

4TH REPORT OF THE

STRATEGIC PRIORITIES AND POLICY COMMITTEE

Special meeting held on January 15, 2013, commencing at 3:32 PM, in the Council Chambers, Second Floor, London City Hall.

PRESENT: Mayor J.F. Fontana (Chair), Councillors B. Polhill, Councillor W.J. Armstrong, J.B. Swan, S. Orser, J.L. Baechler, N. Branscombe, M. Brown, P. Hubert, D.G. Henderson, P. Van Meerbergen, D.T. Brown, H.L. Usher, J.P. Bryant and S. White and L. Rowe (Secretary).

ALSO PRESENT: A. Zuidema, J.P. Barber, J. Braam, B. Campbell, B. Coxhead, H. Filger, J.M. Fleming, P. Foto, M. Hayward, G. Kotsifas, L. Livingstone, S. MacDonald, V. McAlea Major, D. Munteer, M. Ribera, C. Saunders, V. Sharma, J. Smout, J. Stanford, and B. Westlake-Power.

I. DISCLOSURES OF PECUNIARY INTEREST

1. That it **BE NOTED** that no pecuniary interests were disclosed.

II. CONSENT ITEMS

None.

III. SCHEDULED ITEMS

None.

IV. ITEMS FOR DIRECTION

2. Joint Venture - Fit Program

Recommendation: That the following actions be taken with respect to the proposed Joint Venture Agreement between London Hydro Inc. and the London District Renewable Energy Cooperative:

- a) the attached proposed by-law (Appendix A) **BE INTRODUCED** at the Municipal Council meeting to be held on January 15, 2013; it being noted that the Civic Administration has not had sufficient time to engage in the standard due diligence process for reviewing the Joint Venture Agreement (supplied substantially in the form considered by the Board of London Hydro Inc.); it being further noted that staff at London Hydro Inc. have been advised as to the concerns raised and are prepared to address these concerns;
- b) the Municipal Council **BE PROVIDED** with a timely update, including financial details, on this initiative within the 120-day review period, in order to satisfy itself with respect to this initiative;

it being pointed out that the Strategic Priorities and Policy Committee received a communication dated January 7, 2013 from P. Johnson, Chair, London Hydro Inc. and heard verbal delegations from the Managing Director, Corporate Services and City Treasurer/Chief Financial Officer, J. Smout, Solicitor II, D. Munteer, Solicitor II and V. Sharma, CEO, London Hydro Inc., with respect to this matter.

V. DEFERRED MATTERS/ADDITIONAL BUSINESS

None.

VI. ADJOURNMENT

The meeting adjourned at 4:39 PM.

Bill No.
2013

By-law No. A.-

A by-law to ratify and confirm the Resolution of the Shareholder of London Hydro Inc. authorizing and approving the joint venture between London Hydro Inc. and London District Renewable Energy Cooperative.

WHEREAS London Hydro Inc. is a corporation incorporated under the *Business Corporations Act* R.S.O. 1990, c.B.16;

AND WHEREAS subsection 104(1)(b) of the *Business Corporations Act* provides that a resolution in writing dealing with all matters required by this Act to be dealt with at a meeting of shareholders, and signed by all the shareholders or their attorney authorized in writing entitled to vote at the meeting, satisfies all the requirements of this Act relating to that meeting of shareholders;

AND WHEREAS the Corporation of the City of London is the sole shareholder of London Hydro Inc.;

AND WHEREAS Subsection 5(3) of the *Municipal Act, 2001* provides that a municipal power shall be exercised by by-law;

AND WHEREAS Subsection 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

The Municipal Council of The Corporation of the City of London enacts as follows:

1. The Resolution of the Shareholder of London Hydro Inc. authorizing and approving the joint venture between London Hydro Inc. and London District Renewable Energy Cooperative, attached as Schedule "1" is ratified and confirmed.
2. The Mayor and City Clerk are authorized to execute the Resolution of the Shareholder ratified and confirmed under section 1 of this by-law.
3. This by-law comes into force on the day it is passed.

PASSED in Open Council on the day of , 2013.

Joe Fontana
Mayor

Catharine Saunders
City Clerk

First reading -
Second reading -
Third reading -

SCHEDULE 1

LONDON HYDRO INC.
(the "Corporation")

WHEREAS subsection 104(1)(b) of the *Business Corporations Act (Ontario)* (the "Act") provides that a resolution in writing dealing with all matters required by the Act to be dealt with at a meeting of shareholders and signed by all the shareholders or their attorney authorized in writing entitled to vote at the meeting, satisfies all the requirements of the Act relating to that meeting of shareholders;

The following resolution signed by the sole shareholder of the Corporation entitled to vote thereon, is hereby passed pursuant to the provisions of the Act:

JOINT VENTURE AGREEMENT WITH LONDON DISTRICT RENEWABLE ENERGY COOPERATIVE ("LDREC")

WHEREAS the directors of the Corporation have approved, subject to approval by the undersigned, certain resolutions as set out in Schedule "A";

AND WHEREAS such resolutions authorize, subject to approval by the undersigned, the Corporation entering into a the Joint Venture Agreement with LDREC as set out in Schedule "B";

AND WHEREAS pursuant to section 8.7 of the Shareholder Declaration adopted November 26, 2001 and as amended (the "Shareholder Declaration"), the Corporation shall not enter into any joint venture, partnership, strategic alliance or other venture, including without limitation ventures in respect of the generation or co-generation of electricity, without shareholder approval given in accordance with sections 6.1 and 6.2 of the Shareholder Declaration;

NOW THEREFORE BE IT RESOLVED THAT the undersigned, being the sole shareholder of the Corporation, hereby authorizes and approves the joint venture between the Corporation and LDREC as set out in Schedule "B".

DATED as of the 15th day of January, 2013.

THE CORPORATION OF THE CITY OF LONDON

Per: Joe Fontana, Mayor

Per: Catharine Saunders, City Clerk

JOINT VENTURE AGREEMENT

THIS JOINT VENTURE AGREEMENT made as of the 1st day of January, 2013.

BETWEEN:

LONDON DISTRICT RENEWABLE ENERGY CO-OPERATIVE INC.
(hereinafter referred to as "LDREC")

- and -

LONDON HYDRO INC.
(hereinafter referred to as "Hydro")

BACKGROUND

LDREC and Hydro wish to form a joint venture for the purpose, term and upon the terms and conditions as set forth hereunder in this Agreement;

AGREEMENT

IN CONSIDERATION OF the mutual covenants contained below and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

1. FORMATION, DEFINITIONS AND DURATION

1.1 Formation and Purpose - The parties have agreed to form a Joint Venture for the purpose of identifying and applying for Feed-In Tariff Contracts for renewable energy projects including, without limitation, those listed on Schedule "A" (the "Projects" or individually a "Project"), such Joint Venture to be on the terms and conditions herein contained.

1.2 Definitions - The following words and terms shall have the respective meanings set out below:

"Agreement" means this agreement, including its schedules, all as same may be amended from time to time.

"Charge" means assign, pledge, charge, mortgage, hypothecate, or otherwise encumber, as set out in paragraph 4.4.

"Chargee" means a Person to whom a Charge is granted.

"Contribution" or "Contributions" means any payment of monies required to be made under this Agreement, whether as additional capital for the construction or operation of a Project or payment of any costs or expenses of the Joint Venture or relating to the

construction or operation of a Project, including any payment pursuant to paragraph 2.1 or pursuant to any indemnity contained herein or as a liability pursuant to paragraph 2.9.

"Default" has the meaning set out in paragraph 7.1.

"Executive Committee" has the meaning set out in paragraph 3.2.

"Expenses" means all expenses incurred by or on behalf of the Joint Venture which have been approved by the parties in accordance with this Agreement.

