

MEMORANDUM OF UNDERSTANDING

LOWER CHURCHILL MANAGEMENT CORPORATION

and

QUANTA SERVICES, INC.

and

VALARD CONSTRUCTION LP

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is made as of March 28, 2014 (the “Effective Date”).

BETWEEN:

LOWER CHURCHILL MANAGEMENT CORPORATION, a body corporate constituted pursuant to the *Corporations Act*, RSNL 1990, c. C-36, as amended, and having its head office in the City of St. John’s in the Province of Newfoundland and Labrador, Canada (hereinafter referred to as “LCMC”), on behalf of itself and Labrador Transmission Corporation (an Affiliate of LCMC) and Labrador-Island Link Limited Partnership (an Affiliate of LCMC);

and

QUANTA SERVICES, INC., a body incorporated under the laws of Delaware, U.S.A., with its head office in the State of Texas, U.S.A. (hereinafter referred to as “Quanta”);

and

VALARD CONSTRUCTION LP, a limited partnership formed pursuant to the laws of the Province of Alberta, Canada, represented by its general partner, Valard Construction 2008 Ltd. (hereinafter referred to as “Valard”).

(Each of the above parties are hereinafter referred to as “Party” and collectively as the “Parties”)

WHEREAS:

- A. LCMC and Quanta entered into a Confidentiality and Non-Disclosure Agreement dated the 14th day of November, 2013 (the “NDA”), to explore potential business relationships or transactions involving Quanta or certain of its Affiliates, for the construction of the HVdc transmission line between Muskrat Falls and Soldier’s Pond (the “Work”) relating to the Lower Churchill Project (the “LCP”) in the Province of Newfoundland and Labrador (the “Province”);
- B. Quanta’s Affiliate, Valard, has been leading the development of Quanta’s proposal for the Work dated the 16th day of December, 2013 (the “Proposal”), in accordance with the documents and drawings provided by LCMC;
- C. The Parties wish to enter into arrangements and transactions as described herein on the basis set out in this MOU; and
- D. For the purposes of this MOU, the term “Affiliate” has the meaning given to affiliate in the *Canada Business Corporations Act*, R.S.C. 1985, c. C-44 and includes any limited partnership whose general partner is an affiliate of Company under that statute.

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IT IS AGREED as follows:

1. LCMC, on behalf of Labrador-Island Link Limited Partnership (an Affiliate of LCMC), and Valard will enter into good faith negotiations to conclude a formal agreement between Labrador-Island Link Limited Partnership and Valard (the "Agreement") in respect of the Work, subject to and in accordance with the other provisions of this MOU.
2. The execution plan, work schedule and management organization for the Work will be generally consistent with the Proposal, including the establishment of a project office in the City of St. John's in the Province from which control and management of the Work will be led by a full-time Project Director, with supporting staff, of Valard.
3. The Articles and Exhibit 14 (Performance Security) of the Agreement will be consistent, mutatis mutandis, with those of the agreement between Labrador Transmission Corporation and Valard for the Construction of HVac Transmission Lines (MF to CF), effectively dated the 17th day of December 2013, being Agreement No. CT0319, except:
 - (a) The liquidated damages amounts are as stated in Attachment 1 hereto.
 - (b) The value of the Letter of Credit will be negotiated in good faith between Valard and LCMC.
 - (c) Article 24.16 will be deleted and the following clause will replace Article 21.14:

"Except for a Party's indemnity obligations to the other Party in respect of third party Claims under this **Article 21** and liquidated damages pursuant to **Article 26**, a Party has no responsibility and shall not be liable under this Agreement to the other Party for any Claim in respect of loss of profit, business interruption, loss of use, or any similar indirect or consequential damages or losses resulting from, arising out of or in connection with the Work or any obligation pursuant to this Agreement howsoever caused."
 - (d) Article 21.5(g) will be revised to delete the word "sole".
 - (e) Article 21.10(a) will be revised to insert the phrase, "except as otherwise expressly provided in this Article 21," at the beginning of sub-clause (a).
 - (f) A new Article 21.15 will be inserted as follows:

"Notwithstanding anything to the contrary in this Agreement, the maximum aggregate liability of Contractor to Company for all Claims arising out of or connected with the Work or performance or breach of this Agreement shall be limited to the sum of:

 - (a) one hundred percent (100%) of the total Contract Price; and
 - (b) the amount of actual insurance proceeds received with respect to such Claims from insurance to be maintained under this Agreement, less any applicable deductible in respect of any proceeds received by Company under Contractor's third party liability insurance;

provided however that such limitation shall not apply in cases of:

 - (i) Claims for personal injury (including death) for which Contractor is liable to Company or has a duty to indemnify Company under this Agreement;

- (ii) Claims for property damage or loss for which Contractor is liable to Company or has a duty to indemnify Company under this Agreement, except for damage to or loss of the Work;
 - (iii) Contractor's fraud, willful misconduct or gross negligence;
 - (iv) Taxes, fines and/or penalties imposed by any Authority for which Contractor is liable under this Agreement;
 - (v) Claims for infringement of patents and/or other intellectual property rights, or breach of the confidentiality provisions of this Agreement;
 - (vi) Claims for any environmental damage or loss for which Contractor is liable to Company or has a duty to indemnify Company under this Agreement or resulting from a breach of this Agreement by Contractor; and
 - (vii) any other Claims by a third party, including any Authority, for which Contractor has a duty to indemnify Company under this Agreement."
4. Valard will revise its Proposal to amend its price for the Work to the amount of eight hundred and twenty million Canadian Dollars (\$820,000,000 CDN), except that this amended price will not include:
- (a) an amount for right-of-way (ROW) clearing and access preparation, which will be negotiated in good faith between Valard and LCMC;
 - (b) the estimated amount of twenty million Canadian Dollars (\$20,000,000 CDN) which represents the potential savings that may be possible from alternate foundation designs, which may or may not be included in the Agreement; and
 - (c) the cost of the performance security and the financing cost of the holdback to be provided under the Agreement.
5. The Parties acknowledge that the price in the Proposal for the ROW clearing and access construction scope of the Work can be significantly reduced from the original estimate of two hundred and seventy-three million three hundred thousand Canadian Dollars (\$273,300,000 CDN). LCMC and Valard will work collaboratively in order to optimize access and ROW clearing requirements and execution approaches in order to reduce this price for such scope of the Work, including all of the following:
- (a) LCMC and Valard will work to define the preferred execution approach for such scope of Work, including evaluating all viable options including Valard self-performing, using third party clearing and access contractors, or other commercial alternatives.
 - (b) LCMC and Valard will work to reduce the total amount of Class C1 access road construction from the estimate of approximately one thousand one hundred and thirty (1,130) kilometres and resolve the aggregate price below the initial estimate of eighty thousand seven hundred Canadian Dollars (\$80,700 CDN) per kilometre.
 - (c) LCMC and Valard will evaluate timber density in order to optimize clearing methods and techniques (i.e. full harvest versus mulch) so as to reduce the aggregate price below the initial estimate of approximately seventeen thousand five hundred (\$17,500 CDN) per hectare.
 - (d) In the event of using such third party clearing and access contractors, these will be

- selected by Valard through bids using a procurement model agreed between LCMC and Valard. Such third party contracts will be in the name of Labrador-Island Link Limited Partnership, with direct payment obligations to such third party contractors, while Valard will manage their field activities.
- (e) Valard will act in the capacity of a construction manager and general contractor for all ROW clearing and access construction including providing camps, fuel, catering, medical support and health, safety and environment (HSE) programs for all third party contractors.
 - (f) LCMC intends to augment Valard's management of such scope of Work by the assignment of key human resources to the joint LCMC/Valard organization.
6. LCMC and Valard will continue to collaborate in order to develop materials marshalling/staging and transportation plans for the Work that is in the best interest of both Parties.
 7. LCMC and its Affiliates do not commit to award to Valard any other transmission works constructed by LCMC or its Affiliates or partners (including Emera Inc. and its Affiliates). However, Valard will maintain its targeted profit margin at nine percent (9.0%) or less in any proposals involving such works.
 8. With respect to Valard's proposal as a response to the Request for Proposal No. CD0502 – Construction of AC Substations, Valard will adjust its proposed price to reflect a nine percent (9.0%) target profit margin, subject to the negotiation and agreement of the Parties on the other contract terms.
 9. The Parties will work together to explore opportunities for commissioning support that may be required by LCMC as part of the commissioning of the LCP.
 10. Valard will establish, through its involvement in the LCP, a longer-term presence in the Province to provide operational capability in support of the industry's future capital and operational investment in the Province's electrical grid.
 11. Subject to the Parties' good faith obligation as referenced in Clauses 1, 3 and 4 herein, neither Party shall be liable to the other whatsoever, on any basis, for such Party's failure to agree and execute an Agreement.
 12.
 - (a) This MOU shall come into force from the Effective Date and shall remain effective four (4) months thereafter, unless such expiry is extended by mutual agreement in writing by the Parties.
 - (b) Notwithstanding the foregoing, and without prejudice to any other rights or remedies available to a Party under this MOU or at law, any Party may immediately terminate this MOU by giving the other Parties written notice if any such other Party is in breach or default of any material term or condition of this MOU and such party fails to commence to cure such breach or default within seven (7) days of receipt of written notice of such breach or default by the Party not in default. In addition, a Party may forthwith terminate this MOU in the event that another Party has been declared insolvent or bankrupt or has

