



COMMERCIAL FEED-IN TARIFF
CONTRACT FOR MICRO-GENERATORS

Version 1.0 (January 2011)

Reference Number: •

Ontario Power Authority ("OPA") and \_\_\_\_\_ ("Supplier") hereby enter into this Commercial Feed-in Tariff ("CFIT") Contract (the "Contract") for micro-generators. OPA and Supplier are referred to in this CFIT Contract jointly as "Parties" or individually as "Party." In consideration of the mutual promises and obligations stated in this agreement, the Parties agree as follows:

1. DOCUMENTS INCLUDED; DEFINED TERMS

This Contract includes the Agreement and the following appendices, which are specifically incorporated herein and made a part of this Agreement (check all that apply):

- Appendix A - Definitions
Appendix B - Calculation of Indexed Contract Price
Appendix C - Solar PV Schedule
Appendix D-1 - Directly Connected Facility Schedule
Appendix D-2 - Indirectly Connected Facility Schedule
Appendix E - LDC Schedule

This agreement and the Appendices incorporated herein and made a part hereof are together referred to as this "Contract."

2. GENERATING FACILITY

2.1. Facility. This Contract governs OPA's procurement of electricity from the electrical generating facility (hereinafter referred to as the "Facility") described in this Section.

2.1.1. The Facility is connected directly or indirectly to the \_\_\_\_\_ ("LDC") distribution system.

2.1.2. Supplier (check one):

[ ] is not the same legal entity as LDC and the Supplier hereby appoints LDC as its agent for purposes of supply of the electricity generated by the Facility, following its delivery to the LDC's distribution system.

[ ] is the same legal entity as LDC.

2.1.3. The name and account number the LDC associates with the Facility is:

Name: [ ]

LDC Account Number: [ ]

2.1.4. The Facility is located in Ontario at the following location (insert municipal address or if there is no municipal address or location, insert legal description for property).

\_\_\_\_\_
\_\_\_\_\_

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2.1.5. The Facility's Renewable Fuel is \_\_\_\_\_.

2.1.6. The Facility has a Nameplate Capacity of \_\_\_\_\_ kilowatts ("kW"). Supplier shall not modify the Facility to increase the Nameplate Capacity. In no event shall the Nameplate Capacity of the Facility exceed 10 kW.

2.1.7. The Facility (*check one*):

is a Directly Connected Facility.

is an Indirectly Connected Facility.

### 3. TERM

This Contract shall commence as of \_\_\_\_\_ [Insert Connection Date as defined in **microFIT Rules**] and end on \_\_\_\_\_ [Insert end date – 20 years/40 years from commencement date as per **microFIT Rules**] (the "Term").

### 4. PRICING PROVISIONS AND PAYMENT

4.1. Contract Price. The Contract Price is \$ \_\_\_\_\_/kWh.

4.2. Percentage Escalated. The Percentage Escalated:

does **not** apply (e.g., in the case of solar photovoltaic facilities).

applies.

4.3. Indexed Contract Price. The Indexed Contract Price in respect of any hour of electricity generation is:

4.3.1. where the Percentage Escalated does not apply, an amount equal to the Contract Price.

4.3.2. where the Percentage Escalated applies, an amount equal to the Indexed Contract Price determined in accordance with Appendix B.

4.4. Payment. Once both Parties have executed this Contract, Supplier shall be paid the Indexed Contract Price for the electricity generated by the Facility and successfully injected into LDC's distribution system, as described in this Section (the "Generation Payments"):

4.4.1. The Parties hereby designate LDC as the exclusive settlement agent for all Generation Payments on behalf of both the OPA and the Supplier.

4.4.2. Generation Payments shall be settled periodically and on a schedule consistent with the monthly, bimonthly, quarterly or other periodic billing cycle of LDC (the "Settlement Period") and otherwise in accordance with the provisions of the Retail Settlement Code, provided that if the Term begins on a day other than the first day of the Settlement Period, the initial payment may be deferred and incorporated with that of the first full Settlement Period following the commencement of the Term. All settlement documentation, requirements and details, including the date that any Generation Payment is due and the statement of amounts owing shall be governed by the applicable LDC.

4.4.3. If requested by OPA, Supplier shall provide OPA any additional documentation necessary in order to establish any claim for any input tax credit or rebate in respect of any Sales Tax incurred by OPA in connection with this Contract. OPA may reduce and offset any amount due to Supplier by the amount of any loss or damage suffered by

OPA or amount assessed against OPA, arising out of a failure by Supplier to comply with this Section.

- 4.4.4. Supplier shall refund to OPA any amount collected as, or on account, of Sales Tax, that was collected in error by Supplier from OPA. OPA may reduce and offset any amount due to Supplier by the amount of such refund that is due to OPA.
- 4.4.5. Supplier shall notify OPA promptly of any change in its Sales Tax registration status, including becoming a Sales Tax registrant or ceasing to be a Sales Tax registrant.
- 4.4.6. If the Supplier is a non-resident of Canada, as that term is defined in the ITA, then Generation Payments shall be reduced by the amount of any applicable withholding or similar taxes. OPA may reduce or offset any amount due to Supplier by the amount of withholding taxes (and interest thereon) assessed against the OPA with respect to the Generation Payments paid to the Supplier. OPA may also reduce and offset any amount due to Supplier by the amount of any loss or damage suffered by OPA or amount assessed against OPA, arising out of any misrepresentation by Supplier as to its residency.
- 4.4.7. Supplier shall notify OPA promptly if it becomes a non-resident of Canada, as that term is defined in the ITA.
- 4.4.8. OPA may, on not less than 30 days' prior notice to Supplier, designate an alternative settlement agent or implement alternative settlement mechanics to those set out in Section 4.4.1 and 4.4.2.