"FIT Contract" means an agreement entered into between a supplier and the Ontario Power Authority in accordance with the FIT Rules and "FIT Contracts" shall mean more than one of them.

"FIT Rules" means the rules governing the Renewable Energy Feed-In Tariff Program established by the Ontario Power Authority as may be amended in accordance with its terms from time to time.

"Joint Venture" means the joint venture between LDREC and Hydro that has been established pursuant to the terms and provisions of this Agreement.

"Joint Venture Interest" means all of the right, title and interest of a Venturer in the Joint Venture including its Proportionate Interest.

"Key Agreements" has the meaning set out in paragraph 3.4.

"Manager" has the meaning set out in paragraph 3.3(b)(vi).

"Person" means anyone including any individual, sole proprietorship, partnership, unincorporated association, unincorporated organization, trust, body corporate, and a natural person in his or her capacity as a trustee, executor, administrator, or other legal representative.

"Prime" means the rate per annum charged on loans by the Royal Bank of Canada at its principal office in Toronto, Ontario, for loans of Canadian dollars to its customers in Canada, and said to be its prime rate, as the same is adjusted from time to time.

"Projects" has the meaning set out in paragraph 1.1 and "Project" means one of them.

"Property" has the meaning set out in paragraph 1.8.

"Proportionate Interest" means 51% for LDREC and 49% for Hydro.

"Records" have the meaning set out in subparagraph 8.1(a).

"Termination" shall mean termination of this Agreement for any reason whatsoever, including termination pursuant to paragraph 5.1.

"Transfer" means sale, exchange, lease, re-lease, transfer or abandonment or any other disposition of any interest or portion of any interest.

"Venturer" means one of LDREC or Hydro, as the context may require.

"Venturers" means LDREC and Hydro.

1.3 **Schedule** - The following schedule forms part of the Agreement:

Schedule "A" – List of Projects for which Application is to be made for FIT Contracts.

Schedule "B"- Capital Budget and Budget for the First Operating Year of the Joint Venture.

1.4 **Name** - The Joint Venture shall be known as the LONDON RENEWABLE ENERGY INITIATIVE, being a joint venture of LDREC and Hydro.

1.5 **Place of Business** - The principal office and place of business of the Joint Venture shall be located at such place as the Executive Committee may from time to time designate.

1.6 **Term** - The Joint Venture shall commence as of the date set out above and shall continue in force until Termination in accordance with this Agreement.

1.7 **Approvals and Consents** - The Venturers will jointly identify all approvals required by the Joint Venture and cooperate with each other in obtaining such approvals. All approvals shall be sought on a timely basis, and with respect to regulatory approvals, on terms acceptable to both Venturers. The costs of such approvals shall be borne by the Venturers according to their Proportionate Interest.

1.8 **Title to Property** - All property subject to this Agreement, including the Projects, and intangible rights such as an interest in required licences (the "Property") shall be taken in the names of the Joint Venture or failing this, in the names of LDREC and Hydro as Joint Venturers according to their respective Proportionate Interest.

1.9 **Representation and Warranties of the Venturers** - Each Venturer represents and warrants to the other Venturer that it is a corporation and, in the case of LDREC, a cooperative corporation, duly incorporated, organized and validly existing under the laws of the Province of Ontario and has all necessary corporate power required to carry on the business of the Joint Venture, that the execution, delivery and performance by it of this Agreement is within the Venturer's powers and has been duly authorized by all necessary action on its part, that this Agreement has been duly and validly executed by it and constitutes a legal and binding agreement enforceable against it in accordance with its terms except as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights and subject to general principles of equity, and does not contravene or conflict with any of its articles or by-laws or contravene or conflict with or constitute a material violation of any provision of any applicable law abiding upon or applicable to it.

1.10 **Representations Re: Hydro** - Hydro represents to LDREC that:

- (a) the only activity undertaken by Hydro in connection with the FIT Contracts is the filing of applications for eight (8) Projects under FIT 1.0, which Projects are listed on Schedule "A" attached hereto; and

- (b) Hydro has not taken any action to cancel or assign the applications for the eight (8) Projects under FIT 1.0 referred to in Subsection (a) above.

1.11 **Representations Re: LDREC** – LDREC represents to Hydro that it is and will be, throughout the term of this Agreement, a Community Investment Member within the meaning of paragraph 61(a) of the FIT Rules (Version 2.1) – Appendix 1 – Standard Definitions.

1.12 **Covenant to Act** - Each party shall do, observe and perform all things hereby contemplated by it to be done, observed and performed to give effect to the provisions of this Agreement.

2. CONTRIBUTIONS, DISTRIBUTIONS AND RESPONSIBILITIES

2.1 **Contributions** - Following the Joint Venture being awarded one or more FIT Contracts pursuant to the FIT Rules, the Joint Venture may require Contributions from the Venturers from time to time as the need for additional capital is determined by the Executive Committee. Each Venturer shall act in good faith and use its best efforts to contribute to the capital requirements of the Projects from time to time. Each Venturer shall contribute its Proportionate Interest of the Contribution required, it being acknowledged and agreed the obligation of LDREC to make its Contribution shall be subject always to the provisions contained in paragraph 2.2 herein.

The Capital Budget and Budget for the First Operating Year of the Joint Venture are set forth in Schedule "B" attached.

2.2 **Contribution by LDREC** - The Venturers acknowledge and agree that, if the Executive Committee makes a decision that the Venturers must make a Contribution, then LDREC shall have up to 270 days from the decision of the Executive Committee to raise its Proportionate Interest of the Contribution, it being acknowledged and agreed the objective of LDREC is to raise its Proportionate Interest through utilization of a receipted Offering Statement filed with the Financial Services Commission of Ontario. The Venturers acknowledge and agree the under no circumstances can LDREC be considered in Default during such 270 day period. However, the provisions of Section 2.3 shall, to the extent Contributions are required prior to the date on which LDREC is able to advance, apply.

2.3 **Failure to Make Required Contributions** - If any Venturer fails or refuses to contribute its share of required funds when and as the funds are required as set forth in this Agreement (herein this paragraph 2.3 the "non-paying Venturer"):

- (a) subject always to compliance with the FIT Rules and applicable law, the other Venturer (herein this paragraph 2.3 the "other Venturer") shall have the right, at its sole option, to advance to the Joint Venture all or a portion of the required sum which advance the non-paying Venturer acknowledges and agrees shall be a debt owing by the non-paying Venturer to the other Venturer, repayable on demand together with interest on such sum from the date of payment by the other Venturer to the date of repayment of the other Venturer by the non-paying Venturer at a rate equal to the greater of Prime plus six percent (6%) per annum

or ten percent (10%) per annum. In addition to the foregoing, the non-paying Venturer, by its signature hereto, does hereby irrevocably direct the Joint Venture to pay the other Venturer the amount owing from monies that would otherwise be payable to the non-paying Venturer as a distribution from the Joint Venture to the Venturers according to their Proportionate Interest, the non-paying Venturer acknowledging and agreeing such debt is to be repaid in priority to any distribution to the non-paying Venturer; or

- (b) subject to Section 2.2 and the notice and cure period set forth in paragraphs 7.1(a) and 7.1(b), the non-paying Venturer shall be deemed to be in Default, and the rights of the non-defaulting Venturer pursuant to paragraph 7.2 shall apply.

