

Welland Hydro-Electric System Corp.

CIA Study Agreement

Study Project Title: _____

_____ (the "**Customer**") has requested and Welland Hydro-Electric System Corp. ("**WHESC**") has agreed to perform the Work described in the Scope of Work attached hereto as Schedule "A", under the Standard Study Agreement Terms and Conditions for Distribution Connections v. 1 (July 2008) attached hereto as Schedule "B" (the "**Standard Terms and Conditions**") and both forming a part hereof (the "**Agreement**") dated _____.

Proposed Project

The Proposed Project is the incremental connection of _____ MW of calculated load (the "**Load Facility**") to **Welland Hydro-Electric System Corp.'s** distribution system, operating at a system voltage of 27.6kV.

Term:

The term of this Agreement shall commence on the date first written above and terminate two (2) years thereafter.

Information Requirements

The Customer, at its own expense, shall provide WHESC with the following:

1. Site location map(s) with suitable details of the Load Facility, line routing and the proposed connection to WHESC's distribution system or in the event the Customer is another distributor, details of the proposed connection to the Customer's distribution facilities;
2. Any other information as may be required and requested by:
 - (a) Welland Hydro-Electric System Corp. in order to conduct the Work;
 - (b) Hydro One Networks Inc. (HONI);
 - (c) The Independent Electricity System Operator (IESO); or
 - (b) by any other distribution company ("**Impacted LDCs**") whose distribution system may be impacted by the proposed connection so that other Impacted LDCs can perform a study that will be incorporated in the Work in respect of the impact of the proposed connection on WHESC's distribution system, including, but not limited to:

- (i) verification or clarification on ALL project specific connection details, including, but not limited to (this information is also applicable to existing load located on the same site as the concerned project):
 - Connecting station and feeder designations, and voltage level;
 - Interface transformer characteristics such as MVA rating, winding connections, rated voltage levels on both windings, positive and zero sequence impedances, ULTC parameters, etc;
 - Intermediate transformer characteristics such as MVA rating, winding connections, rated voltage levels on both windings, positive and zero sequence impedances, ULTC parameters, etc.;
 - Project line tap information, including length, conductor size, routing and ownership;
 - Project location information, including site plan, and GPS coordinates;
 - Project connection point location information and GPS coordinates;
 - Facility Single Line Diagrams;
 - Facility protection philosophy; and
 - Load Forecast Data detailing the total monthly peak demand and energy consumption quantities for the facility
- (ii) execute any written consents required so that Impacted LDCs can have a third party(ies) perform the appropriate study on the behalf of the Impacted LDCs.

Completion Date

WHESC shall complete the Work, by no later than twelve calendar months after the latter of:

- (a) The date that the Customer and WHESC have executed this Agreement;
- (b) The Customer paying WHESC the amount specified below in (b) under the heading "Costs";
- (c) The Customer paying WHESC any amount payable to HONI, IESO and/or other Impacted LDCs (if applicable); and
- (d) The Customer providing the information described above under the heading "Information Requirements".

Impact of Subsequent Changes to the Information Provided by Customer or to the IESO System Impact Assessment - Before the Work Described in the "Scope of Work" is Completed

Should the Customer make any changes to the information provided by the Customer as described above under the heading "Information Requirements" after WHESC, Hydro One or any Impacted LDCs have commenced the Work described in the "Scope of Work" or where applicable, the IESO makes any changes to the IESO System Impact Assessment, and those changes:

- (i) result in an increase in the cost of WHESC, Hydro One or any other LDCs performing the Work above the payment contemplated below under the heading "Costs", the Customer shall make such further payment as may be required by WHESC in the time specified by WHESC; and
- (ii) otherwise affect any other provision of this Agreement, such as the time required for completion of the Work, the parties shall negotiate and agree upon the required amendments to this Agreement and WHESC shall be under no obligation to resume performance of the Work until such time as the parties agree on such amendments.

