

CME INTERROGATORY #1

INTERROGATORY

Exhibit A, Tab 1, Schedule 3, page 1 of 13, paragraph 3, Enbridge Gas Distribution Inc. ("EGO") states that the establishment of the deferral accounts will enable it to sign a Contribution Agreement before March 31, 2010 as required by NRCan. Please provide a copy of the Contribution Agreement which NRCan requires EGO to execute.

RESPONSE

Attached is a sample of a generic NRCan contribution agreement.

Witnesses: P. Hoey
A. Manyam

Project Number: RET_

**DEPARTMENT OF NATURAL RESOURCES
CLEAN ENERGY FUND – SMALLER SCALE DEMONSTRATION**

CONTRIBUTION AGREEMENT

THIS AGREEMENT is made in duplicate

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF CANADA
("Canada"), represented by the Minister of Natural Resources,

AND:

Coastal WindPower Inc is a corporation registered under the laws in force in the Province of Maritime Province, (the "**Proponent**").

WHEREAS Canada wishes to support, through the Clean Energy Fund (CEF), the development of transformative energy technologies that are essential in reducing greenhouse gas emissions (GHGs) and other air emissions in energy production, transmission, distribution and use ;

WHEREAS the Proponent has submitted to the Minister a Proposal for the funding of a Project called **Offshore Wind Turbine Demonstration** which qualifies for support under the Program;

WHEREAS Canada and the Proponent agree that in order for the Proponent to develop and implement the Project as described in Schedule A, the Proponent will require financial assistance from Canada;

AND WHEREAS Canada is willing to provide financial assistance toward the Eligible Costs of the Project in the manner and upon the terms and conditions hereinafter set forth;

NOW, THEREFORE, Canada and the Proponent agree as follows:

1. INTERPRETATION

1.1 In this Agreement:

"**Agreement**" means this Agreement and the attached Schedules A, B, C, D and E;

"**Completion Date**" means the date that the Proponent shall complete the Project as specified in Paragraph 4.2;

"**Contribution**" means the funding provided by the Minister under this Agreement.

"**Eligible Costs**" means any costs Incurred by the Proponent in accordance with the terms and conditions of this Agreement and which are listed in Schedule B;

"**Fiscal Year**" means the period beginning on April 1st of any year and ending on March 31st in the next year;

"**Incurred**" means an Eligible Cost or a portion thereof that is owing and is due in the period set out in Schedule B.

"**Incurred and Paid**" means an Eligible Cost for goods and/or services that have been paid for by the Proponent;

"Intellectual Property" means any Intellectual Property right recognized by the law, including any intellectual property right protected through legislation (such as that governing patents, copyright, trade-marks, and industrial designs);

"Interest Rate" means the Bank Rate, as defined in the *Interest and Administrative Charges Regulations*, in effect on the due date, plus 300 basis points, compounded monthly. The Interest Rate for any given month can be found at: <http://www.tpsgc-pwgsc.gc.ca/recgen/txt/71-eng.html>;

"Minister" means the Minister of Natural Resources and includes any duly authorized officers or representatives;

"Project" means the Project described in Schedule A and submitted by the Proponent in the Proposal;

"Project Start Date" means the date specified in Schedule A, which is the latest date by which the Project must be commenced;

"Proposal" means a written Proposal including at least a background, purpose, work description, results expected, and a budget submitted by the Proponent, which is accepted by the Minister for a specific Project;

"Total Project Costs" means the aggregate of Canada's Contribution and other cash or in-kind contributions received by the Proponent toward the Project, the value of which is set out in Schedule B.

- 1.2 This Agreement must be signed by the Proponent and received by the Minister, and the implementation of the Project must have begun by the Project Start Date, failing which the Minister may terminate this Agreement.
- 1.3 In case of conflict between provisions of this Agreement, the order of precedence shall be the following:
 - a) these articles of agreement;
 - b) Schedule A;
 - c) Schedule B;
 - d) Schedule C;
 - e) Schedule D;
 - f) Schedule E.
- 1.4 Grammatical variations of the above terms have similar meanings. Words importing the singular number only shall include the plural and vice versa.