- 2.4 **Distribution** - Each Venturer shall own its Proportionate Interest of the power generated by the Projects. All power generated by the Projects shall be sold in accordance with the relevant FIT Contract and revenues shall be received by the Joint Venture on behalf of the Venturers and applied in satisfaction of the obligations of the Joint Venture or distributed in accordance with the terms of this Agreement.
- 2.5 **Time and Effort** - Neither Venturer is expected to devote time and effort to operate the Joint Venture other than the time required to be represented on the Executive Committee at no charge. No compensation shall be paid to any Venturer for its time, nor shall a Venturer's representative on the Executive Committee be paid compensation, whether for sitting on the Executive Committee or otherwise, unless otherwise agreed by both Venturers.
- 2.6 **Other Business Interests of Joint Venturer** - Each Venturer may have other business interests and may engage in any other business or trade whatsoever, on its own account, or in partnership with any other Person, firm, corporation or other legal entity.
- 2.7 **Allocation of Capital Cost Allowance** - As owner of its part of the Property, each Venturer shall be entitled to capital cost allowance, depreciation, and other similar rights as any owner of similar property might claim, equal to its Proportionate Interest.
- 2.8 **Full Disclosure** - Any transactions between the Joint Venture and a Venturer shall be based on a full disclosure of all conditions, good faith and fair dealing.
- 2.9 **Limited Recourse and Several Liability** - Unless approved by the Venturers, every agreement or instrument entered into by the Venturers creating obligations of the Venturers to third parties and to each other in respect of the Joint Venture, other than any instrument entered into by a Venturer in its separate capacity as contemplated in this Agreement, shall contain provisions to the effect that:
- (a) only each Venturer's Proportionate Interest in the Joint Venture shall be bound and the obligations are not otherwise personally binding upon nor shall resort be had to any other property of any of the Venturers; and
- (b) the rights and obligations of each Venturer shall be several, and not either joint or joint and several and shall be limited to the Venturer's Proportionate Interest of the aggregate liability.

Where such an Agreement or instrument is entered into, each Venturer shall indemnify the other Venturer so that neither is responsible for more than their Proportionate Interest of their obligations in such Agreement or instrument.

2.10 Liability to Third Parties Based on Unauthorized Acts - It is agreed that no Venturer shall act as the agent of the other Venturer without an express written authorization to act as an agent, and any act by a Venturer as an agent without proper authorization shall create a separate liability in the Venturer so acting to any and all third parties affected. Any contract entered into by a Venturer that is outside the scope of this Agreement will not be binding on the other Venturer, and only the Venturer entering into that contract shall be liable to third parties.

2.11 Actions of Venturers - In making any decisions with respect to the Joint Venture, each Venturer agrees to cause its representatives on the Executive Committee to act reasonably, promptly, honestly and in good faith and strictly upon the merits of the proposed decision and to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

2.12 Emission Credits - The Venturers agree that if at any time the Joint Venture is entitled to any emission credits, reductions, off sets, renewable energy certificates, green tag and any other environment related attributes created through either regulated or voluntary means that is attributable to the Projects including, without limitation, any and all right, title and interest in and benefits associated with:

- (a) any energy source that displaces other sources of energy;
- (b) an energy source that displaces other sources of energy as may be delivered and awarded through federal or provincial Air Emission Requirements, renewable fuel requirements or other applicable legislation or voluntary programs, including but not limited to green tags, tradable environmental certificates, fuel credits, carbon credits, renewable energy certificates and similar instruments; and
- (c) any incentives, revenues, entitlements, benefits and other proceeds and any tax or other benefit related to energy generated by the Projects,

they shall be allocated to the Venturers according to their Proportionate Interest.

2.13 Marketing Activities - Each Venturer shall, prior to making any communication to the public regarding the Joint Venture, use all reasonable efforts to inform the other Venturer of the communication and agree with the other Venturer on the content of such communication, except that where a Venturer is making communications to the public regarding activities of such Venturer it shall have no such obligation. Such activities of a Venturer that do not require the Venturer to inform shall include marketing activities of LDREC to sell shares to raise capital for the Projects pursuant to a receipted Offering Statement. Notwithstanding the foregoing, Hydro shall have the right to review any draft Offering Statement prior to its submission to the Financial Services Commission of Ontario for the purpose of ensuring any disclosures therein relating to Hydro are accurate.

3. MANAGEMENT AND OPERATION

3.1 Decisions/Approvals of the Venturers - All decisions or approvals required to be made by the Venturers shall be made by the Executive Committee based on the direction of the Venturers.

3.2 Executive Committee - The business and affairs of the Joint Venture shall be managed by an executive committee (the "**Executive Committee**") consisting of five (5) members, with Hydro being entitled to appoint three (3) members and LDREC being entitled to appoint two (2) members. A Venturer may appoint one or more alternates who may, in the absence of such Venturer's appointee to the Executive Committee, attend and vote at any meetings of the Executive Committee. The following terms and provisions shall apply to meetings of the Executive Committee and decisions taken thereat:

- (a) the Executive Committee shall meet not less than quarterly at such times and at such places as may be determined by the Executive Committee;
- (b) special meetings of the Executive Committee may be called by a member of the Executive Committee at any time with the support of at least one of the other Venturer's Executive Committee members;
- (c) notice of all meetings of the Executive Committee shall be sent by mail, or be delivered personally, by telephone, by facsimile or by electronic mail, to each member not later than 5 days before the date on which the meeting is to be held, unless notice is waived by all members;
- (d) a meeting of the Executive Committee may be held by means of such telephone, electronic or other communication facilities as permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously, and a member of the Executive Committee participating in such meeting by such means is deemed to be present at that meeting;
- (e) subject always to the provisions of paragraph 3.2(g), a majority of the members of the Executive Committee, with not less than two (2) members of Hydro and not less than one (1) member of LDREC in attendance, shall constitute a quorum to transact business;
- (f) all decisions of the Executive Committee must be made by a majority of those present at the meeting provided that, subject to paragraph 3.2(g), at least one (1) member of each Venturer must be one of the majority voting in favour of the following:
 - i. any change to this Agreement;
 - ii. merge or otherwise combine the Joint Venture with any other Person, firm, corporation or legal entity;
 - iii. the sale of any portion of the Joint Venture outside the ordinary course of business of the Joint Venture;
 - iv. to dissolve the Joint Venture;

- v. any material change in the business of the Joint Venture;
 - vi. guaranteeing loans or debts of other Persons;
 - vii. the purchase of assets other than in the ordinary course of business of the Joint Venture;
 - viii. borrowing money;
 - ix. Contributions to the Joint Venture;
 - x. a loan to any Venturer;
 - xi. distributions to any Venturer;
 - xii. any contract or agreement between the Joint Venture and any Venturer or any Person, firm, corporation or legal entity that a Venturer is dealing with on a non-arm's length basis (as the term "non-arm's length" is defined in the *Income Tax Act* (Canada));
 - xiii. hiring or engagement of a Manager; and
 - xiv. appointment of an auditor for the Joint Venturer; and
- (g) notwithstanding the terms and provisions contained in paragraphs 3.2(e) and 3.2(f), if all of a Venturer's representatives miss three (3) consecutive meetings, at the option of the other Venturer, then:
- i. that Venturer shall be deemed to be in Default under this Agreement; and
 - ii. the other Venturer who is not in Default shall be entitled to deal with matters listed on the agenda for those three (3) meetings at a subsequent meeting, regardless of whether or not a representative of the Venturer in Default is present at the subsequent meeting, and the number of members of the Executive Committee of the Venturer who is not in Default shall be the quorum for the purposes of this Paragraph 3.2(g).

Each Venturer shall ensure that its representatives on the Executive Committee act in accordance with the terms of this Agreement.