## 5. ENVIRONMENTAL ATTRIBUTES

- 5.1. Transfer. Supplier hereby transfers and assigns to, or to the extent transfer or assignment is not permitted, holds in trust for, OPA who thereafter shall retain, all rights, title, and interest in all Environmental Attributes associated with the Facility.
- 5.2. Action to Transfer. Supplier shall from time to time during the Term, upon written direction of OPA, take all such actions and do all such things necessary to effect the transfer and assignment to, or holding in trust for, OPA, all rights, title, and interest in all Environmental Attributes as set out in Section 5.1.
- 5.3. Action to Register. Supplier shall from time to time during the Term, upon written direction of OPA, take all such actions and do all such things necessary to certify, obtain, qualify, and register with the relevant authorities or agencies Environmental Attributes that are created and allocated or credited with respect to the Facility pursuant to Laws and Regulations from time to time (collectively, the "Regulatory Environmental Attributes") for the purposes of transferring such Regulatory Environmental Attributes to OPA in accordance with Section 5.1.
- 5.4. Cost Reimbursement. The Supplier shall be entitled to reimbursement of the cost of complying with a direction under Section 5.2 or Section 5.3, provided that OPA approves such cost in writing prior to the cost being incurred by Supplier. The Supplier shall not be required to incur any material cost associated with complying with a direction under Section 5.2 or Section 5.3 where the Supplier has sought approval from the OPA for such cost and the OPA has not approved same.

## 6. REPRESENTATIONS AND WARRANTIES

Supplier represents and warrants to OPA as follows and acknowledges that OPA is relying on such representations and warranties in entering into this Contract:

### 6.1. Connection

- 6.1.1. The Supplier (*check one*):

- and LDC have entered into a Micro-Embedded Generation Facility Connection Agreement (the “Connection Agreement”) with respect to the Facility.
- and LDC are the same legal entity and no Micro-Embedded Generation Facility Connection Agreement is required with respect to the Facility.

6.1.2. No Connection Impact Assessment was required with respect to the Facility.

6.1.3. The Facility was connected on the Connection Date.

#### 6.2. Facility Characteristics.

6.2.1. The Facility meets all Project Eligibility Requirements.

6.2.2. The information specified in Section 2.1 is true and correct in all aspects.

#### 6.3. Metering.

6.3.1. The Facility’s meter is exclusive to the Facility.

6.3.2. The Facility’s meter is a bi-directional, two channel meter.

6.3.3. The Facility’s meter is owned and operated by LDC.

#### 6.4. Necessary Rights and Compliance.

6.4.1. The Supplier has all necessary rights to construct and operate the Facility or to cause the Facility to be constructed and operated.

6.4.2. The Supplier has all necessary rights to enter into, and perform its obligations under, this Agreement.

6.4.3. The Supplier has complied with all applicable Laws and Regulations.

6.4.4. If the Facility is a solar photovoltaic facility, it has a Domestic Content Level greater than or equal to the Minimum Required Domestic Content Level.

6.4.5. The Facility has obtained a Renewable Energy Approval, if applicable.

6.4.6. All statements, specifications, data, confirmations, and information that have been set out in the Application are complete, true and accurate in all material respects and are hereby restated and reaffirmed by the Supplier as representations made to the OPA on the date hereof and there is no material information omitted from the Application which makes the information in the Application misleading or inaccurate.

### 7. COVENANTS

Supplier covenants that throughout the Term:

#### 7.1. Facility Characteristics

7.1.1. The Supplier shall not do anything nor omit to do anything that would cause the information specified in paragraphs 2.1.2, 2.1.4, 2.1.5, 2.1.6, 2.1.7 and 2.1.8 to be untrue or incorrect in any respect.

7.1.2. The Supplier shall notify the OPA promptly of any change to the information contained in paragraphs 2.1.1 and 2.1.3.

#### 7.2. Metering.

7.2.1. The Facility’s meter will, at all times, be exclusive to the Facility.

7.2.2. The Facility’s meter will, at all times, be owned and operated by LDC.

### 8. GENERAL CONDITIONS

- 8.1. Access Rights. OPA, its authorized agents, employees and inspectors shall have the right to inspect the Facility on reasonable advance notice during normal business hours and for any purposes reasonably connected with this Contract or the exercise of any and all rights secured to OPA by law.
  - 8.2. Electricity. In no event shall Supplier have the right to procure electricity from sources other than the Facility for sale or delivery pursuant to this Contract or substitute such electricity.
  - 8.3. Meter and Meter Data.
    - 8.3.1. Supplier shall provide, and shall use reasonable efforts to cause LDC to provide, the OPA and its authorized agents, agents employees and inspectors with access to the Facility's meter for the purpose of reading, recording and downloading data, all upon not less than two days' advance notice from OPA to Supplier or LDC, as applicable.
    - 8.3.2. Supplier acknowledges that it has irrevocably authorized LDC to release to OPA any information or data relating to the Facility which may be required by OPA for the purposes of administering the Contract. Supplier shall recognize and maintain OPA's rights in this regard, and shall provide similar authorizations to other agencies, settlement agents and third parties, where requested by OPA.
  - 8.4. Freedom of Information. Supplier acknowledges that OPA is subject to the Ontario *Freedom of Information and Protection of Privacy Act*, R.S.O. 1993, c. F.31 ("FIPPA") and that any information supplied by the Supplier to or held about the Supplier by the OPA may be subject to disclosure by OPA in accordance with the requirements of FIPPA.
  - 8.5. Disclosure of Information. Supplier consents to and waives all rights or claims to compensation of any kind in respect of use or disclosure by OPA or LDC to the Ministry of Energy and Infrastructure or any other Ontario government institution of information about the Supplier, the Supplier's electricity generation, pricing provisions and payments, generating capacity, electricity generation or other information about the Supplier for all program analysis, assessments, reporting, administrative, operational or planning purposes or for purposes of publicity or public awareness regarding the CFIT Program or similar programs for alternative electricity generation, electricity conservation or electricity generating technology, use or operations.
  - 8.6. Statement Copies. Supplier shall, at the request of OPA, provide OPA with copies of all settlement statements, invoices and all other correspondence between Supplier and LDC relating to the Facility and/or any Generation Payment and authorizes the OPA to request the same from LDC.
9. NOTICES
- 9.1. Address for Notice. All notices and communication pertaining to this Contract shall be in writing and shall be transmitted via email, or if email notification is unavailable, via facsimile, courier or hand delivery and addressed to the other party as follows:

If to OPA: **CFIT.Contract@powerauthority.on.ca**  
Subject: CFIT – [Reference Number]

or, if email is unavailable

Ontario Power Authority  
120 Adelaide Street West  
Suite 1600  
Toronto, Ontario  
M5H 1T1  
Attention : Director, Contract Management  
Facsimile : 416-969-6071

**[NTD: OPA to confirm creation of new email address for the purposes of CFIT ]**

If to Supplier: [email address]  
Subject: CFIT – [Reference Number]

or, if email is unavailable

[address]  
Attention :

9.2. Change of Contact Information. Either Party may, by written notice to the other, change its contact information for notices and communication.

9.3. Timing of Notice. Notice or communication delivered or transmitted as provided above shall be deemed to have been given and received on the day it is transmitted (if by e-mail or facsimile) or received (if by courier or hand delivery), provided that it is transmitted or received on a Business Day prior to 5:00 p.m. local time in the place of receipt. Otherwise such notice shall be deemed to have been given and received on the next following Business Day.

## 10. TERMINATION

10.1. On Notice. Supplier may terminate this Agreement on thirty days prior written notice to the OPA.

10.2. For Breach. OPA may terminate this Contract if Supplier breaches any term of this Contract and fails to correct such breach within 10 Business Days of receiving notice of such breach by the OPA or if any representation or warranty made by the Supplier is untrue.

10.3. Automatic. This Contract will terminate automatically upon, and contemporaneously with, the termination of the Connection Agreement. The Supplier will notify the OPA immediately upon the termination of the Connection Agreement.

## 11. AMENDMENT

No amendment to or modification of this Contract shall be enforceable unless reduced to writing and executed by both Parties.

## 12. ASSIGNMENT

The Supplier may assign its rights and obligations under this Agreement with the consent of the OPA, which shall not withhold its consent unreasonably. The OPA shall have the right to assign its rights and obligations under this Contract without the consent of the Supplier, provided that such assignment is made to an LDC, another agency of the government of the Province of Ontario or an entity that has a credit rating not lower than that of the OPA at the time of such assignment.

### 13. SECURED LENDERS' RIGHTS AND OBLIGATIONS

The Supplier, from time to time, on or after the date of this Contract, shall have the right, at its cost, to enter into a Secured Lender's Security Agreement provided that the rights of the Secured Lender or any other person claiming by or through the interest of the Supplier shall, notwithstanding the provisions of Section 12 hereof, be subject to the following conditions:

- 13.1. A Secured Lender's Security Agreement may not secure any indebtedness, liability or obligation of the Supplier that is not related to the Facility, or one or more other renewable generating facilities in Ontario that are owned by the Supplier.
- 13.2. The OPA shall have no liability to the Secured Lender other than to the extent of the obligations of OPA to the Supplier pursuant to this Contract and any right of offset existing between OPA and the Supplier shall similarly apply as against the Secured Lender or to any person claiming under or through the Supplier.
- 13.3. The OPA shall, notwithstanding the granting of a Secured Lender's Security Agreement, continue to deal with the Supplier and upon the sole direction of the Supplier in the course of the execution of the Contract, and OPA shall have no obligation to recognize the interest or rights of any Secured Lender in the Contract unless and until such Secured Lender delivers to the OPA notice in writing (a "Secured Lender's Notice") signed by an authorized person on behalf of the Secured Lender, which shall contain:
  - (a) a copy of the Secured Lender's Security Agreement;
  - (b) a copy of any and all documents evidencing the registration of the Secured Lender's Security Agreement under the PPSA or otherwise;
  - (c) the address of the Secured Lender to which notices may be sent;
  - (d) a written statement from the Secured Lender declaring that the Supplier is in default of the Secured Lender's Security Agreement and the security interest has become enforceable; and
  - (e) a copy of any demand or notice of intention to enforce security delivered by the Secured Lender to the Supplier under the Secured Lender's Security Agreement or under any applicable legislation.
- 13.4. Upon the receipt of a Secured Lender's Notice in the form specified above, delivered to the OPA in accordance with the notice provisions of this Contract, the OPA is hereby authorized by the Supplier to deal solely with the Secured Lender or its representative with respect to all matters arising under the Contract, and from and after such date until the receipt of an Enforcement Termination Notice (as hereinafter defined), the OPA need no longer deal directly with the Supplier or provide any further notice to the Supplier in respect of the Contract. The Supplier hereby releases the OPA from any and all obligations, liability or damage which may accrue by reason of the OPA dealing directly or at the direction of a Secured Lender following the receipt of a Secured Lender's Notice and the Supplier hereby acknowledges that the OPA shall have no obligation to inquire as to the validity or enforceability of the Secured Lender's Security Agreement or as to default of the Supplier under the Secured Lender's Security Agreement, as to the amount of the indebtedness of any due from the Supplier to the Secured Lender or as to the rights of the Secured Lender under the security, and the Supplier further acknowledges that its sole remedy and recourse arising from the OPA recognizing or responding to any Secured Lender's Notice given or purported to be given in compliance with Section 13.3 above shall be recourse against the Secured Lender, and the Supplier hereby agrees to hold harmless the OPA from any liability arising therefrom.
- 13.5. Notwithstanding Section 13.4, the Supplier will continue to be the payee in respect of Generation Payments made in accordance with Section 4.4 until such time as, following the OPA's receipt of the Secured Lender's Notice, the Secured Lender requests a change to such

