

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING made as of the 28th day of April, 2016.

B E T W E E N:

VERIDIAN CORPORATION

("Veridian")

- and -

OSHAWA POWER AND UTILITIES CORPORATION

("OPUC")

- and -

WHITBY HYDRO ENERGY CORPORATION

("WHEC")

(each a "**Party**" and collectively, the "**Parties**")

WHEREAS each Party is a municipally-owned OBCA corporation whose Subsidiaries provide electricity distribution and other services;

AND WHEREAS the Government of Ontario has indicated its desire for local electricity distribution companies to amalgamate and has created incentives to such amalgamations;

AND WHEREAS quickly evolving technological advances and customer requirements offer both opportunities for and challenges to local electricity distribution companies that might be better addressed by larger rather than smaller organizational entities;

AND WHEREAS other growing areas of the province are proceeding with amalgamation of local electricity distribution companies;

AND WHEREAS the Parties wish to evaluate whether or not to amalgamate themselves and cause their Subsidiaries to amalgamate (the "**Transactions**") to, among the other objectives set out in this Memorandum, increase opportunity for efficiencies and innovation, to benefit their customers, to provide diversified job opportunities to employees and to maximize shareholder value;

AND WHEREAS the Parties wish to set out the principles, objectives, processes and definitive agreements that the Parties intend to pursue in connection with the evaluation and, as appropriate, consummation of the Transactions.

NOW THEREFORE this Memorandum sets out certain understandings and agreements between the Parties.

1. Transaction Structure

The Parties and their Affiliates would, subject to the negotiation, execution and delivery of a definitive merger agreement between the Parties or their respective Affiliates (the "**Merger Agreement**") as described in Section 7, be amalgamated in such manner as contemplated in this Memorandum or as otherwise agreed. The Transactions would result in a single holding corporation ("**Holdco Mergeco**"), which would be wholly owned by the Municipal Shareholders. The Subsidiaries of the Parties that hold electricity distribution licenses from the OEB (collectively, the "**LDCs**") would be amalgamated to form a single OEB-licensed electricity distributor ("**LDC Mergeco**"), which would be wholly owned by Holdco Mergeco. The Subsidiaries of the Parties that are not LDCs (collectively, the "**Non-LDCs**") may or may not be amalgamated, as the Parties may agree, dependent on such Subsidiaries' business and functions and whether or not appropriate synergies may be realized by such amalgamation(s) or whether it may be considered advantageous to retain some or all of such entities as distinct corporations.

2. Merger Objectives

The Transactions would result in an entity or entities able to achieve the following objectives.

- (a) At the time of consummation of the Transactions Holdco Mergeco will continue to be owned by the Municipal Shareholders.
- (b) The Transactions would create an entity with local ownership, that is well positioned to preserve local focus and input that will be highly responsive to the needs of its customers and that will maintain a physical presence in each of the Parties service territories.
- (c) The Transactions would create opportunities for increased efficiencies, innovation for the benefit of ratepayers, sharing of capital expenditures, competitive advantages in all relevant service territories and benefits to employees in increased opportunities from broadened scale and scope of services that will be delivered, while sharing best practices across all facets of the business.
- (d) The transaction would focus on maximizing Municipal Shareholder value now and in the future and ensuring that all such shareholders are treated fairly, while preserving asset value.
- (e) The Parties would ensure that the OEB's "no harm" to ratepayers test is met.
- (f) The Transactions would enable customer service levels to meet or exceed existing customer service levels of the Parties' Subsidiaries.
- (g) The Parties would ensure that the existing focus on employee and public safety is maintained or enhanced.
- (h) Existing employees would be treated fairly and the Parties would seek to create employment opportunities through diversification.

- (i) The Transactions would enable continued contribution of the Parties to the economic development, social and environmental needs of the communities served.

3. Shareholder Consideration

Upon completion of the Transactions, each Municipal Shareholder would receive such shares in the capital of Holdco Mergeco as the Parties will negotiate in good faith and set out in the Merger Agreement.