3.3 Executive Committee Responsibilities - The Executive Committee shall:

- (a) obtain insurance on such terms and in such amounts as the Executive Committee deems appropriate;
- (b) have the responsibility of managing and overseeing the Joint Venture including the following:
 - i. preparing and approving a budget for the Joint Venture including an annual budget, and a capital budget for years subsequent to the year covered by the capital budget contained in Schedule "A";
 - ii. preparing and approving the technical specifications for the Projects;

- iii. preparing and issuing a request for proposals to manufacturers/suppliers for the Projects inviting proposals to:
 - 1. supply the Projects in accordance with the specifications developed, and
 - 2. provide on-going service, management of, operation and maintenance of the Projects for at least the first 5 years after delivery;
 - iv. selecting suppliers for the Projects;
 - v. selecting a technical manager to operate and provide maintenance for the Projects;
 - vi. if deemed necessary, appointing a manager (the "Manager") to manage the daily operation of the Joint Venture and delegate such duties to such Manager as it deems appropriate;
 - vii. negotiate contracts with third parties including, without limitation, with consultants and suppliers; and
 - viii. selecting and negotiating leases for equipment and supplies and leases for sites where the Projects will be located; and
- (c) the members of the Executive Committee shall not be required to devote their full time and attention to the Joint Venture, but only such time as shall be reasonably necessary to perform their duties under this Agreement.

3.4 **Key Agreements** - The Executive Committee shall identify all key agreements required for the Joint Venture (the "Key Agreements"), and shall negotiate and settle such Key Agreements on behalf of the Joint Venture. The Key Agreements shall be governed by the laws of the Province of Ontario and the laws of Canada applicable in this Agreement with exclusive attornment to the courts of Ontario. The Key Agreements shall include, without limitation, the following:

- (a) leases of rooftops on which the Projects shall be located;
- (b) supply contracts for the Projects;
- (c) management and maintenance agreements for the Projects;
- (d) management agreement for the daily operation of the Joint Venture; and
- (e) FIT Contracts.

Each Key Agreement will be signed by both Venturers, who shall each be responsible under these Agreements for their Proportionate Interest of the liabilities contained in these Agreements.

- 3.5 **Duties of Manager** - If appointed, the Manager shall be responsible for the management and supervision of the day to day operation of the Projects, subject always to the specific instruction and direction of the Executive Committee.
- 3.6 **Replacement of Manager** -- Either Venturer may at any time, through its representatives on the Executive Committee, withdraw its support for any Manager and require the replacement of such Manager. In such event, a hiring process will be undertaken to identify a suitable candidate to replace the Manager.
- 3.7 **Financial Year** - The Joint Venture's financial year shall be determined by the Executive Committee.
- 3.8 **Auditor** - The Joint Venturer's auditor shall be appointed pursuant to the provisions of Section 3.2(f)(xiv) hereof.
- 3.9 **Arbitration of Disputes** - If, during the course of the Joint Venture, the Venturers are unable to agree on any matter with respect to which a decision must be made, or if, on termination, no satisfactory arrangement can be made for settlement of each Venturer's interest in the Joint Venture, the dispute or disputes shall be subject to binding arbitration by a single arbitrator. The Parties shall each use all reasonable efforts to avoid arbitration, including referring the dispute to senior executives and/or the board of directors of each of the Venturers for resolution; provided always that before resort to arbitration shall be taken, the Venturers agree that any such dispute or disputes shall be submitted to non-binding mediation.

The Venturers agree that there shall be no appeal from the decision of the arbitrator.

The *Arbitration Act, 1991* (Ontario) as amended and successor legislation thereto shall apply to the arbitration.

4. **FINANCIAL MATTERS**

- 4.1 **Spending** - No costs or expenses respecting the Projects will be paid except those costs and expenses that have been approved by the Executive Committee, or are within a budget approved by the Executive Committee.
- 4.2 **Funds Required for the Joint Venture** - Each Venturer shall be directly responsible for paying its Proportionate Interest of all costs and expenses attributable to the Joint Venture, it being agreed that no costs or expenses respecting the Joint Venture will be paid except those that have been approved by the Executive Committee, and those costs which have been determined by a court to be payable by the Venturers, provided that where a cost or expense was incurred by a Venturer without the prior approval of the Executive Committee, the other Venturer will have no responsibility for payment of its share, and if the other Venturer is obliged by an order of a court to make a payment to a third party in respect of such cost or expense, it shall be indemnified for such cost or expense by a Venturer who had incurred the unauthorized cost or expense.

4.3 **Indemnities** - Each Venturer (in this paragraph 4.3 the "Indemnifying Venturer") agrees with the other Venturer (in this paragraph 4.3 the "Indemnified Venturer"):

- (a) to be responsible for the Indemnifying Venturer's Proportionate Interest of the debts, liabilities, obligations, duties, agreements, costs and expenses (including reasonable legal fees on a substantial indemnity basis) (collectively in this paragraph 4.3 the "Liabilities") arising from or incurred in connection with the Joint Venture whether present or future, provided the Liabilities have been properly incurred by the Venturers pursuant to this Agreement;
- (b) each Indemnifying Venturer shall at all times indemnify and save harmless each Indemnified Venturer from any and all Liabilities to the extent of that portion of all Liabilities which the Indemnified Venturer has incurred and which is in excess of the Indemnified Venturer's Proportionate Interest of the Liabilities and which has been paid or incurred by the Indemnified Venturer. Each Indemnifying Venturer shall pay, forthwith on demand, the Indemnified Venturer with respect to such amount;
- (c) each Indemnifying Venturer shall at all times indemnify and save harmless each Indemnified Venturer from any and all actions, proceedings, causes, claims, demands, costs, liabilities, damages and expenses of every nature or kind whatsoever arising out of the Indemnifying Venturer's separate debts, liabilities, obligations, duties, agreements, costs and expenses (including reasonable legal fees on a substantial indemnity basis), whether present or future;
- (d) notwithstanding the foregoing, each Indemnifying Venturer will indemnify, defend and hold harmless the Indemnified Venturer and its affiliates, and its and their directors, officers, employees, and agents from and against the full amount of (not limited to the Proportionate Interest) all claims, losses, damages, liabilities, obligations, costs and expenses (including reasonable legal fees and expenses on a substantial indemnity basis) suffered by the Indemnified Party caused by, or arising, directly or indirectly, from a claim by a third party relating to:
 - i. the business or activities of the Indemnifying Party in circumstances where the Indemnified Party is joined as a party solely because of the Indemnifying Party's conduct in the Joint Venture;
 - ii. the unauthorized acts of, or contracts outside the scope of this Agreement entered into by the Indemnifying Party;
 - iii. the Indemnifying Party's intellectual property; or
 - iv. negligence or misconduct of the Indemnifying Party,except to the extent that the claims, losses, damages, liabilities, obligations, costs or expenses are determined to have resulted, in whole or in part, from the negligence or intentional misconduct of the Indemnified Party, in which case the indemnity in this paragraph (d) shall not apply; and
- (e) these indemnity provisions and all other indemnities contained in this Agreement shall survive termination of this Agreement, howsoever caused.

4.4 Charges

- (a) no Venturer shall charge (a "Charge") any of the assets of the Joint Venture except as specifically and mutually agreed by both Venturers in writing;
- (b) no Venturer shall Charge (in this paragraph 4.4 (b) a "Chargor Venturer") its Joint Venture Interest without:
 - i. first advising the other Venturer in writing of the amount of the debt giving rise to the Charge, and of the identity of the Chargee;
 - ii. obtaining the prior written consent of the other Venturer to such Charge, such consent not to be unreasonably withheld;
 - iii. providing in the agreement with such Chargee a right, to be exercised by the other Venturer at its sole option, to remedy a Default of the Chargor Venturer, or assume the debt of the Chargor Venturer under the Charge; and
 - iv. the Chargee acknowledges to the Venturers in writing that the Charge of such Joint Venture Interest shall at all times be subject to all the terms and conditions of this Agreement, including the terms and provisions regarding charging such Joint Venture Interest; and
- (c) If any Venturer exercises its right in any charging agreement pursuant to paragraph 4.4(b) (iii), then (1) the Chargor Venturer shall re-imburse the other Venturer for the amount paid together with interest on such sum from the date of payment to the date of reimbursement at a rate equal to the rate of interest provided for in the Charge plus 2% per annum, and (2) subject to the provisions of paragraph 7.1 (g) the Chargor Venturer shall be in Default under this Agreement pursuant to paragraph 7.1(g), and the rights of the non-defaulting Venturer pursuant to paragraph 7.2 shall apply.