Impact of Subsequent Changes to the Information Provided by Customer or to the IESO System Impact Assessment - After the Work Described in the "Scope of Work" is Completed

Should the Customer make changes to the Proposed Project during the term of this Agreement which necessitates that WHESC re-perform all or any part of the Work and have Hydro One and/or Impacted LDCs re-perform work (the "**Work Revisions**") after WHESC has completed the Work described in the Scope of Work and/or where applicable, Hydro One and/or Impacted LDCs has performed work, the Customer shall pay WHESC the amount requested by WHESC, in writing, for such Work Revisions. WHESC's written request shall include a brief description of the scope of work of the Work Revisions and the number of days from receipt of payment and receipt of any information as may be required and requested by WHESC, Hydro One and/or Impacted LDCs in order to be able to perform the Work Revisions.

Costs:

The Customer shall pay WHESC the amount of \$_____ + HST for the Work described in the Scope of Work upon the execution of this Agreement. Furthermore, the Customer shall pay WHESC any amount payable to WHESC, Hydro One or any other LDCs to perform an appropriate study by no later than 10 business days following a written request from WHESC for same.

Should the Customer cancel the Proposed Project or terminate this Agreement or should WHESC terminate this Agreement in accordance with Section 9 of the Standard Terms and Conditions:

- (a) *prior* to WHESC performing the pre-CIA check, WHESC will refund 100% of the amounts paid by the Customer under the terms of this Agreement within 60 days after the Customer cancelled the Proposed Project or terminated this Agreement less any amounts payable to Hydro One and/or Impacted LDCs;
- (b) *after* WHESC has performed the CIA check but *prior* to WHESC assigning the CIA to a Planner, then WHESC will retain 25% of the amounts paid by the Customer under the terms of this Agreement as liquidated damages and not as a penalty, and refund the remaining 75% to the Customer within 60 days after the Customer cancelled the Proposed Project or terminated this Agreement less any amounts payable to Hydro One and/or Impacted LDCs; or
- (c) *after* WHESC has assigned the work to Planner, then WHESC will retain 100% of the amounts paid by the Customer under the terms of this Agreement as liquidated damages and not as a penalty, including any amounts paid in respect of Hydro One and/or Impacted LDCs.

GST/HST Registration Information

The GST/HST registration number for WHESC is 86375-9692 RT0001 and the GST registration number for the Customer is _____.

Notices

Any notice, demand, consent, request or other communication required or permitted to be given or made under or in relation to the Agreement shall be given or made: by courier or other personal form of delivery; by registered mail; by facsimile; or by electronic mail. Notices to the Customer shall be addressed to

Notices to WHESC shall be addressed to:

Kevin Carver
Welland Hydro-Electric System Corp.
P.O. Box 280
950 East Main Street
Welland ON L3B 5P6

Email: kcarver@wellandhydro.com
Fax: 905-732-0123.

A notice, demand, consent, request or other communication shall be deemed to have been made as follows:

- (a) where given or made by courier or other form of personal delivery, on the date of receipt;
- (b) where given or made by registered mail, on the sixth day following the date of mailing;
- (c) where given or made by facsimile, on the day and at the time of transmission as indicated on the sender's facsimile transmission report; and
- (d) where given or made by electronic mail, on the day and at the time when the notice, demand, consent, request or other communication is recorded by the sender's electronic communications system as having been received at the electronic mail destination.

IF THE CONNECTION APPLICANT IS A CORPORATION

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by the signatures of their proper officers duly authorized in that behalf.

(Signature)

(Date)

I have the authority to bind the corporation

Name: _____

Title: _____

WELLAND HYDRO-ELECTRIC SYSTEM CORP.

(Signature)

(Date)

I have the authority to bind the corporation

Name:

Title:

IF THE CONNECTION APPLICANT IS AN INDIVIDUAL

IN WITNESS WHEREOF _____ has set his hand and seal, and Hydro One has caused this Agreement to be executed by the signature of their proper officers duly authorized in that behalf as of the day and year first above written.

SIGNED, SEALED AND DELIVERED

In the presence of:

(Signature of Connection Applicant)

(Signature of Witness)

(Date)

WELLAND HYDRO-ELECTRIC SYSTEM CORP.

(Signature)

(Date)

I have the authority to bind the corporation

Name:

Title:

IF THE CONNECTION APPLICANT IS A LIMITED PARTNERSHIP/L.P.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by the signatures of their proper officers duly authorized in that behalf.