manner of payment and the OPA agrees, in its sole and absolute discretion, to the proposed change.

- 13.6. At such time as the Secured Lender no longer intends to exercise any rights afforded to the Secured Lender under the Secured Lender's Security Agreement or under this Contract, it shall promptly deliver to the OPA a notice (an "**Enforcement Termination Notice**") specifying in writing that the Secured Lender's Notice is withdrawn and no longer in effect, whereupon OPA may thereupon deal directly with the Supplier for all purposes under this Contract and shall have no further obligation to deal directly with the Secured Lender.
- 13.7. Despite any enforcement of any Secured Lender's Security Agreement, the Supplier shall at all times remain liable to the OPA for the payment of all sums owing to the OPA under this Contract and for the performance of all of the Supplier's obligations under this Contract, and the OPA shall retain all rights and remedies arising from any failure to make any such payment or perform any such obligation.
- 13.8. A Secured Lender shall, at any time, have the right (but not the obligation) to cure any breach or default under this Contract and the OPA shall accept such performance by such Secured Lender as if the same had been performed by the Supplier. The OPA shall have the right at all times, but not the obligation, to provide any and all information in respect of the Contract and the status of the performance of the Contract by the Supplier to a Secured Lender, including any and all information relating to any breach or potential breach by the Supplier under the Contract.
- 13.9. With respect to any amendment, supplement, termination or enforcement of rights or obligations under this Contract:
  - (a) prior to the receipt by the OPA of a Secured Lender's Notice and following the receipt of an Enforcement Termination Notice, the OPA may deal exclusively with the Supplier; and
  - (b) after the receipt of a Secured Lender's Notice and prior the receipt of any Enforcement Termination Notice the OPA may deal exclusively with the Secured Lender.

13.10. Notwithstanding any other provision of this Contract, neither this Contract nor any rights of the Supplier under this Contract may be sold, transferred or disposed of by the Secured Lender or by any trustee, receiver or other Person appointed in respect of the Supplier's Interest, unless:

- (a) the transferee or purchaser has agreed in writing to assume and perform the obligations of the Supplier under this Contract;
- (b) the transferee or purchaser has entered into an agreement with the OPA, in form and substance satisfactory to the OPA, substantially in accordance with the terms of this Contract;
- (c) any and all payments due from the Supplier have been paid in full up to the date of such assignment and any and all obligations of the Supplier have been performed up to the date of such assignment; and
- (d) the OPA has approved the transferee or purchaser, provided that such approval:
  - (i) shall not be unreasonably withheld if such transferee is at arm's length with the Secured Lender or other transferor; or
  - (ii) shall be in the sole and subjective discretion of the OPA of such transferee is not at an arm's length with the Secured Lender or other Transferor.

13.11. The provisions of this Section 13 shall apply *mutatis mutandis*, with such modifications as the context may require to any private or court-appointed receiver, interim receiver, proposal trustee, trustee in bankruptcy or other court-appointed official having or exercising authority over the property of the Supplier or the interest of the Supplier under this Contract.

#### 14. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable in the Province of Ontario.

## **Appendix A**

### **DEFINITIONS**

“**Agreement**” means the body of the Contract and excludes any Appendices.

“**Application**” means the application submitted by the Supplier resulting in this Agreement, together with all clarifications, additional information, documents and statements in respect thereof provided by the Supplier.

“**Arm’s Length**” means, with respect to two or more Persons, that such Persons are not related to each other within the meaning of subsections 251(2), (3), (3.1), (3.2), (4), (5) and (6) of the ITA or that such Persons, as a matter of fact, deal with each other at a particular time at arm’s length.

“**Base Date**” means the effective date, specified as the “Base Date”, of the FIT Price Schedule used to determine the Contract Price.

“**Business Day**” means any day that is not a Saturday, a Sunday or a legal holiday in the Province of Ontario.

“**CFIT Program**” means the Commercial Feed-in Tariff Program developed for commercial renewable micro-generation projects of 10 kW or less in capacity and other persons or entities as described in the CFIT Rules.

“**CFIT Rules**” means the rules governing the CFIT Program, as may be amended in accordance with its terms, from time to time.

“**Connection Agreement**” has the meaning given to it in Section 6.1.1 of the Agreement.

“**Connection Assets**” has the meaning given to it in the Distribution System Code.

“**Connection Impact Assessment**” means an assessment conducted by the LDC to determine the impact on the distribution system of connecting the Facility to its distribution system.

