

<b>MUTUAL NON-DISCLOSURE AGREEMENT</b>
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The Corporation of the Town of Collingwood, a municipality incorporated under the laws of the Province of Ontario (“**Collingwood**”), Collus Power Corporation, a corporation incorporated under the laws of the Province of Ontario (“**Collus**”), and PowerStream Inc., a corporation incorporated under the laws of the Province of Ontario, wish to engage in further discussions surrounding potential business dealings and transactions involving the parties hereto (the “**Subject Matter**”), which discussions will involve the disclosure of highly confidential and proprietary information of each party. For good and valuable consideration, including the mutual promises and covenants set out herein, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

### **1. Confidential Information**

(a) “**Confidential Information**” means any information, business plans, financial information, the existence and nature of the discussions between the parties, technical data, or know-how concerning any of the parties that the disclosing party designates as confidential or which ought to be considered as confidential from its nature or from the circumstances surrounding its disclosure, including, but not limited to, that which relates to business policies or practices (current or projected), research, products, services, customers, suppliers, markets, software, source code and object code, unreleased software, developments, inventions, processes, designs, drawings, engineering, marketing, finances, or information received from others that the disclosing party is obligated to treat as confidential, and the pricing and terms of any contract entered into (and the terms proposed and negotiated leading up to the executed contract) between the parties.

(b) No obligations arise under this Agreement relating to information defined as Confidential Information about which the receiving party can conclusively establish (i) was in the possession of the receiving party without an obligation of confidentiality at the time of disclosure; (ii) prior to or after the time of disclosure became part of the public domain without the actions of the receiving party to whom it was disclosed; (iii) was disclosed to the receiving party by a third party under no legal obligation to maintain the confidentiality of such information; or (iv) was independently developed by the receiving party through individuals who did not have access to the Confidential Information.

### **2. Restrictions**

(a) The parties covenant to each other that they will not at any time, other than in accordance with the terms of this Agreement, disclose the Confidential Information of the other to any person or entity without the prior written approval of the disclosing party, or use any such Confidential Information for any purpose, other than for the specific purpose of the Subject Matter, unless specifically pre-approved in writing by the disclosing party. However, the receiving party may disclose Confidential Information in accordance with a judicial or other governmental order, provided that (i) the receiving party uses all commercially reasonable means available to minimize the disclosure to third parties; and (ii) the receiving party shall, if permitted at law, give the disclosing party reasonable notice prior to such disclosure and shall comply with any applicable protective order or equivalent.

(b) Each party shall maintain the confidential nature of the Confidential Information of the other in its possession by taking commercially reasonable steps to protect the information from unauthorized use, access and disclosure, which shall be no less than those efforts made by the receiving party to protect its own confidential information. The receiving party may disclose Confidential Information of the other only to its employees and consultants who have a ‘need-to-know’ for the purposes of the Subject Matter provided that, prior to such disclosure, all such employees and consultants of the receiving party are bound by written obligations of confidentiality no less protective of the Confidential Information belonging to disclosing party than this Agreement.

(c) Neither party shall record, make notes of, copy or reproduce the Confidential Information of the other by any means without the written permission of the disclosing party except as necessary to carry out the purpose

of the Subject Matter. All copies, records, notes or reproductions, in whole or in part, shall contain notices identifying them as containing the Confidential Information of the disclosing party and shall be protected from unauthorized disclosure or access. Each party agrees to segregate all Confidential Information of the other from the confidential materials of others in order to prevent commingling.

(d) Neither party shall reverse engineer, decompile or disassemble any software which is Confidential Information of the other party.

### **3. Rights and Remedies**

(a) Each party acknowledges and agrees that all Confidential Information of the other party and all worldwide right, title, and interest whatsoever therein and thereto, both legal and equitable shall belong to and shall remain the sole and exclusive property of the disclosing party or, as applicable, the disclosing party's suppliers or licensors. Nothing contained in this Agreement shall be construed as granting or conferring any rights by license or otherwise, including without limitation any trademark, patent, copyright or other intellectual or industrial property right or license.