4.5 Insurance - In addition to the insurance to be obtained by the Executive Committee pursuant to paragraph 3.3(a), each Venturer shall effect and maintain such additional insurance as would be obtained by a prudent owner of a Project having the obligations, including the indemnities, set forth in this Agreement, and shall provide to the other Venturer, upon request, proof that such insurance is in force.

4.6 Taxes - Each Venturer shall be responsible for payment of its own taxes of whatsoever kind and its Proportionate Interest of such taxes assessed against the Joint Venture.

5. TERMINATION

5.1 Distribution of Assets on Termination - On the termination of this Joint Venture for any reason other than a purchase of a Venturer's Joint Venture Interest by the other Venturer or as a result of the vendor Venturer being in Default (a "Termination"), all assets shall be liquidated, and the proceeds realized from the liquidation shall be distributed according to the following order of priority:

- i. first, to payment of all Joint Venture expenses and liabilities in order of their priority in accordance with applicable law, including obligations, debts, salaries, and taxes, and expenses necessary to wind up the Joint Venture and the establishment of a reserve for any and all contingent liabilities;
- ii. second, if a Venturer (the "Indebted Venturer") is or is deemed to be indebted to the other Venturer pursuant to the terms of this Agreement, payment of an amount (the "Indebtedness") equal to all sums owing by the Indebted Venturer to the other Venturer pursuant to the terms of this Agreement;
- iii. third, to repayment of all sums received as Contributions (provided that should Indebtedness have been paid on behalf of an Indebted Venturer and the other Venturer was not repaid all sums owing pursuant to ii. above, such Indebted Venturer's Contributions shall be reduced by the amount of the Indebtedness so paid) from the Venturers, and in the event of shortfall, the Venturers shall receive an amount equal to their respective Contributions (as may be reduced by the foregoing provision) multiplied by a fraction, the numerator of which is such Venturer's Contribution (as may be reduced by the foregoing provision) and the denominator of which are the aggregate Contributions of all Venturers (as may be reduced by the foregoing provision); and
- iv. fourth, the remaining Property of the Joint Venture, is to be divided between the Venturers in proportion to their Proportionate Interest at the time of Termination, provided that, to the extent Indebtedness has not been fully paid, any Property to be paid to or delivered to the Indebted Venturer shall, to the extent required to fully satisfy any remaining balance of the Indebtedness remaining outstanding be paid or delivered to the other Venturer.

5.2 Audit on Termination - On Termination, if at such time the Venturers determine that such action shall be advisable and proper, the Venturers shall employ a firm of chartered accountants to make a complete and final audit of the books, Records, and accounts so kept by the Joint Venture as in this Agreement provided, and all final adjustments between the Venturers shall be made on the basis of such audit. Should the Venturers disagree about the choice of a chartered accountant, the audit shall be performed by the accountant for the Joint Venture, and accepted by the Venturers as a final and binding upon them such that the audit and the decision(s) of the auditor shall not be subject to appeal, whether to a Court of competent jurisdiction or otherwise. **Liability for Claims Asserted After Termination** - If, after Termination, any claim, liability, or expense shall be asserted against the Joint Venture which was not used in computing the profits and losses of the Joint Venture and which is a proper item of computation, the Venturers shall bear their Proportionate Interest of the amount of any such claim, liability, or expense. The Venturers shall cooperate and consult with one another in defending any such claim, liability or expense and in making any settlement or compromise and no such settlement or compromise shall be made unless both Venturers agree.

6. TRANSFER OF INTEREST**6.1 Validity of Transfer of Interest of Joint Venture**

- (a) a Venturer may Transfer their Joint Venture Interest to any Person, firm, corporation or other legal entity provided:
 - i. such Transfer is in full compliance with the terms and provisions of the FIT Rules and applicable law which shall include, for greater certainty, the Joint Venture's FIT Contracts not being terminated, terminable or modified (other than the name of the parties thereto) by any such Transfer; and
 - ii. such Transfer is in compliance with the terms and provisions of this Agreement including, without limitation, the provisions contained in this paragraph 6.1;
- (b) any such Transfer of a Joint Venture Interest shall include a Transfer of the Venturer's interest in all Property subject to this Agreement. No partial Transfer of a Joint Venture Interest is permitted;
- (c) each and every Transfer under this Agreement shall be subject to the terms and conditions of this Agreement and to any amendment of this Agreement, and assuming all liabilities incurred by the transferring Venturer to the effective date of Transfer unless otherwise agreed by the Venturers; and
- (d) no Transfer or other disposition permitted under this Agreement shall be valid unless and until the Venturer making such Transfer shall have delivered to the other Venturer a copy of each and every instrument providing for such Transfer, together with the written agreement of the transferee or transferees to be bound by all of the terms and conditions of this Agreement, and any amendment of the Agreement, all to be in a form satisfactory to the other Venturer, acting reasonably, with the same force and effect as if such transferee or transferees had owned the Joint Venture Interest so acquired at the date of this Agreement and had in fact signed this Agreement as of that time.

- 6.2 Release of Guarantees** - The purchaser of any Joint Venture Interest shall be required to use their best efforts to obtain a release of any guarantee, indemnity, bond and/or covenant given by a vendor of the Joint Venture Interest and, in the event that such release(s) is not forthcoming, then the purchaser must offer themselves as a replacement guarantor, indemnifier, surety and/or covenantor, as the case may be. In the event that the vendor's guarantee, indemnity, bond and/or other covenant is limited to a specific monetary amount and the purchaser has already provided a guarantee to a specific monetary amount in favour of the same party, then such purchaser must offer a guarantee, indemnity, bond and/or covenant for an increased monetary amount equivalent to the specific monetary amount of the vendor's guarantee. If, notwithstanding the foregoing, the aforesaid releases are still not forthcoming, then the purchaser shall be required to provide an indemnity in favour of the vendor of the Joint Venture Interest in respect of such unreleased guarantees, indemnities, bonds and/or covenants, the form of same to be satisfactory to the vendor receiving same, acting reasonably.

- 6.3 **Closing Mechanics** - The completion of a transaction pursuant to the provisions of this paragraph 6 (and pursuant to the provisions of paragraph 7. 2 (c)) shall take place at 11:00 a.m. local time at the offices of the lawyers of the vendor Venturer or at such other place or time as the parties may unanimously agree upon. The applicable purchaser shall pay the applicable vendor the applicable balance due on closing by a certified cheque, bank draft or other immediately available funds upon delivery of the requisite documentation to the applicable purchaser.