“**Connection Point**” means the Facility’s point of interconnection with the LDC distribution system.

“**Contract**” has the meaning given to it in Section 1 of the Agreement.

“**Contract Price**” has the meaning given to it in Section 4.1 of the Agreement.

“**CPI**” means the consumer price index for “All Items” published or established by Statistics Canada (or its successor) for any relevant calendar month in relation to the Province of Ontario.

“**Directly Connected Facility**” means a Facility which is connected to the LDC distribution system in an arrangement that is independent of any associated load or associated premises.

“**Distribution System Code**” means the “Distribution System Code” established and approved by the Ontario Energy Board as amended or replaced from time to time.

“**Domestic Content Level**” has the meaning given to it in the microFIT Rules.

“**Enforcement Termination Notice**” has the meaning given to it in Section 13.6.

“**Environmental Attributes**” means the interests or rights arising out of attributes or characteristics relating to the environmental impacts associated with the Facility, now or in the future, and the right to quantify and register these with competent authorities, including: (a) all right, title, interest and benefit in and to any renewable energy certificate, credit, reduction right, offset, allocated pollution right, allowance, emission reduction allowance or allowance set aside or other proprietary or contractual right, whether or not tradable; (b) rights to any fungible or non-fungible attributes or entitlements relating to environmental impacts, however arising; (c) any and all rights, title and interest relating to the nature of an energy source as may be defined and awarded through applicable laws and regulations or voluntary programs; and (d) all revenues, entitlements, benefits, and other proceeds arising from or related to the

foregoing. For greater certainty, in the event that any governmental or non-governmental agency, whether provincial, federal, national or international in scope or authority, creates or sanctions a registry, trading system, credit, offset or other program relating to Environmental Attributes or their equivalent, the term “Environmental Attributes” shall include the rights or benefits created or sanctioned under any such program or programs to the extent available as a result of, or arising from the Facility.

“**Existing Generation Facility**” means an electricity generating facility that is located and which is connected to the LDC distribution system.

“**Facility**” has the meaning given to it in Section 2.1 of the Agreement.

“**FIT Price Schedule**” means the schedule of prices established by the OPA from time to time, in its sole discretion, that will be used to determine the Contract Price for a FIT Contract, differentiated by Renewable Fuel, capacity and other factors as determined by the OPA.

“**FIT Program Facility**” means any Renewable Generating Facility that is the subject of a contract or an application pursuant to the OPA’s Renewable Energy Feed-In Tariff Program.

“**Generation Payment**” has meaning given to it in Section 4.4 of the Contract.

“**Governmental Authority**” means any federal, provincial, or municipal government, parliament or legislature, or any regulatory authority, agency, tribunal, commission, board or department of any such government, parliament or legislature, or any court or other law, regulation or rule-making entity, having jurisdiction in the relevant circumstances, including the Ontario Energy Board and the Electrical Safety Authority.

“**GST**” means the goods and services tax exigible pursuant to the *Excise Tax Act* (Canada) or any successor thereto.

“**HST**” means the harmonized sales tax exigible pursuant to the *Excise Tax Act* (Canada) or any successor thereto, including the “Harmonized Sales Tax” proposed in the March 26, 2009 Ontario Budget.

“**IESO**” means the Independent Electricity System Operator of Ontario established under Part II of the *Electricity Act* or its successor.

“**Indexed Contract Price**” has the meaning given to it in Section 4.3 of the Agreement.

“**Indirectly Connected**” means a Facility which is connected to the LDC distribution system in an arrangement which is associated with a load customer or premises.

“**ITA**” means the *Income Tax Act* (Canada).

“**kWh**” means kilowatt-hour.

“**Laws and Regulations**” means:

- (a) applicable federal, provincial or municipal laws, orders-in-council, by-laws, codes, rules, policies, regulations and statutes;
- (b) applicable orders, decisions, codes, judgments, injunctions, decrees, awards and writs of any court, tribunal, arbitrator, Governmental Authority or other person having jurisdiction;
- (c) applicable rulings and conditions of any licence, permit, certificate, registration, authorization, consent and approval issued by a Governmental Authority;
- (d) any requirements under or prescribed by applicable common law; and
- (e) the Retail Settlement Code and the Distribution System Code.

“**LDC**” has the meaning given to it in subsection 2.1.1 of the Agreement.

“**microFIT Rules**” means the rules governing the microFIT Program, as amended in accordance with its terms, from time to time.

“**Minimum Required Domestic Content Level**” has the meaning given to it in Section 4.1 of Appendix C.

“**Nameplate Capacity**” means the manufacturer’s total installed rated capacity of the Facility to generate electricity and, in the case of a solar photovoltaic facility, means the lesser of (i) the manufacturer’s total installed rated capacity of the solar panels, and (ii) the manufacturer’s specified maximum power output of the inverter.

“**PPSA**” shall mean the *Personal Property Security Act*, RSO 1990, c. P. 10, as amended from time to time.

“**Percentage Escalated**” means the percentage (specified in Appendix B) of the Contract Price that escalates on the basis of increases in CPI.

“**Person**” means a natural person, firm, trust, partnership, limited partnership, company or corporation (with or without share capital), joint venture, sole proprietorship, Governmental Authority or other entity of any kind.

“**Project Eligibility Requirements**” means that the project must:

- (a) be a Renewable Generating Facility, which uses a Renewable Fuel that is included in the FIT Price Schedule;
- (b) be located in the Province of Ontario;
- (c) not be or have been an OPA contracted facility.
- (d) not have a Nameplate Capacity greater than 10 kW.
- (e) be connected, directly or indirectly, to the IESO-controlled grid via a distribution system; and
- (f) have separate metering suitable for CFIT Program data collection and settlement purposes.

