cent ( $66\frac{2}{3}\%$ ) of the cost or the then fair value, whichever is less, to a Pledged Subsidiary Company of Pledged Subsidiary Property Additions.

5.09 The Trustee shall from time to time certify and deliver Additional Bonds to the Company, or upon its written order pursuant to the provisions of this Article V, without receiving any consideration therefor, but only, except where Bonds are certified and delivered pursuant to Clause 5.02 hereof, upon the receipt of the Trustee of: -

- I. A copy of a resolution or resolutions of the Directors of the Company certified by its Secretary or Assistant Secretary under its corporate seal, authorizing the issue and requesting the certification and delivery of a specified amount of additional Bonds; and, if such Bonds are to be of a Series not theretofore created, authorizing and describing the new Series then to be created, and consistently with the provisions of this Deed, specifying the particulars of said Series and the provisions of the Bonds of such Series, and stating what amounts, if any, are to be issued as coupon bonds, fully registered bonds without coupons, and/or registered Debenture Stock and specifying the period for which net earnings are to be taken for the purpose of the earnings restriction applicable to the issue of the Additional Bonds specified in such resolution: Bonds so certified and delivered shall conform to such specifications.
- II. A Net Earnings Certificate stating the Net Earnings of the Company for the period specified in said resolution of Directors and showing the amount of such Net Earnings to be sufficient to meet the requirements of Clause 5.07 hereof. -
- III. A certificate or certificates: -
  - a. Describing in reasonable detail the Property Additions and the Pledged Subsidiary Property Additions made the basis of the application; stating that the same are Property Additions, or Pledged Subsidiary Property Additions as defined in Article I of this Deed; stating that such Property Additions are desirable for use in the conduct of the business of the Company and that such Pledged Subsidiary Property Additions are desirable for use in the conduct of the business of the Pledged Subsidiary Company concerned; stating as to each of the Property Additions described in such certificate the cost thereof to the Company in cash and in shares and securities (if any), and, if such cost consists in whole or in part of shares or securities issued or delivered in payment therefor, briefly describing such shares or securities and stating the opinion of the signers as to the fair market value in cash of such shares or securities at the date of such issue or delivery; stating as to each of the Pledged Subsidiary Property Additions described in such certificate the cost thereof in cash to the Pledged Subsidiary Company concerned; and further stating what part if any, of the Property Additions or Pledged Subsidiary Property Additions described in such certificate consists of property which has been used or operated by others than the Company or the Pledged Subsidiary Company concerned, in or in connection with the public utility business or the business of generating, transmitting, distributing or supplying electricity.

- b. Stating that no part of the Property Additions, or Pledged Subsidiary Property Additions specified in such certificate has previously been used as the basis for the certification of additional Bonds under this Article V, or for the release of any property, or for the withdrawal of any moneys from the Trustee under any of the provisions of this Deed, and that no part of such Property Additions or Pledged Subsidiary Property Additions consists of property purchased or acquired since January 1, 1955, by the Company from a Pledged Subsidiary Company or by a Pledged Subsidiary Company from the Company or by one Pledged Subsidiary Company from another Pledged Subsidiary Company;
- c. Stating the opinion of the signers as to the then fair value to the Company of such Property Additions; and as to the then fair value of such Pledged Subsidiary Property Additions to the Pledged Subsidiary Company concerned;
- d. Stating that no part of such Property Additions or Pledged Subsidiary Property Additions has been acquired, made or constructed for the purpose of keeping or maintaining the specifically mortgaged premises or the property of the Pledged Subsidiary Company concerned in good and businesslike working order and condition and stating the deductions, if any, required to be made in accordance with Clause 5.03 hereof;
- e. Stating that the Company is not, to the knowledge of the signers, in default in the performance of any of the terms or covenants of this Deed;
- f. Indicating what part, if any, of the Property Additions or Pledged Subsidiary Property Additions specified in such certificate is of the nature referred to in sub-paragraph (a) of the second paragraph of sub-clause (m) of Clause 1.01 hereof, in which case such certificate shall include a statement briefly describing the lease or license and the premises affected thereby; and also indicating, separately, what part thereof, if any, is of the nature referred to in sub-paragraph (b) of the second paragraph of sub-clause (m) of Clause 1.01 hereof and briefly describing each lease, easement, license, permit or statutory or other right concerned and the respective premises affected thereby.

Any such certificate may also state any other facts pertaining to or establishing the right to the certification and delivery of Additional Bonds under this Article V.

Every such certificate shall be signed and verified by affidavit or statutory declaration by the President or a Vice-President and by the Treasurer or Secretary or an Assistant Secretary of the Company, and by an engineer satisfactory to the Trustee, who may be the Chief Engineer, or any assistant engineer of the Company;

the acceptance of any such certificate by the Trustee shall be sufficient evidence of its approval of such engineer.

- IV. If the application for certification and delivery of Additional Bonds is made on the basis of Pledged Subsidiary Property Additions, first mortgage bonds of the nature and amount required to be deposited with the Trustee pursuant to the provisions of Clause 5.06 of this Article V, issued by the Pledged Subsidiary Company, of which Pledged Subsidiary Property Additions are made the basis of the application.
- V. Where any certificate furnished to the Trustee as provided in Sub-clause III of this Clause 5.09 shows that any Property Additions or Pledged Subsidiary Property Additions proposed to be made the basis of the certification and delivery of Additional Bonds consists of property which has been used or operated by others than the Company of the Pledged Subsidiary Company concern, in or in connection with the public utility business or the business or generating, transmitting, distributing or supplying electricity, a certificate signed and certified by an engineer satisfactory to the Trustee, who may be the Chief Engineer or any assistant engineer of the Company, certifying as to what is, in his opinion, the then fair value of the Company of such Property Additions or to the Pledged Subsidiary Company of such Pledged Subsidiary Property Additions, as the case may be, and shall give a brief statement of the conditions governing such opinion and of the condition, serviceability and general location of such Property Additions or Pledged Subsidiary Property Additions; and if the then fair value as so determined by such engineer is less than the cost, or the then fair value (whichever is less) of such Property Additions or Pledged Subsidiary Property Additions as stated in the certificate furnished to the Trustee as provided in the said Sub-clause III, then the fair value so determined by such engineer shall be the value which shall be accepted by the Trustee for the purpose of determining the amount of Additional Bonds to the certification and delivery of which the Company shall be entitled upon the basis of such Property Additions or Pledged Subsidiary Property Additions.

The acceptance of any such certificates by the Trustee shall be sufficient evidence of its approval of such engineer.

- VI. In case any certificate furnished to the Trustee as provided in Sub-Clause III of this Clause 5.09 shows that any part of the cost to the Company of any Property Additions proposed to be made the basis of the certification and delivery of Additional Bonds consists of shares or securities issued or delivered in payment therefor, or for the acquisition thereof, a written appraisal of an appraiser or other competent person or firm, selected by the Directors and approved by the Trustee, stating the fair market value in cash or such shares or securities at the time of the issue or delivery thereof in payment for or for the acquisition of such Property Additions. The acceptance of any such appraisal by the Trustee shall be sufficient evidence of its approval of such appraiser, person or firm.

- VII. An Opinion of Counsel stating:

- a. That the Company has good title to the Property Additions made the basis of the application (and in determining the question of title, such counsel may disregard irregularities or deficiencies in the record evidence of title to real property of more than ten years' standing, which, in the opinion of such counsel, can be cured by proceedings within the power of the Company or which, in the opinion of such counsel, whether of more or less than ten years' standing, are not of a serious nature under the facts and circumstances of the case); and/or, if any of such Property Additions are of the nature referred to in the second paragraph of sub-clause (m) of Clause 1.01 hereof, that the applicable requirements of Clause 5.05 hereof have been met with respect thereto; and that such Property Additions (except as to paving, grading and other improvements to public highways or other public property) are effectually mortgaged, pledged and charged to the Trustee and subject to the lien of this Deed by way of a first fixed and specific mortgage and charge as part of the specifically mortgaged premises; **provided, that any right granted by the Company permitting a person to purchase or acquire any property or asset of the Company shall be a permitted encumbrance and may be disregarded by such counsel so long as such right was granted at the time that the Company acquired or constructed such property or asset and that the property or asset is used in connection with the generation or transmission of electricity.** [As amended by Clause 12(a) of the Eleventh Supplementary Deed of Trust and Mortgage, dated as of June 15, 1988.]
- b. That any Pledged Subsidiary Company, the Pledged Subsidiary Additions of which are made the basis of the application, is a Pledged Subsidiary Company as defined in Article I hereof, and (except with regard to such transmission lines and distribution, service and supply systems as qualify as Pledged Subsidiary Property Additions hereunder) has good title to such Pledged Subsidiary Property Additions (and in determining the question of title, such Counsel may disregard irregularities or deficiencies in the record evidence of title in manner similar to that prescribed in the preceding paragraph a.); and/or if any of such Pledged Subsidiary Property Additions are of the nature referred to in the second paragraph of sub-clause (m) of Clause 1.01 hereof, that the applicable requirements of Clause 5.05 hereof have been met with respect thereto; and that such Pledged Subsidiary Property Additions (except as to paving, grading and other improvements to public highways or other public property) are subject to the lien of a mortgage or deed of trust securing the first mortgage bonds of such Pledged Subsidiary Company to be delivered to the Trustee in connection with such application, conforming to the requirements of Clause 5.06 hereof, and constituting, except as aforementioned, a first fixed and specific mortgage, pledge and charge upon the said Pledged Subsidiary Property Additions; **provided that any right**

**granted by a Pledged Subsidiary Company permitting a person to purchase or acquire any property or asset of the Pledged Subsidiary Company shall be a permitted encumbrance and may be disregarded by such counsel so long as such right was granted at the time that the Pledged Subsidiary Company acquired or constructed such property or asset and that the property or asset is used in connection with the generation or transmission of electricity.** [As amended by Clause 12(b) of the Eleventh Supplementary Deed of Trust and Mortgage, dated as of June 15, 1988.]

- c. That the Company has corporate authority and all necessary franchises and permissions from governmental authorities to acquire, make and construct, and to operate the Property Additions made the basis of the application, and to subject the same to the lien of this Deed;
- d. That any Pledged Subsidiary Company, the Pledged Subsidiary Property Additions of which are made the basis of the application, has corporate authority and all necessary franchises and permission from governmental authorities to acquire, make and construct and to operate the said Pledged Subsidiary Property Additions, and to subject the same to the lien of the mortgage or deed of trust securing the first mortgage bonds of such Pledged Subsidiary Company;
- e. That any first mortgage bonds of the Pledged Subsidiary Company to be delivered to the Trustee in connection with the Pledged Subsidiary Property Additions made the basis of the application, conform to the requirements of Clause 5.06 hereof, and have been validly issued to the Company, are legally binding obligations of such Pledged Subsidiary Company, and are effectually mortgaged, pledged and charged to the Trustee, and are subjected to the lien of this Deed by way of a first, fixed and specific mortgage, pledge and charge as part of the specifically mortgaged premises, and that all laws and statutory requirements (if any) required to be observed in respect of the issue of such first mortgage bonds have been complied with;
- f. That all laws and statutory requirements (if any), required to be observed on the part of the Company in respect of the Additional Bonds, the certification and delivery of which is then applied for by the Company, has been complied with, and that the issue, certification and delivery of such Bonds have been in all respects duly authorized by the Company;
- g. In respect of any property specified in the certificate required to be furnished to the Trustee by Sub-clause III of this Clause 5.09, which is of the nature set forth in paragraph (f) of the said Sub-clause III, that any lease, easement, licence permit or statutory or other right

referred to in such certificate is valid and subsisting and conforms to the provisions of this Deed.

- VIII. The following instruments and evidences of transfer, duly registered whenever registration is required:
- a. A deed supplemental hereto, executing by duly authorized officers of the Company pursuant to a resolution of the Directors, and in form and execution satisfactory to the Trustee, and to counsel, specifying the Series, principal amount, date, maturity, interest rate, form and other particulars of the Additional Bonds, the certification and delivery of which is then requested (within the limitations prescribed by this Deed); provided, however, that such supplemental deed shall not be required unless the Additional Bonds, the certification and delivery of which is then requested, are to be of a new Series not theretofore created;
  - b. Such other deeds and instruments as may be necessary in the opinion of counsel to mortgage, pledge and charge to the Trustee, by way of a first fixed and specific mortgage or pledge and charge as part of the specifically mortgaged premises hereunder, all the right, title and interest of the Company in and to the Property Additions made the basis of the application, and in and to the first mortgage bonds of Pledged Subsidiary Companies to be delivered to the Trustee in connection with the application, or the opinion of counsel that no such instruments are necessary for such purposes.

#### **ARTICLE VI ISSUE OF BONDS UPON DEPOSIT OF CASH WITH TRUSTEE**

- 6.01 Whenever the Company shall desire to issue Additional Bonds issuable under the provisions of Article V hereof in anticipation of compliance with the requirements of said Article V, the Company may issue and the Trustee certify and deliver to or upon the written order of the Company any of such Additional Bonds upon deposit with the Trustee of:
- a. A sum of money equal to the principal amount of the Additional Bonds the issue of which is applied for;
  - b. A copy of the resolution or resolutions of the Directors of the Company in the form prescribed by Sub-clause I of Clause 5.09 hereof;
  - c. The Net Earnings Certificate prescribed by Sub-clause II of the said Clause 5.09 showing the amount of the Net Earnings of the Company to be sufficient to meet the requirements of Clause 5.07 hereof;
  - d. A certificate signed by the President or a Vice-President and by the Treasurer or Secretary of the Company, stating that the Company is not to the knowledge of the signers in default in the performance of any of the terms or covenants of this Deed;



- e. An Opinion of Counsel as to the matters set forth in paragraph (f) of Sub-clause VII of Clause 5.09, and
- f. Such deed or deeds supplemental hereto as may, in the opinion of counsel, be necessary or advisable in the premises, or the opinion of counsel that such deed is unnecessary.

Such cash so deposited shall be held by the Trustee as part of the specifically mortgaged premises, and whenever the Company, by compliance with the requirements to that end contained in Clause 5.09 hereof (except the requirement as to a Net Earnings Certificate), would become entitled to the certification and delivery of any Additional Bonds under the said Clause 5.09, the Trustee shall pay over to or upon the written order of the Secretary or an Assistant Secretary of the Company, in lieu of such Additional Bonds to the certification and delivery of which the Company would then be entitled, an amount of said cash equal to the principal amount of such Additional Bonds: provided that in such event the resolutions, certificates, opinions and other instruments required to be furnished to the Trustee under the said Clause 5.09, instead of referring to the certification and delivery of Additional Bonds, shall refer to the payment of deposited cash; and further provided that the Opinion of Counsel required by Sub-clause VII of the said Clause 5.09 need not refer to the matters required to be set forth by paragraph (f) of the said Sub-clause VII, and further provided, that if such payment of deposited cash is based upon Pledged Subsidiary Property Additions, the first mortgage bonds of the Pledged Subsidiary Company required to be delivered to the Trustee in connection therewith shall mature not later than the Additional Bonds certified and delivered on the basis of such cash.

Provided, however, that where Property Additions (which expression shall in this Proviso include Pledged Subsidiary Property Additions, unless the context otherwise requires) are under construction, moneys so deposited with the Trustee may be repaid to the Company by the Trustee upon the application of the Company from time to time to the extent of sixty-six and two-thirds per centum (66 $\frac{2}{3}$ %) of the amount expended from time to time on Property Additions which are under construction as shown by the Progress Certificates hereinafter mentioned, provided that the Company, shall have duly furnished the Trustee with;

- A. A certificate signed and verified by affidavit or statutory declaration of the President or a Vice-President and the Secretary or an Assistant Secretary of the Company describing briefly the Property Additions under construction or contracted to be constructed and describing the contracts, if any, entered into for the entire construction of such Property Additions and stating that the cost of construction thereof under such contracts does not exceed the estimated cost of construction (certified copies of such contracts to be filed with the Trustee with this certificate), and that such Property Additions will, in the opinion of such officers, when constructed, be useful in, adapted to, or available for or in connection with the

profitable and proper conduct of the business of the Company or of the Pledged Subsidiary Company as the case may be;

- B. Plans and specifications of the Property Additions so to be constructed or under construction if construction thereof be commenced before application is made to the Trustee hereunder;
- C. A certificate of an Engineer or other competent person approved by the Trustee (who may be an engineer regularly employed by the Company) approving the plans and specifications mentioned in the preceding paragraph (B) and verifying the Certificate of the Officers of the Company mentioned in the preceding paragraph (A) as to the estimated cost and other statements therein contained;
- D. Evidence satisfactory to the Trustee that the Company or the Pledged Subsidiary Company as the case may be has or will at due date have money available to pay the remaining thirty-three and one-third per centum (33 $\frac{1}{3}$ %) of the estimated cost of the construction of such Property Additions, and in the event of such estimated cost being exceeded by reason of extras or otherwise, that the Company or the Pledged Subsidiary Company as the case may be, has or will at due date have money available to pay such additional cost;
- E. A certified copy of a resolution duly adopted by the Board of Directors of the Company requesting the Trustee to payout the money so deposited with the Trustee as progress is made upon the construction of such Property Additions;
- F. Progress Certificates certified by an Engineer approved by the Trustee (who may be the Engineer in charge of construction or other engineer employed by the Company) showing the amount of work done and materials fabricated or supplied from time to time and the amount properly payable in respect thereof by the Company or the Pledged Subsidiary Company, as the case may be, and also stating whether the same includes any extras not covered in the original contract and in any such case the cost of such extras and stating the amount required to complete the work covered by such contract;
- G. Documentary evidence satisfactory to the Trustee showing payments made by the Company or the Pledged Subsidiary Company as the case may be to contractors, engineers, workmen, suppliers of materials, machinery and equipment or others to the amount shown to be properly payable by the Company or the Pledged Subsidiary Company, as the case may be, by said Progress Certificates or reports;
- H. An opinion or opinions of Counsel showing that title to all such materials supplied or fabricated and machinery or equipment purchased has been vested in the Company subject to the security

hereby constituted free from any liens or claims ranking equal or superior thereto; or in a Pledged Subsidiary Company subject to the deed of trust and mortgage securing first mortgage bonds issued by such Pledged Subsidiary Company and pledged hereunder free from any liens or claims ranking equal or superior to such last mentioned deed of trust and mortgage, and, in either case, if applicable, showing compliance with Clause 5.05 hereof and covering the matters referred to in paragraph (g) of Sub-clause VII of Clause 5.09 hereof;

- I. If the Property Additions under construction shall be Pledged Subsidiary Property Additions, first mortgage bonds issued by the Pledged Subsidiary Company whose Pledged Subsidiary Property Additions are under construction, such Bonds to be of the nature required to be deposited with the Trustee pursuant to the provisions of Clause 5.06 of Article V of this Deed, and to be of principal amount not less than the principal amount of the Additional Bonds issued in anticipation of the construction of the Property Additions in question, or at the opinion of the Company of such principal amount from time to time as shall be not less respectively than the amounts of money from time to time paid out upon Progress Certificates as herein provided.

Upon deposit of the foregoing with the Trustee, the Trustee may pay to the Company or order out of the moneys so deposited with the Trustee amounts from time to time up to but not exceeding sixty-six and two-thirds per centum ( $66\frac{2}{3}\%$ ) of the amounts paid by the Company in respect of the construction of such Property Additions as evidenced in accordance with the provisions of paragraph (G) above, but the Trustee shall be entitled to retain twenty per centum (20%) of the total amount so deposited with it and shall not pay over to the Company the amount so retained until it has been furnished with a certificate of the Engineer in charge of the construction or installation (such certificate to be verified by an engineer approved by the Trustee, who may be an engineer regularly employed by the Company) that the construction or installation of such Property Additions has been completed and evidence satisfactory to the Trustee that such Property Additions form part of the specifically mortgaged premises or of the undertaking of a Pledged Subsidiary Company, Bonds of which secured thereon are deposited hereunder, and that all materials and supplies and work done in connection therewith have been fully paid for and are completely owned by the Company or a Pledged Subsidiary Company, and that no privileges or liens subsist thereon in favour of workmen, builders, architects or suppliers of material or any person other than the Trustee hereunder or the trustee under a trust deed securing Bonds issued by a Pledged Subsidiary Company and deposited hereunder, and that the total amount of the expenditures thereon is not less than one hundred and fifty per centum (150%) of the portion of such total expenditures which was paid by the Trustee out of the

deposited money in respect of engineers' certificates in accordance with the foregoing.

- 6.02 All cash deposited with the Trustee under the provisions of Clause 6.01 hereof may, pending application thereof as provided in said Clause 6.01 be invested as provided in Clause 17.01 hereof.

**ARTICLE VII**  
**ISSUE OF BONDS UPON RETIREMENT OF BONDS PREVIOUSLY OUTSTANDING**

- 7.01 Additional Bonds in one or more series may be issued from time to time by the Company to an aggregate principal amount not exceeding the principal amount of bonds previously issued hereunder, which have been retired, provided:
- a. No bonds shall be issued in respect of any such retired bond which shall have been retired out of insurance moneys or the proceeds of released property or of Pledged Securities or out of any sinking fund; and
  - b. The Trustee shall have received:
    - i. A copy of a resolution or resolutions of the Directors of the Company certified by its Secretary or Assistant Secretary under its corporate seal, authorizing the issue and calling for the certification and delivery of a specified amount of Additional Bonds; and, if such bonds are to be of a series not theretofore created, authorizing and describing the new series then to be created, and consistently with the provisions of this Deed, specifying the particulars of said series and the provisions of the bonds of such series, and stating what amounts, if any, are to be issued as coupon bonds, fully registered bonds without coupons, and/or registered debenture stock and specifying the period for which net earnings are to be taken for the purpose of the earnings restriction applicable to the issue of the Additional Bonds specified in such resolution; bonds so certified and delivered shall conform to such specifications;
    - ii. A certificate signed by the President or a Vice-President or a Director and the Treasurer or an Assistant Treasurer stating that none of the bonds which have been cancelled, redeemed or retired and in replacement of which the Trustee is requested to certify and deliver Additional Bonds, were (i) retired out of insurance moneys, (ii) retired out of the proceeds of released property, (iii) retired out of the proceeds of the release of Pledged Securities; (iv) cancelled by reason of having been redeemed or purchased or retired through any sinking fund, or have been delivered to the Trustee in lieu of sinking fund moneys, and that to the knowledge of the signers the Company is not in default hereunder;
    - iii. A Net Earnings Certificate stating the Net Earnings of the Company for the period specified in the said resolution of Directors and

showing the amount of such Net Earnings to be sufficient to meet the requirements of Clause 5.07 hereof; and

- iv. An opinion of counsel stating that all legal requirements in connection with the proposed issue of Additional Bonds have been made and that all deed supplemental hereto (if any such deeds are necessary in the opinion of such counsel) have been duly executed by the Company.
- c. So long as any of the bonds of the 4% Series due 1975 remain outstanding no bonds shall be issued under this Article 7.01 which shall have a maturity prior to the regular maturity of the Bonds of that Series unless all the Bonds of that Series shall have been retired.

For the purpose of this Clause 7.01 Bonds which have been called for redemption and payment therefor duly provided for to the satisfaction of the Trustee shall be deemed to have been retired.