7. **DEFAULTS AND REMEDIES FOR DEFAULT**

- 7.1 **Events of Default** - The occurrence or happening of any one or more of the following events shall constitute an event of default on the part of a Venturer (a "Default") if:

- (a) a Venturer shall fail to pay any Contributions as required and the failure to make any such Contributions is not rectified within 30 days of receipt of notice of such failure from the other Venturer, provided that in the case of LDREC, it shall be automatically deemed in default 270 days after the Executive Committee makes a decision that a Contribution is required and LDREC has not then provided its Contribution;
- (b) a Venturer fails to perform or observe any other covenant, condition or agreement to be performed or observed by it under this Agreement (other than as set out in subparagraph (a) above) and such failure to perform or observe is not rectified within 60 days of notice of such failure from the other Venturer;
- (c) a Venturer shall make an assignment for the general benefit of creditors or is adjudged insolvent or bankrupt within the meaning of the bankruptcy laws of Canada;
- (d) a proposal is made or petition filed by a Venturer under any law having for its purpose the extension of time for payment, composition or compromise of the liabilities of the Venturer;
- (e) any resolution is passed for or judgment or order given by any court of competent jurisdiction ordering the dissolution, winding-up or liquidation of the Venturer;
- (f) a petition or other application is made for the winding-up of the Venturer, unless and for so long as the Venturer shall be contesting the petition or other application in good faith with all due diligence and by appropriate proceedings;
- (g) the Venturer defaults in any agreement under which the Venturer's Joint Venture Interest in the Joint Venture is Charged and such default is not cured within the time period permitted under such Agreement; or
- (h) any material representation of a Venturer in this Agreement is found to be incorrect or untrue at the time it was made.

- 7.2 **Rights Upon Default** - In the event of Default, the non-defaulting Venturer (in this paragraph 7.2 the "non-defaulting Venturer") shall have the right to: (a) bring any proceedings in the nature of specific performance, injunction or other equitable remedy, it being acknowledged by the Venturers that a Default in the observance

of the terms of the Agreement shall have caused irreparable harm and that damages at law may be an inadequate remedy for a Default, breach or threatened breach of this Agreement;

- (b) bring any action at law or in equity as may be permitted in order to recover damages or for such other remedy or remedies as may be available to it;
- (c) at its sole option, the non-defaulting Venturer shall have the option of purchasing the Joint Venture Interest owned by the Venturer in Default (in this paragraph (c) the "defaulting Venturer") at net book value, as determined by reference to the financial statements of the Joint Venture. The non-defaulting Venturer shall have 60 days from receipt of the valuation to exercise the option to purchase by giving notice to that effect to the defaulting Venturer and the purchase of the defaulting Venturer's Joint Venture Interest shall be closed 21 days after delivery by the non-defaulting Venturer of the notice of the exercise of such option.

The purchase price for the defaulting Venturer's Joint Venture Interest shall be payable in five equal instalments, the first of which shall be payable at the time of closing of the transfer of such Joint Venture Interest and thereafter in four equal consecutive annual instalments payable on the anniversary of the closing of the purchase of the Joint Venture Interest. No interest shall be payable on the outstanding instalments. The Closing mechanics shall be as set forth in paragraph 6.3 herein. The balance of the purchase price shall be evidenced by a promissory note. No security shall be provided for the outstanding balance of the purchase price. The non-defaulting Venturer may assign its rights hereunder to a third party in order to maintain the qualification of the Projects under the FIT Rules and/or the Fit Contracts. If the non-defaulting Venturer chooses not to purchase the defaulting Venturer's Joint Venture Interest within the 60 days referred to above, the non-defaulting Venturer's option to purchase shall expire and the non-defaulting Venturer shall have the right to take such further and other proceedings pursuant to the provisions of this paragraph 7.2 as it deems fit in the circumstances.

Notwithstanding all of the foregoing, if at any time a defaulting Venturer is indebted to the non-defaulting Venturer, such defaulting Venturer hereby assigns and sets over to the non-defaulting Venturer the purchase price to the extent required to discharge the defaulting Venturer's indebtedness to the non-defaulting Venturer; or

- (d) subject to applicable law, the non-defaulting Venturer may rectify the event giving rise to the Default on behalf of the defaulting Venturer and the non-defaulting Venturer shall be entitled to be repaid by the defaulting Venturer on demand all amounts paid by the non-defaulting Venturer to rectify the Default together with interest from the date of rectification to the date of payment by the defaulting Venturer at a rate equal to the greater of Prime plus six percent (6%) per annum or ten percent (10%) per annum.

Where a Default has been rectified prior to a proceeding or action being commenced under paragraph (a) or (b), or prior to the transfer of the Joint Venture Interest in paragraph (c), provided all of the non-defaulting Venturer's costs of pursuing its remedies, including legal fees and disbursements on a substantial indemnity basis, have been reimbursed by the defaulting Venturer,

the right to pursue any remedy under this Agreement for such Default shall cease.

8. CONFIDENTIALITY AND INTELLECTUAL PROPERTY

8.1 Confidentiality

- (a) Each Venturer agrees that all Confidential Information, as defined below, shall be and remain the exclusive property of the Venturer disclosing such information (in this paragraph 8.1 the "Disclosing Party"), or, in respect of information that is developed in the course of the Joint Venture, such Confidential Information shall belong jointly and indivisibly to each of the Venturers. Any Venturer receiving Confidential Information (in this paragraph 8.1 the "Receiving Party") shall not disclose, and shall ensure that its representatives shall not disclose, to any Person, firm, corporation or other legal entity, any Confidential Information that it receives relating to the Joint Venture, except as expressly authorized and directed by the other Venturer in writing. Each Venturer agrees not to use any Confidential Information or make copies or notices of any documents, records or materials whether they be printed or in machine readable form, (the "Records") containing or referring to Confidential Information, except as may be authorized in writing by the Disclosing Party. Any Venturer, upon ceasing to be a party to the Joint Venture, shall return all Records containing any Confidential Information to the Disclosing Party or, with respect to Confidential Information developed in the course of the Joint Venture, shall return such Records to a party to the Joint Venture, who shall accept such Records on behalf of the Joint Venture. This paragraph shall not prohibit either Venturer from using the Confidential Information without compensation to the other Venturer for the development of additional Projects on its own;
- (b) **Confidential Information** means all information with respect to trade secrets, know-how and secret or confidential information relating to the Joint Venture, the business of the Joint Venture, customers, operations, financial condition and affairs of the Joint Venture, and similar information about the business and activities of each Venturer (which, notwithstanding the provisions of paragraph 8.1 (a), may not be used by the Receiving Party after Termination) not generally known outside the Joint Venture, including without limitation, financial and marketing information, customer lists and information concerning programs, systems, processes and techniques whether patented, patentable or unpatentable. Notwithstanding the foregoing, it is understood that the Venturers shall not have liability hereunder for disclosure or use of any Confidential Information which:
- i. is in or, through no fault of the Disclosing Party or its directors, officers, partners, employees, agents and representatives, comes into the public domain;
 - ii. was acquired by, or was already in the possession of, the Receiving Party from other sources, provided such sources are not, to the knowledge of the Receiving Party, prohibited from disclosing such information by legal, contractual or fiduciary obligation to the other party; and

- iii. either Venturer is legally required to disclose, the Venturers acknowledging and agreeing that any information contained in any receipted Offering Statement filed by LDREC with the Financial Services Commission of Ontario shall be deemed to be information LDREC is legally required to disclose;

Furthermore, the Venturers acknowledge and agree the intellectual property referred to in paragraph 8.2 below is not Confidential Information; and

- (c) each Venturer acknowledges that its relationship with the Joint Venture is of a special, unique, unusual and extraordinary character, which gives it peculiar value, the loss of which cannot adequately be compensated in damages in an action at law and would cause irreparable harm. Each Venturer shall be entitled to all equitable and legal remedies, including interlocutory and permanent injunctive relief, relating to any violation or breach of the provisions of paragraph 8.1 of this Agreement by the other Venturer.

8.2 Intellectual Property - All Property of the Joint Venture in copyright, patents, know-how, or other intellectual property, which are acquired or created during the term of this Agreement in relation to the Projects of the Joint Venture, shall belong to the Venturers jointly according to its respective Proportionate Interest, and each Venturer shall be entitled to use such Property for its own purposes during and after Termination without payment to the other Venturer and each Venturer agrees to execute such further documentation as may be required to give effect to such rights.