4. Valuation

The fair value of each of the Parties and their subsidiaries at the time of completion of the Transactions will be as negotiated in good faith among the Parties and set out in the Merger Agreement.

5. Due Diligence

- (a) Promptly following the execution of this Memorandum, each Party (including its financial, legal and other advisors, as it considers reasonably necessary) will be permitted to undertake satisfactory due diligence with respect to the other Parties and the Transactions as follows:
 - (i) WHEC will undertake due diligence in respect of Veridian;
 - (ii) Veridian will undertake due diligence in respect of OPUC; and
 - (iii) OPUC will undertake due diligence in respect of WHEC.
- (b) The results of each of the above due diligence exercises shall be available to all of the Parties and it is expected that, absent extraordinary circumstances, a Party that did not undertake due diligence in respect of another Party shall rely on the documentation, information and work product produced by the Party that did undertake due diligence in respect of such other Party.
- (c) All Parties intend to ensure that due diligence questionnaires, information elicited, responses, reports and summaries are prepared or performed on a consistent basis in terms of types of information and level of detail of information requested and obtained, formatting of such information and reporting and summarizing of such information.
- (d) The Parties have adopted the above approach for reasons of efficiency and cost savings.
- (e) Due diligence will include matters customary to such transactions including, financial, tax, legal, environmental, employment and labour, regulatory, real estate issues and the condition of the distribution system and such other matters as determined by the Parties, acting reasonably, that are material to the Transactions.

Each Party agrees to provide the Party undertaking due diligence in respect of such first Party (as set out above) with reasonable access to that Party's premises, employees and books and records as the other Party may reasonably require to conduct such due diligence. Any information obtained by any Party as a result thereof will be maintained by each Party in confidence subject to the terms of the Confidentiality Agreement. The Parties will cooperate to complete due diligence expeditiously.

6. Condition Precedent to Merger Agreement

The Parties' entry to the Merger Agreement contemplated immediately below will be subject to the prior approval of their respective directors and Municipal Shareholder(s).

7. Merger Agreement

All of the terms and conditions of the proposed Transactions shall be provided in the Merger Agreement and related principal agreements (including a Holdco Mergeco shareholders' agreement) to be negotiated, agreed, executed and delivered by the Parties. The Merger Agreement will contain such representations and warranties regarding the Parties and their respective businesses, and such conditions to closing the Transaction, as are customary for transactions such as the Transactions.

8. Labour Relations

Promptly following execution and delivery of this Memorandum, but prior to any public announcement relating to the proposed Transactions, each Party will notify its employee union of the intention to pursue the proposed Transactions and will work diligently to timely resolve any outstanding labour relations matters to be addressed in connection with the proposed Transactions under the applicable collective bargaining agreements or otherwise, provided that such disclosure is only permitted if the union is subject to obligations of confidentiality substantively comparable to the Parties' obligations in Section 12.

9. Timetable

The Parties will endeavour to enter into the Merger Agreement by no later than December 31, 2016 and satisfy or cause to be satisfied all conditions precedent to and complete the Transactions on January 1, 2018. The Merger Agreement will establish the obligations of the Parties with respect to timing and deliverables to the completion of the Transactions.

10. Exclusivity

- (a) Each Party acknowledges that pursuit of the Transactions will involve the expenditure of substantial time and money by the Parties. Subject to all the terms of this Section 10, each Party agrees that commencing on the date hereof to and including the date of termination of this Memorandum pursuant to Section 11 (the "**Exclusivity Period**") it will not, without the prior written consent of both of the other Parties, directly or indirectly (including through any Affiliate, employee, officer, director, shareholder, agent or other person acting on its behalf or at its

direction) have, initiate or continue any communications, discussion or negotiations of any nature, or respond to any proposal or request for information relating to the purchase, sale or other transfer, whether in one transaction or a series of transactions, of the whole or any part of the business or assets of the Party or its LDC or Non-LDC Subsidiaries, or of any third party where such business or assets have a fair market value of greater than \$20,000,000 (twenty million dollars) (an "**Alternative Transaction**").