“**Regulatory Environmental Attributes**” has meaning given to it in Section 5.3 of the Contract.

“**Renewable Energy Approval**” means an approval issued by the Ontario Ministry of the Environment under Section 47.3 of the *Environmental Protection Act* (Ontario).

“**Renewable Generating Facility**” means an electricity-generating facility that generates electricity exclusively from a Renewable Fuel.

“**Renewable Fuel**” has meaning given to it in the microFIT Rules.

“**Retail Settlement Code**” means the “Retail Settlement Code” established and approved by the Ontario Energy Board as amended or replaced from time to time.

“**Sales Tax**” means GST or HST, as applicable.

“**Secured Lender**” means the lender(s) under a Secured Lender’s Security Agreement.

“**Secured Lender’s Notice**” has the meaning given to it in Section 13.3.

“**Secured Lender’s Security Agreement**” means an agreement or instrument, including a deed of trust or similar instrument securing bonds or debentures, containing a charge, mortgage, pledge, security interest, assignment, sublease, deed of trust or similar instrument with respect to all or any part of the Supplier’s

Interest granted by the Supplier that is security for any indebtedness, liability or obligation of the Supplier, together with any amendment, change, supplement, restatement, extension, renewal or modification thereof.

“**Settlement Price**” means the price at which electricity sales pursuant to this agreement will be settled.

“**Supplier’s Interest**” means the right, title, and interest of the Supplier in or to the Facility and the Contract or any benefit or advantage of the foregoing.

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APPENDIX B

**CALCULATION OF INDEXED CONTRACT PRICE**

The Percentage Escalated is: \_\_\_\_\_ %.

The Base Date is: \_\_\_\_\_

The “Indexed Contract Price” for the period ending April 30, 2011 is the Contract Price. For each Indexed Pricing Period “y”<sup>(a)</sup>, the “Indexed Contract Price” shall be the greater of the Indexed Contract Price in the preceding Indexed Pricing Period, “y-1”<sup>(b)</sup>, and the following calculation:

$$CP_y = (1 - PE) \times (CP) + PE \times \left( CP \times \frac{CPI_y}{CPI_{BD}} \right)$$

where:

$CP_y$  = Indexed Contract Price applicable in Indexed Pricing Period “y”

$CP$  = Contract Price

$CPI_{BD}$  = the CPI applicable to the month in which the Base Date occurs

$CPI_y$  = the CPI for the month of December immediately preceding the commencement of Indexed Pricing Period “y”

$PE$  = the Percentage Escalated expressed as a decimal figure

<sup>(a)</sup> Indexed Pricing Period “y” is any twelve month period commencing May 1 in each year and ending on April 30 in the following year. The first Indexed Pricing Period “y” begins on May 1, 2011.

<sup>(b)</sup> For the purposes of calculating the Indexed Contract Price for the first Indexed Pricing Period, commencing May 1, 2011, the Indexed Contract Price in the preceding Indexed Pricing Period, “y-1” will be the Contract Price.

APPENDIX C

**SOLAR PHOTOVOLTAIC SCHEDULE**

1. ADDITIONAL DEFINED TERMS

“**Existing Building**” means a building (a) that was in existence and completely constructed on the date that the Applicant first submitted its Application, or (b) in respect of which the OPA has issued a written confirmation that the building will be deemed an Existing Building for the purposes of the definition of Rooftop Facility.

“**Rooftop Facility**” means a solar (PV) Renewable Generating Facility that is integrated into or forms part of the wall facing, roof, cover, or other architectural element that forms part of a permanent Existing Building that has been designed to be used for the purpose of providing enclosure, shelter or protection to people or property, provided that one of its main purposes is not to support a solar power installation or to provide shelter from the sun. An Existing Building will be considered to have a main purpose of supporting a solar power installation or providing shelter from the sun where the building or part of that building would not reasonably have been constructed in the absence of the solar (PV) Renewable Generating Facility.

2. REPRESENTATIONS AND WARRANTIES

Supplier represents and warrants to OPA as follows and acknowledges that OPA is relying on such representations and warranties in entering into this Contract.

2.1 The inverter rating for the Facility is \_\_\_\_ kW (alternating current).

2.2 The solar array rating for the Facility is \_\_\_\_kW (direct current).

2.3 The Facility (*check one*):

**is a Rooftop Facility.**

**is not a Rooftop Facility.**

### 3. COVENANTS

Supplier covenants that throughout the Term:

3.1 The Supplier shall not do anything nor omit to do anything that would cause the information specified in paragraphs 2.1, 2.2 or 2.3 of this Appendix C to be untrue or incorrect in any respect.

### 4. DOMESTIC CONTENT REQUIREMENTS

4.1 The “Minimum Required Domestic Content Level” is \_\_\_\_\_%

4.2 For each of the “**Designated Activities**” set out in the first column of the Domestic Content Grid for Micro-Scale ( $\leq 10\text{kW}$ ) Solar Photovoltaic Power Projects (the “**Domestic Content Grid**”), shown below, where the Designated Activity has been performed in relation to the Facility, the Facility shall be allocated the corresponding “**Qualifying Percentage**” set out in the second column of such Domestic Content Grid.

4.3 If the Facility comprises more than one of the component(s) specified in the Designated Activity, the Designated Activity must have been performed in relation to all such components forming part of the Facility in order for the Designated Activity to be considered to have been performed in relation to such Facility.