9. MISCELLANEOUS

9.1 Negation of Partnership - Nothing contained in this Agreement, or otherwise, shall constitute the Venturers partners, or render them liable to contribute more than their Proportionate Interest as described above, or entitle them to any participation in the results or profits of the Joint Venture other than as specified in this Agreement. This Agreement is intended to create a Joint Venture, not a partnership.

9.2 Individual Activities of Venturer - Joint operations between the Venturers are limited to those operations specified in this Agreement. This Agreement has no relation to any operations conducted by either Venturer as an individual or jointly with others, provided that no Venturer shall participate in any activity, as an individual or jointly with others, where such participation would be contrary to the purposes or activities of the Joint Venture formed under this Agreement.

9.3 Notice - Any and all notices provided for in this Agreement shall be given in writing delivered by courier or transmitted by facsimile to the following:

if to LDREC at:

192 Dundas Street, 2nd Floor
London, Ontario, N6A 1G7

Attention: President

facsimile number: _____

- and -

if to Hydro at:

111 Horton Street
London, Ontario, N6A 4H6

Attention: Chair
facsimile number: _____

Notices are deemed to be received on the day of actual delivery in the case of delivery by courier, and on the date transmitted by facsimile if transmission is completed before 5:00 p.m., London, Ontario time, with a record of transmission showing same. Notices of changes of address and contact person shall be given in accordance with the foregoing.

- 9.4 **Liability** - The doing of any act or the failure to do any act by any Venturer (the effect of which may cause or result in loss or damage to the Joint Venture) if done or not done pursuant to opinion of legal counsel employed by the Executive Committee on behalf of the Venture, shall not subject such Venturer to any liability.

Further, the members of the Executive Committee shall not be liable for any error in judgment or any mistake of law or fact or any act done in good faith in the exercise of powers and authority conferred upon them but shall be liable only for gross negligence or willful misconduct.

- 9.5 **Agreement Binding and Further Assurances** - This Agreement shall be binding upon the parties and upon their successors and permitted assigns, and the parties agree for themselves and their respective successors and permitted assigns to execute any and all instruments in writing which are or may become necessary or proper to carry out the purpose and intent of this Agreement.

- 9.6 **Amendments** - This Agreement may not be amended unless the Venturers mutually agree in writing.

- 9.7 **Titles and Subtitles** - Titles of the paragraphs and subparagraphs are placed in this Agreement for convenience of reference only and shall not to any extent have the effect of modifying, amending or changing the express terms and provisions of this Agreement.

- 9.8 **Words and Gender or Number** - As used in this Agreement, unless the context clearly indicates the contrary, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

- 9.9 **Severability** - In the event any parts of this Agreement are found to be invalid or unenforceable, the remaining provisions of this Agreement shall nevertheless be binding with the same effect as though the invalid or unenforceable parts were deleted.

- 9.10 **Effective Date** - This Agreement shall be effective as of the date first written above.

- 9.11 **Waiver** - No waiver of any provisions of this Agreement shall be valid unless in writing and signed by the person or party against whom charged.

- 9.12 **Representation of Venturers** - Each Venturer represents and warrants to the other Venturer that it is participating in the Joint Venture as Venturers.

- 9.13 **Entire Agreement** - This Agreement is the entire Agreement between the parties.

- 9.14 **Force Majeure** - If, because of a circumstance beyond the control of a Venturer, it is delayed in performing or observing a covenant or in complying with a condition under the terms of this Agreement that it is required to do by a specified date or within a specified period of time, or with all due diligence, and if the circumstance is neither caused by the Default, act or omission of that Venturer, nor avoidable by the exercise of reasonable effort or foresight by that Venturer, the date or period of time by or within which it is to perform, observe or comply will be extended by a period of time equal to the duration of the delay.

[Signatures appear on next page following]

IN WITNESS WHEREOF the parties have executed this Agreement as of the date first written above.

**LONDON DISTRICT RENEWABLE ENERGY
CO-OPERATIVE INC.**

Per: _____
NAME:
TITLE:

Per: _____
NAME:
TITLE:

We have the authority to bind the Co-Operative.

LONDON HYDRO INC.

Per: _____
NAME:
TITLE:

Per: _____
NAME:
TITLE:

We have the authority to bind the Corporation.

SCHEDULE "A"

List of Projects for which Application is to be made for FIT Contracts

1. PROJECT NAME: [Faint text]

2. PROJECT LOCATION: [Faint text]

3. PROJECT TYPE: [Faint text]

4. PROJECT STATUS: [Faint text]

5. PROJECT DESCRIPTION: [Faint text]

6. PROJECT CONTACT: [Faint text]

7. PROJECT START DATE: [Faint text]

8. PROJECT END DATE: [Faint text]

SCHEDULE "A"
THE SITES

Site	Name of Landlord's Site	Address of the Site
1.	A.J. Tyler Operations Centre	663 Bathurst Street
2.	Carling Arena	675 Grosvenor Street
3.	Earl Nichols Arena	799 Homeview Road
4.	Exeter Road Operations Centre	707 Exeter Road
5.	Kinsmen Arena	20 Granville Street
6.	Lambeth Arena	7112 Beattie Street
7.	London Convention Centre	300 York Street
8.	Medway Arena	119 Sherwood Forest Square
9.	Argyle Arena	1948 Wavell Street
10.	Canada Games Aquatic Centre	1045 Wonderland Road North
11.	No. 2 Fire Station	1103 Florence Street
12.	North London Optimist Centre	1345 Cheapside Street
13.	Oakridge Arena	825 Valetta Street
14.	Pottersburg Pollution Control	1141 Hamilton Road
15.	Stronach Arena	1221 Sandford Street
16.	Vauxhall Pollution Control Plant	54 Price Street

SCHEDULE "B"

Capital Budget and Budget for the First Operating Year of the Joint Venture

Attached hereto are the estimates for generating capacities, installed cost (excluding any required roof upgrade or structural change), annual revenue and debt servicing for each of the identified sites. Definitive capital budgets and operating budgets will be developed by the Joint Venture in due course.