- 7.02 The Trustee, prior to the certification and delivery of any Bonds or the payment of any money under the provisions of Articles V, VI and VII hereof shall not be bound to make any inquiry or investigation as to the correctness of the facts or opinions set forth in any resolution, certificate, report or opinion required hereunder, and shall be entitled to accept and act upon the same, but shall be at liberty to call for production of any other or further evidence the Trustee may think desirable.
- 7.03 The matters required to be dealt with in any resolution, certificate, report or opinion required under Articles V, VI and VII hereof may be covered in any or more such resolutions, certificates, reports or opinions, and the same officer or officers, engineer, counsel or other person, as the case may be, need not certify to all the matters required to be dealt with by an such certificate, report or opinion.

## **ARTICLE VIII MORTGAGE CLAUSE**

- 8.01 In consideration of the premises and of one dollar (\$1.00) to it in hand paid by the Trustee (the receipt whereof is hereby acknowledged) and to secure the due payment of the principal, premium, if any, and interest of the Bonds from time to time issued and certified hereunder according to their tenor and effect and the performance of the obligations of the Company herein contained, and in pursuance of the power and authority hereinbefore recited and of every other power and authority it thereto enabling, the Company doth hereby grant, bargain, sell, alien, enfeoff, release, remise, confirm, convey, assign, demise, transfer, set over, mortgage, pledge and charge as and by way of a first fixed and specific mortgage, pledge and charge to and in favour of Montreal Trust Company, Party hereto of the Second Part, and its successors in the trust, as Trustee, for the equal benefit and security of the holders of the Bonds issued and to be issued hereunder, for and with the payment of the principal amount of the Bonds issued and certified under any provision hereof at any time outstanding according to their tenor and interest thereon, and the premiums thereon (if any) and for and with the payment

of all other sums from time to time and hereunder to the bondholders or the Trustee, its successors or assigns.

ALL AND SINGULAR its real and immovable properties and rights, freehold lands, tenements and hereditaments, leasehold lands (excluding, however, the last day of the term of any lease thereof as hereinafter provided), now owned or held by the Company or which may hereafter be specifically made the basis of the certification and delivery of Additional Bonds hereunder or of the withdrawal of cash held by the Trustee hereunder or of the release of property from the lien hereof, including its lands, rights in lands, water powers, dams, canals, flumes, pipe lines, power houses, buildings, plants, poles, transmission lines, substations, distribution, service and supply systems, water works, easements, flowage rights, licenses, rights, privileges, franchises, powers, immunities and exemptions, and machinery of whatsoever kind and description and wheresoever situate including but without in any way limiting the generality of the foregoing description the lands, leases, easements and other property described in the Second Schedule hereof and any and all easements, riparian and other rights connected therewith or appertaining thereto and all fixed and loose machinery, equipment, tools, implements, engines and other appliances and fixtures of every kind used in connection therewith.

And for the same consideration and for the same purposes and pursuant to the same powers, the Company hereby mortgages, pledges and charges (subject to the exceptions hereinafter contained) as and by way of a first floating charge to and in favour of the Trustee and its successors in the Trust for and with the payment of the principal amount of the Bonds issued and certified under any provision hereof at any time outstanding according to their tenor and interest thereon and the premium thereon (if any), and for and with the payment of all other sums from time to time due hereunder to the Bondholders or to the Trustee, its successors or assigns, and of all other moneys for the time being and from time to time owing on the security hereof and of the Bonds, all and singular, its property and assets for the time being, both present and future, of whatsoever kind and wheresoever situated (other than the specifically mortgaged premises), including but without in any way limiting the generality of the foregoing, its undertaking, goodwill, powers, privileges, franchises, contracts, agreements, trade marks, inventions, processes, patents and patent rights, materials, supplies, furniture, rents, revenues, incomes, moneys, credits, demands, open accounts, bank accounts and cash on hand, and all its present and future real and immovable properties and rights not forming or required to form part of the specifically mortgaged premises and the shares, stock, bonds, debentures and other securities (other than Pledged Securities) now owned or hereafter acquired by the Company and the mortgage pledge and charge created by this paragraph shall (except as regards the specifically mortgaged premises) be a floating charge and shall accordingly in no way hinder or prevent the Company, until the security hereby constituted shall have become enforceable and the Trustee shall have determined or become bound to enforce the same, from paying dividends out of profits or otherwise disposing of or dealing with its property and assets (other than the specifically mortgaged premises) in the ordinary course of its business and for the purpose of carrying on the same, and without limiting the generality of the foregoing provision it shall in no way hinder or prevent the Company from borrowing from bankers or others upon the security of the Company's accounts or

bills receivable, book debts, contracts or other agreements, or on any other property not included in the specifically mortgaged premises, such sums of money as the Company may from time to time deem necessary in the ordinary course of business and for the purpose of carrying on the same, or from issuing its obligations, negotiable or otherwise, for the sums so borrowed; and provided further that nothing herein contained shall hinder or prevent the Company, until the security hereby constituted shall have become enforceable and the Trustee shall have determined or become bound to enforce the same, from hypothecating, mortgaging, pledging, charging, ceding or transferring at any time and from time to time, and during such periods and in such manner and subject to such terms and conditions as it may deem advisable, all or any part of the shares, stock, bonds, debentures or other securities of other companies now or hereafter owned by the Company and not forming or required to form part of the specifically mortgaged premises hereunder, in favour of a trustee or otherwise for the purpose of securing any one or more issues of bonds, notes, debentures or other securities which may be hereafter issued by the Company.

Provided, that save as aforesaid, the Company shall not create any lien or charge upon the mortgaged premises or any part thereof superior or equal to the lien or charge of these presents.

It is hereby declared that the last day of any term of years reserved by any lease, verbal or written, or any agreement therefor now held or hereafter acquired by the Company, and whether falling within a general or particular description of the property hereunder, is hereby excepted out of the mortgage and charge hereby created and does not and shall not form any part of the mortgaged premises but the Company shall stand possessed of the reversion remaining in the Company of any leasehold premises for the time being demised as aforesaid, and of any renewal of any such term upon trust for the Trustee, for the purposes of these presents, and to assign and dispose thereof as the Trustee shall for such purposes direct, and upon any sale or sales of the leasehold premises or any part thereof, the Trustee shall for the purpose of vesting the aforesaid residue of any such term or any renewal thereof in any purchaser or purchasers thereof, be entitled by deed or writing to appoint such purchaser or purchasers or any other person or persons a new trustee or trustees of the aforesaid residue or any renewal thereof, in the place of the Company, and to vest the same accordingly in the new trustee or trustees so appointed freed and discharged from any obligation hereunder respecting the same, and the Company hereby assigns to the Trustee, its successors and assigns, the full benefit of all covenants, powers, provisoes and conditions contained in any lease, verbal or written, or any agreement therefor now existing or hereafter to be acquired by the Company, and any renewal or renewals thereof.

TO HAVE AND TO HOLD the mortgaged premises and the grant, sale, conveyance, assignment, transfer, mortgage, pledge and charge thereof hereunder, and all rights hereby conferred unto the said Trustee, its successors and assigns forever, but in trust nevertheless for the equal and ratable benefit and security of the holders of the Bonds and (subject, however, to the provisions of sub-clause (d) of Clause 10.01 hereof as to any interest or coupon the time of payment of which has been extended by funding, purchasing, or otherwise) interest coupons, issued and to be issued hereunder without discrimination or

preference and as security for the payment of the principal and premium, if any, and interest of the Bonds in the manner herein and therein provided, and of all other sums from time to time due hereunder to the bondholders or to the Trustee and for the purposes and subject to the conditions, provisions, covenants and stipulations herein contained, and whether or not the moneys hereby secured or any part thereof shall be advanced before or after or at the same time as the issue of any of the Bonds intended to be hereby secured or before or after or upon the date of the execution of these presents.

PROVIDED ALWAYS that until the security hereby created shall have become enforceable and the Trustee shall be determined or become bound to enforce the same, the Company shall be suffered and permitted in the same manner and to the same extent as if these presents had not been executed, but subject to the express terms hereof, to possess, operate, manage, use and enjoy the mortgaged premises, freely to control the conduct of its business, and if necessary, or if deemed expedient, to close and suspend temporarily the operation of any of the properties hereby mortgaged, pledged and charged or intended so to be, provided the same are at all times kept and maintained in first class operating order and condition, and to take and use the rents, incomes, dividends, profits and issues thereof, claims and demands in the judgment or otherwise, forming part of the mortgaged premises.

#### **ARTICLE IX CONCERNING PLEDGED SECURITIES**

- 9.01 All shares, stocks, bonds, debentures and other securities which, according to the provisions of this Deed, at any time form part of the Pledged Securities, or the certificates or other documents representing the same, shall forthwith (or immediately upon the occurrence of the future event upon which, by the terms hereof, they are to become a part of the Pledged Securities) be deposited with the Trustee, accompanied by all proper instruments of transfer or assignment thereof in blank.

The Trustee is authorized in its discretion to cause to be registered in its name, as Trustee hereunder, any and all coupon bonds forming part of the Pledged Securities, or it may cause the same to be exchanged for registered bonds without coupons of any denomination. The Trustee may cause to be transferred into its name, as Trustee hereunder, all registered bonds forming part of the Pledged Securities, or may cause such registered bonds to be exchanged for coupon bonds. At any time the Trustee may, but shall not be obliged to, transfer into its name, as Trustee hereunder, all or any shares of stock, the certificates of which shall have been delivered to the Trustee; or in the discretion of the Trustee it may hold such certificates in the name of the registered holder thereof, or in the name of any nominee of the Trustee, provided that they be endorsed in blank for transfer, or be accompanied by proper instruments of assignment in blank, duly executed by the registered holder thereof.

- 9.02 The Trustee may do whatever may be necessary for the purpose of maintaining, preserving, renewing or extending the corporate existence of any company, all or substantially all the shares of which form part of the Pledged Securities, and, for



any such purposes, from time to time, may sell, assign, transfer and deliver so many shares of such stock as may be necessary to qualify persons to act as directors of, or in any other official relation to, such company and for the purpose of enabling the Company to be represented on any board of directors thereof or at stockholders' meetings. Whenever the Company (provided the security hereby constituted shall not have become enforceable) shall in writing so request by an instrument signed by its President or a Vice-President and Secretary or Assistant Secretary under its corporate seal, the Trustee, at the cost and expense of the Company, shall assign and transfer to persons designated by the Company a sufficient number of such shares to qualify such persons to act as directors of such company or at stockholders' meetings; provided that the Trustee shall make such arrangements as it shall deem expedient for the protection of the trusts hereunder in respect of the shares so assigned and transferred.

9.03 Unless and until the security hereby constituted shall become enforceable:

- a. the Company shall be entitled to receive all interest paid in respect of any bonds, debentures or other securities forming part of the Pledged Securities; and the Company shall also be entitled to receive dividends (except stock dividends) out of net earnings or accumulated profits paid on all shares of stock, which shall form part of the Pledged Securities, although the same may have been transferred into the name of the Trustee or of its nominee;
- b. from time to time upon written request of the Company the Trustee shall deliver to the Company any coupons for such interest then in its possession, in order that the Company may receive payment thereof or may cause the same to be cancelled; and on like request the Trustee shall deliver to the Company suitable orders in favour of the Company, or its nominee, for the payment of such interest and of such dividends, and the Company may collect such coupons, interest and dividends, and the Trustee shall upon demand pay over to the Company any such interest and dividends which may be collected or be received by the Trustee;
- c. the Company shall be entitled to demand, receive and collect for its own use and may release and discharge any bonds, debentures or other securities of a Pledged Subsidiary Company forming part of the Pledged Securities (other than first mortgage bonds of a Pledged Subsidiary Company which have been made the basis of the issue of Additional Bonds under this Deed) and upon request of the Company the Trustee shall execute any reassignment or releases that may be required for that purpose.

Provided, however, and it is hereby declared and agreed, that except as in this Deed otherwise expressly provided:

1. the Company shall not be entitled to collect any stock dividends that may be declared on any shares of stock forming part of the Pledged Securities, and in case stock dividends are so declared the shares representing such stock dividends shall forthwith become a part of the specifically mortgaged premises, and the certificates therefor

shall be deposited with the Trustee, accompanied by all proper instruments of transfer or assignment thereof in blank; and

2. the Company shall not be entitled to collect any dividends on any shares of stock at any time forming part of the Pledged Securities which shall in any way be payable otherwise than out of net earnings or accumulated profits of the company issuing the same. The Trustee shall be entitled to assume that any interest or dividend (other than a stock dividend), payable on any of the Pledged Securities, may properly be paid to the Company until the Trustee shall be notified in writing to the contrary; and, in the absence of such written notification, it shall be presumed, as between the Trustee and the bondholders, that the Trustee in making any payment thereof to the Company acted in good faith. If any coupons or interest obligations, or if any bonds, debentures or other obligations of a Pledged Subsidiary Company, which shall have been delivered to the Company as in this Clause 9.03 provided, shall not forthwith be paid or cancelled, the Company shall return the same to the Trustee, which shall continue to hold them as part of the Pledged Securities.

In case any payments shall be received by the Trustee on account of the principal or interest of any bonds, debentures or other securities forming part of the Pledged Securities, or on account of shares of stock forming part of the Pledged Securities which the Company is not entitled to receive under the terms of this Deed, then in any such case, any sum shall be held by the Trustee as part of the specifically mortgaged premises, and shall be disposed of as provided in Clause 14.01 hereof.

- 9.04 Subject to the provisions of Clause 9.08 hereof, in the event of the non-payment at maturity of the principal of any bonds, debentures or other securities forming part of the Pledged Securities or in the event of the bankruptcy or insolvency of the company by which any of the Pledged Securities were issued, the Trustee may, in its discretion, and shall, if so requested in writing by the Company, or by the holders of at least ten per cent (10%) of the total principal amount of the Bonds then outstanding, and upon being furnished by the Company or by such bondholders with such funds as it may consider necessary for the purpose, enforce the collection of such principal or may enforce any provisions of the mortgage or deed of trust under which any of such Pledged Securities were issued or by which the same are secured, and may take all such proceedings and do all such acts and things, either alone or in conjunction with the Company, as it may consider to be necessary or advisable in the premises, the whole in the same manner and to the same extent as if it were itself the owner of such Pledged Securities.
- 9.05 Unless and until the security hereby constituted shall become enforceable, the Company shall have the right to vote or give consent for all purposes not contrary to its covenants herein contained or otherwise inconsistent with the provisions of this Deed, upon and in respect of all shares of stock forming part of the Pledged

Securities and from time to time upon demand of the Company, the Trustee shall make and deliver, or shall cause to be made and delivered to the Company or to its nominees, suitable powers of attorney or proxies to vote on any shares of stock which have been transferred into the name of the Trustee or its nominee, or to give consent in respect thereof.

The Company covenants that it will not vote the said shares of stock or any of them under any power of attorney or proxy executed and delivered to it under the provisions of this Clause 9.05, for any purposes contrary to or inconsistent with the provisions of this Deed. The Trustee may conclusively assume, irrespective of the purpose for which any meeting is called, that any proxy given by it will not be used by the Company in any way inconsistent with the provisions of this Deed.

- 9.06 In case at any time all or any part of the property of any company any of the shares, stocks, bonds, debentures or other securities of which form part of the Pledged Securities, shall be sold at any judicial or other involuntary sale, then, in any such event, if the property so sold can be acquired by crediting on such Pledged Securities any sum accruing or to be received thereon out of the proceeds of such property, and by paying not more than fifteen per cent (15%) of the price of such property in cash (or more than fifteen per cent (15%), if the Company or the holders of at least ten per cent (10%) of the total principal amount of the Bonds then outstanding shall so request), the Trustee may, in its discretion and, if requested in writing by the Company, or by the holders of at least ten per cent (10%) of the total principal amount of the Bonds then outstanding, and provided with the amount of cash necessary therefor (whether such amount be more or less than fifteen per cent (15%) of the price of such property) in every case shall purchase or cause to be purchased such property on behalf of the Trustee, either in the name of the Trustee, or of purchasing trustees, as the Trustee may determine, and shall use such Pledge Securities as far as may be, to make payment for such property; and in case of any such purchase, the Trustee shall take such steps as it may deem proper to cause such property either to be vested in the Company and to become part of the specifically mortgaged premises, or to be vested in a Pledged Subsidiary Company, or to be vested in a company organized or to be organized with power to acquire and manage such property, provided in that event that all the issued shares of stock (except Directors' qualifying shares), and all the bonds, debentures and other securities of such company shall be received by the Trustee and shall be held as part of the Pledged Securities.

The Trustee, with the consent of the Company, may at any time vote upon any shares of stock forming part of the Pledged Securities, and make take such other action as the Trustee in its discretion shall deem advisable to protect the interests of the Trustee and the interests of the bondholders in respect of any of the Pledged Securities; and, with such consent of the Company, the Trustee may join in any plan or reorganization in respect of any such Pledged Securities and may accept new securities, including in that term stocks issued in exchange therefor under such plan. In case the security hereunder shall have become enforceable the Trustee shall be entitled to take such steps without the consent of the Company.

The Company covenants that, on demand of the Trustee, it will forthwith pay, or will satisfactorily provide for, all expenditures incurred by the Trustee or the Company under any of the provisions of this Clause 9.06, including all sums

required to obtain and perfect the ownership of and title to any property which the Trustee shall purchase or shall cause or authorize to be purchased; and without impairment of, or prejudice to, any of its rights hereunder by reason of any default of the Company, the Trustee, in its discretion, may advance all such expenses and other moneys required, or may procure such advances to be made by others, and for such advances made by the Trustee, or by others at its request, with interest thereon at the rate of six per cent (6%) per annum, the Trustee shall have a first lien under this Deed in priority to the Bonds upon all the Pledged Securities in respect of which such advances shall have been made, and upon the proceeds thereof, and upon any property acquired by means thereof.

In case neither the Trustee nor the Company shall purchase or cause to be purchased the property sold at any such sale, and in case neither of them shall join in the plan of reorganization as aforesaid, in respect of such Pledged Securities, then the Trustee shall receive any portion of the proceeds of the sale accruing on such Pledged Securities, and such proceeds shall be held by it as part of the specifically mortgaged premises and shall be disposed of as provided in Clause 14.01 hereof.

9.07 Subject only to the actual exercise by the Company of rights in respect thereof conferred by this Deed, the Trustee shall have and may exercise all the rights of owner in respect of any of the Pledged Securities.

9.08 Unless and until the securities hereby constituted shall have become enforceable, the Company may at any time renew or extend any bonds, debentures or other securities of any Pledged Subsidiary Company at any rate of interest, or may accept in place of and in substitution therefor, other bonds, debentures or securities of such Pledged Subsidiary Company for at least the same principal amounts and at any rate of interest, and having substantially the same value, and, in case of bonds, debentures or securities secured by a mortgage or other lien, having substantially the same security; provided, however, that, in case of any substitution, bonds, debentures or securities, substituted as aforesaid shall forthwith be pledged under this Deed as part of the Pledged Securities and shall be held in the same manner as those for which they shall be substituted; and provided, further, that, in the case of any first mortgage bonds of a Pledged Subsidiary Company, which shall have been made the basis of the issue of Additional Bonds under this Deed, such first mortgage bonds shall not be extended beyond the due date of the Additional Bonds so issued hereunder.

At any time the Trustee may, in its discretion, and, if the security hereby constituted shall not have become enforceable, and if requested in writing by the Company, shall consent to any such renewal, extension or substitution. The Trustee may receive an opinion of counsel as conclusive evidence that any such renewal, extension or substitution is in compliance with this Clause 9.08

9.09 Unless and until the security hereby constituted shall have become enforceable, the Company shall have the right to vote or give consent, in respect to all or any part of the shares of stock of a Pledged Subsidiary Company having a par value, to the change thereof into shares having a higher or lower par value per share, or into shares having no par value, or to the change of shares having no par value into shares having a par value, and may consent at any time that the shares of

stock of any Pledged Subsidiary Company may be classified or reclassified in any manner permitted by law, provided that all of such shares specifically pledged hereunder shall be fully paid.

Unless and until the security hereby constituted shall become enforceable, the Company shall have the right to vote and give consent in respect of the reduction of the capital stock or the dissolution of any Pledged Subsidiary Company, if the Directors consider such reduction or dissolution desirable, subject to the provisions of Clause 9.03 hereof with respect to the payment in such cases to be made to the Trustee.

- 9.10 Anything in this Deed to the contrary notwithstanding, any Pledged Subsidiary Company may be consolidated with or merged into, or all of its property may be conveyed as an entirety or substantially as an entirety to any other company, including any other Pledged Subsidiary Company; provided, however, that any company formed by consolidation with any Pledged Subsidiary Company, or into which any Pledged Subsidiary Company shall be merged, shall continue to be or shall become a Pledged Subsidiary Company hereunder, and that all shares thereof specifically pledged hereunder shall be fully paid; and provided, further, that in case of any such sale by any Pledged Subsidiary Company, of all its property as an entirety or substantially as an entirety, the purchasing company shall continue to be or shall become a Pledged Subsidiary Company hereunder, and that all shares thereof specifically pledged hereunder shall be fully paid.
- 9.11 Any Pledged Subsidiary Company may be consolidated with or merged into the Company, or may sell to the Company its property as an entirety, or substantially as an entirety; provided however, that in the event of any such consolidation, merger or sale, all the properties and rights of the nature referred to in the second paragraph of Clause 8.01 hereof of such Pledged Subsidiary Company shall immediately upon such consolidation, merger, or sale become and be subject to the lien and operation of this Deed as part of the specifically mortgaged premises. The Company shall promptly register this Deed as a first fixed and specific mortgage, pledge and charge on any such property so becoming subject to the lien of this Deed, and shall execute, deliver and register all such other and further instruments of assignment, transfer, conveyance or mortgage as shall be necessary, or as the Trustee may reasonably require for that purpose. **Upon the amalgamation of the Company with Maritime Electric (P.E.I.) Limited, the Company shall promptly register this Deed as a first fixed and specific mortgage, pledge and charge on all the properties and rights of Maritime Electric (P.E.I.) Limited of the nature referred to in the second paragraph of Clause 8.01 hereof provided, however, that any rights of The New Brunswick Electric Power Commission respecting the purchase or acquisition by it of the interest of the Company in the Dalhousie Number 2 Thermal Generating Unit are hereby expressly permitted.** [As amended by Clause 12(c) of the Eleventh Supplementary Deed of Trust and Mortgage, dated as of June 15, 1988.]
- 9.12 The Trustee may vote or permit to be voted any of the shares forming part of the Pledged Securities, and may do any and all things proper to carry into effect the purposes of Clauses 9.09, 9.10 and 9.11 hereof; and, in connection with any consolidation, merger or sale, the Trustee may make or permit any necessary exchange, cancellation, substitution or surrender of bonds, debentures, securities

or shares, or may transfer, in whole in part, into the name of the Company or of the nominee of the Company, under such restrictions as the Trustee may deem sufficient for the protection of the bondholders, the shares of any company about to be merged or consolidated which then stand in the name of the Trustee or its nominee. Anything in this Deed to the contrary notwithstanding, in any case of the conveyance and transfer to the Company of all the property of any Pledged Subsidiary Company in accordance with the provisions of this Article IX, the lien of this Deed upon the shares of such Pledged Subsidiary Company shall terminate upon such conveyance or transfer becoming effective, without any further act or payment by the Company to the Trustee, and the certificates representing such shares shall be delivered to the Company.