_____ **LP** by its General Partner, _____

(Signature)

(Date)

I have the authority to bind the Corporation and the Corporation has the authority to bind the Limited Partnership

Name: _____

Title: _____

WELLAND HYDRO-ELECTRIC SYSTEM CORP.

(Signature)

(Date)

I have the authority to bind the corporation

Name:

Title:

SCHEDULE "A": SCOPE OF WORK

1.0 Connection Impact Assessment (CIA) Study

1.1 WHESC will conduct and provide a Connection Impact Assessment to determine the feasibility of the proposed connection arrangement for the Proposed Project. The Connection Impact Assessment will review the impact of the connection of the Proposed Project on WHESC's distribution system. The Connection Impact Assessment may also include the results of any study performed by Hydro One and/or Impacted LDCs, where applicable.

1.2 WHESC will review the *Customer supplied* detailed Single Line Diagram (SLD) and provide comments with regard to interface connection items.

Note: The purpose of WHESC review of the SLD and other information is to establish that the Customer's electrical interface design meets WHESC's minimum requirements to permit the initial connection of the Load and/or Generation Facility. It is Customer's responsibility to ensure that its Load and/or Generation Facility causes no negative impacts to WHESC's distribution system, Hydro One's transmission system and/or other Impacted LDCs.

1.3 WHESC will advise the Customer of site-specific requirements, for each of the alternative connections that are identified by the Connection Impact Assessment.

1.4 WHESC will describe the necessary modifications to WHESC's distribution system based on WHESC's review of the Proposed Project in order to permit the connection of the Load and/or Generation Facility. Where an alternative protection scheme acceptable to WHESC is determined, WHESC will determine and provide the Customer with an estimate of the cost of additions and modifications to WHESC's distribution system for the protection scheme. WHESC will indicate the time required to implement such additions and modifications and the period of time for which the cost estimate is valid. Where an alternative protection scheme acceptable to WHESC cannot be determined, WHESC will determine and provide the Customer with an estimate of the cost of additions and modifications to WHESC's distribution system for Transfer-Trip. WHESC will indicate the time required to implement such additions and modifications and the period of time for which the cost estimate is valid.

SCHEDULE B – Standard Study Agreement Terms and Conditions for Distribution Connections

1. Definitions

In the Agreement, unless there is something in the subject matter or context inconsistent therewith, the following words shall have the following meanings:

“Actual Cost” means WHESC’s charge for equipment, labour and materials at WHESC’s standard rates plus WHESC’s standard overheads and interest thereon.

“Applicable Laws” means any and all applicable laws, including environmental laws, statutes, codes, licensing requirements, treaties, directives, rules, regulations, protocols, policies, by-laws, orders, injunctions, rulings, awards, judgments or decrees or any requirement or decision or agreement with or by any government or government department, commission, board, court or agency.

“Business Day” means a day that is not a Saturday, Sunday, statutory holiday in Ontario or any other day on which the principal chartered banks located in the City of Toronto are not open for business during normal banking hours.

“Code” means the *Distribution System Code*, the code of standards and requirements issued by the OEB on June 27, 2007, as it may be amended, revised or replaced in whole or in part from time to time.

“Confidential Information” means:

- (i) the terms of the Agreement and the operations and dealings under the Agreement;
- (ii) all information disclosed by a party to the other party under the Agreement or in negotiating the Agreement which by its nature is confidential to the party disclosing the information, including, but not limited to, design and system specifications of WHESC’s distribution system; and
- (iii) all interpretative reports or other data generated by a party that are based in whole or in part on information that is made Confidential Information by clauses (i) and (ii).

“Connection Agreement” means the form of connection agreement appended to the *Code* as Appendix “E”, as appropriate to the Customer.

“Customer’s Facilities” has the meaning set forth in the *Code*, and includes, but is not limited to any new, modified or replaced Customer’s Facilities.

“IESO” means the Independent Electricity System Operator.

“Good Utility Practice” has the meaning set forth in the *Code*.

“OEB” means the Ontario Energy Board.

“OEB-Approved Connection Procedures” means WHESC’s connection procedures as approved by the OEB from time to time.