- (b) Notwithstanding the foregoing paragraph, following notice to the other Parties, each Party shall have the right to engage in discussions with a third party or a Party regarding an Alternative Transaction provided that such notice shall include the identity of the third party, the nature of the proposed Alternative Transaction (which may include a transaction proposed to occur after the Transactions are completed) and the scope of the intended discussions. No Party may enter into any binding or non-binding written agreement, arrangement, memorandum of understanding, letter of intent or other document similar to any of the foregoing with any such third party or Party in respect of an Alternative Transaction without the written approval of the other Parties, which may not be unreasonably withheld.
- (c) Without limiting the generality of paragraph (a) above, each Party shall promptly notify the other Parties in writing of the receipt from a third party or a Party during the Exclusivity Period of any proposal for an Alternative Transaction or any requests for information relating to such Party, the business of such Party or for access to the properties, books or records of such Party by any person which has informed such Party that such person is considering making a proposal for an Alternative Transaction.
- (d) Each Party shall be responsible for any breach of this Section 10 by its Affiliates, employees, officers, directors, shareholders, agents or other persons acting on its behalf or at its direction. The Parties agree that money damages may not be a sufficient remedy for any breach of this Section 10 and that the non-breaching Parties shall be entitled to equitable relief, including injunction and specific performance, as a remedy for any such breach. Such remedies shall not be deemed to be the exclusive remedies for a breach of this Section 10 but shall be in addition to all other remedies available at law or equity, including, in the event of litigation, recovery of reasonable legal fees and expenses by the prevailing party (as determined by a court of competent jurisdiction in a final, non-appealable order).
- (e) Notwithstanding anything else in this Memorandum or in the Confidentiality Agreement, the terms of this Section 10 replace and supersede section 10 of the Confidentiality Agreement, which section shall be of no further effect.
- (f) For clarity, nothing in this Section 10 shall prevent a Party from pursuing a transaction that is not an Alternative Transaction with any third party or any other Party.

11. Termination

- (a) This Memorandum will terminate upon the earlier of:
 - (i) the mutual written agreement of the Parties;
 - (ii) written notice from one Party to the other Parties if either of such other Parties breaches any of its obligations under Section 10 or the Confidentiality Agreement; or
 - (iii) written notice by one Party to the other Parties, no earlier than 90 days following the date hereof.
- (b) Notwithstanding Section 11(a), a Party shall have the right by written notice to the other Parties to withdraw from this Memorandum and no longer be bound by the provisions hereof, other than provisions expressly intended to survive termination (including certain confidentiality provisions), during a period of 30 (thirty) days commencing on the date of receipt by such Party of the Valuation Report. Following the expiry of such 30-day period, such Party shall continue to be bound by the terms and conditions of this Memorandum, as applicable, including the remaining termination rights under this Section 11.
- (c) Except with respect to any liabilities that may be incurred or suffered by a Party in connection with a breach by another Party of any provision referenced in Section 15, termination of this Memorandum prior to full execution and delivery of the Merger Agreement shall be without liability and no Party will be entitled to any form of relief whatsoever, including injunctive relief or damages.

12. Confidentiality

- (a) Subject to Sections 10 and 13, the Parties confirm the continuing enforceability and binding legal effect of the Confidentiality Agreement, provided, however, that the term "Confidential Information" as defined in the recitals to the Confidentiality Agreement is hereby deleted in its entirety and replaced with:

"Confidential Information" means information, material and data relating to (i) the ownership or business of the disclosing Party or its Subsidiaries (whether prepared by the disclosing Party, or a third party) including without limitation information of a business, technical, financial, operational, administrative, employee, marketing, know-how or other nature and whether disclosed orally or in writing or in electronic or any other media or form (including, without limitation, all estimates, forecasts, projections and valuations) and includes the recipient Party's (and its Subsidiaries') derivative works, including any revision, modification, translation or other extract or expansion of the above types of information in any other form in which the above types of information have been amended, modified, recast, transferred, stored or adapted in whole or in part by the recipients; and (ii) the terms and conditions of this

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Memorandum, including the identity of the Parties, the fact that the Parties are considering the Transactions, and the status and terms of proposed Transactions.