- 9.13 The Company shall furnish to the Trustee a certificate signed by its President or a Vice-President, and by its Secretary or Assistant Secretary, as to any matters pertinent to any action taken or contemplated to be taken pursuant to Clauses 9.09, 9.10 or 9.11 hereof and also an opinion of counsel as to the legality and validity of any such action, and such certificate and such opinion may be accepted by the Trustee as conclusive evidence of the statements therein contained, and shall be full protection to the Trustee for any act done or suffered by it upon the faith thereof.
- 9.14 Every Pledged Subsidiary Company may with regard to any of its property take any action not requiring by law the authorization or consent of its stockholders and not in contravention of the express provisions of this Deed. So far as any desired action of a Pledged Subsidiary Company in regard to the sale or other disposition of its property may by the laws in that behalf at the time in force and governing such action require the authorization or consent of its stockholders, the Company may, in respect of the stock of such Pledged Subsidiary Company forming part of the Pledged Securities, until the security hereby constituted becomes enforceable, permit, authorize and consent to any dealing by such Pledged Subsidiary Company with its property in any manner not in contravention of the express provisions of this Deed. The Trustee shall at the written request of the Company execute all necessary proxies for the purpose.
- 9.15 Whenever in this Article IX it is provided that any right in respect of any of the Pledged Securities may be exercised by the Company only until the security hereby constituted becomes enforceable, such right, nevertheless, may be exercised by the Company in case the security hereby constituted is enforceable if the Trustee shall consent to such exercise. The Trustee shall not give such consent unless so requested in writing by the holders of all the Bonds then outstanding, or unless authorized by an Extraordinary Resolution of Bondholders passed in the manner provided by Article XXIII hereof, and in any case need not do so unless in its absolute discretion it shall have determined that such event will not adversely affect the interests of the Bondholders.

## **ARTICLE X CERTAIN COVENANTS OF THE COMPANY**

- 10.01 The Company hereby covenants and agrees:

- a. That the Company lawfully owns and is lawfully possessed of the lands, leases, easements and other property described in the Second Schedule hereof, and has good right and lawful authority to mortgage, pledge and charge the same as provided in this Deed and the Company will warrant and forever defend the title thereof against the lawful claims and demands of all persons whomsoever; and that the leases respectively creating the terms or estates for which the leasehold land subject hereto are held are good, valid and effectual leases thereof, and are in full force unforfeited and unsurrendered, and in no wise have become void or voidable, and that all the rents reserved by and all the covenants, conditions and agreements contained in such leases and on the part of the lessees and persons deriving title under them to be paid, observed and performed, have been paid, observed and performed up to the time of the execution hereof.
- b. That it will carry on and conduct or will cause to be carried on and conducted its business and the business of the Pledged Subsidiary Companies, respectively, in a proper and efficient manner so as to preserve and protect the mortgaged premises and the earnings, incomes, rents, issues and profits thereof. The books of account of the Company and of the Pledged Subsidiary Companies shall at all reasonable times be open for inspection by the Trustee or such agent or attorney as the Trustee shall from time to time by instrument in writing for that purpose appoint.
- c. That it will well, duly and punctually pay or cause to be paid to every holder of any Bond issued and secured hereunder, the principal and interest accrued thereon, and premium, if any, at the dates and places in the moneys and in the manner mentioned herein and in such Bonds and in the coupons thereto belonging.
- d. That, in order to prevent any accumulation after maturity of coupons, it will not directly or indirectly extend or assent to the extension of time for payment of any coupons or interest upon any Bond secured hereby, and that it will not directly or indirectly be a party to or approve of any such arrangement by purchasing or funding any of the coupons or interest or in any other manner. All interest coupons shall, when paid, be forthwith cancelled and handed to the Trustee as evidence of such payment and cancellation.
- e. That the Company will pay or cause to be paid all taxes, rates, levies or assessments, ordinary or extraordinary, Government fees or dues, levied, assessed or imposed upon it or upon the mortgaged premises, or any part thereof, or upon the Pledged Subsidiary Companies or upon the property of the Pledged Subsidiary Companies or any part thereof, as and when the same become due and payable save and except when and so long as the validity of any such taxes, rates, levies, assessments, fees or dues is in good faith contested by the Company or by the Pledged Subsidiary Company concerned, and then only if the Company shall, if required by the Trustee, give security to the satisfaction of the Trustee for the due payment of the amount claimed in respect thereof if held valid, or alternatively shall satisfy the Trustee that such contestation will involve no part of the specifically mortgaged premises; and will exhibit to the Trustee, when

required, the receipts and vouchers establishing such payment; the Company and the Pledged Subsidiary Companies will duly observe and conform to all valid requirements of any governmental authority relative to any of the mortgaged premises or to the properties of the Pledged Subsidiary Companies and all covenants, terms and conditions upon or under which any of the mortgaged premises or of such properties are held.

- f. That, if and whenever from time to time so long as any of the Bonds shall be outstanding and unpaid the Company shall be entitled to or would but for these presents be entitled to obtain renewals of any leases, licenses, concessions, franchises or agreements, which are, or upon such acquisition are to become, part of the specifically mortgaged premises, or to obtain any new leases of any premises demised to the Company, or to obtain any licenses, concessions, franchises, or agreements, it will from time to time, so far as the same shall constitute part of the specifically mortgaged premises, duly exercise all and every such rights of renewal or otherwise, if valuable, and will obtain such new leases, licenses, concessions, franchises or agreements for the longest times respectively, if advantageous, and upon the most favourable terms obtainable, including all rights of further renewal, and will from time to time forthwith after the making thereof, use its best efforts to assign to the Trustee all such leases, licenses, concessions, franchises and agreements as are made in renewal or replacement of any leases, licenses, concessions or agreements included in the specifically mortgaged premises, saving and excepting the respective last days of any terms thereby granted, which shall be held by the Company in trust for the purposes and in the manner provided in Clause 8.01 hereof.
- g. That the Company will register these presents and all other instruments without delay at all offices where the registration or record thereof may by law be required to secure or to protect the lien hereof upon the present and future property intended to be covered hereby, and also wherever it may in the judgment of the Trustee, be of advantage or necessary to the security hereby created, and will deliver or exhibit to the Trustee on demand certificates establishing such registration, and the same from time to time renew, and the Company and the Pledged Subsidiary Companies will fulfill all the requirements of the laws of the Dominion, Provincial or Municipal Governments of Canada, or of any of their departments, and of any other competent authority.
- h. That the Company will fully and effectually maintain and keep maintained the security hereby constituted as a valid and effective security at all times during the continuance of the Bonds, or any of them, and will not permit or suffer any judgment for the enforcement of any lien or privilege of workmen, supplier of materials, builders or architects upon or in respect of any of the specifically mortgaged premises, or upon the property of any Pledged Subsidiary Company to remain unsatisfied for a period of thirty days after the date of such judgment; provided that the non-payment of any such judgment shall not be deemed to be a breach of this covenant if the Company or the Pledged Subsidiary Company concerned shall desire to contest the same, and if the Company shall, if required by the Trustee so



to do, give security to the satisfaction of the Trustee for the due payment of the amount claimed in respect thereof in case it shall be held to be a valid lien or privilege.

- i. That the Company will, except as elsewhere herein otherwise provided, at all times maintain its corporate existence and, subject to the provisions of Clauses 9.10 and 9.11 hereof, the corporate existences of the Pledged Subsidiary Companies, and subject to all the provisions herein contained, will diligently preserve all the rights, powers, privileges, franchises and goodwill owned by it and by the Pledged Subsidiary Companies.
- j. That the Company will diligently maintain, use and operate the mortgaged premises and cause the Pledged Subsidiary Companies diligently to maintain, use and operate properties thereof, and that the Company and the Pledged Subsidiary Companies will at all times repair and keep in repair and good order and condition all buildings, erections, machinery and plant, the use of which is necessary or advantageous in connection with the business or the operation of the properties of the Company or of such Pledged Subsidiary Companies, up to a modern standard of usage, and whenever necessary to maintain the same consistently with the best practice of other companies working similar undertakings, will renew and replace all and any of the same which may become worn, dilapidated, unserviceable, inconvenient, obsolete or destroyed even by a fortuitous event, fire or other cause, and will at all reasonable times allow and cause the Pledged Subsidiary Companies to allow the Trustee or its representatives access to the mortgaged premises in order to view the state and condition the same are in; provided, however, that nothing herein contained shall prevent the Company or a Pledged Subsidiary Company from ceasing to operate any plant or other property or from abandoning the same if in the opinion of the Directors it shall be advisable and in the best interests of the Company to do so.
- k. That subject to the provisions of Clause 13.01 of Article XIII hereof it will not, without the previous consent in writing of the Trustee, remove or destroy or permit to be removed or destroyed any of the buildings, machinery or structures comprised in or used with any of the Company's present or future power sites, power developments, generating plants, transmission lines or distribution, service or supply systems, unless such removal or destruction be with a view immediately to replace the same by other property of a more useful or convenient character, and of at least equal value, and the Trustee, if its consent to such removal is necessary, may, if it think proper, accept as satisfactory proof of advisability thereof, a resolution of the Directors that such removal or destruction is in their opinion to the advantage of the mortgaged premises, or such other proof thereof as may in the opinion of the Trustee be sufficient.

The Company, while not in default hereunder, may, without the consent of the Trustee, remove machinery from one part of the mortgaged premises to another (but not so as to subject the same to any lien, encumbrance or charge superior or equal to the lien of this Deed, to which such machinery was not subject prior to such removal), and may discontinue the operation

of any particular part thereof which it may consider unprofitable or disadvantageous to continue in operation.

- l. That if at any time any Pledged Subsidiary Company shall issue any further shares of its capital stock of any class, the Company will forthwith cause all of such additional shares to be deposited with the Trustee as part of the specifically mortgaged premises.
- m. That the Company will not cause, suffer or permit any Pledged Subsidiary Company to mortgage, pledge or charge the property of such Pledged Subsidiary Company or to issue any bonds, debentures or other securities (secured or unsecured), maturing more than one year from the date thereof (except purchase money obligations, to a principal amount not exceeding twenty-five per centum (25%) of the total funded debt of such Pledged Subsidiary Company), unless all such bonds, debentures and other securities are acquired by the Company and pledged to the Trustee as part of the specifically mortgaged premises; provided, however, that nothing in this Sub-clause (m) contained shall prevent the issue by any Pledged Subsidiary Company of obligations in the ordinary and usual course of the current business of such Pledged Subsidiary Company maturing not later than one year from the date thereof.
- n. That the Company will at all times keep its property, which is of an insurable nature and of a character usually insured by companies similarly situated, insured against loss or damage by fire or other casualties to such an amount and in such manner as is usual in the case of companies working undertakings similar to the undertaking for the time being of the Company, in one or more insurance companies, mutual or otherwise, not objected to by the Trustee, doing business in Canada or elsewhere as the Directors may select, and will duly pay all premiums and other sums payable for that purpose, and will produce to the Trustee for inspection when and if required, every such policy of insurance, and the receipt for the last premium payable thereunder. The insurance moneys in respect of properties comprised in the specifically mortgaged premises shall be made payable to the Trustee as its interest may appear. The Trustee shall accept as conclusive evidence of the nature and amount of the insurance to be carried, a resolution of the Directors, together with a certificate signed by the President or a Vice-President of the Company and by its local manager or other officer in immediate charge of the property.

All insurance moneys received by the Trustee shall be applied by it in the manner provided in Article XIV hereof; provided, however, that in the event of any one loss, in which the moneys received by the Trustee do not exceed fifteen thousand dollars (\$15,000), such moneys shall, unless the security hereunder shall have become enforceable, forthwith be paid by the Trustee to the Company and shall be applied by the Company to the replacing, repairing or rebuilding of the property damaged or destroyed or otherwise for the benefit of the specifically mortgaged premises.

The Company will also cause the Pledged Subsidiary Companies to keep their properties which are of an insurable nature and of a character usually insured by companies similarly situated adequately insured.

Anything herein to the contrary notwithstanding, the Company, with the approval of the Trustee, may, in whole or in part, in lieu of insuring or causing to be insured, such property, maintain a system of self-insurance for itself and its Pledged Subsidiary Companies, and/or may cause each Pledged Subsidiary Company to maintain a system of self-insurance, which will accord with approved practices of similar companies maintaining such systems. The Company at any time and from time to time, at the request of the Trustee, will furnish to the Trustee full details and information in writing of any system of self-insurance which is then in effect or the adoption of which is then contemplated by it or by any Pledged Subsidiary Company.

In case of loss or damage to the mortgaged premises, any appraisal, adjustment or settlement agreed upon between the Company and any insurer or insurance company, may be accepted by the Trustee, who shall be entitled to assume (whether or not it shall have any opinion or shall have made any investigation in respect thereof), that such appraisal, adjustment or settlement is fair and proper, and the Trustee shall be under no obligation to make any investigation in respect thereof, and shall be in no way under any duty to collect any insurance moneys.

- o. That until the trusts hereof shall have been finally wound up and terminated, it will pay the Trustee reasonable remuneration for its services hereunder, and that it will repay to the Trustee on demand all moneys which shall have been expended or advanced by it for the purpose of paying premiums of insurance, rentals, repairs, renewals, taxes, maintenance, preservation, legal expenses or charges, and any other expenditures or advances whatever, which the Trustee may reasonably make or incur in and about the execution of the trust hereby created, with interest at six per centum (6%) per annum from the date of expenditure until actual repayment, and the Trustee's remuneration and moneys so expended or advanced and the interest thereon shall be secured hereby and the Trustee shall have a lien therefore upon the mortgaged premises and the proceeds thereof in priority to any of the Bonds or coupons secured hereunder, and the Trustee shall have the right at any time to retain and pay itself the amount of any such remuneration or advances out of any funds coming into the possession of the Trustee or its successors in the trust hereunder.
- p. That the Company and the Pledged Subsidiary Companies will from time to time punctually observe and perform all of their obligations, and will pay and discharge all amounts payable under or by virtue of any lease, license, concession, franchise or right held by them so long as the same is of commercial value, and will not suffer or permit any default for which any such lease, license, concession, franchise or right might be terminated, so that the interest therein of the Company or of the Pledged Subsidiary Company concerned, may at all times be preserved unimpaired as security for the Bonds; provided, however, that nothing contained in this Clause

10.01 shall require the Company or the Pledged Subsidiary Company concerned, to make any such payments or to observe any such obligations, so long as it shall in good faith contest its liability therefor, provided in such case that if any part of the specifically mortgaged premises be involved the Company shall satisfy the Trustee and, if required by the Trustee so to do, furnish security satisfactory to the Trustee that any such contestation will involve no forfeiture of any such lease, license, concession, franchise or right.

- q. That it will, whether required by the Trustee or not, at any and all times do, execute, acknowledge and deliver, or will cause to be done, executed, acknowledged and delivered all such deeds, documents and things which, in the opinion of the legal advisers of the Trustee, are necessary for giving the Trustee (as far as may be possible under the local laws of the places where any of the mortgaged premises are situate respectively) a valid, specific first mortgage, pledge and charge upon any property included in the specifically mortgaged premises and a valid, first floating charge of the nature hereinbefore specified upon any property, whether now owned or hereafter acquired of the nature or character of the property of the Company not included in the specifically mortgaged premises for all principal moneys and interest for the time being and from time to time owing on the security of these presents and the Bonds and for conferring upon the Trustee such powers of sale and other powers over the said property as are hereby expressed to be conferred.

10.02 If the Company shall fail to perform any of its covenants contained in this Trust Deed or in any lease, record, license, concession, franchise or right subject to the lien hereof, the Trustee may notify the bondholders of such failure on the part of the Company or it may itself perform any of said covenants capable of being performed by it or make advances to or on behalf of the Company for or in performance of the same, but shall be under no obligations so to do or to notify the bondholders; and all sums so expended or advanced shall be repayable and be secured as provided in sub-clause (o) of Clause 10.01 hereof; but no such performance or advance shall be deemed to relieve the Company from any default hereunder.

## ARTICLE XI SINKING FUND

- 11.01 1. The Company covenants and agrees that it will create and maintain a sinking fund for the benefit of the bonds hereby secured by paying to the Trustee on the 1<sup>st</sup> day of May 1956 and on the 1<sup>st</sup> day of May annually thereafter until maturity a sum of money equal to one per centum (1%) of the aggregate principal amount of Bonds previously issued **prior to June 10, 1988 and, with respect to any Bonds issued after June 10, 1988, such percentage, if any, as may be determined from time to time by the Directors and expressed in the Bonds of each such series** (excluding refunding or exchanges). [As amended by Clause 12(d) of the Eleventh Supplementary Deed of Trust and Mortgage, dated as of June 15, 1988.]

2. Instead of making sinking fund payments in money, the Company may deliver to the Trustee, in satisfaction in whole or in part of any sinking fund payment due on any sinking fund payment date, any bonds which have been previously issued hereunder and previously sold by the Company, and the Company shall receive credit for the bonds so delivered equal to the amount thereof at par exclusive of interest.
3. The Company may at any time pay or deliver cash or Bonds to the Trustee for the sinking fund in excess of the amount becoming due or in advance of the time when the same shall become due as above provided, and the Company shall to the extent of any such payment or delivery, be entitled to credit on amounts subsequently becoming due to the Trustee for sinking fund purposes as aforesaid.
4. If the Company does not so deliver bonds as aforesaid in full payment of the amounts payable in respect of the sinking fund, as and when the same are due and payable, then the moneys paid to the Trustee by the Company for the purpose of the sinking fund shall be employed by the Trustee in the following manner. The Trustee shall draw by lot for redemption (in the manner provided in sub-clause (1) of the Clause 12.01 hereof for partial redemption of bonds of any series) the bonds of any one or more series which the Company will designate if there be more than one series outstanding. The Trustee need not call any Bonds for redemption under this Clause 11.01 unless the amount in the Sinking Fund is greater than fifteen thousand dollars (\$15,000) unless the Company shall so request. Bonds shall be drawn in an aggregate principal amount, which shall equal, as nearly as may be, the amount of bonds which can, out of the Sinking Fund moneys available therefor, be redeemed at the particular redemption price applicable in such case. After such drawing has been completed, the Trustee shall cause notice of redemption of the bonds so selected to be given by publication and mailing in substantially the same manner and with like effect as provided in Clause 12.01 hereof. All provisions of said Clause 12.01 shall apply, so far as practicable in the judgment of the Trustee, to the redemption of bonds under this Clause 11.01. **Notwithstanding anything to the contrary contained herein, the Company shall satisfy any sinking fund requirements in respect of any series of Bonds issued after June 10, 1988 by the purchase or redemption of Bonds of such series.** [As amended by Clause 12(e) of the Eleventh Supplementary Deed of Trust and Mortgage, dated as of June 15, 1988.]
5. All bonds of any series received by the Trustee in lieu of sinking fund payments or redeemed by operation of such sinking fund shall be cancelled, and no other bonds of any series shall be issued in their place.
6. Until applied in the purchase or redemption of bonds, all money in the sinking fund and interest thereon shall be held by the Trustee as security for all the bonds, and may be invested by the Trustee as provided in Clause 17.01 hereof.
7. If any question shall arise as to compliance with the provisions of this Clause 11.01, the decision of the Trustee shall be final.

**ARTICLE XII  
REDEMPTION OF BONDS**

12.01 The following provisions shall, unless otherwise determined upon creation of Bonds of any series, apply to the redemption of any Bonds which, in accordance with the terms of this Trust Deed, are made redeemable at the option of the Company. The terms applicable to the redemption of the Bonds of the 4% Series due 1975 are stated in Clause 3.01.

1. In case less than all of the then outstanding Bonds of any particular Series are to be redeemed, the Bonds so to be redeemed shall be selected by the Trustee by lot and by the serial numbers thereof in such manner as the Trustee shall deem equitable and not by the names of the holders thereof, if known. The Trustee and the Company shall agree on such method of drawing as will provide that the holders of registered Debenture Stock and fully registered bonds without coupons will benefit hereunder to the same extent as if they had been holders of coupon bonds.
2. Notice of intention so to redeem Bonds of any Series shall be given by the Company in the manner provided in Clause 9 of the Conditions to be endorsed on Coupon Bonds as set out in form "Y" in the First Schedule hereof, which notice shall (unless all the then outstanding Bonds of the same maturity of a Series are to be redeemed), state the numbers of the Bonds so called for redemption, and if less than the whole principal amount of any registered Bonds without coupons shall be redeemable, the portion of the principal amount thereof which is to be redeemed, and shall state that all interest on such Bonds will cease from and after the redemption date fixed in such notice. Provided, however, that failure on the part of the Company to post any such letter or circular shall not invalidate or otherwise prejudicially affect the redemption of such Bonds. Notice of redemption of registered Debenture Stock shall be given to holders of registered Debenture Stock in accordance with the foregoing provisions unless otherwise provided by the supplemental deed referred to in Clause 2.02 hereof.
3. Notice having been given as provided in Sub-clause (2) hereof, all of the Bonds called for redemption shall thereupon be and become due and payable on such redemption date in the same manner and with the same effect as if it were the date of maturity of such Bonds, anything therein or herein to the contrary notwithstanding. The holders of Bonds called for redemption shall have the right to surrender their Bonds for payment at any of the places at which the principal and interest of such Bonds are payable according to their tenor and effect, and to receive payment of the amount payable on such redemption in the moneys in which the principal and interest are payable at such place.
4. Such redemption shall be provided for by the Company depositing with the Trustee, or otherwise to the satisfaction of the Trustee making available on or before the redemption date fixed in such notice, such sum as may be

sufficient to pay the principal and premium (if any), together with the then accrued interest on the Bonds called for redemption at the places at and in the currencies in which the same shall be payable. The Trustee shall hold the sum so deposited in trust for the benefit of the holders of the Bonds called for redemption.

5. Upon deposit with the Trustee of an amount sufficient to redeem any Bonds called or to be called for redemption pursuant to the provisions of this Article XII, and with respect to which notice of redemption has been given, or arrangements satisfactory to the Trustee providing for the giving of such notice have been made, the Bonds so called or to be called for redemption and any coupons appertaining thereto shall thereafter not be considered as outstanding hereunder, or entitled to the security hereby constituted, and interest upon such Bonds from and after the date fixed for redemption shall cease, and the holders of such Bonds shall have no rights except the right to receive in accordance with the provisions hereof payment of the principal, premium (if any), and interest payable on such Bonds on the date fixed for redemption.

In case any bondholder, any of whose Bonds are to be paid under any provision of this Trust Deed, whether at maturity, on a declaration, on redemption or otherwise, shall fail or neglect to deliver up his Bonds and coupons at the time and place fixed for payment thereof under the provisions herein contained, the moneys payable to such bondholder shall be set aside in the name of the Trustee and deposited by the Trustee in its name in any chartered Bank of Canada, or in the deposit department of the Trustee at the rate of interest then current on similar deposits, and such setting aside and deposit shall be deemed for all purposes of these presents to be a payment to such bondholder of the amount of principal and interest payable in respect of such bonds and so set aside, and interest on such Bonds and interest coupons appertaining thereto shall cease to accrue as from the date such Bonds or interest coupons become payable as aforesaid, and thereafter the holders of any such Bonds and coupons appertaining thereto shall have not other right in respect thereof than to receive payment out of the amount so deposited.

6. In case any question shall arise as to whether any notice has been given as above provided and such deposit made, such question shall be decided by the Trustee, whose decision shall be final and binding upon all parties in interest.
7. All Bonds redeemed under the provisions of this Article XII shall forthwith be cancelled and, unless redeemed through the operation of a Sinking Fund or by the use of deposited cash, pursuant to the provisions of Article XIV hereof, other Bonds of any Series may be issued in replacement of any Bonds so redeemed, upon compliance by the Company with the provisions of Article VII hereof.
8. The Trustee in its discretion may require the Company to hand to it annually, or semi-annually, any Bonds that may have been redeemed, and all redeemed and matured coupons, for the purpose of destruction in the

presence of a representative of the Company and a representative of the Trustee, by whom a Destruction Certificate setting forth the numbers and maturities of the Bonds and coupons shall be signed in duplicate, one copy to be retained by the Trustee, and the other handed to the Company for its files.