(b) Each party agrees to promptly return all originals, copies, reproductions and summaries of Confidential Information of the other at the disclosing party's request or, at the disclosing party's option, certify destruction of the same.

(c) The parties agree to notify the other immediately upon discovery of any unauthorized use or disclosure of Confidential Information of the other, or breach of this Agreement.

(d) The parties acknowledge that any breach of the terms and conditions of this Agreement by them could result in significant damage to the disclosing party, not completely compensable monetarily, and agree that the disclosing party shall be entitled to apply for injunctive relief in a court of appropriate jurisdiction in the event of the breach or threatened breach of any of the terms of this Agreement. The party in default hereunder shall not oppose any such application on the basis that damages would be a satisfactory or sufficient remedy.

### **4. Term**

(a) This Agreement shall come into effect on the date set out above the signatures on the last page of this Agreement and will continue in effect for a period of five (5) years.

(b) Any Confidential Information disclosed under this Agreement prior to its termination will continue to be subject to the obligations of confidentiality contained in this Agreement in perpetuity.

### **5. Miscellaneous**

(a) The parties agree that Confidential Information under this Agreement, is provided "as is" without warranty of any kind and that the use of such Confidential Information is entirely at the receiving party's risk. Both parties acknowledge that neither the disclosing party nor its suppliers or licensors shall be liable for any damages whatsoever (including without limitation, direct, indirect, incidental, consequential, or punitive damages of any nature or kind including loss of profits, or losses of third parties of any nature or kind) relating to the receiving party's use of or reliance upon the Confidential Information.

(b) If any term of this Agreement shall be held to be illegal, invalid or unenforceable by a court of competent jurisdiction, such term shall be deemed severed from this Agreement and the remaining terms shall remain in full force and effect.

(c) This Agreement supersedes any and all prior arrangements, whether oral or written, express or implied, with respect to the Confidential Information.

(d) This Agreement may not be assigned or transferred by either party in whole or in part. Any attempted assignment in violation of this section shall be void.

(e) This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario. Each party hereby attorns to the jurisdiction of the courts of the Province of Ontario and agrees not to oppose any action brought in Ontario on the basis that the courts of Ontario are not an appropriate or convenient forum for same.

(f) Until this Agreement is terminated, and for a period of two (2) years following, neither party shall hire, employ, retain or solicit any person who is an employee, officer, director or full-time independent contractor of the other party and who, but for this Agreement, would otherwise be unknown to that party. The parties acknowledge that in view of the recruitment difficulties, costs of training staff in the computer industry and the highly sensitive nature of intellectual property rights of both parties, this restriction is reasonable.

(g) Any notices provided for under this Agreement shall be deemed received when delivered in person, on the first business day following electronic transmission by facsimile or five (5) days after being mailed by registered mail as follows:

(i) to Collingwood:

The Coporation of the Town of Collingwood  
 Attention: Kim Wingrove, CAO  
 97 Hurontario Street  
 P.O. Box 157  
 Collingwood, ON L9Y 3Z5  
 Email: kwingrove@collingwood.ca

(ii) to Collus:

Collus Power Corp.  
 Attention: Ed Houghton, President & CEO  
 Collingwood Utility Services Corp.  
 P.O. Box 189, 43 Stewart Road  
 Collingwood , ON L9Y 3Z5  
 Email: ehoughton@collus.com

(iii) to PowerStream Inc.

PowerStream Inc.  
 Attention: Dennis Nolan, EVP Corporate Services & Secretary  
 PowerStream Inc.  
 161 Cityview Boulevard  
 Vaughan, ON L4H 0A9  
 Email: dennis.nolan@powerstream.ca

IN WITNESS WHEREOF the parties by their authorized signing authorities have executed this Agreement as of the 19th day of September, 2011.

**THE CORPORATION OF THE TOWN OF COLLINGWOOD**

**COLLUS POWER CORPORATION**

By: *Sandra Cooper*  
Name:  
Title:

By: *[Signature]*  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

PowerStream Inc.  
By: *[Signature]*  
Name: Dennis Nolan  
Title: EVP Corporate Services & Secretary

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