4.4 A Designated Activity shall not be considered to be performed in relation to a Facility, where:

- (a) some but not all aspects of the Designated Activity were performed in relation to the Facility; or
- (b) the Supplier is unable to provide evidence satisfactory to the OPA, acting reasonably, that the Designated Activity was performed in relation to the Facility.

4.5 The “**Domestic Content Level**” in respect of a Facility shall be calculated, following the Connection Date, as the sum of the Qualifying Percentages allocated to such Facility in accordance with Section 4.1 of this Appendix C.

4.6 The Supplier must obtain a written confirmation from any equipment supplier or installer providing equipment or services contributing to the Domestic Content Level, confirming which components qualify as Designated Activities.

4.7 Within 10 Business Days of any request by the OPA, the Supplier shall provide written evidence satisfactory to the OPA, acting reasonably, confirming that the Facility has met the Minimum Required Domestic Content Level.

**Domestic Content Grid for Micro-Scale ( $\leq 10\text{kW}$ ) Solar Photovoltaic Power Projects**

Designated Activity	Qualifying Percentage
1. Silicon that has been used as input to solar photovoltaic cells manufactured in an Ontario refinery.	10%
2. Silicon ingots and wafer, where silicon ingots have been cast in Ontario, and wafers have been cut from the casting by a saw in Ontario.	12%
3. The crystalline silicon solar photovoltaic cells, where their active photovoltaic layer(s) have been formed in Ontario.	10%
4. Solar photovoltaic modules (i.e. panels), where the electrical connections between the solar cells have been made in Ontario, and the solar photovoltaic module materials have been encapsulated in Ontario.	13%
5. Inverter, where the assembly, final wiring and testing has been done in Ontario.	9%
6. Mounting systems, where the structural components of the fixed or moving mounting systems, have been entirely machined or formed or cast in Ontario. The metal for the structural components may not have been pre-machined outside Ontario other than peeling/roughing of the part for quality control purposes when it left the smelter or forge. The machining and assembly of the mounting system must entirely take place in Ontario (i.e. bending, welding, piercing, and bolting).	9%
7. Wiring and electrical hardware that is not part of other Designated Activities (i.e., items 1-6 and 8 of this table), sourced from an Ontario Supplier.	10%
8. All on- and off- site labour and services. For greater certainty, this Designated Activity shall apply in respect of all Facilities.	27%
<b>Total</b>	<b>100%</b>

APPENDIX D -1

**DIRECTLY CONNECTED FACILITY SCHEDULE**

1. REPRESENTATIONS AND WARRANTIES

Supplier represents and warrants to OPA as follows and acknowledges that OPA is relying on such representations and warranties in entering into this Contract.

1.1 The Facility is a Directly Connected Facility.

1.2 The Facility is not connected to a battery back-up or supply system.

2. COVENANTS

The Supplier covenants that throughout the Term:

2.1 The Facility will, at all times, be a Directly Connected Facility.

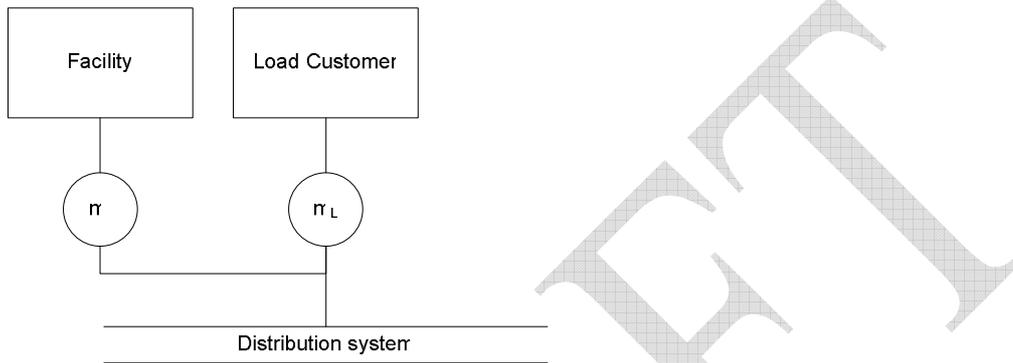
2.2 The Facility will not, at any time, be connected to a battery back-up or supply system.

APPENDIX D -2

**INDIRECTLY CONNECTED FACILITY SCHEDULE**

1. **ADDITIONAL DEFINED TERMS**

“In Parallel” means the meter for the Facility is located upstream of the meter for the associated load customer or premises, as follows.



2. **REPRESENTATIONS AND WARRANTIES**

Supplier represents and warrants to OPA as follows and acknowledges that OPA is relying on such representations and warranties in entering into this Contract:

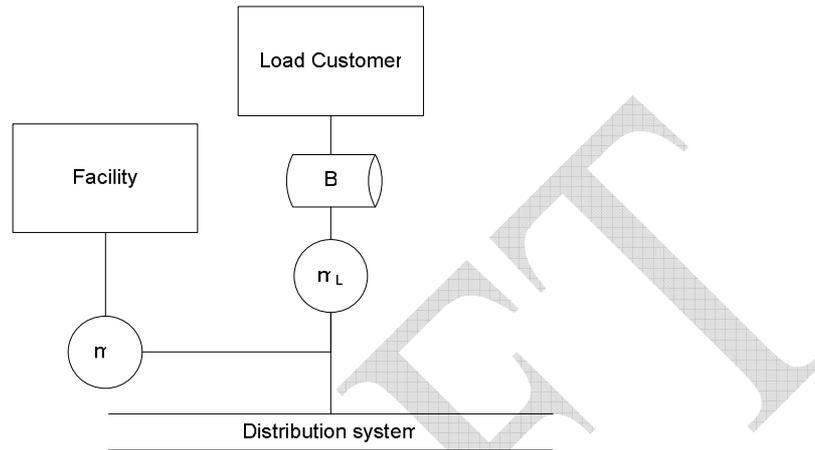
2.1 The Facility is an Indirectly Connected Facility.