9. In the event of any Bonds becoming due and payable by reason of the voluntary liquidation of the Company, the Bonds shall be redeemed at the price at which the Company could have redeemed the Bonds on the date on which the resolution is passed, or if by order, the date on which the order is granted for the voluntary winding up of the Company.

### **ARTICLE XIII RELEASE OF PROPERTY**

- 13.01 From time to time, while the Company is in possession of the specifically mortgaged premises, the Company without any release by the Trustee may:
  - a. sell or otherwise dispose of, free from the lien of this Deed, any machinery, equipment, tools or implements, which may become obsolete or unfit for use or no longer necessary in the operations of the Company, but in the event of any such disposition, the proceeds thereof shall be invested in other machinery, equipment, tools or implements or in Property Additions; and
  - b. make any change in the situation of any building or structure upon any part of the specifically mortgaged premises; and may demolish the whole or any part of any building or any structure on any part of the mortgaged premises whenever the Company shall not deem it advisable to retain the same in its business; and
  - c. surrender, abandon or assent to the modification of any contract, franchise, license, governmental consent or permit which may be part of the specifically mortgaged premises and under which it may be operating, provided that such surrender or modification is, in the opinion of the Directors, and in the opinion of an engineer satisfactory to the Trustee, who may be the Chief Engineer or any assistant engineer of the Company (such opinions to be stated in a resolution and engineer's certificate, respectively, to be filed with the Trustee), desirable in the conduct of the business of the Company, and provided that, in the event of any such surrender, abandonment or modification, the Company shall still have, under some other contract, franchise, license, governmental consent or permit or under the modified contract, franchise, license, governmental consent or permit, or under a new contract, franchise, license, governmental consent or permit, authority, in the opinion of counsel, to conduct the same or an extended business in the same or substantially the same, or an extended territory for the same or substantially the same or an extended or unlimited or indeterminate period of time, or until the maturity date of the latest maturing Series of Bonds at the time outstanding hereunder.



13.02 From time to time, while the Company is in possession of the specifically mortgaged premises, the Company may sell or exchange or otherwise dispose of any of its property, immovable, real, movable or personal at any time forming part of the specifically mortgaged premises (except that unless otherwise provided in this Indenture, no shares of stock of any company shall be released, unless all shares of stock and all bonds and other obligations of such company at the time subject to the lien of this Indenture as part of the specifically mortgaged premises, shall be released as one parcel and at the same time), and shall be entitled to the release from the lien of this Deed of any such property upon substituting therefor either (1) cash, or, (2) Property Additions or Pledged Subsidiary Property Additions upon the basis of which Additional Bonds might be certified and delivered under Article V hereof, or (3) purchase money mortgages on property released in amount not exceeding sixty-six and two-thirds per cent (66 $\frac{2}{3}$ %) of the cost or the then fair value (whichever is less), of the property released or (4) any two or more of the foregoing; the whole to the extent of the greater of the cost or the then fair value of the property released.

The Trustee, upon compliance by the Company with the further provisions of this Article XIII, shall execute such instruments as shall be necessary to obtain the discharge or release of any such property from the lien hereof; provided that the provisions of this Clause 13.02 shall not be construed to authorize the release of the mortgaged premises as an entirety or substantially as an entirety.

13.03 The Company, whenever requesting any release under the terms of this Article XIII, shall deliver to the Trustee, except as herein otherwise provided.

- i. a copy of a resolution of its Directors certified by its Secretary or Assistant Secretary under its corporate seal, authorizing such release and specifying the property requested to be released;
- ii. a certificate signed and verified by affidavit or statutory declaration of its President or a Vice-President and by its Treasurer or Assistant Treasurer, or Secretary or Assistant Secretary, under its corporate seal, which shall set forth, in so far as pertinent to the action requested;
  - a. that the Company has contracted to sell certain of the specifically mortgaged premises for cash, or partly for cash and partly for other property, or that the Company has contracted to exchange the property to be released for other property, or that the Company proposes to substitute for the property to be released, cash or other property; describing in reasonable detail, the property to be released and the consideration to be received by the Company for the property sold or exchanged, or the consideration to be given by the Company for the property to be released on substitution, which consideration to be received or to be given as aforesaid, shall be one of more of the kinds enumerated in Clause 13.02 hereof; and
  - b. that the consideration to be received by the Company for property sold or exchanged represents the fair value of the property to be released; and, in the case of substitutions that the cash or property to be substituted represents the fair value of the property to be

released, and that the property to be received on any such sale or exchange or the property to be substituted is necessary to or advantageous in the business of the Company; that the property to be sold or exchanged or released upon substitution is no longer of use in the proper conduct of the business of the Company, or that it is desirable for the Company so to sell or exchange or make substitution of the same, and that by such sale or exchange or substitution and release, the security afforded by this Deed will not be impaired;

- iii. if the consideration to be received by the Company for property sold or exchanged includes Property Additions or Pledged Subsidiary Property Additions, such certificates (except a Net Earnings Certificate), opinions and instruments with respect thereto as would be required if such Property Additions or Pledged Subsidiary Property Additions were offered as the basis of the issue of Additional Bonds under the provisions of Article V of this Deed;
- iv. a written appraisal of an appraiser selected by the Company and approved by the Trustee (who may be an engineer, accountant, or other expert in the employ of the Company), appraising the property so requested by the Company to be released as of a date not more than six months prior to the date of the delivery of such certificate to the Trustee, and, in the case of an exchange or substitution as aforesaid, also similarly appraising the Property Additions or Pledged Subsidiary Property Additions so to be received in exchange or so to be substituted, and stating that in the opinion of such appraiser, the said price or, as the case may be, the said Property Additions or Pledged Subsidiary Property Additions to be received in exchange, together with any money to be received by the Company in connection therewith, or the cash or property so to be substituted, is at least equal to the fair value of such property so to be released. The acceptance of any such appraisal by the Trustee shall be sufficient evidence of its approval of such appraiser;
- v. if the price to be received by the Company for such property so to be released consists partly of purchase money obligations, the same shall be secured by purchase money mortgage or other lien, and the Company shall delivery to the Trustee an Opinion of Counsel to the effect that such obligations are valid and binding obligations, and that the purchase money mortgage or other lien securing the same is sufficient to afford a first lien upon the property to be released, and that property instruments of assignment or transfer of such obligations and of the purchase money mortgage or other lien securing them have been duly executed and delivered by the Company to the Trustee, and that such instruments of assignment or transfer are sufficient to subject such obligations and the purchase money mortgage or vendor's lien securing them to the lien of this Deed as part of the specifically mortgaged premises.

Upon receipt of the resolutions, certificates, opinions and other instruments in this Clause 13.03 provided for, the Trustee shall release such property from the lien hereof, provided that all first mortgage bonds of Pledged

Subsidiary Companies, and any money required to be pledged or deposited by the Company in connection with any such release, shall be contemporaneously delivered to the Trustee.

The resolutions, certificates, opinions and other instruments provided for in this Clause 13.03 may be received by the Trustee as conclusive evidence of all the facts mentioned in this Article XIII required to be established in order to authorize the action sought by the Company in respect of any property to be released, and shall be full protection to the Trustee for any action taken on the faith thereof; but in its discretion, before delivering any such release, the Trustee may, but need not, at the cost and expense of the Company, cause to be made such independent investigation of all or any of the facts involved in the proposed transaction as it shall deem necessary.

- 13.04 In the event of any taking of any part of the specifically mortgaged premises including, but without in any way limiting the generality of the foregoing, all the property of the Company in the Province of New Brunswick, by expropriation or condemnation or other similar powers, or of any sale or conveyance by the Company in lieu of such taking and in reasonable anticipation thereof where proceedings therefor might lawfully be exercised to vest such property in the grantee for the same purposes, or if the Dominion of Canada, or any province or municipality thereof, or other public authority, shall at any time exercise any right which it may have to acquire any part of the specifically mortgaged premises, the Trustee may release the property so taken or acquired upon the deposit with the Trustee of a sum equal to (a) the net proceeds of any such taking or exercise of such right of acquisition, or (b) in a case of sale in anticipation of such taking, the net proceeds of such sale or the fair value of the property to be released as appraised by an appraiser (who may be an engineer or other person in the employ of the Company), appointed by the Board of Directors of the Company and approved by the Trustee, whichever is greater. The Trustee shall hold such sum upon the same terms and conditions as provided in respect of moneys received by the Trustee upon releases of the specifically mortgaged premises; provided however, that in case of any taking by expropriation, condemnation, or compulsory purchase or of any sale or conveyance in reasonable anticipation thereof of the whole or substantially the whole of the Company's undertaking covered hereby, the proceeds thereof shall be applied by the Trustee in the manner provided in Clause 16.13 hereof, regarding the distribution of the proceeds of realization of the mortgaged premises after default. The Trustee shall be fully protected in giving such release upon being furnished with an opinion of counsel, selected by the Company and approved by the Trustee to the effect that such property has been lawfully taken or sold as aforesaid, and, in case of any such sale other than to the Dominion of Canada, or any province or municipality thereof, or other authority pursuant to any such right, upon being also furnished with a resolution of the Board of Directors of the Company certifying that, in the opinion of such Board of Directors, such sale was in lieu of and in reasonable anticipation of such taking and was for the best interests of the Company. **In addition, the Trustee shall release any part of the specifically mortgaged premises used in connection with the generation or transmission of electricity from the lien of this Deed in order to give effect to a contractual right to acquire such property granted by the Company at the time of its acquisition or construction thereof upon**

**the deposit with the Trustee of a sum equal to the net proceeds paid by the person exercising the right to acquire such property, provided that such proceeds shall not be less than the lesser of (a) the fair value of the property to be released as appraised in the manner set forth above, and (b) the net book value of the property to be released as determined by an auditor appointed by the Company and approved by the Trustee (and who may be the Company's auditor). [As amended by Clause 12(f) of the Eleventh Supplementary Deed of Trust and Mortgage, dated as of June 15, 1988.]**

- 13.05 1. Notwithstanding any limitations set forth in this Article XIII, the Trustee may, at any time, and from time to time, while the Company is in possession of the specifically mortgaged premises, upon the application and at the cost of the Company (but only in so far as in its opinion the interests of the bondholders will not be prejudiced thereby), release any part of the specifically mortgaged premises, other than the Pledged Securities, and other than property comprising a part of or used in connection with any of the Company's present or future power sites, power developments, generating plants, transmission lines or distribution systems, without any specific consideration and on terms which may seem expedient, provided, however, that no such release of property in any one transaction shall exceed a capital value of Ten Thousand Dollars (\$10,000.00) or Fifty Thousand Dollars (\$50,000.00) in the aggregate, if there are several such transactions in any one calendar year, and provided that, with the application for release, the Company furnish the Trustee a certificate signed by a majority of the Directors of the Company, stating in detail the consideration for and the object of the application for such release, and further certifying that in their opinion the general consideration to be received by the Company as the result of such release is for the benefit of the specifically mortgaged premises of at least an equivalent value to the property so to be released, and in such certificate shall be stated the Directors' reasons for that opinion.
2. In no event shall any purchaser of any property sold or disposed of under any provisions of this Article XIII be required to ascertain the authority of the Trustee to execute the release, to see to the application of the purchase money, or to enquire as to any facts required by the provisions hereof for the exercise of such authority.
3. In case the specifically mortgaged premises or any part thereof shall be in the possession of a receiver or other similar officer lawfully appointed, the powers in and by this Article XIII conferred upon the Company may be exercised by such receiver, or other similar officer with the approval of the Trustee in respect of the property in the possession of such receiver or other similar officer, and if the Trustee shall be in possession of the specifically mortgaged premises under any provision of this Deed, then all the powers of this Article XIII conferred upon the Company may be exercised by the Trustee in its discretion.
- 13.06 Notwithstanding anything contained in this Trust Deed, for the purposes of the foregoing provisions of this Article Thirteen, any and all of the property of the

Company in the Province of New Brunswick shall be deemed not to be the whole or substantially the whole of the Company's undertaking covered hereby.

13.07 In addition to and notwithstanding any other provisions herein contained, at any time and from time to time before the security hereby constituted shall have become enforceable and the Trustee shall have determined or become bound to enforce the same, the Trustee may upon the application and at the cost of the Company but without any consent of the bondholders (but only if and so far as in the opinion of the Trustee the interests of the bondholders shall not be prejudiced thereby) do or concur in doing all or any of the things following, namely:

- a. Let any of the specifically mortgaged premises for any term and either in possession or reversion or on any conditions and either with or without the payment of a premium;
- b. Release, either with or without consideration, any part of but not substantially the whole of the specifically mortgaged premises which, in the opinion of the Directors as evidenced by a certified copy of a resolution of the Directors, are unprofitable or a source of loss or damage or have become unfit or unnecessary or are no longer required for use in connection with the business or operations of the Company;
- c. Settle, adjust, refer to arbitration, compromise and arrange all accounts, reckonings, controversies, questions, claims and demands whatsoever in relation to any of the specifically mortgaged premises;
- d. Set out, appropriate, dedicate and grant any freehold parcels of land forming part of the specifically mortgaged premises for the purposes of road, ways, railroads, canals, water courses, docks, sites for churches, hospitals, schools, townsites and other purposes, public or private, which may seem expedient;
- e. Release any freehold parcels of land forming part of the specifically mortgaged premises upon which the Company or any Pledged Subsidiary Company may desire to erect or to procure other persons to erect buildings or dwellings for occupation by employees of the Company or any Pledged Subsidiary Company.

The foregoing powers shall be deemed to be several and not dependent on each other, and each paragraph of the foregoing and each power therein contained shall, accordingly, be construed as complete in itself and not by reference to any other paragraph or power contained therein, and the exercise of any one or more of such powers or any combination of such powers from time to time shall not be deemed to exhaust the rights of the Company and/or any Pledged Subsidiary Company and the Trustee, respectively to exercise such power or powers or combination of powers thereafter from time to time.

Nothing contained in this Clause shall be deemed to limit or restrict in any manner the rights of the Company and/or any Pledged Subsidiary Company under any other provisions of this Trust Deed.

**ARTICLE XIV**  
**APPLICATION OF MONEYS RECEIVED BY THE TRUSTEE**

- 14.01 All moneys received by the Trustee pursuant to any of the provisions of this Deed or in any manner in its capacity as Trustee hereunder, the disposition of which is not otherwise herein specifically provided for, shall be held by the Trustee as part of the specifically mortgaged premises and as security for the Bonds secured hereby, and may from time to time, at the option of the Company,
- a. Be paid over by the Trustee to the Company upon the basis of the acquisition or construction of Property Additions or Pledged Subsidiary Property Additions, the whole on the terms and conditions upon which Additional Bonds may be certified and delivered as set forth in Article V hereof, and subject to the applicable restrictions of the said Article V, except that the restriction as to Net Earnings of the Company need not be complied with, and except also that the Company shall be entitled to be reimbursed to the extent of one hundred per cent (100%) of the cost, or the then fair value (whichever is less), of the Property Additions or Pledged Subsidiary Property Additions so acquired or constructed; or
  - b. Be applied by the Trustee, at the written request of the Company, either to the purchase of Bonds of such Series and at such prices (not exceeding the then redemption prices plus costs of purchase in the case of Bonds subject to redemption), as the Company may fix from time to time, or to the payment of such Bonds, or to the redemption thereof if the Bonds so designated by the Company shall have been or shall be called for redemption (exclusive in each case of current interest accrued at the time of such purchase, payment or redemption, and exclusive also, in the case of purchase or redemption, of the premium, if any, payable upon such purchase or redemption, the necessary sums for which purposes shall be provided by the Company); any Bonds so purchased, paid or redeemed, together with all unmatured coupons attached to such of the said Bonds as shall be coupon Bonds, shall be cancelled forthwith by the Trustee, and no Bonds shall be issued in lieu thereof; or
  - c. In the case of insurance moneys received by the Trustee under the provisions of Clause 10.01 hereof, be paid over by the Trustee to the Company, upon its written request, to reimburse the Company for expenditures made or to discharge indebtedness incurred by it for replacing, repairing or rebuilding the property injured or destroyed, or for building or constructing or purchasing or placing upon the specifically mortgaged premises any buildings, machinery, fixtures or other improvements as substitutes for the property so injured or destroyed, but only upon the receipt by the Trustee of a certificate signed by the President or a Vice-President and by the Treasurer or an Assistant Treasurer or the Secretary or an Assistant Secretary of the Company under its corporate seal, describing in reasonable detail the amount so expended or the indebtedness so incurred; provided, however, that the provisions of this paragraph (c) shall not preclude the application of insurance moneys for

any of the purposes described in paragraphs (a) and (b) of this Clause 14.01.

Pending their payment or application as hereinabove in this Clause 14.01 provided, all such moneys may be invested by the Trustee in the manner provided in Clause 17.01 hereof. The resolutions, certificates, opinions and other instruments hereinbefore in this Clause 14.01 provided for, shall be full warrant of authority and protection to the Trustee for payment or application of any moneys as requested therein.

- 14.02 The Trustee shall not apply any moneys received by it pursuant to any of the provisions of this Deed, for any of the purposes enumerated in Clause 14.01 hereof, at any time when the Company is in default hereunder to the knowledge of the Trustee, or when the Trustee is in possession of the mortgaged premises, or any part thereof under the right of entry herein provided, without the concurrence of the bondholders evidenced by Extraordinary Resolution or by an instrument in writing signed by the holders of more than seventy-five per cent (75%) of the total principal amount of the Bonds then outstanding. In no case shall the receipt of any such moneys by the Trustee be deemed to be a payment on account of the Bonds, not shall the mortgage, pledge and charge hereby created be lessened, novated or in any other way affected by reason of any such receipt, any law, usage or custom to the contrary notwithstanding.

#### **ARTICLE XV EVENTS OF DEFAULT**

- 15.01 The security hereby constituted shall become enforceable, subject to the terms hereinafter contained, in each and every of the events following (herein referred to as events of default);
- a. **If the Company make default in payment of any interest due on any bonds secured hereunder or any of them, or in any sinking fund payment, and either**
    - i. **any such default shall have continued for a period of sixty (60) days, or**
    - ii. **any such default shall have continued for a period of five (5) days after notice in writing to put an end to the same has been given by the Trustee or by any holder of any bonds secured hereunder; [As amended by Clause 2 of the Sixteenth Supplementary Deed of Trust and Mortgage, dated as of July 21, 1994.]**
  - b. If the Company makes default in payment of the principal of any Bond secured hereunder or of the premium thereon (if any), when the same becomes due under any provision hereof;
  - c. If an order be made or an effective resolution be passed for winding up the Company or the Company be adjudicated bankrupt or make a general

assignment for the benefit of its creditors under the Bankruptcy Act or otherwise;

- d. If a Trustee in Bankruptcy, Interim Receiver or Custodian or a Liquidator, or a Receiver, or a Receiver and Manager, be appointed to the Company, or the mortgaged premises, or an encumbrancer take possession of the mortgaged premises, or any part of said premises which is in the opinion of the Trustee a substantial part thereof;
- e. If any distress or process of execution be levied or enforced upon or against any of the chattels or property of the Company and remain unsatisfied for the space of two weeks as to personal property, or three weeks as to real property; provided that such distress or process is not in good faith disputed by the Company, and provided further, that non-payment shall not, in the judgment of the Trustee, jeopardize the title to the mortgaged premises, or the lien of this Indenture or in any way impair the security intended to be created hereby, and provided further, that if the Company shall desire to contest any claim under this provision, it shall also give such security as in the absolute discretion of the Trustee shall be deemed sufficient to pay in full the amount claimed in the event it shall be held to be a valid claim;
- f. If the Company shall fail to pay any taxes, rates, charges, rents payable on leasehold property, government dues or other charges of a like nature, whether governmental or otherwise, assessed or payable in respect of any part of the mortgaged premises, or if it fails to observe and perform any of the provisions and covenants in any lease, record, license, concession or agreement whereby any of the properties or rights of the Company, which are of commercial value to the Company, may become liable to forfeiture, and such default shall continue either for a period of ninety (90) days, or for such period as would at any time, if continued, render any such properties or rights liable to forfeiture, whichever is the lesser period, or if the legality of any such taxes, rates, rents or charges is in good faith disputed by the Company, then in case such failure shall continue for a period of thirty (30) days after they shall have been finally adjudged to be legally due or payable;
- g. If the Company shall neglect to carry out or observe any covenant or condition herein contained and on its part to be observed and performed, other than one the breach or non-observance of which is specifically made an event of default under this clause, and such default shall continue for a period of ninety (90) days after notice in writing to put an end to the same has been given to the Company by the Trustee, or by the holders of ten per centum (10%) in principal amount of the Bonds at the time outstanding.

Provided that a resolution or order for winding up the Company, with a view of its reconstruction or is consolidation, amalgamation or merger with another company or the transfer of its assets as a whole or substantially as a whole, to such other Company, shall not make the security enforceable under sub-clause (c) of this Clause 15.01, if such last mentioned company shall, as a part of such consolidation, amalgamation, merger or transfer, and within six (6) months from the passing of the resolution or the date of



the order, comply with the conditions to that end stated in Article XVIII hereof.

- 15.02 In the event of the security hereunder becoming enforceable, except by default in payment of the principal of the Bonds or any of them at maturity, and in addition to the powers exercisable by the Bondholders under Article XXIII hereof, the holders of not less than fifty-one per centum (51%) of the principal amount of all the Bonds which shall then be outstanding shall have power by an instrument in writing to instruct the Trustee to waive the default and the Trustee shall thereupon waive the default upon such terms and conditions as such holders shall prescribe, and in case of any such waiver the security hereby constituted shall no longer be deemed to have become enforceable by reason of the default that shall have so been waived, and any fixed charges as shall have attached to the mortgaged premises solely by reason of the crystallization of the floating charge hereunder shall, by such waiver, be released and discharged and thereupon the mortgaged premises shall again become and be subject only to the fixed charge and the floating charge hereunder in the same manner and to the same extent as if such default had not occurred, and the Company shall have and may exercise all rights hereby conferred on or reserved to the Company as though such default had not occurred, and the Trustee or any receiver or receiver and manager may and shall execute any deeds or deeds that in the opinion of Counsel approved by the Trustee are necessary or desirable for such purposes, but no rights to arise upon any subsequent default shall be in any way waived or affected by the waiver of a default as aforesaid and the rights and powers under this deed shall not be deemed to have been exhausted but shall subsist and may be exercised again and from time to time if and whenever further defaults occur.
- 15.03 In case the security hereby constituted shall become enforceable as hereinbefore provided, the Company shall and will pay forthwith to the Trustee on demand for the benefit of the holders of the Bonds secured hereby, the principal amount of all Bonds then outstanding and interest then due thereon, and such payment when made shall be deemed to have been made on such Bonds and coupons, and any moneys so received by the Trustee shall be applied in the same manner as if they were proceeds of a sale of the mortgaged premises made to enforce the security hereof, and the Company shall and will pay to the Trustee on demand all other moneys due and payable by it hereunder; and the Trustee may in its discretion and shall upon request of the holders of twenty-five (25) per centum in principal amount of the Bonds outstanding, make such demand, and upon such demand being made and also in the event of the security hereby constituted becoming enforceable by reason of a liquidator, receiver, receiver and manager or trustee in bankruptcy being appointed to the Company, or in the event of the mortgaged premises being sold under the provisions hereof, or in judicial proceedings for the enforcement of the security or otherwise, the principal of all Bonds outstanding hereunder shall, together with interest thereon, become immediately due and payable, anything therein or herein contained to the contrary notwithstanding.