- filed a petition in bankruptcy or made any arrangement or trust mortgage for the benefit of creditors, or if a receiver, a liquidator, a guardian, a conservator, trustee in bankruptcy or a similar body has officially been appointed by a competent court to take charge of all or part of such other Party's property or business.
- (c) Notwithstanding Clause 12(a), the following provisions of this MOU shall survive the termination or expiration of this MOU and remain in full force and effect for a period of seven (7) years from the date of termination or expiration:
- (i) Clauses 7, 8, 9 and 10, subject to the conclusion of an Agreement pursuant to Clause 1 herein; and
- (ii) Clause 16.
- (d) Notwithstanding Clause 12(a), the following provisions of this MOU shall survive the termination or expiration of this MOU and remain in full force and effect: Clauses 11, 14, 16, 17, 18, 22 and 24.
13. Each Party shall use all reasonable efforts to identify as soon as practically possible any Board of Directors approvals which may be required for the transactions contemplated by this MOU. This MOU shall be conditional upon such approvals.
14. Each Party agrees to bear its own expenses in negotiating and concluding an Agreement and this MOU, including but not limited to legal fees and fees of other advisors.
15. The NDA is incorporated in this MOU by reference and applies to all Confidential Information (as defined therein) disclosed by either Party to the other under or in connection with this MOU, with the Party disclosing Confidential Information being the Disclosing Party, as defined in the NDA, and the Party receiving Confidential Information being the Recipient, as defined in the NDA.
16. This MOU shall be governed by, construed, interpreted and enforced in accordance with the substantive law of the Province of Newfoundland and Labrador, excluding any conflict of law principles. Each Party irrevocably submits to the exclusive jurisdiction of the Courts of the Province, and irrevocably waives any objection which it may have at any time to the forum of any proceedings brought in any such Court. Nothing in this MOU precludes either Party from enforcing in any jurisdiction any judgment, order or award obtained in such Court.
17. Unless otherwise provided, any notice, demand, request or communication under this MOU shall be deemed given when delivered either by email, hand, courier or mailed by certified mail to the following addresses:

Lower Churchill Management Corporation

Re: Lower Churchill Project
350 Torbay Road, Suite No. 2
St. John's, NL, Canada
A1A 4E1
Attn: Jason Kean
Email: jasonkean@lowerchurchillproject.ca

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J.R.K.

Quanta Services, Inc.
2800 Post Oak Blvd., Suite 2600
Houston, Texas, U.S.A.
77056-6175
Attn: B.J. Ducey, Vice President
Email: bducey@quantaservices.com

Valard Construction LP
Suite 301, 4209 99 Street
Edmonton, AB, Canada
T6E 5V7
Attn: Adam Budzinski, President
Email: abudzinski@valard.com

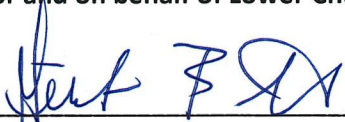
Notices shall be effective upon actual receipt or deemed delivered seven (7) days after mailing. The designation and title of the person to be notified or the address of such person may be changed at any time by written notice given in accordance with this paragraph.