2.2 The Facility is (*check one*):

- not** connected to a battery back-up or supply system.
- connected to a battery back-up or supply system and the back-up or supply system is not located upstream of the Facility's meter.

For greater certainty, the following are acceptable battery configurations:

If In Parallel, as follows.



2.3 The legal name of the associated load customer or premises is:

\_\_\_\_\_.

2.4 The LDC account number of the associated load customer or premises is:

\_\_\_\_\_.

### 3. COVENANTS

3.1 The Supplier covenants that throughout the Term:

- 3.1.1 The Supplier will make no change and take no action that would cause the information specified in Sections 2.1, 2.2 and 2.3 of this Appendix D-2 to be incorrect in any respect.
- 3.1.2 The Supplier will notify the OPA promptly of any change in the information contained in Sections 2.4 and 2.5 of this Appendix D-2.
- 3.1.3 The Supplier will ensure that it has the consent of the associated load customer, and of any person whose premises the Facility is located, to the disclosure to the OPA of its legal name, address and LDC account number and the use and disclosure of such information by the OPA (including the disclosure of such information by the OPA to LDC, the Ministry of Energy and Infrastructure or any other Ontario government institution) for all program analysis, assessments, reporting, administrative, operational or planning purposes or for purposes of publicity or public awareness regarding the CFIT Program or similar programs for alternative electricity generation, electricity conservation or electricity generating technology, use or operations.

4. ADDITIONAL TERMS AND CONDITIONS

- 4.1 For the purposes of Section 4.4 of the Agreement (and subject to Section 4.2 of this Appendix D-2), electricity generated by the Facility and successfully delivered to the associated load customer or premises will be deemed to have been successfully injected into LDC's distribution system.
- 4.2 If the associated load customer or premises is disconnected from LDC's distribution system, the Facility will be deemed to have been disconnected and not capable of successfully injecting electricity into LDC's distribution system and will not be entitled to receive Generation Payments in respect of such period.

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## APPENDIX E

### LDC SUPPLIER SCHEDULE

#### 1. ADDITIONAL DEFINED TERMS

“**IESO**” means the Independent Electricity System Operator of Ontario established under Part II of the Electricity Act or its successor.

“**IESO Market Rules**” means the rules made under Section 32 of the *Electricity Act, 1998* (Ontario), together with all market manuals, policies, and guidelines issued by the IESO, as may be amended from time to time.

“**Transmission System Code**” means the “Transmission System Code” established and approved by the Ontario Energy Board as amended or replaced from time to time.

#### 2. REPRESENTATIONS AND WARRANTIES

Supplier represents and warrants to OPA as follows and acknowledges that OPA is relying on such representations and warranties in entering into this Contract.

2.1 Supplier is a distributor as defined in the Distribution System Code.

2.2 Supplier is a market participant as defined in the IESO Market Rules.

#### 3. ADDITIONAL TERMS AND CONDITIONS

3.1 The definition of “Laws and Regulations” contained in Appendix A of the Contract is replaced for the purposes of the Contract with the following definition:

“**Laws and Regulations**” means:

- (a) applicable federal, provincial or municipal laws, orders-in-council, by-laws, codes, rules, policies, regulations and statutes;
- (b) applicable orders, decisions, codes, judgments, injunctions, decrees, awards and writs of any court, tribunal, arbitrator, Governmental Authority or other Person having jurisdiction;
- (c) applicable rulings and conditions of any licence, permit, certificate, registration, authorization, consent and approval issued by a Governmental Authority;
- (d) any requirements under or prescribed by applicable common law;
- (e) the Retail Settlement Code, the Distribution System Code, the Transmission System Code and any other codes issued by the OEB; and
- (f) the IESO Market Rules, as well as any manuals or interpretation bulletins issued by the IESO from time to time that are binding on the Supplier.

3.2 Subsection 4.4.1 of the Agreement shall not apply. Supplier and OPA agree that Generation Payments shall be settled through the IESO or as otherwise agreed in writing between the Parties

- 3.3 Section 10.3 of the Agreement does not apply. Supplier shall notify the OPA immediately if the Facility is permanently disconnected. If the Facility is disconnected for more than 20 continuous Business Days it shall be deemed to be permanently disconnected.
- 3.4 Supplier shall provide the OPA and its authorized agents, employees and inspectors with access to the Facility's meter for the purpose of reading, recording and downloading data, all upon not less than two days advance notice from OPA to Supplier.
- 3.5 Supplier will release to OPA any information or data relating to the Facility which may be required by OPA for the purposes of administering the Contract. Supplier shall, where requested by OPA, irrevocably authorize agencies, settlement agents and third parties to release to OPA any information or data relating to the Facility which may be required by OPA for the purposes of administering the Contract.
- 3.6 Section 8.4 of the Agreement does not apply. Supplier shall, at the request of OPA, provide OPA with all copies of settlement statements, invoices, records and documents relating to the Facility or any Generation Payment made in respect thereof or pursuant hereto.

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