## **ARTICLE XVI REMEDIES IN CASE OF DEFAULT**

16.01 In case the security hereby constituted shall have become enforceable as herein provided, and the Company shall have failed to pay to the Trustee on demand the principal and interest due upon all the Bonds outstanding, together with all other sums due or payable hereunder, the Trustee may in its discretion, and upon the request in writing of the holders of twenty-five per centum (25%) in principal amount of the Bonds then outstanding shall (subject to the provisions of Clause 16.04 hereof), by its officers, agents or attorneys, enter into and upon and take possession of, collect and get in, all or any part of the mortgaged premises, and each and every part thereof, and all property, rights, privileges, revenues and franchises of the Company comprised therein or connected therewith, and for that purpose may take any proceedings in the name of the Company or otherwise and thenceforth have, hold, possess and use and grant, renew and cancel leases of the said properties, rights, privileges, franchises and revenues comprised in the mortgaged premises, and each and every part thereof, subject to the lien of these presents, with full power to carry on, manage and conduct or concur or co-operate in carrying on, managing and conducting the business and operations of the Company, including the power to borrow moneys or advance its own moneys for the carrying on of the business of the Company, the maintenance and preservation of the mortgaged premises or any part thereof, and the payment of taxes, wages and other charges ranking in priority to the Bonds, and current operating expenses and operating expenses incurred not more than sixty (60) days prior to such taking of possession of the properties of the Company; any moneys so borrowed or advanced and interest thereon at the rate of six per centum (6%) per annum shall be repayable by the Company on demand, or at such time as the Trustee may stipulate, and until repair shall, with interest thereon at said rate, be a first charge upon the mortgaged premises in priority to said Bonds; provided, however, that the Trustee shall not borrow or advance any money for any other purpose unless first authorized so to do by an extraordinary resolution adopted at a meeting of the Bondholders as hereinafter provided, or, in the absence of any such extraordinary resolution, by the written consent of the holders of a majority in principal amount of the Bonds outstanding, and to collect, get in and receive the rents, incomes, issues and profits of said property and business, and for that purpose, to take any proceedings in the name of the Company or otherwise, and to pay therefrom all expenses, charges and advances of the Trustee in carrying on the said business or otherwise, and all taxes, assessments, moneys borrowed and other charges against the property ranking in priority to the Bonds and the interest due thereon, or payment of which may be necessary to preserve the property, and so long as it continues to carry on the business of the Company, the Trustee shall have the right in its discretion, out of any moneys available for that purpose, from time to time to pay interest due on the Bonds and unpaid, with interest on overdue interest at the same rates as borne by the Bonds on which the interest is in default, respectively, and the remainder of the moneys so received shall be held and applied by the Trustee in the same manner as if the same arose from a sale of the mortgaged premises; provided, however, that if all defaults hereunder (other than default in payment of principal at maturity), shall be waived or made good, and all expenses, charges and advances of the Trustee, and all taxes, assessments, moneys borrowed, and other charges against the property ranking prior to the Bonds and interest thereon, shall have been duly paid out of the moneys received by the Trustee, and/or out of other moneys furnished by the Company, the Trustee shall restore the said property and business to the Company, and pay to it any balance remaining of the moneys so received, and in case of any such restoration

to the Company, the security hereby constituted shall no longer be deemed to have become enforceable by reason of the default in the payment of the principal (except at maturity), of any of the Bonds secured hereunder, or overdue interest, or by any other occurrence hereunder, whereby the right of entry became vested in the Trustee, and any part of the mortgaged premises which shall have become subject to a fixed charge solely by reason of the crystallization of the floating charge shall be freed from such fixed charge, but shall thereupon again become and be subject to the floating charge created by this Deed, but no subsequent default shall be in any way waived by any such restoration to the Company, and the rights and powers under this Clause 16.01 shall not be deemed to have been exhausted, but shall subsist and may be exercised again and from time to time if and whenever further defaults occur.

16.02 In case the security hereby constituted shall have become enforceable as herein provided, and the Company shall have failed to pay to the Trustee on demand the principal and interest then due upon all the Bonds outstanding, together with all other sums due and payable hereunder, the Trustee may in its discretion, either after such entry as aforesaid, or after other entry by its officers or agents, or without entry, sell and dispose of, and upon the request in writing of the holders of twenty-five per centum (25%) of the total principal amount of the Bonds then outstanding (subject to the provisions of Clause 15.02 hereof), the said Trustee shall sell and dispose of all or any part or parts of the mortgaged premises, either as a whole, or in parcels, by private sale or sales, or at public auction or auctions, or by tender or tenders, and at such time or times, and on such terms and conditions as the Trustee shall determine, having first given such notice of the time and place of each such sale at public auction, or by tender as it may think proper, which notice shall in any case include advertisements published at least once a week for four consecutive weeks in at least two daily newspapers, printed in the English language, published, one in the city of Montreal and one in the city of Charlottetown, PEI, and it shall be lawful for the Trustee to make such sale or sales either for cash or upon credit upon such reasonable conditions as to upset or reserve bid or price, and as to terms of payment as it may deem proper and to receive the price or consideration for any such sale or sales in whole or in part in Bonds secured hereunder in such proportion, at such rate and for such amounts as is provided in Clause 16.06 hereof; also to rescind or vary any contract of sale that may have been entered into and resell with or under any of the powers conferred herein, and to adjourn any sale from time to time and hold the sale as adjourned without further notice, and to deliver to the purchaser or purchasers of the said property, or any part thereof, good and sufficient deed or deeds for the same, the Trustee being hereby constituted the irrevocable attorney of the Company for the purpose of making such sale or sales and executing such deeds; and any such sale made as aforesaid shall be a perpetual bar both at law and in equity against the Company and its assigns, and all other persons claiming the said property or any part or parcel thereof by, from, through or under the Company or its assigns, and the proceeds of any sale shall be distributed in the manner hereinafter provided.

The Trustee or any one or more of the Bondholders may become purchasers at any sale of the mortgaged premises, whether made under the power of sale herein contained or pursuant to foreclosure or other judicial proceedings.

- 16.03 In the exercise of the powers and duties conferred upon the Trustee by any Clause of this Article XVI, the Trustee shall be bound to observe and act in accordance with the directions and instructions of the bondholders given either by extraordinary resolution passed in the manner provided in Clause 23.01 hereof, or in writing signed by the holders of more than fifty per centum (50%) of the principal amount of the bonds then outstanding.
- 16.04 The Company binds and obliges itself to yield up possession of the mortgaged premises and the conduct of its business to the said Trustee on demand whenever the said Trustee shall have a right of entry under the foregoing provisions of this Article XVI, and agrees to put no obstacle in the way of, but to facilitate by all legal means, the actions of the Trustee hereunder, and not to interfere with the carrying out of the powers hereby granted to it, and in the event of the security becoming enforceable as hereinbefore provided, the Company shall and hereby does consent to the appointment in such case of a liquidator or receiver or receiver and manager, with all such powers as the Trustee is hereby vested with, if so required by the Trustee. The Company hereby binds itself in said event to consent to any petition or application presented to the Court by the Trustee in order to effectuate the intent of this Deed, and the Company shall not, after receiving due notice from the Trustee that it has taken possession of the mortgaged premises and the conduct of said business in virtue of these presents, continue to conduct the said business unless with the express written consent and authority of the Trustee, and shall forthwith, by and through its officers and Directors, execute such documents and transfers as may be necessary to place the Trustee in legal possession of the mortgaged premises and its business, and after receipt of such notice, all the powers and functions, rights and privileges of each and every of the Directors and Officers of the Company shall cease and determine with respect to the mortgaged premises and business unless especially continued in writing by the Trustee, or unless the mortgaged premises have been restored to the Company as hereinbefore in this Article XVI provided.
- 16.05 If the security hereby created shall become enforceable as herein provided and the Company shall have failed to pay the Trustee on demand the principal and interest due upon all the Bonds outstanding, the Trustee may in its discretion and upon the request in writing of the holders of twenty-five per centum (25%) in principal amount of the Bonds then outstanding (subject to the provisions of Clause 15.02 hereof), shall, by writing, appoint a receiver or receiver and manager of the mortgaged premises, or any part thereof, and may remove any receiver or receiver and manager so appointed, and appoint another in his stead from time to time. The following provisions shall apply upon the appointment of any such receiver or receiver and manager:
- a. Such appointment may be made at any time after this security shall have become enforceable and either before or after the Trustee shall have entered into or taken possession of the mortgaged premises or any part thereof.
  - b. Every such receiver or receiver and manager may, in the discretion of the Trustee, be vested with all or any of the powers and discretions of the Trustee.

- c. Such receiver or receiver and manager may carry on the business of the Company or any part thereof, and may exercise all the powers conferred upon the Trustee by Clause 16.01 hereof.
- d. The Trustee may from time to time fix the remuneration of every receiver or receiver and manager, and may direct the payment thereof out of the mortgaged premises or the proceeds thereof; but the appointment of any such receiver or receiver and manager shall be revoked upon the request in writing of the holders of a majority in principal amount of the Bonds.
- e. The Trustee may, from time to time, require any such receiver or receiver and manager to give security for the performance of his duties, and may fix the nature and amount thereof, but it shall not be bound to require such security.
- f. Every such receiver or receiver and manager may, with the consent in writing of the Trustee, borrow money for the purpose of carrying on the business of the Company, the maintenance of the mortgaged premises or any parts thereof and the payment of taxes, wages and other charges ranking in priority to the Bonds, and current operating expenses and operating expenses incurred not more than sixty days prior to the taking of possession of the mortgaged premises by the Trustee and for any other purposes, provided such other purposes are duly authorized in the manner set forth in Clause 16.01 hereof; and the receiver or receiver and manager may issue certificates (herein called "Receiver's Certificates") for such sums as will in the opinion of the Trustee be sufficient for obtaining upon the security of the mortgaged premises the amounts from time to time required, and such certificates may be payable either to order or to bearer and may be payable at such time or times as to the Trustee may appear expedient, and shall bear interest as shall therein be declared, and the Trustee may sell, pledge or otherwise dispose of the same in such manner as to it may seem advisable, and may pay such commission on the sale thereof as to it may appear reasonable, and the amounts from time to time payable by virtue of such Receiver's Certificates shall form a first charge upon the mortgaged premises in priority to the Bonds.
- g. Every such receiver or receiver and manager shall, so far as concerns responsibility for his acts, be deemed the agent of the Company.
- h. Save so far as otherwise directed by the Trustee, all moneys, from time to time received by such receiver shall be paid over to the Trustee to be held by it on the trusts of these presents.
- i. The Trustee may pay over to such receiver any moneys constituting part of the mortgaged premises to the intent that the same may be applied by such receiver for the purposes hereof, and the Trustee may from time to time determine what funds the receiver shall be at liberty to keep in hand with a view to the performance of his duties as such receiver.

16.06 Upon any sale of the mortgaged premises or of any part thereof, the purchaser in making payment therefor shall be entitled (after paying in cash so much as shall

be necessary to cover the Trustee's reasonable compensation and the costs and expenses theretofore incurred by the Trustee, and of the sale and of the proceedings incident thereto, and all taxes, assessments and other charges (if any), upon the mortgaged premises ranking in priority to the Bonds and coupons, except those subject to which such sale shall have been made), to appropriate and use toward the payment of the remainder of the purchase price any of the Bonds or coupons entitled to participate in the proceeds of such sale, reckoning each bond or coupon so appropriated and used at such sum as shall be payable thereon out of the net proceeds of the sale; and proper receipts shall thereupon be given to the holders of such Bonds or coupons for the amount so payable thereon, and the Bonds and coupons if the net proceeds of the sale shall be sufficient to pay them in full shall be delivered up for cancellation, or if the proceeds of the sale shall not be sufficient to pay such Bonds or coupons in full, then proper endorsement shall be made thereon of the amount so paid, and they shall then be returned to the holder.

- 16.07 No person dealing with the Trustee or its agent shall be concerned to inquire whether the security hereby constituted has become enforceable or whether the powers which the Trustee is purporting to exercise have become exercisable, or whether any money remains due upon the security of these presents or the Bonds, or as to the necessity or expediency of the stipulations and conditions subject to which any sale shall be made, or otherwise as to the propriety or regularity of any sale, or of any other dealing by the Trustee with the mortgaged premises, or to see to the application of any money paid to the Trustee, and, in the absence of fraud on the part of such person such dealing shall be deemed, so far as regards the safety and protection of such person, to be within the powers hereby conferred and to be valid and effectual accordingly.
- 16.08 The Company hereby irrevocably appoints the Trustee to be the attorney of the Company and in the name and on behalf of the Company to execute and do any deeds, transfers, conveyances, assignments, assurances and things which the Company ought to execute and do under the covenants herein contained, and generally to use the name of the Company in the exercise of all or any of the powers hereby conferred on the Trustee, with full powers of substitution and revocation, and in the case of any sale hereunder, whether by the Trustee or under judicial proceedings, the Company agrees that it will execute to the purchaser or purchasers on demand any instrument reasonably necessary to confirm to the purchaser or purchasers the title of the property so sold, and in case of any such sale, the Trustee is hereby irrevocably authorized to execute on behalf of the Company, and in its name, any such confirmatory instrument.
- 16.09 No remedy herein conferred upon or reserved to the Trustee for the bondholders is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing by law or by statute.

The Trustee shall have the right in its discretion to proceed in its name as Trustee hereunder in the enforcement of the security hereby constituted by any remedy authorized hereby or by law, whether by legal proceedings or otherwise, but it shall not be bound to do or take any act or action in virtue of the powers conferred on it by these presents, unless and until it shall have been required so to do by a writing

defining the action which it is required to take signed by the holders of at least twenty-five per cent (25%) of the principal amount of the then outstanding Bonds, or of such greater proportion of the then outstanding Bonds as may in any particular case be required under this Deed, or by a resolution defining such action adopted at a meeting of bondholders duly convened and held in accordance with the provisions herein contained, but the Trustee, notwithstanding the definition in such requisition of any act, action or proceedings to be taken, shall be at liberty to take such act, action or proceedings in the enforcement of the security hereby constituted as it shall in its discretion think proper, and the Trustee may before taking any such action require the bondholders, at whose instance it is so required, to deposit with the Trustee the Bonds so held by them, for which Bonds the Trustee shall issue receipts. The obligation of the Trustee to commence or continue any such act, action or proceedings shall be conditional upon the bondholders, at whose instance it is so required, furnishing when required in writing by the Trustee sufficient funds to commence or continue such act, action or proceedings and indemnity reasonably satisfactory to the Trustee to protect and hold harmless the Trustee against all costs, charges, expenses and liabilities which may be incurred, and any loss or damage which may be suffered by the Trustee by reason thereof.

All rights of action under this Trust Deed may be enforced by the Trustee without the possession of any of the Bonds or coupons hereby secured, or the production thereof on the trial or other proceedings relative thereto.

The Trustee shall have power to institute and to maintain such suits, actions and proceedings as it may deem necessary or expedient to prevent any impairment of the security hereunder by any acts of the Company, or of others, in violation of this Trust Deed or unlawful, or as the Trustee may deem necessary or expedient to preserve and to protect its interests and the security and interests of the holders of the indebtedness hereby secured, in respect of the mortgaged premises, or in respect of the income, earnings, rents, issues and profits thereof or otherwise, including power to institute and to maintain suits, actions or proceedings to restrain the enforcement of, or compliance with, or the observance of any legislative or other Governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of, or compliance with, or observance of such enactment, rule or order would impair the security hereunder or be prejudicial to the interests of the holders of the indebtedness hereby secured or of the Trustee.

- 16.10 The Company covenants and agrees to and with the Trustee that in case of any foreclosure proceedings or other proceedings to enforce the security hereby created, judgment may be rendered against it in favour of the Bondholders hereunder or in favour of the Trustee, as trustee of an express trust for the Bondholders hereunder, for any amount which may remain due in respect of the Bonds secured hereby and the interest thereon, after the application to the payment thereof of the proceeds of any sale of the mortgaged premises.
- 16.11 The Trustee shall not, nor shall any receiver or receiver and manager appointed by it, be responsible or liable otherwise than as a trustee for any debts contracted by it or for damages to persons or property or for salaries or non-fulfillment of contracts during any period wherein the Trustee or receiver or receiver and manager shall manage the mortgaged premises upon entry as herein provided, nor shall the Trustee or the receiver or receiver and manager be liable to account

as mortgagee or mortgagees in possession or for anything except actual receipts, or be liable for any loss of realization or for any default or omission for which a mortgagee in possession might be liable, and the Trustee shall not be bound to do, observe or perform or to see to the observance or performance by the Company of any of the obligations herein imposed upon the Company, nor in any other way to supervise or interfere with the conduct of the Company's business, unless and until the security hereby created has become enforceable and the Trustee shall have been kept supplied with moneys reasonably necessary to provide for the expenses of the required action and with satisfactory indemnity as aforesaid.

- 16.12 No holder of any Bond or coupon hereby secured shall have any right to institute any suit, action or proceeding for the payment of principal or interest for the purpose of enforcing the security hereby constituted or for the execution of any trust or power hereunder, or for the appointment of a liquidator, receiver, receiver and manager or sequestrator, or trustee in bankruptcy, or to have the Company wound up, or for any other remedy hereunder, unless such holder shall previously have given to the Trustee written notice of any existing default on the part of the Company and such default shall have continued for such period of time, if any, as is necessary to render the security hereby constituted enforceable; nor unless the holders of at least twenty-five per centum (25%) in principal amount of the Bonds hereby secured and then outstanding shall have made written request to the Trustee and shall have afforded to it reasonable opportunity itself to proceed to exercise the powers hereinbefore granted or to institute an action, suit or proceeding in its own name for such purpose; nor unless also such bondholder or bondholders shall have furnished, when required in writing by the Trustee, sufficient funds to commence or continue such act, action or proceeding, and have tendered to the Trustee security and indemnity satisfactory to it against the costs, expenses and liabilities to be incurred therein or thereby; nor unless also the Trustee shall have failed to act within a reasonable time after such notification, request and tender of indemnity; and such notification, request, furnishing of funds, if required, and tender of indemnity are hereby declared in every such case, at the option of the Trustee to be conditions precedent to any action or cause of action for the appointment of a liquidator, receiver and manager or sequestrator, or for any other remedy hereunder by or on behalf of the holder or holders of such Bonds or coupons or any of them; it being understood and intended that no one or more holders of Bonds or coupons shall have any right in any manner whatsoever to affect, disturb or prejudice the security hereby created by his or their action, or to enforce any right hereunder except in the manner herein provided, and that all powers and trusts hereunder shall be exercised and all proceedings at law shall be instituted, had and maintained by the Trustee, except only as herein provided, and only in any event of the equal benefit of all holders of outstanding Bonds and coupons.

In case any action, suit or other proceeding shall have been brought by the Trustee or by any bondholder or bondholders after failure of the Trustee to act, the bondholders may by extraordinary resolution passed in the manner in which such a resolution purporting to exercise the powers conferred by Clause 23.01 hereof, is required to be passed, direct the Trustee, or the bondholder or bondholders bringing any such action, suit or proceeding to waive the default in respect to which any such action, suit or other proceeding shall have been brought upon payment



of the costs, charges and expenses incurred by the Trustee, or bondholder or bondholders as the case may be, in connection therewith and to stay or discontinue or otherwise deal with any such action, suite or other proceeding and such direction shall be binding upon the Trustee and such bondholder or bondholders and shall be observed by them.

16.13 Except as herein otherwise expressly provided, the moneys arising from any sale or realization of the whole or any part of the mortgaged premises received by the Trustee, whether under any sale by the Trustee or by judicial process or otherwise, shall be held by the Trustee, and be by it applied, together with any other moneys then or thereafter in the hands of the Trustee available for such purpose, in the first place to the payment or reimbursement of the costs, charges, expenses, advances and compensation of the Trustee in or about the execution of the trust hereunder or otherwise in relation to these presents, with interest thereon, as herein provided, and all taxes, assessments and other charges upon the mortgaged premises ranking in priority to the Bonds and interest due thereon, and the residue of the said moneys shall be applied:

1. In or towards payment to the holders of the Bonds *pari passu* in proportion to the amount due to them respectively, and without any preference or priority whatsoever, of all principal moneys due on such Bonds, whether such principal moneys shall or shall not be payable according to the tenor of said Bonds, and after payment of all principal moneys of all due and unpaid interest and coupons and premium, if any, with interest on all sums overdue at the same rates respectively as borne by the Bonds in respect whereof such interest or coupons may be overdue; provided that no payment shall be made upon any interest or coupon the time of payment of which has been extended whether by purchase or funding or otherwise, until the prior payment in full of all other interest and coupons; and
2. The surplus, if any, of such moneys shall be paid to the Company or its assigns.

16.14 1. The Trustee shall not be bound to apply to make any partial or interim payment of any moneys coming into its hands if the amount so received by it is insufficient to make a distribution of at least five per centum (5%) of the amount of the principal amount of the outstanding Bonds, but it may retain the money so received by it and deposit the same in some bank to its credit, at such rate of interest as is then current, or invest the same as hereinafter provided, until the money or the investments representing the same, with the income derived therefrom, together with any other moneys for the time being under its control, shall be sufficient for the said purpose or until it shall consider it advisable to apply the same in the manner above set forth.

2. Not less than twenty-one (21) days notice shall be given by the Trustee in the manner provided in Clause 2.16 hereof, of any payment to be made under this Article XVI to the Bondholders.

Such notice shall state the time and place when and where such payment is to be made, and also the liability under the present security upon which it is to be applied.

After the day so fixed, unless payment shall have been duly demanded and have been refused, the Bondholders will be entitled to interest only on the balance (if any) of the principal moneys and interest due to them respectively on the Bonds, after deduction of the respective amounts payable in respect thereof on the days so fixed.

- 16.15 The Trustee shall have the right at the time it makes any partial payment hereunder to demand of the persons claiming such payment the production of the actual Bonds or coupons under which they claim such payment be made, and on such Bonds or coupons being produced, it shall make such payment and shall cause to be endorsed thereon a memorandum of the amount so paid and the date of payment, but the Trustee may, in its discretion, dispense with the production and endorsement upon a Bond or coupon as aforesaid in any individual case upon such indemnity being given as it shall deem sufficient.

#### **ARTICLE XVII INVESTMENT BY TRUSTEE**

- 17.01 Unless otherwise provided herein, any moneys held by the Trustee as security for the Bonds secured hereby may be invested in the name of the Trustee in any of the securities now or hereafter authorized by the law of Canada or any Province thereof for the investment by trustees of trust moneys, and any such investments may from time to time be varied for others of a like nature; and pending such investment or other application thereof under any provision hereof, such moneys may be placed on deposit in the name of the Trustee in a chartered bank in Canada at the rate of interest then current on similar deposits, or with the consent of the Company may be held by the Trustee subject to the payment of interest at such rate as may be agreed upon between the Trustee and the Company or may be loaned by the Trustee on call on security approved by the Trustee, provided repayment of the principal and interest is guaranteed by the Trustee.