- (b) Without limiting section 4(e) of the Confidentiality Agreement, no Party will make any announcement of the proposed Transactions without the prior written approval of the other Parties, which approval will not be unreasonably withheld or delayed. The foregoing shall not restrict any Party's ability to communicate information concerning this Memorandum and the Transactions to such Party's (and its Affiliates') officers, directors, and, to the extent necessary, employees, professional advisers, and (pursuant to Section 8 hereof) union, provided that the applicable Party shall be responsible for any acts or omissions of such individuals that result in a breach of such Party's confidentiality obligations.

13. Expenses

Expenses of the Parties incident to this Memorandum, the Merger Agreement and otherwise to the Transactions will be borne by LDC Mergeco or an Affiliate of LDC Mergeco. Notwithstanding section 4(g) of the Confidentiality Agreement, until the Transactions (as contemplated in the Merger Agreement) are complete, or if such Transactions fail to be completed, such expenses will be borne by the Parties (or their respective Affiliates) in the following proportions: Veridian 50%, OPUC 27% and WHEC 23%.

14. Notices

Any notice or communication to be made or given hereunder shall be in writing and may be made or given by personal delivery or email addressed to the respective Party at the below address or such other address or email as a Party may from time to time notify the other Parties.

To Veridian: Veridian Corporation, 55 Taunton Rd. East, Ajax, ON L1T 3V3
Attention: Michael Angemeer, President and CEO Email: mangemeer@veridian.on.ca

To OPUC: Oshawa Power and Utilities Inc. 100 Simcoe St. South, Oshawa, ON L1H 7M7
Attention: Atul Mahajan, President and CEO, Email: amahajan@opuc.on.ca

To WHEC: Whitby Hydro Energy Corporation, 100 Taunton St. East, Whitby, ON L1R 5R8
Attention: John Sanderson, President and CEO Email: jsanderson@whitbyhydro.on.ca

For each Party, with a copy (not constituting notice) to: Aird & Berlis LLP, 181 Bay Street, Suite 1800, Toronto, ON M5J 2T9 *Attention: Ron Clark Email: rclark@airdberlis.com*

15. Binding Effect

This Memorandum is not intended to constitute a legally binding agreement, nor is it to be relied upon as constituting a final agreement for the transactions contemplated herein. This Memorandum is written with the understanding that no Party will be bound by any of its terms until negotiations have been concluded and definitive agreements have been executed and delivered. Notwithstanding the foregoing, the Parties agree that the following provisions are

legally binding and enforceable against each of them: Sections 4 (Valuation), 5 (Due Diligence), 8 (Labour Relations), 10 (Exclusivity), 11 (Termination), 12 (Confidentiality), 13 (Expenses), 14 (Notices), 15 (Binding Effect), 16 (Interpretation), 17 (Governing Law), 18 (Successors and Assigns), 19 (Invalidity) and 20 (Entire Agreement).

16. Interpretation

Capitalized terms have the meanings given to such terms in Schedule 1 attached to and forming part of this Memorandum. Each reference in this Memorandum to a statute is deemed to be a reference to such statute as amended, re-enacted or replaced from time to time. In this Memorandum, unless otherwise expressly provided herein or unless the context otherwise requires, words importing the singular number include the plural and vice versa.

17. Governing Law

This Memorandum shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. The parties hereto irrevocably attorn to the exclusive jurisdiction of the courts of the Province of Ontario to resolve any dispute which may arise among them concerning this Memorandum and the subject matters hereof.

18. Successors and Assigns

All covenants and agreements of the Parties in this Memorandum shall bind its permitted successors and permitted assigns.

19. Invalidity

Each of the provisions contained in this Memorandum is distinct and severable and a declaration of invalidity, illegality or unenforceability of any such provision or part thereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision of this Memorandum.