“Person” shall include individuals, trusts, partnerships, firms and corporation or any other legal entity.

"Representative" means:

- (i) a person controlling or controlled by or under common control of a party and each of the respective directors, officers, employees and independent contractors of a party and such party's Representative,
- (ii) any consultants, agents or legal, financial or professional advisors of a party or such party's Representative, and
- (iii) in the case of Customer, any institution providing or considering providing financing for the Proposed Project, including such institution's directors, officers, employees and independent contractors or its consultants, agents or legal, financial or professional advisors.

"Taxes" means all property, municipal, sales, use, value added, goods and services, harmonized and any other non-recoverable taxes and other similar charges (other than Taxes imposed upon income, payroll or capital).

"Work" means the work to be conducted in accordance with the Scope of Work attached to the Agreement as Schedule "A" and any Work Revisions performed by WHESC during the Term.

2. Representations and Warranties

Each party represents and warrants to the other that:

- (a) it is duly incorporated, formed or registered (as applicable) under the laws of its jurisdiction of incorporation, formation or registration (as applicable);
- (b) it has all the necessary corporate power, authority and capacity to enter into the Agreement and to perform its obligations hereunder;
- (c) any individual executing the Agreement, and any document in connection herewith, on its' behalf has been duly authorized by it to execute the Agreement and has the full power and authority to bind it; and
- (d) it is registered for purposes of Part IX of the *Excise Tax Act* (Canada).

3. The Customer and WHESC shall perform their respective obligations outlined in the Agreement in a manner consistent with Good Utility Practice and in compliance with all Applicable Laws.

4. Except as provided herein, WHESC makes no representation or warranty, express, implied, statutory or otherwise, including, but not limited to, any representation or warranty as to the merchantability or fitness of the Work or any part thereof for a particular purpose.

5. Customer Covenants

The Customer acknowledges and agrees that:

- (a) should the Proposed Project proceed, an agreement must be executed by the Customer and WHESC to address the terms and conditions (which may include terms with respect to capital contributions required to be made) of WHESC performing the work required in order to provide for the connection

of the Proposed Project prior to WHESC initiating any modifications to WHESC's facilities or purchasing any equipment;

- (b) the Customer will be responsible for ensuring that the Proposed Project complies with all Applicable Laws;
- (c) the Customer shall rectify at its expense, any negative impacts (can include, but is not limited to the impacts on safety, reliability, efficiency, power factor and power quality problems such as voltage disturbances, voltage flicker, or objectionable harmonics) that the connection of the Load and/or Generation Facility and operation of the Load and/or Generation Facility following connection may have on WHESC's distribution, the IESO-Controlled Grid (as that term is defined in the *Electricity Act, 1998*) or on other distribution connected customers' electrical and communication systems;
- (d) that WHESC will not normally change its feeder operating, protection and reclosing practice to accommodate the connection of the Load and/or Generation Facility, since this would be detrimental to the existing customers connected to these feeders;
- (e) where applicable, the Customer is responsible for:
 - i. providing the IESO with the modeling and studies to show the acceptable dynamic behaviour of the generators as specified in the IESO Assessment; and
 - ii. any resulting requirements that come from the IESO's review of dynamic studies that were or are not part of the IESO's System Impact Assessment including, but not limited to changes required to be made to the Work as a consequence of such review;
- (f) the Customer shall obtain or shall ensure that all applicable approvals required by the IESO for the connection of the Proposed Project are obtained;
- (g) all right, title and interest, including copyright ownership, to all information and material of any kind whatsoever (including, but not limited to the work product developed as part of the Work) that may be developed, conceived and/or produced by WHESC during the performance of the Agreement is the property of WHESC, and the Customer shall not do any act that may compromise or diminish WHESC's interest as aforesaid; and
- (h) WHESC performs the Work based on the system conditions at the time the Work is performed, should there be any changes to system conditions between the time that WHESC completes the Work and when the Customer proposes to connect the Proposed Project, the Work may have to be revised at the Customer's expense at that time.