#### **ARTICLE XVIII AMALGAMATION, RECONSTRUCTION AND MERGER**

- 18.01 Nothing in this Deed shall prevent the reorganization or reconstruction of the Company or the consolidation, amalgamation or merger of the Company with any other company, or of any other company with the Company, or shall prevent the transfer by the Company of its undertaking and assets as a whole or substantially as a whole to another company, provided that in each case the conditions of this Article XVIII be observed, and provided also that every such successor or assign shall as part of such reorganization, reconstruction, consolidation, amalgamation, merger or transfer, and in consideration thereof, and at or before the transfer of the assets and undertaking of the Company to any such other company, enter into a covenant with the Trustee or otherwise become liable in law punctually to pay when due the principal moneys, interest and other moneys intended to be secured by these presents, and the principal and interest of the Bonds, and punctually to perform and observe all the obligations of the Company under these presents, and shall sign and execute all such other deeds and documents as the Trustee may be advised by counsel are necessary in the premises;

Provided, however, that such reorganization, reconstruction, consolidation, amalgamation, merger, sale or transfer shall be upon such terms as substantially to preserve and not to impair the lien and security of these presents or any of the rights or powers of the Trustee or of the bondholders hereunder.

The Trustee, upon obtaining the opinion of counsel selected by it and paid by the Company that such reorganization, reconstruction, consolidation, amalgamation, merger, sale or transfer, is on such terms as substantially to preserve and not to impair the lien, charge, and security created by these presents and the rights and powers of the Trustee and the bondholders hereunder, and that all the provisions of this Clause have been complied with, shall facilitate the same in all respects, and may give such consent and join in such documents and do such acts as in its discretion may be thought advisable in order that such reorganization, reconstruction, consolidation, amalgamation, merger, sale or transfer may be carried out, so long as the Company is not in default hereunder, or, in case of and during such default, if the Bondholders consent thereto by extraordinary resolution or by an instrument in writing signed by the holders of more than fifty per cent (50%) of the total principal amount of the Bonds then outstanding.

In the event that the obligations and liabilities of the Company under the Bonds and hereunder are assumed as above provided by another company, upon any such reorganization, reconstruction, consolidation, amalgamation, merger, sale or transfer made in accordance with the foregoing provisions, the Company may thereupon be released and discharged from liability under this Trust Deed, and the Trustee may execute any document or documents which it may be advised is or are necessary or advisable for effecting or evidencing such release and discharge, and the opinion of counsel as aforesaid shall be full warrant and authority to the Trustee for so doing.

- 18.02 In case any company shall be so consolidated, amalgamated or merged with the Company as aforesaid, or in case the Company shall be so reorganized, reconstructed, consolidated, amalgamated or merged with any other company, or in case of such transfer of the undertaking and assets of the Company as a whole or substantially as a whole, the company formed by such consolidation or with which the Company shall have been amalgamated or to which such transfer shall have been made, upon executing and causing to be registered a deed with the Trustee whereby such company shall assume the due and punctual payment of all the Bonds and the observance and performance of all the covenants and conditions hereof, and shall enter into the covenants specified in Clause 18.01 hereof, shall succeed to and be substituted for the Company with the same effect as if it had been named herein as the Party of the First Part hereto, and shall possess and may exercise each and every right of the Company hereunder and such company may thereupon cause to be executed and may issue, either in its own name or in the name of the Company, any or all of the Bonds which shall now heretofore have been executed by the Company and delivered to the Trustee, and the Trustee, upon order of such successor company in lieu of the Company, and subject to all the terms, conditions and restrictions herein prescribed, shall certify any and all Bonds which shall have been previously executed by the officers of the Company and delivered to the Trustee for certification, and any of such Bonds which such successor company shall thereafter cause to be executed and

delivered to the Trustee for that purpose. All Bonds so issued shall in all respects have the same legal rank and security as the Bonds theretofore or thereafter issued in accordance with the terms hereof as though all of said Bonds had actually been issued by the Company as of the date of the execution hereof. Every such successor company shall have like powers of consolidation, amalgamation and sale on like conditions.

**ARTICLE XIX  
IMMUNITY OF OFFICERS, STOCKHOLDERS AND DIRECTORS**

- 19.01 No recourse under or upon any obligation, covenant or agreement contained in this Deed, or in any Bond or coupon hereby secured, or under any judgment obtained against the Company, or by the enforcement of any assessment, or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise, or under any circumstances, under or independently of this Deed, shall be had against any shareholder, officer or director of the Company, or of any successor corporation, either directly or through the Company or otherwise, for the payment for or to the Company, or any receiver, liquidator, trustee or receiver and manager thereof, or for or to the holder of any Bond or coupon issued or secured hereunder or otherwise, of any sum that may be due and unpaid by the Company upon any such Bond or coupon, and any and all personal liability of every name and nature, whether at common law or in equity, or by statute or by constitution or otherwise of any such shareholder, officer or director on account of the Bonds and coupons and indebtedness represented thereby, by reason of any insufficiency or insufficiencies in the payment of any stock of the Company, is hereby expressly waived and released as a condition of and as part of the consideration for the execution of this Deed and the issue of such Bonds and coupons. Nothing herein or in the Bonds contained shall be taken, however, to prevent recourse to and the enforcement of the liability of any shareholder of the Company for uncalled capital, or the liability of any such shareholder upon unsatisfied calls.

**ARTICLE XX  
APPOINTMENT OF A NEW TRUSTEE**

- 20.01 The Trustee and any trustee appointed hereunder may at any time resign office by giving three months notice in writing to that effect to the Company or by giving such shorter notice as the Company may be willing to accept and (subject to the provisions of Clause 23.01 hereof) the Company may at any time appoint in writing a new trustee or new trustees hereof in the place of any trustee so resigning, becoming bankrupt or going into liquidation or otherwise becoming unfit to act or desiring to be discharged from the trusts hereof; and in the event of the Board of Directors failing so to do after being thereunto requested by any Bondholder or if such vacancy occur after default, such appointment shall be made by the holders of a majority in principal amount of the outstanding Bonds present at a meeting called for that purpose or by an instrument or instruments in writing signed by the holders of a majority in principal amount of the outstanding Bonds. Any such new Trustee shall be vested with and have all the property, rights, powers and authority granted to the Trustee hereunder and be subject in all respects to the terms, conditions and provisions hereof.

Any company into which the Trustee may be merged or with which it may be consolidated, or any company resulting from any merger or consolidation to which the Trustee shall be a party shall be a successor Trustee under this Deed without any further act.

#### **ARTICLE XXI NON-PRODUCTION OF BONDS**

- 21.01 In the event of a holder not producing any Bond or Coupon upon the same becoming payable, whether at maturity, on a declaration, at redemption or otherwise, a certificate of the Trustee hereunder of the deposit with it for payment of the amount of such Bond or of such coupon shall avail as a cancellation of such Bond and coupon for the purposes hereof, and as a sufficient authorization to the Company to cancel the entries relating to such Bond and coupon and to the Trustee to discharge pro tanto the security hereby created.

#### **ARTICLE XXII DEFEASANCE**

- 22.01 Upon proof being given to the reasonable satisfaction of the Trustee that all the Bonds and coupons have been paid off and satisfied or otherwise duly and effectually provided for as aforesaid or that payment at maturity or on the date, if any, fixed for redemption of the principal of all the Bonds and premium, if any, thereon and of all accrued interest and all and any other sums payable hereunder has been duly provided for by deposit of sufficient moneys therefor with the Trustee or otherwise to the satisfaction of the Trustee and upon payment of all costs, charges and expenses properly incurred by the Trustee in relation to these presents, and of the remuneration of the Trustee, and all interest thereon, the Trustee shall, at the request of the Company and at its cost and expense at any time not earlier than six months before maturity or any date fixed for redemption as aforesaid, release and reconvey to the Company the mortgaged premises freed and discharged from the trusts and provisions herein contained.

#### **ARTICLE XXIII BONDHOLDERS' MEETINGS**

- 23.01 Meetings of the Bondholders shall be convened, held and conducted in the manner following:
1. The Trustee may at any time, and shall from time to time on being served with notice signed by the Company or by Bondholders representing at least twenty per cent (20%) of the principal amount of the Bonds outstanding, convene a meeting of the Bondholders. In the event of the Trustee failing to call and hold a meeting after being thereunto required by the Company or by the Bondholders as above set forth, the Company or the requisite number of Bondholders may themselves call and hold such meeting. Bonds held by the Company or any subsidiary company shall not be deemed to be outstanding Bonds for any purpose of this Clause, provided,

however, that Bonds pledged or charged by the Company as security for loans or other indebtedness shall for all such purposes be deemed to be outstanding Bonds and the pledgees thereof or holders of any lien or charge thereon shall be entitled to sign any notice, attend all meetings of Bondholders and vote thereat in respect of the Bonds so pledged or charged by the Company unless objection is taken to such vote and the Chairman is satisfied that such pledgees holders are not entitled under the terms of the pledge or charge freely to exercise in their discretion uncontrolled by the Company the right to vote such Bonds. Every such meeting shall be held at the City of Montreal or at such other place as the trustee may determine.

2. At least twenty days previous notice of such meeting shall be given to the Bondholders and to the Company, and such notice shall state the time when and the place where said meeting is to be held, and shall indicate the general nature of the business to be transacted thereat, and in general terms, the subject matter of any extraordinary resolution to be submitted thereat. The notice shall be given in the manner provided in Clause 2.16 hereof.
3. Subject to the provisions of Sub-clause (12) of this Clause 23.01 at any meeting of the Bondholders a quorum shall consist of Bondholders present in person or by proxy and representing twenty-five per centum (25%) of the principal amount of the Bonds outstanding.
4. Some person who need not be a Bondholder or proxy shall be nominated by the Trustee to be chairman of the meeting and if no person is so nominated, or if the person so nominated is not present within fifteen minutes from the time fixed for the holding of the meeting, the Bondholders present or represented shall choose one of their number to be chairman.
5. Subject to the provisions of Sub-clause (12) of this Clause 23.01, if a quorum of the Bondholders as above defined shall not be present within half an hour from the time fixed for holding any meeting, the meeting, if called upon the requisition of Bondholders, shall be dissolved, but if called by the Trustee, either on its behalf or on the requisition of the Company, may be adjourned by the Trustee from time to time, not longer than sixty days in all, until a quorum be in attendance. Notice of any date to which such meeting is adjourned shall be given in the manner provided in Clause 2.16 hereof. If the meeting has been duly convened and a quorum of the Bondholders are present or represented, the Chairman may, with the consent of the meeting (and shall if so directed by the meeting) adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for ten days or more, notice of the adjourned meeting shall be given in the manner provided in Clause 2.16 hereof. Save as aforesaid it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

6. Every question submitted to a meeting shall be decided in the first place by a majority of the votes given on a show of hands and, in the case of an equality of votes, the chairman shall, both on the show of hands and at the poll, have a vote in addition to the vote or votes, if any, to which he may be entitled as a Bondholder.
7. Whenever demanded by a Bondholder or Bondholders representing at least Five Thousand Dollars (\$5,000.00) aggregate principal amount of the Bonds and whenever demanded by the chairman, a poll shall be taken on any question submitted to a meeting. If a poll is demanded as aforesaid it shall be taken in such manner and either at once or after an interval or adjournment as the chairman with the consent of the meeting directs, and the result of such poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
8. At any meeting of the Bondholders, each Bondholder shall, on a poll, be entitled to one vote for every One Hundred Dollars (\$100.00) (or its equivalent in other moneys) principal amount of Bonds of which he shall be the holder. Votes may be given in person or by proxy and a proxy need not be a bondholder.
9. For the purpose of enabling the holders of unregistered Bonds to be present and vote at any meeting without producing their Bonds, or to vote at any meeting by proxy, the Company with the approval of the Trustee, or if the Company after demand by the Trustee shall have failed to make such regulations, the Trustee may make and from time to time vary such regulations as it shall think fit for the deposit of Bonds with any Bank or trust company or any other company or person satisfactory to the Trustee. A certificate signed by any such Bank or trust company or other company or person that Bonds have been so deposited and will be held by the such bank or trust company or other company or person during any period mentioned therein, shall be sufficient evidence to justify action by the Trustee on the faith thereof, and the holder of any such certificate or the holder of a proxy who shall produce such certificate therewith shall be entitled to be present and vote at any meeting in the same way as if such holder were the actual bearer of the Bond mentioned in such certificate. Any regulations so made by the Company and approved by the Trustee, or so made by the Trustee as aforesaid, shall be binding and effective and votes given in accordance therewith shall be valid and shall be counted.

A holder of registered Bonds may by an instrument in writing under his hand, appoint any person his proxy to vote at any meeting for him.

Save as aforesaid, the only persons who shall be recognized at any meeting as the holders of Bonds or as entitled to be present and vote at a meeting in respect thereof, shall be the persons who produce unregistered Bonds at the meeting and the registered bondholders.

10. The Company and the Trustee, by their respective officers and directors, and the legal advisers of the Company and the Trustee may attend any meeting of the Bondholders, but shall have no vote as such.

11. In addition to all powers hereinbefore given, a meeting of the Bondholders shall have the following powers exercisable from time to time by extraordinary resolution only, viz: -
- a. Power to sanction any change of any provision of this Trust Deed and any modification or compromise of the rights of the Bondholders against the Company or against its property, whether such rights shall arise under the provisions of this Trust Deed or otherwise;
  - b. Power to sanction the exchange of the Bonds for or the conversion of the Bonds into stock, shares or other securities of the Company or any other company formed or to be formed;
  - c. Power to sanction whether or not otherwise provided for under this Deed any plan, scheme or proposal for the reorganization or reconstruction of the Company or for the re-adjustment, composition, compromise or arrangement of its capital, debts or affairs or for the consolidation, amalgamation or merger of the Company with any other company, or for the selling or leasing of the undertaking, property and assets of the Company or any part thereof;
  - d. Power to authorize the Trustee to accept in satisfaction or part satisfaction for the sale or transfer of all or any part of the mortgaged premises (whether such sale or transfer be made by the Company or by the Trustee or under any scheme for reconstruction of the Company or for the consolidation, amalgamation or merger of the Company with any other company) any shares (whether preferred, ordinary, deferred or founders), bonds, debentures mortgages, debenture stock or any other securities of any company formed or to be formed;
  - e. Power to authorize the distribution *in specie* of any shares or securities;
  - f. Power to authorize the Trustee to bid at any sale of the mortgaged premises or any part thereof and to tender in payment or part payment on account of the purchase price of any property so purchased all or any part of the Bonds and interest then due thereon and coupons then outstanding or to set off against such purchase price the amount due upon all or any of the Bonds and coupons then outstanding and to give to the Company a valid discharge in respect of the amount of Bonds and coupons so tendered or set off and to borrow the moneys required to make any deposit at said sale and/or to pay the balance of the purchase price and to mortgage and charge the property so purchased and the Bonds and coupons not so tendered as security for the repayment of the moneys so borrowed and interest thereon; or itself to advance such moneys, in which event the Trustee shall have a lien upon the properties so purchased and on the Bonds and coupons not so tendered for the



amount so advanced and interest thereon; and to hold any property so purchased and any part of the Bonds and coupons not so tendered (subject to any mortgage or lien to secure any moneys so borrowed or advanced) in trust for all the holders of the then outstanding Bonds and coupons *pro rata* in proportion to the amounts due to them thereon respectively in principal and interest before the making of such tender; and to sell, transfer and convey the properties so purchased for such consideration in cash or in the shares, stocks, bonds or debentures of any company formed or to be formed, or partly in cash and partly in such securities, and upon such terms and conditions as may be determined by extraordinary resolution of the Bondholders and until such sale, transfer or conveyance to maintain and operate the properties so purchased, and carry on the business if the undertaking shall be included in the properties so purchased, and for such purposes to borrow moneys or advance its own moneys and to mortgage and charge the undertaking and properties so purchased, or any part thereof, as security for the repayment of the moneys so borrowed or advanced, with interest thereon, and otherwise deal with such undertaking and properties and the proceeds of any sale, transfer or conveyance thereof as the Bondholders may by extraordinary resolution direct;

- g. Power to authorize the Trustee to release and discharge the Company from the whole or any part of the indebtedness secured hereunder and to release and discharge the whole or any part of the mortgaged premises from the lien hereby created;
- h. Power from time to time to appoint a committee with power and authority to exercise, and to direct the Trustee to exercise, on behalf of the Bondholders, such of the powers of the Bondholders that are exercisable by extraordinary or other resolution as shall be provided in any extraordinary resolution appointing such committee or subsequently from time to time adopted and subject to such limitations, if any, as may be thereby prescribed. Any such extraordinary resolution may provide for payment of the expenses and disbursements of and compensation to such committee. Such committee shall consist of such number of persons as shall be prescribed in any such extraordinary resolution and the members need not be themselves holders of Bonds. Every such committee may elect its chairman and may make regulations respecting its quorum, the calling of its meetings, the filling of vacancies occurring in its number and its procedure generally. Such regulations may provide that the committee may act at a meeting at which a quorum is present or may act by minutes signed by the number of members thereof necessary to constitute a quorum. All acts of any such committee within the authority delegated to it shall be binding upon all Bondholders;
- i. Power to require the Trustee to exercise or refrain from exercising any of the powers conferred upon it by this Trust Deed, or to require the Trustee, on having entered into or taken possession of the

mortgaged premises or any part thereof, to restore the same to the Company, or to discontinue or suspend any action or proceeding taken by the Trustee or by any bondholder or bondholders or to waive any default of the Company other than the non-payment of any principal moneys at maturity upon such terms as may be decided;

- j. Power to remove the Trustee from office and to appoint a new Trustee or Trustees;
- k. Power to amend, alter or repeal any extraordinary resolution previously passed or sanctioned by the Bondholders;

Provided always that no action shall be taken at any meeting of Bondholders affecting the rights of the holders of one or more series of Bonds in a manner or to an extent differing from that in or to which the rights of holders of any other series of Bonds are affected, unless such action shall have received the affirmative votes of the holders of at least fifty-one per cent (51%) of the principal amount of the Bonds then outstanding of each series so differently affected.

- 12. An extraordinary resolution passed at a meeting of the Bondholders held in accordance with the provisions hereof shall be binding upon all Bondholders and holders of coupons, whether present or absent, and each and every such holder.

The expression "extraordinary resolution" when used in this Trust Deed means a resolution passed at a meeting of the Bondholders duly convened and held in accordance with the provisions herein contained, at which holders of a clear majority in value of the whole of the then outstanding Bonds are present in person or by proxy, and carried by a majority consisting of not less than three-fourths of the persons voting thereat upon a show of hands, or if a poll is duly demanded, then by a majority consisting of not less than three-fourths in value of the votes given on such poll; provided that, where a meeting for the purpose of passing an extraordinary resolution is convened, if within half an hour from the time appointed for the meeting a quorum as in this paragraph above defined is not present, the meeting shall stand adjourned for twenty-one days and shall accordingly be held on the corresponding day of the week and at the same time and place as that originally fixed by notice convening the meeting, and notice of such adjourned meeting shall be given in the manner provided in Clause 2.16 hereof, and if at such adjourned meeting a quorum, as above defined, is not present, then those Bondholders who are present shall be a quorum and may transact the business for which the meeting was originally convened, and a resolution passed thereat by a majority consisting of not less than three-fourths of the persons voting thereat upon the show of hands, or if a poll is duly demanded, then by a majority consisting of not less than three-fourths in value of the votes given on such poll, shall be considered an extraordinary resolution within the meaning of this clause;

13. At any meeting of the Bondholders, in cases where no poll is required or requested, a declaration made by the chairman that a resolution has been carried, or carried by any particular majority, or lost, shall be conclusive evidence thereof;
14. Minutes of all resolutions and proceedings at every such meeting as aforesaid shall be made and duly entered in books to be from time to time provided for that purpose by the Trustee at the expense of the Company and any such minutes as aforesaid, if signed by the chairman of the meeting at which such resolutions were passed or proceedings had, or by the chairman of the next succeeding meeting of the bondholders shall be *prima facie* evidence of the matters therein stated, and until the contrary is proved every such meeting in respect of the proceedings of which minutes shall have been made, shall be deemed to have been duly held and convened and all resolutions passed thereat or proceedings had to have been duly passed and had.

Notwithstanding the foregoing provisions of this Trust Deed any resolution or instrument signed in one or more counterparts by the holders of all the Bonds for the time being outstanding shall be and be deemed to be and shall have the same force and effect as an extraordinary resolution passed by the holders of Bonds under the provisions of this Article with respect to extraordinary resolutions. In such event no notice shall be required to be given and no meeting shall be required to be held.

#### **ARTICLE XXIV PROTECTION OF THE TRUSTEE**

- 24.01 By way of supplement of the provisions of any Act of any of the Provinces of Canada for the time being relating to trustees, it is expressly declared as follows, that is to say:
  1. The Trustee may execute any of the trusts or powers imposed or conferred upon it hereby and perform any duties required of it, by or through attorneys or agents, and may in relation to these presents act on the opinion or advice of or information obtained from any lawyer, valuer, engineer, surveyor, broker, auctioneer or other expert, whether obtained by the Trustee or by the Company or otherwise, but shall not be bound to act upon such opinion or advice and shall not be responsible for any loss occasioned by so acting or by not acting, as the case may be; it may take legal or other advice and employ such assistance as may be necessary to the proper discharge of its duties and may pay proper and reasonable compensation for all such legal and other advice or assistance as aforesaid.
  2. Any such advice or opinion or information may be sent or obtained by letter, telegram, or cablegram; and the Trustee shall not be liable for acting on any advice, opinion or information purporting to be conveyed by any such letter, telegram or cablegram, although the same shall contain some error or shall not be authentic.

3. The Trustee shall only be accountable for reasonable diligence in the management of the trusts hereof, and shall not be liable for any act or default on the part of any co-trustee, or for having permitted any co-trustee to receive and retain any moneys payable to the Trustee hereunder, but the Trustee hereof shall only be liable for its own willful acts and defaults.
4. The Trustee is to be at liberty to place all bonds, stock certificates or other securities or deeds or other documents of title to any of the mortgaged premises in any safe or receptacle selected by the Trustee or with any banker or banking company or lawyer or firm of good repute or other depository, and the Trustee shall not be responsible for any loss incurred in connection with any such deposit, and the Trustee may pay out of the mortgaged premises all sums required to be paid on account of or in respect of any such deposit.
5. The Trustee shall not be responsible for any misconduct on the part of any attorney, banker, receiver, lawyer, agent or other person appointed by it hereunder, or bound to supervise the proceedings of any such appointee.
6. The Trustee shall not be bound to give notice to any person or persons of the execution hereof, or of the lien and charge of these presents, or in any way to interfere with the conduct of the Company's business, unless and until the security hereby constituted shall have become enforceable and the Trustee shall have determined or become bound to enforce the same.
7. The Trustee shall not be responsible for the moneys subscribed by applicants for or subscribes of the Bonds or to be bound to see to the application thereof.
8. The Trustee, except as herein otherwise provided, shall, as regards all the trusts, powers, authorities and discretions vested in it, have absolute and uncontrolled discretion as to the exercise thereof, whether in relation to the manner or as to the mode of and time for the exercise thereof, and in the absence of fraud it shall be in no wise responsible for any loss, costs, damages or inconveniences that may result from the exercise or non-exercise thereof.
9. No condition contained in this Deed shall be construed as obliging the Trustee to effect or main insurance or to notify the Bondholders of failure on the part of the Company to insure or cause any Pledged Subsidiary Company to insure, or to maintain or to properly operate and develop the property of the Company or of any Pledged Subsidiary Company, nor shall it be responsible for any loss which may happen by reason of any such failure as aforesaid.
10. The Trustee is not to be held liable for or by reason of failure or defect of title to, or for any encumbrance upon, the mortgaged premises, or the properties of any Pledged Subsidiary Companies, or for or by reason of the statements of facts or recitals in this Deed or in said Bonds contained, nor is such Trustee bound to verify the same; but all such statements and recitals are deemed to have been made by the Company only; and it is

hereby declared and agreed by and between the parties hereto, as a condition upon which the Trustee has entered into these presents and accepted the trust hereby created, that nothing herein contained shall in anywise cast any obligation upon the Trustee to make, register or renew this or any other Deed or writing by way of mortgage or otherwise from the Company, upon or of the mortgaged premises or any part thereof, or upon or of the property of any Pledged Subsidiary Company, in order to add to the security hereby intended to be given; nor shall it be the duty of the Trustee to register or record this Deed as a mortgage or otherwise, or to procure any further or additional deed or instrument of further assurance, or to do any other act which may be suitable or proper to be done for the preservation of the security hereby created or for giving notice of the existence of any such lien or charge or supplementing the same, except when otherwise expressly provided herein.