20. Entire Agreement

This Memorandum constitutes the entire agreement among the Parties with respect to the matters contemplated herein and supersedes any prior negotiations, understandings or agreements with respect thereto, except for the Confidentiality Agreement to the extent specified herein.

21. Execution and Delivery

This Memorandum may be executed in one or more counterparts and delivered in an original form, by facsimile, or by email (.PDF format), each of which shall be deemed an original, and all which together shall constitute one and the same instrument.

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The Parties have executed this Memorandum as of the date first written above.

VERIDIAN CORPORATION

By: *M. C. Angemeer*
Name: Michael Angemeer
Title: President and CEO

OSHAWA POWER AND UTILITIES CORPORATION

By: _____
Name: Atul Mahajan
Title: President and CEO

WHITBY HYDRO ENERGY CORPORATION

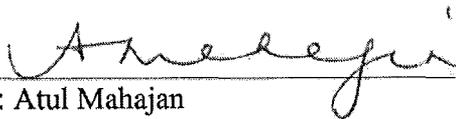
By: _____
Name: John Sanderson
Title: President and CEO

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VERIDIAN CORPORATION

By: _____
Name: Michael Angemeer
Title: President and CEO

OSHAWA POWER AND UTILITIES CORPORATION

By: 
Name: Atul Mahajan
Title: President and CEO

WHITBY HYDRO ENERGY CORPORATION

By: _____
Name: John Sanderson
Title: President and CEO

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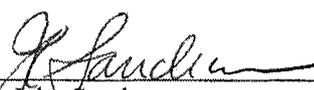
VERIDIAN CORPORATION

By: _____
Name: Michael Angemeer
Title: President and CEO

OSHAWA POWER AND UTILITIES CORPORATION

By: _____
Name: Atul Mahajan
Title: President and CEO

WHITBY HYDRO ENERGY CORPORATION

By:  _____
Name: John Sanderson
Title: President and CEO

**SCHEDULE 1
DEFINITIONS**

“**Affiliate**” has the meaning given to it in the *Business Corporations Act* (Ontario).

“**Ajax**” means The Corporation of the Town of Ajax, a shareholder of Veridian.

“**Alternative Transaction**” has the meaning given to it in Section 10(a).

“**Belleville**” means The Corporation of the City of Belleville, a shareholder of Veridian.

“**Clarington**” means The Corporation of the Municipality of Clarington, a shareholder of Veridian.

“**Confidential Information**” has the meaning given to it in the Confidentiality Agreement, as amended pursuant to Section 12(a).

“**Confidentiality Agreement**” means the mutual confidentiality and non-disclosure agreement made between the Parties dated December 21, 2015, as amended by this Memorandum.

“**Exclusivity Period**” has the meaning given to it in Section 10(a).

“**Holdco Mergeco**” has the meaning given to it in Section 1.

“**including**” means including without limitation.

“**LDC Mergeco**” has the meaning given to it in Section 1.

“**LDCs**” has the meaning given to it in Section 1.

“**Memorandum**” means this Memorandum of Understanding.

“**Municipal Shareholders**” means Ajax, Belleville, Clarington, Oshawa, Pickering and Whitby, and each of them is a “**Municipal Shareholder**”.

“**Non-LDCs**” has the meaning given to it in Section 1.

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

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

“**Oshawa**” means The Corporation of the City of Oshawa, the sole shareholder of OPUC.

“**Party**” and “**Parties**” have the meanings given to them on the first page of this Memorandum.

“**Pickering**” means The Corporation of the City of Pickering, a shareholder of Veridian.

“**Subsidiary**” has the meaning given to it in section 1(2) of the *Business Corporations Act* (Ontario) and “**Subsidiaries**” means more than one Subsidiary.

“**Valuation Report**” means the report issued by Grant Thornton, financial advisors to Holdco Mergeco, containing a valuation of the assets, liabilities and businesses of each of the Parties

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(together with their respective Subsidiaries) for the purposes of allocating to the Municipal Shareholders percentage shareholdings in Holdco Mergeco and creating its capital structure.

“Whitby” means The Corporation of the Town of Whitby, the sole shareholder of WHEC.

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