6. Liability

WHESC shall only be liable to the Customer for damages that arise directly out of the negligence or the wilful misconduct of WHESC in meeting its obligations under this Agreement. Notwithstanding the foregoing, WHESC shall not be liable under any circumstances whatsoever for any loss of profits or revenues, business interruption losses, loss of contract or loss of goodwill, or for any indirect, consequential, incidental or special damages, including but not limited to punitive or exemplary damages, whether any of the said liability, loss or damages arise in contract, tort or otherwise. In any event, the total liability of WHESC to the Customer for any claim for damages will not exceed the amounts paid by the Customer under the terms of this Agreement.

This Section 6 shall survive the termination of this Agreement.

7. Force Majeure

Neither party shall be considered to be in default in the performance of its obligations under this Agreement, except obligations to make payments with respect to amounts already accrued, to the extent that performance of any such obligation is prevented or delayed by any cause, existing or future, which is beyond the reasonable control of, and not a result of the fault or negligence of, the affected party ("Force Majeure") and includes, but is not limited to, strikes, lockouts and any other labour disturbances.

8. Confidential Information

8.1.1 Disclosures of Confidential Information

Pursuant to the terms and conditions contained herein, a party may disclose Confidential Information to the other party solely for the purpose of the Proposed Project or the Work. Notwithstanding such disclosure the Confidential Information shall remain the sole and exclusive property of the disclosing party and as such shall be maintained in confidence by the receiving party using the same care and discretion to avoid disclosure as the receiving party uses with its own similar information that it does not wish to disclose. The receiving party may disclose Confidential Information to its Representatives pursuant to Section 4 below but may not use or disclose it to others without the disclosing party's prior written consent. Notwithstanding the generality of the foregoing, all intellectual property rights which may subsist in the Confidential Information shall remain with the disclosing party. The receiving party shall not use the confidential information for any purposes other than the Proposed Project or the Work without the disclosing party's prior written consent.

8.2 Information that is not Confidential

Confidential Information shall not include information which:

- (a) is previously known to or lawfully in the possession of the receiving party prior to the date of disclosure as evidenced by the receiving party's written record;
- (b) is independently known to or discovered by the receiving party, without any reference to the Confidential Information;
- (c) is obtained by the receiving party from an arm's length third party having a bona fide right to disclose same and who was not otherwise under an obligation of confidence or fiduciary duty to the disclosing party or its Representatives;
- (d) is or becomes publicly available through no fault or omission of, or breach of the obligations under the Agreement by, the receiving party or its Representatives;
- (e) is required to be disclosed by the disclosing party in order to comply with any legislative or regulatory requirements; or
- (f) is contained in the Connection Impact Assessment report (or any revisions thereof) prepared by WHESC and released by WHESC to customers connected to WHESC's distribution system in the vicinity of the Proposed Project that may be affected by the Proposed Project, the Ontario Electrical Safety Authority and the IESO.

8.3 Disclosure to Representatives

Confidential Information shall only be disclosed to Representatives who need to know the Confidential Information for the purposes of the Proposed Project or the Work. Except in the case of officers, directors or employees, Confidential Information may only be disclosed to Representatives where the receiving party has an agreement in place with those Representatives sufficient to obligate them to treat the Confidential Information in accordance with the terms hereof. The receiving party hereby specifically acknowledges that it shall be solely responsible to ensure that its representatives comply with the terms of this Section 8 and that the receiving party shall defend, indemnify and hold harmless the disclosing party from and against all suits, actions, damages, claims and costs arising out of any breach of this Section 8 by the receiving party or any of its Representatives.

8.4 Compelled Disclosure

In the event that a receiving party, or anyone to whom a receiving party transmits Confidential Information pursuant to this Section 8 or otherwise, becomes legally compelled to disclose any Confidential Information, the receiving party will provide the disclosing party with prompt notice so that the disclosing party may seek injunctive relief or other appropriate remedies. In the event that both parties are unable to prevent the further transmission of the Confidential Information, the receiving party will, or will use reasonable efforts to cause such person to whom the receiving party transmitted the Confidential Information to furnish only that portion of the Confidential Information, which the receiving party is advised by written opinion of counsel is legally required to be furnished by the receiving party, to such person and exercise reasonable efforts to obtain assurances that confidential treatment will be afforded to that portion of the Confidential Information so furnished.