11. Whenever, in the administration of the trusts of this deed, the Trustee shall deem it necessary or desirable that any matter be proved or established by the Company prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by a certificate signed by the President or Vice-President and the Secretary or an Assistant Secretary and such certificate shall be full warrant to the Trustee for any action taken or suffered by it under the provisions of this Deed on the faith thereof; but in its discretion the Trustee may in lieu thereof accept evidence of such fact or matter or may require such information or additional evidence as to it may seem reasonable.
12. The Trustee may buy, sell, lend upon and deal in the Bonds either with the Company or otherwise, and generally contract and enter into financial transactions with the Company or otherwise without being liable to account for any profit made thereby.
13. The Trustee shall not be required to give security for its conduct or administration, and shall be responsible to account only for moneys actually coming into its hands under any provision hereof and shall not be deemed by the execution hereof to have adopted, assumed or incurred any liability under any lease, licence or contract or be required to perform any covenant in any thereof assigned hereunder to the Trustee and the Trustee shall not nor shall any receiver or receiver and manager appointed by it be responsible or liable, otherwise than as a Trustee, for any debts contracted by it or for damages to persons or property or for salaries or nonfulfillment of contracts during any period wherein the Trustee or receiver or receiver and manager shall manage the mortgaged premises upon or after entry as herein provided, and shall not be responsible for the acts, omissions, defaults, errors, fraud, failure or misconduct of any agent whom it may reasonably employ in the exercise of the powers conferred upon it hereunder and in the selection of whom it shall have exercised reasonable care, nor for loss occasioned by its own acts, omissions or defaults unless such acts, omissions or defaults constitute a breach of trust knowingly and intentionally committed by said Trustee; provided, however, that the Trustee shall upon the request and at the cost and expense of the

Company take or permit the Company to take all such actions by legal proceedings or otherwise as may be open to it in respect of any loss sustained by any act of commission or omission of any such agent.

14. The Trustee and its successors and assigns in the trust shall hold the mortgaged premises and the specific mortgage pledge and charge and the floating charge and all the rights, privileges and benefits conferred hereby and by law and by any deeds supplemental hereto, in trust for the various persons, firms or corporations who shall or may at any time become or be Bondholders, or any of them, subject to all the terms and conditions herein set forth.

**ARTICLE XXV  
ACCEPTANCE OF TRUST BY TRUSTEE**

- 25.01 The Trustee hereby accepts the trusts in this Deed declared and provided, and agrees to perform the same upon the terms and conditions herein set forth, but subject to the express condition that it shall be responsible only for money coming into its hands under any provision hereof.

**ARTICLE XXVI  
EFFECT OF HEADINGS**

- 26.01 The headings of all the preceding Articles are inserted for convenience of reference only and shall not affect the construction or interpretation of this Deed.

**ARTICLE XXVII  
THE SCHEDULES**

- 27.01 The following are the First and Second Schedules herein referred to:

**FIRST SCHEDULE**

**“Y”**

**(FORM OF COUPON BOND)**

No. \_\_\_\_\_

\$ \_\_\_\_\_

**MARITIME ELECTRIC COMPANY, LIMITED  
(Incorporated under the Companies Act of Canada)**

**FIRST MORTGAGE SINKING FUND BOND, 4% SERIES  
DUE 1975**

MARITIME ELECTRIC COMPANY, LIMITED (hereinafter called “the Company”) for value received hereby promises to pay to the bearer hereof, or if registered, then to the registered holder hereof, on the First day of May, 1975, or on such earlier date as the principal moneys become payable in accordance with the provisions of the Trust Deed hereinafter mentioned in presentation and surrender of this Bond.

Dollars of lawful money of Canada at any branch of The Royal Bank of Canada in Canada (far northern branches excepted), and to pay interest thereon from the First day of May, 1955, as the said places in like money at the rate of four per centum (4%) per annum, semi-annually on the First days of May and November in each year, in accordance with and upon presentation and surrender of the respective annexed coupons as they severally become due.

This Bond is one of a Series designated the First Mortgage Sinking Fund Bonds, 4% Series due 1975 of the Company of which \$2,500,000 principal amount are authorized for immediate issue, which, with Bonds of the same or of one or more other series issued, and to be issued, unlimited in aggregate principal amount, are issued and to be issued, under and subject to and, irrespective of the time of issue, equally secured by a Deed of Trust and Mortgage, dated as of the First day of May, 1955, made between the Company of the one part and Montreal Trust Company, as Trustee for the bondholders, of the other part, to which Trust Deed and to any deed or deeds supplemental thereto reference is hereby made for a description of the property thereby mortgaged or charged, the nature and extent of the security, the rights of the holders of the Bonds issued thereunder, the Sinking Fund provisions, conditions applicable to the issue of additional Bonds and the terms and conditions upon which said Bonds are issued and secured and held.

The Bonds of the 4% Series due 1975 are issued and to be issued as coupon Bonds with privilege of registration as to principal in denominations of \$500 and \$1,000, and may be issued as fully registered Bonds in such denominations as the Directors of the Company may designate.

The Bonds of the 4% Series due 1975 are redeemable at the option of the Company as a whole or in part, at any time prior to maturity, on thirty days notice given in

accordance with the Conditions endorsed hereon, at a premium of 4% up to and including April 30, 1959; the premium thereafter decreasing  $\frac{1}{4}$  of 1% each year or fraction thereof to and including April 30, 1975, and thereafter without premium; in each case with accrued interest to the date fixed for redemption.

This Bond is entitled to the benefits of and subject to like redemption by operation of the Sinking Fund provided for in said Trust Deed.

This Bond is subject to the Conditions endorsed hereon which form part hereof.

This Bond shall not become obligatory until it shall have been certified by the Trustee for the time being of the said Trust Deed.

IN WITNESS WHEREOF Maritime Electric Company, Limited, has caused its corporate seal to be hereto affixed and this Bond to be signed by its President or Vice-President and countersigned by its Secretary or an Assistant Secretary and interest coupons bearing the facsimile signature of its Secretary to be attached hereto and this Bond to be dated the First day of May, 1955.

MARITIME ELECTRIC COMPANY, LIMITED

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President or Vice-President

Countersigned:

---

Secretary or Assistant Secretary



## TRUSTEE'S CERTIFICATE

This is one of the First Mortgaged Sinking Fund Bonds, 4% Series due 1975, issued under the Deed of Trust and Mortgage within mentioned.

MONTREAL TRUST COMPANY  
Trustee

By: \_\_\_\_\_  
Authorized Officer

**FORM OF INTEREST COUPON**

\$ \_\_\_\_\_

MARITIME ELECTRIC COMPANY, LIMITED, will pay to the bearer on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_ and the sum of \_\_\_\_\_ in lawful money of Canada at any branch of The Royal Bank of Canada in Canada (far northern branches excepted), being one-half year's interest on its First Mortgage Sinking Fund Bonds, 4% Series, due 1975 No. \_\_\_\_\_ dated 1<sup>st</sup> May, 1955, unless said Bond shall have been called for previous redemption and payment thereof duly provided for.

Coupon No. \_\_\_\_\_

\_\_\_\_\_  
Secretary

**FORM OF REGISTRATION  
(No writing hereon except by the Registrar)**

Date of Registry	In Whose Name Registered	Registrar

**THE CONDITIONS WITHIN REFERRED TO  
(To be endorsed on the Coupon Bonds)**

1. If the principal moneys due upon this Bond shall become payable by being called for redemption or otherwise before the stated maturity hereof, the person presenting this Bond for payment must surrender therewith the coupons representing interest subsequent to the date fixed for redemption or payment the Company nevertheless paying the interest for the fraction of the current half year, if the date fixed for payment be not an interest due date.
2. Delivery by the bearer or registered holder to the Company of this Bond and delivery by the bearer to the Company of each of the said interest coupons shall be a good discharge for the principal moneys and interest respectively specified.
3. The principal moneys hereby secured due upon this Bond shall immediately become payable on demand of the Trustee in the event of the security constituted by the within mentioned Trust Deed becoming enforceable and the Trustee thereof determining or becoming bound to enforce the same.
4. The Company shall at all times cause to be kept by and at the office of the Trustee in the City of Montreal and may cause to be kept at such other places and by such other registrars as may be prescribed by the Company and approved by the Trustee or designated in the coupon Bonds of any series, registration books in which the holder of coupon Bonds may register the same as to principal only and which at all reasonable times will be open for inspection by the Trustee or by any bondholder.

The Company shall also cause to be kept by and at the office of the Trustee in the City of Montreal and at such other place or places and by such other registrar or registrars as the Company with the approval of the Trustee may designate, a register or registers in which shall be entered the name and post office address of every holder of any unregistered Bond, who may so require, and which at all reasonable times shall be open for inspection by the Trustee or by any bondholder.

5. Except when registered this Bond is transferable by delivery, but the Trustee or other Registrar will at any time upon the request of the bearer, whilst this bond is unregistered, register him or his nominee in the register above mentioned as the holder of this Bond, and endorse hereon a note of such registration, and such Trustee or other Registrar will also at any time upon the request of the registered holder or his executors or administrators, cancel the registration and the note thereof endorsed hereon, whereupon this Bond will again become transferable by delivery.

No notice of any trust shall be registered on the register of Bonds or otherwise recognized but the Bonds may be registered in the name of a trustee or trustees and in such case neither the Company nor the Trustee shall be deemed to have notice of the trust represented by such trustee or trustees or be bound to see to the execution of any trust whether express, implied or constructive, in respect of Bonds registered in the name of a trustee or trustees.

A fee not exceeding One Dollar (\$1.00) shall be payable to the Trustee or Registrar for every registration (except upon original issue) or transfer of a Bond; provided that if two or more Bonds in bearer form or registered in the same name are presented together for registration of the transfer thereof to one person or to bearer, the fee payable to the Trustee or other Registrar shall be not exceeding Fifty Cents (50¢) for one Bond and Twenty-Five Cents (25¢) for each additional Bond of those so presented together. Payment of such charges shall be made by the party requesting such registration, exchange or transfer as a condition precedent thereto.

6. No transfer of this bond when registered shall be valid unless made on the transfer book at the office where this Bond is registered by the registered holder or his attorney duly appointed by an instrument in writing in form and execution satisfactory to the Trustee and/or other Registrar, or by the executors or administrators of such registered holder upon compliance with such reasonable requirements as the Trustee and/or other Registrar may prescribe, and unless such transfer shall have been duly noted on this Bond by the Trustee or other Registrar; but this Bond may be discharged from registry by being transferred to bearer after which it shall be transferable by delivery but may be again and from time to time registered and discharged from registry.
7. The registered holder for the time being of this Bond when registered and the bearer hereof for the time being when not registered, and the bearer of each of the interest coupons shall be entitled to the principal moneys, premium (if any) and interest represented by such instruments respectively free from all equities or rights of set-off or counterclaim between the Company and the original or any intermediate holder hereof and all persons may act accordingly, and the receipt of such registered holder or bearer, as the case may be, for such principal money, premium, if any, and interest shall be a good discharge to the Company or the Trustee for the same and neither the Company nor the Trustee shall be affected by notice of or be bound to see to the execution of any trust or equity affecting the ownership of any Bond or coupons or the principal moneys or interest owing upon such instruments respectively, or, save as ordered by a court of competent jurisdiction or as required by statute, be bound to inquire into the title to any Bond or coupon.

In the case of joint registered holders, the principal money and premium if any, hereby secured shall be deemed to be owing to them upon a joint account and may be paid to the holder whose name appears first on the register, and the receipt of such holder therefor shall constitute a valid discharge to the Trustee and to the Company.

The registered holder of registered Bonds and in the case of joint registered holders, the holder whose name appears first on the register and the bearer of Bonds not registered and the bearer of interest coupons may be treated by the Company and the Trustee as the absolute owner of such Bonds or coupons for all purposes.

8. Unless otherwise expressly provided in the within mentioned Trust Deed or herein, all notices to be given to the Bondholders shall be and be deemed to be validly given if published in two daily newspapers approved by the Trustee, printed in the

English language and published, one in the City of Montreal, and one in the City of Toronto, in two consecutive issues of each such newspaper, and if sent by ordinary mail prepaid, to the registered addresses of bondholders who have registered their Bonds or addresses, and any notice so given by publication or by post shall be deemed to have been given on the expiration of three days after it is posted or first published as the case may be; provided, however, that failure to send any such notice by post shall not invalidate or otherwise prejudicially affect any proceedings referred to in such notice.

9. If this Bond is redeemed before maturity, notice of redemption shall be given by publication in at least two daily newspapers printed in the English language and published, one in the City of Montreal, and one in the City of Toronto, at least once a week for four successive calendar weeks, the first publication to be not less than thirty days prior to the redemption date fixed in such notice, and by sending a similar notice not less than thirty days before such date by ordinary mail addressed to the holders of any Bonds, who have registered their addresses and if this Bond is registered to the registered holder thereof at the registered address or addresses of such holder or holders as the case may be; provided, however, that failure to send any such notice by post shall not invalidate or otherwise prejudicially affect the redemption of this Bond.
10. Coupon Bonds of the 4% Series due 1975 of one denomination may be exchanged for coupon Bonds of another denomination of the same series of equal aggregate principal amount upon the terms and conditions mentioned in the said Trust Deed.
11. This Bond except when registered is to be treated as negotiable by delivery merely, and all person are invited by the Company and the holders for the time being hereof to act accordingly.

**“Z”  
(FORM OF REGISTERED BOND)**

No. \_\_\_\_\_

\$ \_\_\_\_\_

**MARITIME ELECTRIC COMPANY, LIMITED  
(Incorporated under the Companies Act of Canada)**

**FIRST MORTGAGE SINKING FUND BOND 4% SERIES  
DUE 1975**

MARITIME ELECTRIC COMPANY, LIMITED (hereinafter called “the Company”), for value received hereby promises to pay to

or registered assigns, on the First day of May, 1975, or such earlier date as the principal moneys become payable in accordance with the provisions of the Trust Deed hereinafter mentioned on presentation and surrender of this Bond.

Dollars of lawful money of Canada at any branch of The Royal Bank of Canada in Canada (far northern branches excepted) and to pay interest thereon at the said places in like money, at the rate of four per centum (4%) per annum, semi-annually on the First days of May and November in each year, as provided in the Conditions endorsed hereon.

This Bond is one of a series designated the First Mortgage Sinking Fund Bonds 4% Series due 1975 of the Company, of which \$2,500,000 principal amount are authorized for immediate issue, which, with Bonds of the same or of one or more other series issued and to be issued, unlimited in aggregate principal amount are issued and to be issued, under and subject to and irrespective of the time of issue, equally secured by a Deed of Trust and Mortgage dated as of the First day of May, 1955, made between the Company of the one part and Montreal Trust Company, as Trustee for the bondholders, of the other part, to which Trust Deed and to any deed or deeds supplemental thereto reference is hereby made for a description of the property thereby mortgaged or charged, the nature and extent of the security, the rights of the holders of the Bonds issued thereunder, the Sinking Fund provisions, conditions applicable to the issue of Additional Bonds and the terms and conditions upon which said Bonds are issued and secured and held.

The Bonds of the 4% Series due 1975 are issued and to be issued as coupon Bonds in denominations of \$500 and \$1,000, or as fully registered Bonds in such denominations as the Directors of the Company may designate.

The Bonds of the 4% Series due 1975 are redeemable at the option of the Company as a whole or in part, at any time prior to maturity, on thirty days notice given in accordance with the Conditions endorsed hereon, at a premium of 4% up to and including April 30, 1959; the premium thereafter decreasing  $\frac{1}{4}$  of 1% each year or fraction thereof to and including April 30, 1975, and thereafter without premium; in each case with accrued interest to the date fixed for redemption.

This Bond is entitled to the benefits of and subject to like redemption by operation of the Sinking Fund provided for in said Trust Deed.

This Bond is subject to the Conditions endorsed hereon which form part hereof.

This Bond shall not become obligatory until it shall have been certified by the Trustee for the time being of the said Trust Deed.

IN WITNESS WHEREOF Maritime Electric Company, Limited, has caused its corporate seal to be hereto affixed and this Bond to be signed by its President or Vice-President and countersigned by its Secretary or an Assistant Secretary and to be dated the First day of May, 1955.

MARITIME ELECTRIC COMPANY, LIMITED

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President or Vice-President

Countersigned:

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Secretary or Assistant Secretary

**TRUSTEE'S CERTIFICATE**

This is one of the First Mortgage Sinking Fund Bonds, 4% Series due 1975, issued under the Deed of Trust and Mortgage within mentioned.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19

MONTREAL TRUST COMPANY  
Trustee

By: \_\_\_\_\_  
Authorized Officer

**FORM OF TRANSFER**

FOR VALUE RECEIVED \_\_\_\_\_ hereby  
assign and transfer unto  
the principal of the within Bond, together with accrued interest thereon, hereby irrevocably  
constituting and appointing \_\_\_\_\_  
attorney to transfer the said Bond on the books of  
the within mentioned Company with full power of substitution in the premises.

Dated \_\_\_\_\_ 19

In the presence of:  
\_\_\_\_\_

**ENDORSEMENT**

The within Bond is issued in lieu of and in exchange for Coupon Bond(s) of this issue and series not contemporaneously outstanding aggregating the principal amount hereof and Coupon Bond(s) of this issue and series will be issued in exchange for this Bond upon surrender, cancellation and payment of charges as provided in the within mentioned Deed of Trust and Mortgage.



**THE CONDITIONS WITHIN REFERRED TO  
(To be endorsed on the fully registered Bonds)**

1. If the principal moneys due upon this Bond shall become payable by redemption or otherwise before the stated maturity hereof, the person presenting this Bond for payment must surrender the same for cancellation.
2. Delivery by the registered holder to the Company of this Bond shall be a good discharge for the principal moneys and interest therein specified.
3. The principal moneys hereby secured due upon this Bond shall immediately become payable on demand of the Trustee in the event of the security constituted by the said Trust Deed becoming enforceable and the Trustee thereof determining or becoming bound to enforce the same.
4. The Company shall at all times cause to be kept by and at the office of the Trustee in the City of Montreal and may cause to be kept at such other places and by such other registrars as the Company with the approval of the Trustee may designate, or as may be designated in the Bonds of any particular series, registration books in which shall be entered the names and addresses of holders of fully registered Bonds without Coupons and particulars of the Bonds held by them respectively and in which transfers of such fully registered Bonds shall be entered and which shall at all reasonable times be open for inspection by the Trustee or by any Bondholder.
5. Transfers of this Bond shall be valid only if made on the above mentioned books by the registered holder or his attorney duly appointed by an instrument in writing in form and execution satisfactory to the Trustee or by the executors or administrators of the registered holder upon compliance with such reasonable requirements as the Trustee and/or other registrar may prescribe and upon the surrender of this Bond to the Trustee for cancellation; whereupon a new fully registered Bond or Bonds of the same series and aggregate principal amount shall be issued to the transferee in exchange therefor.

No notice of any trust shall be entered in the register of Bonds or otherwise recognized, but the Bonds may be registered in the name of a trustee or trustees and in such case neither the Company nor the Trustee shall be deemed to have notice of the trust represented by such trustee or trustees or be bound to see to the execution of any trust, whether express, implied or constructive, in respect of Bonds registered in the name of a trustee or trustees.

A fee not exceeding one dollar (\$1.00) shall be payable to the Trustee or Registrar for every registration or transfer of Bond; provided that if two or more Bonds registered in the same name are presented together for registration of the transfer thereof to one person, the fee payable to the Trustee or other registrar shall be not exceeding fifty cents (50¢) for one bond and twenty-five (25¢) for each additional Bond of those so presented together. Payment of such charges shall be made by the party requesting such registration, exchange or transfer as a condition precedent thereto.

6. The registers of fully registered Bonds without coupons may be closed for a period of not exceeding twenty-one (21) days immediately preceding the dates upon which interest is payable. The fully registered Bonds bear interest from the interest date next preceding their dates of certification respectively unless the same be an interest date when they shall bear interest from date of certification. As interest matures upon such Bonds the Company or the Trustee shall forward, or cause to be forwarded, by post to the registered address of the holder for the time being of each such Bond a cheque on the Company's bankers for such interest payable at par at any of the places where the interest is payable under the terms of such Bond. Such cheque shall be payable to the order of such holder, or in the case of joint holders, to the order of all such joint holders (failing written instructions from them to the contrary), and shall be sent to the address of that one of such joint holders whose name stands first in the register, and the payment by the Company's bankers of such cheque shall be an effective discharge to the Company.
7. The registered holder for the time being of this Bond shall be entitled to the principal moneys, premium (if any) and interest represented hereby free from all equities or rights of set-off or counterclaim between the Company and the original or any intermediate holder hereof, and all persons may act accordingly, and the receipt of the registered holder of this Bond for any such principal moneys, premium (if any) and interest shall be a good discharge to the Company or the Trustee for the same, and neither the Company nor the Trustee shall be affected by notice of or be bound to see to the execution of any trust or equity affecting the ownership of this Bond or the principal moneys or interest owing upon it, or save as ordered by a court of competent jurisdiction or as required by statute, be bound to enquire into the title to this Bond.

In the case of joint registered holders, the principal moneys and premium (if any) hereby secured shall be deemed to be owing to them upon a joint account and may be paid to the holder whose name appears first on the register, and the receipt of such holder therefor shall constitute a valid discharge to the Trustee and to the Company.

8. Unless otherwise expressly provided in the above mentioned Trust Deed or herein, all notices to be given to the Bondholders shall be and be deemed to be validly given if published in two daily newspapers approved by the Trustee printed in the English language and published, one in the City of Montreal and one in the City of Toronto, in two consecutive issues of each of such newspapers, and if sent by ordinary mail prepaid, to the registered addresses of bondholders who have registered their Bonds or addresses, and any notice so given by publication or by post shall be deemed to have been given at the expiration of three days after it is posted or first published as the case may be. Provided, however, that failure to send any such notice by post shall not invalidate or otherwise prejudicially affect any proceedings referred to in such notice.
9. If this Bond is redeemed before maturity notice of redemption shall be given by publication in at least two daily newspapers printed in the English language and published, one in the City of Montreal and one in the City of Toronto, at least once a week for four (4) successive calendar weeks, the first publication to be not less than thirty days prior to the redemption date fixed in such notice, and by sending

a similar notice not less than thirty days before such date by ordinary mail prepaid, addressed to the holders of any Bonds who have registered their addresses, to the registered holder hereof at the registered address or addresses of such holder or holders as the case may be; provided, however, that failure to send any such notice by post shall not invalidate or otherwise prejudicially affect the redemption of this Bond.

10. (Insert relevant provisions if any authorized by the Directors as to the interchange with coupon Bonds and as between registered Bonds of different denominations and as to all other matters not expressly provided for by the said Trust Deed).
11. This Bond is to be treated as negotiable subject to the requirements for registration above provided, and all persons are invited by the Company and the owner for the time being hereof to act accordingly.