18. Notwithstanding anything to the contrary elsewhere in this MOU, in no event shall any Party or its representatives or Affiliates be liable to any other Party or its representatives or Affiliates in connection with this MOU for any loss of profit, loss of revenue, cost of capital, loss of opportunity, any indirect, punitive, exemplary or consequential damages regardless of whether such liability arises out of contract, tort (including negligence), strict liability, or otherwise.
19. The Parties acknowledge that they each have reviewed this MOU and have had access to legal counsel. Any rule of interpretation that would otherwise require any aspect of this MOU to be interpreted least favourably against the Party primarily responsible for its drafting shall not be employed in the interpretation of this MOU.
20. For the purposes of this MOU, each Party represents to the other that it has the power and authority to enter into this MOU, subject to Clause 13.
21. This MOU and its Attachments, and the documents listed and referenced therein, constitute the entire agreement and understanding among the Parties with respect to the subject matter hereof. This MOU cancels, replaces and supersedes all other previous verbal or written agreements among the Parties with respect to the subject matter hereof. Any waiver, modification or alteration or addition to this MOU or any of its provisions shall not be binding on any Party unless all Parties have agreed to it in writing. No such waiver shall preclude the Parties exercising such waiver from requiring the fulfillment of any obligations set out herein at any time in the future. The failure of a Party to insist upon its rights upon a breach of this MOU shall not however be deemed a waiver of such rights either with respect to that breach or any subsequent breach whether similar or dissimilar in nature.
22. The invalidity of any term, condition or stipulation of this MOU shall not affect the validity of the remaining terms, conditions or stipulations of this MOU or its validity.
23. No Party may, without the prior written consent of the other Parties (which consent may be withheld in the sole and absolute discretion of such Parties), assign, transfer, encumber, or otherwise dispose of or deal with all or any of its rights or obligations under this MOU or any interest therein.

- 24. Nothing in this MOU shall be construed as constituting the Parties as partners of each other.
- 25. This MOU may be executed in any number of counterparts each of which when executed and delivered shall be an original, but all counterparts together shall constitute one and the same instrument.

EXECUTED AS AN MOU:

For and on behalf of Lower Churchill Management Corporation




Name: Gilbert Bennett
Title: Vice President

For and on behalf of Quanta Services, Inc.

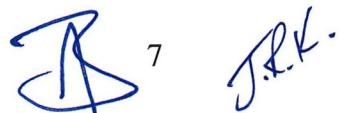
Name: B.J. Ducey
Title: Vice President

**For and on behalf of Valard Construction LP,
by its general partner Valard Construction 2008 Ltd.**



Name: Adam Budzinski
Title: President

Execution Page to the Memorandum of Understanding effectively dated the 28th day of March, 2014 among Lower Churchill Management Corporation, Quanta Services, Inc. and Valard Construction LP.



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For and on behalf of Quanta Services, Inc.



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Title: Vice President

**For and on behalf of Valard Construction LP,
by its general partner Valard Construction 2008 Ltd.**

Name: Adam Budzinski
Title: President

Execution Page to the Memorandum of Understanding effectively dated the 28th day of March, 2014 among Lower Churchill Management Corporation, Quanta Services, Inc. and Valard Construction LP.

Attachment 1**Liquidated Damages**

1. The scheduled date of Substantial Completion is 30 June 2017.
2. If Contractor achieves Substantial Completion within 15 days from the scheduled date of Substantial Completion (the "Expiry of the Grace Period"), no liquidated damages will apply.
2. If Contractor achieves Substantial Completion between 16 and 45 days inclusive after the scheduled date of Substantial Completion (July 16, 2017 to August 15, 2017 inclusive), Contractor shall pay Company as liquidated damages \$350,000 CDN for each day of such failure after the Expiry of the Grace Period.
3. If Contractor achieves Substantial Completion 46 days after the scheduled date of Substantial Completion (August 16, 2017), or later, Contractor shall pay Company as liquidated damages \$750,000 CDN for each day of such failure.
4. Contractor's limit of liability for liquidated damages payable by Contractor to Company will be a maximum of ten percent (10%) of the Contract Price.
5. All other terms and conditions regarding liquidated damages will be consistent, mutatis mutandis, with those of the Articles of the agreement between Labrador Transmission Corporation and Valard for the Construction of HVac Transmission Lines (MF to CF), effectively dated the 17th day of December 2013, being Agreement No. CT0319.

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