3717537.1

Count	Existing FIT 1.0 Application	Asset Name	Estimated Potential Capacity (kW AC)	Ameresco Installed Cost Estimate	Installed \$/kW	Required Roof Upgrade and/or Repair Requirements	Total Installed Cost	Energy in annual kWh @ kWh/yr/kW	First year Revenue*	Equity	Debt Financing Requirement	Annual Debt Service Coverage
1	x	London Community Centre	200	\$ 837,000	\$4,185	\$ -	\$ 837,000	250,000	\$ 134,750	\$ 292,950	\$ 544,050	\$45,526
2	x	Earl Nichols Arena	175	\$ 731,700	\$4,181	\$ -	\$ 731,700	218,750	\$ 117,906	\$ 256,095	\$ 475,605	\$39,798
3		Stronach Arena	150	\$ 627,300	\$4,182	\$ -	\$ 627,300	187,500	\$ 101,063	\$ 219,555	\$ 407,745	\$34,120
4		Vauxhaul Pollution Control Plant	150	\$ 627,300	\$4,182	\$ -	\$ 627,300	187,500	\$ 101,063	\$ 219,555	\$ 407,745	\$34,120
5		Canada Games Aquatic Centre	125	\$ 549,900	\$4,399	\$ -	\$ 549,900	156,250	\$ 84,219	\$ 192,465	\$ 357,435	\$29,910
6		Argyle Arena	100	\$ 440,100	\$4,401	\$ -	\$ 440,100	125,000	\$ 68,500	\$ 154,035	\$ 286,065	\$23,938
7	x	Kinsmen Arena	100	\$ 440,100	\$4,401	\$ -	\$ 440,100	125,000	\$ 68,500	\$ 154,035	\$ 286,065	\$23,938
8	x	Carling Arena	75	\$ 348,300	\$4,644	\$ -	\$ 348,300	93,750	\$ 51,375	\$ 121,905	\$ 226,395	\$18,945
9	x	Lambeth Arena	75	\$ 348,300	\$4,644	\$ -	\$ 348,300	93,750	\$ 51,375	\$ 121,905	\$ 226,395	\$18,945
10		Oakridge Arena	75	\$ 348,300	\$4,644	\$ -	\$ 348,300	93,750	\$ 51,375	\$ 121,905	\$ 226,395	\$18,945
11		Pottersburg Pollution Control Firehouse # 02	50	\$ 240,300	\$4,806	\$ -	\$ 240,300	62,500	\$ 34,250	\$ 84,105	\$ 156,195	\$13,070
12		Main Building North London	50	\$ 240,300	\$4,806	\$ -	\$ 240,300	62,500	\$ 34,250	\$ 84,105	\$ 156,195	\$13,070
13		Optimist Centre	50	\$ 240,300	\$4,806	\$ -	\$ 240,300	62,500	\$ 34,250	\$ 84,105	\$ 156,195	\$13,070
14	x	Medway Arena Exeter Road Operations Centre	50	\$ 240,300	\$4,806	\$ -	\$ 240,300	62,500	\$ 34,250	\$ 84,105	\$ 156,195	\$13,070
15	x	AJT - Administration/Garage/Stores	30	\$ 153,900	\$5,130	\$ -	\$ 153,900	37,500	\$ 20,550	\$ 53,865	\$ 100,035	\$8,371
		Total Portfolio	1505	\$6,653,700	\$4,421	\$ -	\$ 6,653,700	1,881,250	\$1,021,925	\$2,328,795	\$4,324,905	\$361,905

Notes

* Revenues are reduced by .7% each year to account for pannel degradation

** Calculated as average of 10% of first year revenues that increase by 2.2% annually for inflation - move accrual is required by COL within lease agreement

Count	Existing FIT 1.0 Application	Asset Name	Estimated Potential Capacity (kW AC)	Annual Lease Rate	Annual Monitoring, Maintenance, Insurance and Move Accrual**	Annual Cash Requirements Unlevered	Annual Cash Requirements Levered	Investment Number Unlevered	First Year Annual Cash Flow Unlevered	Investment Number Levered	First Year Annual Cash Flow Levered	Unlevered IRR
1	x	London Community Centre Earl Nichols	200	\$ 16,000	\$ 16,709	\$ 32,709	\$ 78,235	-\$ 837,000	\$ 102,041	-\$ 292,950	\$ 56,515	9.66%
2	x	Arena	175	\$ 14,000	\$ 14,620	\$ 28,620	\$ 68,419	-\$ 731,700	\$ 89,286	-\$ 256,095	\$ 49,488	9.67%
3		Stronach Arena Vauxhaul	150	\$ 12,000	\$ 12,532	\$ 24,532	\$ 58,652	-\$ 627,300	\$ 76,531	-\$ 219,555	\$ 42,411	9.67%
4		Pollution Control Plant	150	\$ 12,000	\$ 12,532	\$ 24,532	\$ 58,652	-\$ 627,300	\$ 76,531	-\$ 219,555	\$ 42,411	9.67%
5		Canada Games Aquatic Centre	125	\$ 10,000	\$ 10,443	\$ 20,443	\$ 50,353	-\$ 549,900	\$ 63,776	-\$ 192,465	\$ 33,866	8.92%
6		Argyle Arena	100	\$ 8,000	\$ 8,494	\$ 16,494	\$ 40,432	-\$ 440,100	\$ 52,006	-\$ 154,035	\$ 28,068	9.20%
7	x	Kinsmen Arena	100	\$ 8,000	\$ 8,494	\$ 16,494	\$ 40,432	-\$ 440,100	\$ 52,006	-\$ 154,035	\$ 28,068	9.20%
8	x	Carling Arena	75	\$ 6,000	\$ 6,371	\$ 12,371	\$ 31,315	-\$ 348,300	\$ 39,005	-\$ 121,905	\$ 20,060	8.42%
9	x	Lambeth Arena	75	\$ 6,000	\$ 6,371	\$ 12,371	\$ 31,315	-\$ 348,300	\$ 39,005	-\$ 121,905	\$ 20,060	8.42%
10		Oakridge Arena	75	\$ 6,000	\$ 6,371	\$ 12,371	\$ 31,315	-\$ 348,300	\$ 39,005	-\$ 121,905	\$ 20,060	8.42%
11		Pottersburg Pollution Control Firehouse # 02	50	\$ 4,000	\$ 4,247	\$ 8,247	\$ 21,317	-\$ 240,300	\$ 26,003	-\$ 84,105	\$ 12,933	7.94%
12		Main Building North London	50	\$ 4,000	\$ 4,247	\$ 8,247	\$ 21,317	-\$ 240,300	\$ 26,003	-\$ 84,105	\$ 12,933	7.94%
13		Optimist Centre	50	\$ 4,000	\$ 4,247	\$ 8,247	\$ 21,317	-\$ 240,300	\$ 26,003	-\$ 84,105	\$ 12,933	7.94%
14	x	Medway Arena	50	\$ 4,000	\$ 4,247	\$ 8,247	\$ 21,317	-\$ 240,300	\$ 26,003	-\$ 84,105	\$ 12,933	7.94%
15	x	Exeter Road Operations Centre	50	\$ 4,000	\$ 4,247	\$ 8,247	\$ 21,317	-\$ 240,300	\$ 26,003	-\$ 84,105	\$ 12,933	7.94%
16	x	AJT - Administration/Garage/Stores	30	\$ 2,400	\$ 2,548	\$ 4,948	\$ 13,319	-\$ 153,900	\$ 15,602	-\$ 53,865	\$ 7,231	7.05%
		Total Portfolio	1505	\$ 120,400	\$ 126,719	\$ 247,119	\$ 609,024	-\$ 6,653,700	\$ 774,806	-\$ 2,328,795	\$ 412,901	8.98%

Notes

*

Revenues are reduced by .7%

**

Calculated as average of 10%

Count	Existing FIT 1.0 Applicat ion	Asset Name	Estimated		Lease PV @ 8% Discount Rate
			Potential Capacity (kW AC)	Levered IRR	
1	x	London Community Centre	200	16.96%	\$ 157,090
2	x	Earl Nichols Arena	175	17.00%	\$ 137,454
3		Stronach Arena Vauxhaul Pollution Contol Plant	150	16.99%	\$ 117,818
4		Canada Games Aquatic Centre	125	15.03%	\$ 98,181
5		Argyle Arena	100	15.75%	\$ 78,545
6	x	Kinsmen Arena	100	15.75%	\$ 78,545
7	x	Carling Arena	75	13.71%	\$ 58,909
8	x	Lambeth Arena	75	13.71%	\$ 58,909
9		Oakridge Arena	75	13.71%	\$ 58,909
10		Pottersburg Pollution Control Firehouse # 02	50	12.42%	\$ 39,273
11		Main Building North London	50	12.42%	\$ 39,273
12		Optimist Centre	50	12.42%	\$ 39,273
13	x	Medway Arena Exeter Road Operations Centre	50	12.42%	\$ 39,273
14	x	AJT - Administration/G arage/Stores	30	10.00%	\$ 23,564
15		Total Portfolio	1505	15.19%	\$ 1,182,105

Notes

- * Revenues are reduced by .7%
- ** Calculated as average of 10%