## **APPENDIX B**

### **Standard & Poor's Corporate Credit Rating Report**

Research Update:

# Maritime Electric Co. Ltd. 'BBB+' Rating Affirmed; Outlook Stable

June 17, 2022

## Rating Action Overview

- We expect that Prince Edward Island - based Maritime Electric Co. Ltd (MECL), will continue operating as a lower-risk integrated utility that is planning to proactively harden its electric system, and operates under a generally credit supportive regulatory framework, despite increasing physical risks across North America.
- Because of climate change, we modestly increased our assessment of the company's business risk to reflect our view of the company's increasing susceptibility to hurricanes or severe storms that have already increased and affected many areas across North America. As such, we revised downward our assessment of the company's business risk profile to the higher end of the strong category from the lower end of the excellent category. This modest downward revision does not affect the ratings on the company.
- We affirmed our ratings on Maritime Electric Co. Ltd., including our 'BBB+' issuer credit rating, and our 'A' issue-level rating on the company's secured bonds, with '1+' recovery rating.
- The stable outlook reflects our expectations that the company will maintain constructive relationship with its regulator, continue to harden its system over time, and generate stable and predictable financial measures. Over the next two years, we expect MECL's stand-alone funds from operations (FFO) to debt to reflect 16%-19%.

### PRIMARY CREDIT ANALYST

**David S De Juliis**  
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### SECONDARY CONTACT

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@spglobal.com

## Rating Action Rationale

**We affirmed our ratings on MECL and the outlook remains stable despite increasing risks from climate change.** Despite increasing risks from climate change, we believe MECL will continue achieving generally constructive regulatory outcomes, while managing its susceptibility to physical risk, and maintaining stable stand-alone financial measures that support its credit quality. We expect MECL's stand-alone funds from operations (FFO) to debt to reflect 16%-19% over the next two years.

**We revised downward our assessment of MECL's business risk profile to the higher end of the strong category from the lower end of the excellent category.** Our revision reflects climate change and our view of the island's increasing susceptibility to physical risks even though the company is planning on hardening many portions of its system incrementally over time. Over many years, MECL is proactively invested in the hardening and replacement of portions of its electric system to minimize customer service outages. Despite these improvements, the region remains susceptible to physical risks from the increasing prevalence of storm systems and winter ice and sleet activity in the region. Also affecting the company's business risk profile is its very small customer base of only about 86,000 customers, its lack of geographic diversity, and that its service territory is limited to a single island. Should the company experience a severe storm, it would likely affect its entire service territory and recovering such costs would likely be more challenging than most other larger and more diversified utilities.

The utility has not experienced a devastating storm since 2003, but hurricane storm systems have come close over the past 24 months. As the pace of climate change intensifies, we believe the storm risk for MECL marginally increases. We also believe MECL's business risk profile is now more in line with its other island peers such as Caribbean Utilities Co. and Hawaiian Electric Co. Inc.

Our assessment of MECL's business risk also reflects the Island Regulatory and Appeals Commission (IRAC) and the provincial government of Prince Edward Island (PEI) that both have a history of playing an active role in establishing energy policy and setting rates for the island's customers, which exposes the utility to potential political interference. We view this as generally less favorable than an independent regulator with a clear, consistent mandate and an established track record of credit-supportive policies. As such, we expect the company to maintain constructive relationships with its regulator in a manner that continues to support its credit quality.

Additionally, we believe MECL has somewhat higher emission risks because the utility relies on diesel as its primary fuel for their on-island backup energy generators. Overall, MECL purchases most of its power supply, about 75%, from neighboring province New Brunswick, including about 15% from the Point LePreau nuclear generation station, and 25% from on-island wind assets.

Offsetting much of the aforementioned risks is our assessment of MECL that it is a monopolistic lower-risk, rate-regulated vertically integrated electric utility that has a track record of constructive regulatory outcomes and stable profit measures. MECL has generally managed regulatory risk effectively relying on credit supportive mechanisms allowed within its regulatory construct. These include energy cost adjustments and weather normalization in its rates, which provide stability to their cash flow, minimizing profit volatility. Overall, we assess the company at the higher end of its business risk profile. To account for this, we assess the comparable rating analysis modifier as positive.

**We assess MECL's financial risk profile as significant using our medial-volatility financial benchmark table which reflects the company's lower-risk regulated utility operations and effective management of regulatory risk.** Our analysis also incorporates the most recent energy cost adjustment made in February 2022 to recover approximately \$5.6 million in energy supply costs due to unforeseen outages at Point LePreau, a nuclear generation station located in New Brunswick. MECL plans to file its next general rate application in the second quarter of this year proposing new rates effective March 1, 2023. Under our base-case assumptions that include the most recent rate case outcomes, capital spending of about C\$60 million-C\$70 million per year in 2022 and 2023, and dividends of about C\$8.5 million per year, we forecast the company will maintain FFO to debt of about 16%-19% during our two-year outlook period.

**We assess MECL as a moderately strategic subsidiary of Fortis Inc.** We believe MECL is unlikely to be sold in the near term, is important to Fortis' long-term strategy in regulated utilities, and would likely receive support from the parent should it fall into financial difficulty. Based on this assessment, we continue to rate MECL one notch below the group credit profile.

## **Outlook**

The stable outlook reflects our expectations that the company will maintain constructive relationship with its regulator, continue to harden its system over time, and generate stable and predictable financial measures. Over the next two years, we expect MECL's stand-alone FFO to debt to reflect 16%-19%.

## **Downside scenario**

We could downgrade MECL over the next 12 months if:

- MECL experiences adverse regulatory rulings, severe storms, volatile profit measures, or operational setbacks that results in a higher business risk; or
- Its financial measures weaken, including FFO to debt of consistently below 16%.

## **Upside scenario**

We could raise our ratings on MECL over a similar period if its financial measures improve, including FFO to debt consistently above 25%, without a weakening of business risk.

## **Company Description**

MECL is an integrated electricity generation, transmission, and distribution utility with operations throughout PEI. It provides services to more than 86,300 customers and is regulated by IRAC. MECL is an indirect wholly owned subsidiary of Fortis Inc.

## **Liquidity**

We assess MECL's liquidity as adequate. We expect the company's liquidity sources to be more than 1.1x its uses over the next 12 months and anticipate that its net sources will remain positive even if its EBITDA declines by 10%. In our view, MECL has sound relationships with its banks and a generally satisfactory standing in the credit markets. In the unlikely event of liquidity distress, we expect that MECL would scale back its capital spending and dividend payments to preserve its liquidity.

Principal liquidity sources

- Available committed credit facilities of about C\$47 million as of Dec. 31, 2021; and
- Cash FFO of about C\$55 million over the next 12 months.

Principal liquidity uses

- Capital expenditure of about C\$65 million over the next 12 months; and

- Dividend payments of about C\$8.5 million over the next 12 months

## **Environmental, Social, And Governance**

### **ESG credit indicators: E-3, S-2, G-2**

Environmental factors are a moderately negative consideration in our credit rating analysis of Maritime Electric Co. Ltd. Maritime Electric serves Prince Edward Island, which is a region that's becoming increasingly prone to physical risks related to Atlantic hurricane and tropical storm systems. We view MECL's small customer base and lack of geographic diversity as factors that add to the susceptibility of physical risks associated with storm conditions.

## **Issue Ratings - Subordination Risk Analysis**

### **Capital structure**

As of Dec. 31, 2021, MECL's capital structure comprised about C\$3.7 million of short-term borrowings and C\$258 million of first-mortgage bonds (FMB).

### **Analytical conclusions**

MECL's FMBs benefit from a first-priority lien on the majority of the utility's real property owned or subsequently acquired. In addition, the collateral coverage on these FMBs is more than 1.5x, which supports a recovery rating of '1+' and an issue-level rating of 'A' (two notches above our 'BBB+' issuer credit rating on MECL).

## **Ratings Score Snapshot**

Issuer Credit Rating: BBB+/Stable/--

Business risk: Strong

- Country risk: Very low
- Industry risk: Very low
- Competitive position: Satisfactory

Financial risk: Significant

- Cash flow/leverage: Significant

Anchor: bbb

Modifiers

- Diversification/portfolio effect: Neutral (no impact)
- Capital structure: Neutral (no impact)
- Financial policy: Neutral (no impact)



## Research Update: Maritime Electric Co. Ltd. 'BBB+' Rating Affirmed; Outlook Stable

- Liquidity: Adequate (no impact)
- Management and governance: Satisfactory (no impact)
- Comparable rating analysis: Positive (+1 notch)

Stand-alone credit profile : bbb+

- Group credit profile: a-
- Entity status within group: Moderately strategic (no impact)

## Related Criteria

- General Criteria: Environmental, Social, And Governance Principles In Credit Ratings, Oct. 10, 2021
- General Criteria: Group Rating Methodology, July 1, 2019
- General Criteria: Hybrid Capital: Methodology And Assumptions, July 1, 2019
- Criteria | Corporates | General: Corporate Methodology: Ratios And Adjustments, April 1, 2019
- Criteria | Corporates | General: Reflecting Subordination Risk In Corporate Issue Ratings, March 28, 2018
- General Criteria: Methodology For Linking Long-Term And Short-Term Ratings, April 7, 2017
- Criteria | Corporates | General: Methodology And Assumptions: Liquidity Descriptors For Global Corporate Issuers, Dec. 16, 2014
- Criteria | Corporates | Utilities: Key Credit Factors For The Regulated Utilities Industry, Nov. 19, 2013
- General Criteria: Methodology: Industry Risk, Nov. 19, 2013
- General Criteria: Country Risk Assessment Methodology And Assumptions, Nov. 19, 2013
- Criteria | Corporates | General: Corporate Methodology, Nov. 19, 2013
- Criteria | Corporates | Utilities: Collateral Coverage And Issue Notching Rules For '1+' And '1' Recovery Ratings On Senior Bonds Secured By Utility Real Property, Feb. 14, 2013
- General Criteria: Methodology: Management And Governance Credit Factors For Corporate Entities, Nov. 13, 2012
- General Criteria: Principles Of Credit Ratings, Feb. 16, 2011

## Ratings List

### Ratings Affirmed

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#### Maritime Electric Co. Ltd.

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Issuer Credit Rating BBB+/Stable/--

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Senior Secured A

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Recovery Rating 1+

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## Research Update: Maritime Electric Co. Ltd. 'BBB+' Rating Affirmed; Outlook Stable

Certain terms used in this report, particularly certain adjectives used to express our view on rating relevant factors, have specific meanings ascribed to them in our criteria, and should therefore be read in conjunction with such criteria. Please see Ratings Criteria at [www.standardandpoors.com](http://www.standardandpoors.com) for further information. Complete ratings information is available to subscribers of RatingsDirect at [www.capitaliq.com](http://www.capitaliq.com). All ratings affected by this rating action can be found on S&P Global Ratings' public website at [www.standardandpoors.com](http://www.standardandpoors.com). Use the Ratings search box located in the left column.

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## APPENDIX C

### Net Earnings Certificate

**Deed of Trust and Mortgage – May 1, 1955**

**Article 5.07 – Net Earnings of the Company**

5.07 No additional Bonds (except Additional Bonds which may be issued under Clause 5.02 hereof) shall be certified or delivered under this Article V unless, as shown by a Net Earnings Certificate, the Net Earnings of the Company for a period which shall, at the opinion of the Company, be either (a) its fiscal year next preceding the date of application for the certification and delivery of Additional Bonds, or (b) any twelve consecutive calendar months within the sixteen calendar months immediately preceding the date of any such application, shall have been not less than twice the combined annual interest charges on all Bonds issued hereunder outstanding at the date of such application (excluding as outstanding any Bonds for the payment, redemption or other retirement of which cash shall at the time be deposited with the Trustee), and on all Additional Bonds the certification and delivery of which is then requested.

**MARITIME ELECTRIC COMPANY, LIMITED**  
**ISSUE OF \$60,000,000 PRINCIPAL AMOUNT OF FIRST**  
**MORTGAGE BONDS, 5.00% SERIES, DUE 2053<sup>1</sup>**  
**NET EARNINGS CERTIFICATE**

We, Jason C. Roberts and T. Michelle Francis, the undersigned, being respectively the President and Chief Executive Officer and Vice President, Finance and Chief Financial Officer of Maritime Electric Company, Limited do declare and say:

1. That this certificate is given pursuant to the provisions of Section 5.07 and Section 5.09 of the Deed of Trust and Mortgage between the Company and Montreal Trust Company, as Trustee, dated as of May 1, 1955 as amended by deeds supplementary thereto (hereinafter called the "Trust Deed").
2. That the net earnings of the Company calculated as prescribed in the Trust Deed for the Twelve month period ended December 31, 2022 was as follows:

Gross Revenues	\$236,034,613
Plus	
a. Interest Income	36,460
Less	
b. All expenses of management and operations including taxes (except excess or other profits taxes and income taxes), rentals, insurance, reasonable charges for current repairs and maintenance.	(198,685,948)
c. Interest other than on funded debt, net of interest charged on construction	(310,405)
d. Amortization of the discount on Bonds redeemed and Bond issue expense	(21,396)
<b>Net Earnings of the Company</b>	<b><u>\$ 37,053,324</u></b>

3. That twice the combined annual interest charges on all bonds issued under the Trust Deed outstanding or to be outstanding as of \_\_\_\_\_, 2023 and on all additional bonds to be issued and outstanding as of that date is as follows:

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<sup>1</sup> For illustrative purposes only. Assumes 5.00% coupon rate on 30-year term. Debt coupon interest rate and tenure to be determined at or near time of issue.

**OUTSTANDING**

**ANNUAL INTEREST CHARGES**

First Mortgage Bonds, 7.57% Series Due 2025 - dollars 15,000,000	\$ 1,135,500
First Mortgage Bonds, 8.625% Series Due 2027 - dollars 15,000,000	1,293,750
First Mortgage Bonds, 8.92% Series Due 2031 - dollars 20,000,000	1,784,000
First Mortgage Bonds, 6.054% Series Due 2038 - dollars 60,000,000	3,632,400
First Mortgage Bonds, 3.657 Series Due 2056 - dollars 40,000,000	1,462,800
First Mortgage Bonds, 4.915% Series Due 2061 - dollars 30,000,000	1,474,500
First Mortgage Bonds, 4.148%, Series Due 2058 - dollars 40,000,000	1,659,200
First Mortgage Bonds, 4.915%, Series Due 2061 - dollars 30,000,000	1,380,000
First Mortgage Bonds, 5.00%, Series Due 2053 - dollars 60,000,000 <sup>2</sup>	<u>3,000,000</u>
	\$ 16,822,150
Multiplied by 2	\$ 33,644,300

And we make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath pursuant to the provisions of the *Canada Evidence Act*.

Dated at Charlottetown, Prince Edward Island, this \_\_\_ day of \_\_\_\_\_, 2023.

DECLARED before me at the )	AND WE HAVE SIGNED (under seal)
City of Charlottetown, Queens )	
County, Province of Prince Edward )	
Island, this ___ day of _____, 2023. )	_____
)	Jason C. Roberts
)	President and Chief Executive Officer
)	
_____) )	
Commissioner of Oaths )	
in and for the Province of )	
Prince Edward Island )	_____
)	T. Michelle Francis
)	Vice President, Finance and Chief Financial Officer

<sup>2</sup> For illustrative purposes only. Assumes 5.00% coupon rate on 30-year term. Debt coupon interest rate and tenure to be determined at or near time of issue.



## APPENDIX D

### Schedule of Assets Available for Pledging



**Deed of Trust and Mortgage – May 1, 1955**

**Article 5.08 – Limitation on Additional Indebtedness**

5.08 Additional Bonds (in addition to those provided for in Clause 5.02 hereof) may be certified and delivered under this Article V from time to time as follows:

1. In amounts not exceeding in the aggregate sixty-six and two-thirds per cent (66 $\frac{2}{3}$ %) of the cost or the then fair value to the Company, whichever is less, of Property Additions, such cost to the Company being deemed to be the sum of (a) any cash forming a part of such cost, and (b) an amount equivalent to the fair market value in cash of any shares or securities issued or delivered in payment therefor or for the acquisition thereof at the date of such issue or delivery.
  
2. In amounts not exceeding in the aggregate sixty-six and two-thirds per cent (66 $\frac{2}{3}$ %) of the cost or the then fair value, whichever is less, to a Pledged Subsidiary Company of Pledged Subsidiary Property Additions.

**MARITIME ELECTRIC COMPANY, LIMITED  
CERTIFICATE OF PROPERTY ADDITIONS TO BE  
PLEGGED FOR ISSUANCE OF \$60,000,000.00 ●%  
SERIES DUE 2053**

WE, JASON C. ROBERTS, T. MICHELLE FRANCIS, ANGUS S. ORFORD AND ENRIQUE A. RIVEROLL, HEREBY CERTIFY AND DECLARE AS FOLLOWS:

1. THAT the undersigned Jason C. Roberts is President and Chief Executive Officer of Maritime Electric Company, Limited (the "Company"). The undersigned T. Michelle Francis is Vice-President, Finance and Chief Financial Officer. The undersigned Angus S. Orford is Vice-President, Corporate Planning and Energy Supply. The undersigned Enrique A. Riveroll is Vice-President, Sustainability and Customer Operations.
2. THAT this Certificate is given pursuant to the provisions of Clause 5.08 and Paragraph III of Clause 5.09 of Article V of the Deed of Trust and Mortgage between the Company and Montreal Trust Company as Trustee, dated as of May 1, 1955 as supplemented and amended by twenty-five Deeds of Trust and Mortgage supplementary thereto (hereinafter called the "Trust Deed").
3. THAT the Company has acquired or constructed Property Additions which are available as a basis for the certification of Additional Bonds as defined in the Trust Deed and particularly of Sixty Million dollars (\$60,000,000.00) principal amount of First Mortgage Bonds of the ●% Series due 2053, application for the issue of which is being made. A description of the Property Additions and the cost thereof to the Company are set forth in Schedule 1 hereof.
4. THAT such Property Additions are as defined in Article I of the Trust Deed, are desirable for use in the conduct of the business of the Company, were acquired at a cost in cash to the Company as set forth in Schedule 1 hereof, were not acquired for shares or securities of the Company and have not been used or operated by others than the Company.
5. THAT no part of such Property Additions has previously been used as the basis for the certification of Additional Bonds under the Trust Deed, or for the release of any property or for the withdrawal of any monies from the said Trustee under any of the provisions of

the Trust Deed, and that no part of such Property Additions consists of property purchased or acquired, since January 1, 1955, by the Company from a Pledged Subsidiary Company.

6. THAT in the opinion of the undersigned the fair value to the Company of such Property Additions as at the date hereof is \$61,575,217, being the cost thereof which is expressed herein.
7. THAT no part of such Property Additions has been acquired, made or constructed for the purpose of keeping or maintaining the specifically mortgaged premises in good and businesslike working order and condition, and the deduction of any amount equal to the original cost of all property replaced or retired during the period covered by this certificate is as set forth in Schedule 1 hereof.
8. THAT the Company is not, to the knowledge of the undersigned, in default in the performance of any of the terms or covenants of the Trust Deed.
9. THAT that part of the said Property Additions (other than transmission lines and distribution, service and supply systems) made, erected or constructed on lands or premises held by the Company under lease or licence and a brief description of the lease or licence and the premises affected thereby are separately set forth herein under Schedule 1 hereof, and to the best of the knowledge and belief of the undersigned all of the leases or licences or any agreements ancillary thereto for the Property Additions and for the lands and premises affected by the Property Additions referred to into his Paragraph,
  - a. provide for compensation at the termination thereof, or
  - b. are subject to laws or regulations which provide for compensation at the termination thereof, or
  - c. in the case of a lease or licence from the Government of Canada or any Province thereof or other public authority, are supported by an opinion of counsel to effect that the right of termination is not customarily exercised.

10. THAT that part of the said Property Additions consisting of transmission lines and distribution, service and supply systems that are made, erected or constructed on lands or premises held or occupied by the Company under or pursuant to lease, easement, licence or permit or statutory or other right and a brief description of the lease, easement, licence or permit or statutory or other right and the premises affected thereby are separately set forth herein under Schedule 1 hereof.

AND we make this solemn declaration conscientiously believing it to be true knowing that it is of the same force and effect as if made under oath pursuant to the provisions of *The Canada Evidence Act*.

DATED at Charlottetown, Prince Edward Island this \_\_\_\_ day of \_\_\_\_\_, 2023.

DECLARED before me at the City of  
Charlottetown, in the County of Queens  
Prince Edward Island, this \_\_\_\_ day of  
\_\_\_\_\_, 2023

\_\_\_\_\_  
President and Chief Executive Officer

\_\_\_\_\_  
Vice-President, Finance and  
Chief Financial Officer

\_\_\_\_\_  
Vice-President, Corporate Planning and  
Energy Supply

\_\_\_\_\_  
Vice-President, Sustainability and  
Customer Operations

## **ADDENDUM 1**

### **Brief Description of Leases, Licences and Premises**

Lease for 999 years dated July 4, 1853 from Bentwick H. Cumberland and Wife to the Charlottetown Gas and Light Company, registered in the Registry Office for Queens County in Liber 56, Folio 250 affecting premises of Charlottetown Steam Plant as described in the said Lease being lands at Charlottetown, Queens County, located on Town Lots 93, 94, 95 and 96 of the First Hundred of Town Lots, Charlottetown, Prince Edward Island on which are located buildings and structures, pumphouse mechanical equipment, pumphouse electrical equipment, boiler plant equipment, steam turbines and auxiliary equipment, electrical equipment and other miscellaneous equipment.

## **ADDENDUM 2**

### **Brief Description of Leases, Easements, Licences, Permits, Statutory and Other Rights and Premises**

Leases, easements, licences, permits, statutory and other rights affecting premises in Prince, Queens and Kings County including, without limiting the generality of the foregoing, the easements described in the Trust Deed, on which are located transmission lines, transmission towers, distribution system, underground system, street lighting, services, transformers, meters and purchased government lines.



## APPENDIX E

### Illustrative Term Sheet

**MARITIME ELECTRIC COMPANY, LIMITED  
ILLUSTRATIVE TERM SHEET SUMMARY**

Issuer:	Maritime Electric Company, Limited
Issue:	First Mortgage Bonds, ●% Series Due 2053, pursuant to the terms of the Deed of Trust dated May 1, 1955 and supplementals thereto (the "Mortgage Bonds")
Security:	Pursuant to the Deed of Trust, Issuer to pledge property additions equal in value to at least 1.5 times the amount of the Bonds
Principal Amount:	C\$60 million
Term to Maturity:	30 years
Use of Proceeds:	To repay short-term indebtedness and for general corporate purposes.
Credit Rating:	S&P: A
Pricing:	GOC 30-year Bond + Credit Rating and Term Adjustments
Coupon Payments:	Semi-annually in arrears
Redemption:	Six Month Par Call Plus a Canada Call
Key Covenants:	<ul style="list-style-type: none"> <li>▪ Negative Pledge</li> <li>▪ Limitation on Additional Indebtedness</li> </ul>
Agent:	Scotia Capital Inc.
Expenses:	<ul style="list-style-type: none"> <li>▪ Agent/Arranger Fee</li> <li>▪ Trustee Fee</li> <li>▪ Investment Industry Regulatory Organization of Canada Levy</li> <li>▪ Legal</li> <li>▪ Rating Agency</li> <li>▪ Auditor Comfort Letter</li> <li>▪ Marketing</li> <li>▪ Other/Miscellaneous</li> </ul>