8.5 Records with respect to Confidential Information

The receiving party shall keep all written or electronic confidential information furnished to or created by it. All such Confidential Information, including that portion of the Confidential Information which consists of analyses, compilations, studies or other documents prepared by the receiving party or by its Representatives, is the disclosing party's property and will be returned immediately to the disclosing party or destroyed upon its request and the receiving party agrees not to retain any copies, extracts or other reproductions in whole or in part. If a receiving party does not receive a request to return Confidential Information to the disclosing party within six months of the last communication between the parties concerning the Proposed Project or the Work then the receiving party shall destroy any Confidential Information it holds.

Notwithstanding the foregoing and provided that the Proposed Project is connected, WHESC shall have the right to retain such electrical information concerning the Proposed Project that it has received from the Customer or its Representatives for the purpose of WHESC making the required calculations and decisions:

- (i) related to the design, operation, and maintenance of WHESC's facilities;
- (ii) required to be performed for any other person that could be impacted by or could impact the Proposed Project.

8.6 Remedies

The receiving party agrees that the disclosing party would be irreparably injured by a breach of this Section 8 and that the disclosing party shall be entitled to equitable relief, including a restraining order, injunctive relief, specific performance and/or other relief as may be granted by a court to prevent breaches of this Section 8 and to enforce specifically the terms and provision hereof in any action instituted in any court having subject matter jurisdiction, in addition to any other remedy to which the disclosing party may be entitled at law or in equity in the event of any breach of the provisions hereof. Such remedies shall not be

deemed to be the exclusive remedies for a breach of this Section 8 but shall be in addition to all other remedies available at law or equity.

8.7 Confidentiality Obligations Perpetual

The obligations in this Section 8 shall be effective as of the date of this Agreement and shall remain in force and effect in perpetuity unless modified by further written agreement of the parties notwithstanding the termination of this Agreement under any circumstances.

9. Termination of the Agreement by WHESC

WHESC shall have the right to terminate this Agreement on ten (10) Business Days written notice to the Customer in the event that the Customer fails to respond to any request for information made by WHESC, Hydro One or any/all Impacted LDCs within twenty (20) Business Days of WHESC's, Hydro One's and/or any Impacted LDCs written request.

10. General

- (a) No amendment, modification or supplement to the Agreement or any waiver shall be valid or binding unless set out in writing and executed by the parties with the same degree of formality as the execution of the Agreement.
- (b) The failure of either party hereto to enforce at any time any of the provisions of the Agreement or to exercise any right or option which is herein provided shall in no way be construed to be a waiver of such provision or any other provision nor in any way affect the validity of the Agreement or any part hereof or the right of either party to enforce thereafter each and every provision and to exercise any right or option. The waiver of any breach of the Agreement shall not be held to be a waiver of any other or subsequent breach. Nothing shall be construed or have the effect of a waiver except an instrument in writing signed by a duly authorized officer of the party against whom such waiver is sought to be enforced which expressly waives a right or rights or an option or options under the Agreement.
- (c) The Agreement may not be assigned without the written consent of the other party, which consent will not be unreasonably withheld.
- (d) The Agreement may be executed in counterparts, including facsimile counterparts, each of which shall be deemed an original, but all of which shall together constitute one and the same agreement.
- (e) The Agreement shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the laws of the Province of Ontario and the laws of Canada applicable therein.
- (f) Invoiced amounts are due 30 days after invoice issuance. All overdue amounts including, but not limited to amounts that are not invoiced but required under the terms of this Agreement to be paid in a specified time period, shall bear interest at 1.5% per month compounded monthly (19.56 percent per year) for the time they remain unpaid.
- (g) The obligation to pay any amount due and payable hereunder shall survive the termination of the Agreement.

- (h) Each party agrees that no portion of the Agreement shall be interpreted less favourably to either party because that party or its counsel was primarily responsible for the drafting of that portion.
- (i) The Agreement will supersede the terms of any purchase orders issued by the Customer to WHESC in respect of the Proposed Project irrespective of whether same have been issued by Customer and/or accepted by WHESC on or after the execution of the Agreement by the Customer.