2. REPRESENTATIONS AND WARRANTIES

- 2.1 The Proponent represents and warrants that all factual matters contained in the Proposal and all supporting material submitted are true and accurate, and that all estimates, forecasts and other related matters involving judgement were prepared in good faith and to the best of its ability, skill and judgement.
- 2.2 The Proponent represents and warrants that it is duly incorporated or registered and validly existing in good standing under the laws of Canada, and has the power and authority to carry on its business, to hold property, and to enter into this Agreement and undertakes to take all necessary action to maintain itself in good standing and preserve its legal capacity during the term of this Agreement.
- 2.3 The Proponent represents and warrants that the signatories to this Agreement have been duly authorized to execute and deliver this Agreement on its behalf.
- 2.4 The Proponent represents and warrants that the execution, delivery, and performance of this Agreement have been duly authorized and when executed and delivered will constitute a legal, valid, and binding obligation of the Proponent enforceable in accordance with its terms.
- 2.5 The Proponent represents and warrants that it is under no obligation or prohibition, nor is it subject to or threatened by any actions, suits or proceedings, including those arising out of the *Canadian Environmental Assessment Act*, which could or would prevent compliance with this

Agreement and undertakes to advise the Minister forthwith of any such occurrence during the term of this Agreement.

- 2.6. The Proponent represents and warrants that it has not, nor has any person offered or promised to any official or employee of Her Majesty the Queen in Right of Canada, for or with a view to obtaining this Agreement any bribe, gift or other inducement, and it has not nor has any person on its behalf employed any person to solicit this Agreement for a commission, fee or any other consideration dependent upon the execution of this Agreement.

3. COMING INTO FORCE

- 3.1 This Agreement comes into force when signed by the Parties.
- 3.2 Except as otherwise stated in section 3.3 below, this Agreement will terminate 12 months after the latest of :
- a) the completion of the Project to the satisfaction of the Minister;
 - b) the Completion Date; or
 - c) the date on which all amounts due by the Proponent to the Minister under this Agreement have been paid in full.
- 3.3 The following clauses shall survive the termination of this Agreement for an additional five (5) years:
- a) Article 7, Repayment of Contribution
 - b) Article 8, Accounts and Audits;
 - c) Article 9, Intellectual Property;
 - d) Article 10, Indemnity;
 - e) Article 11, Default;
 - f) Article 12, Access;
 - g) Article 13, Reports;
 - h) Article 14, Disposition of Property; and
 - i) Article 26, Dispute Resolutions.

4. CONDUCT OF PROJECT

- 4.1 The Proponent shall carry out the Project promptly, diligently and in a professional manner and in accordance with the terms and conditions of this Agreement.
- 4.2 The Proponent shall complete the Project by March 31 2014, unless terminated earlier pursuant to the provisions of this Agreement.
- 4.3 The Proponent shall comply with all applicable federal, provincial and municipal laws in relation to the Project.
- 4.4 The Proponent shall provide any information requested by Canada to satisfy its obligations under the *Canadian Environmental Assessment Act* as a result of the Project. The Proponent shall notify Canada of any changes to the Project that could impact on the potential environmental effects assessed for the Project.
- 4.5 The Proponent agrees to undertake all mitigation measures arising out of an environmental assessment or project screening conducted to comply with the *Canadian Environmental Assessment Act* as a result of the Project.

5. CONTRIBUTIONS

- 5.1 Notwithstanding any other provision of this Agreement, the Contribution under this Agreement shall not in any circumstances exceed the lesser of:
- a) **35** per cent of Eligible Costs Incurred;
 - b) \$8,662,500 Eight million, six hundred and sixty two thousand and five hundred dollars
- 5.2 The annual Contribution to the Project shall not exceed:
- a) \$1,750,000 for Fiscal Year 2009/10
 - b) \$2,012,500 for Fiscal Year 2010/11
 - c) \$3,500,000 for Fiscal Year 2011/12
 - d) \$1,312,500 for Fiscal Year 2012/13
 - e) \$87,500 for Fiscal Year 2013/14
- 5.3 The Proponent represents that no other federal, provincial, territorial or local government assistance, than those listed in Schedule B, has been or will be provided in respect of the Eligible Costs of the Project other than that described below:
- Federal: \$ 0
Provincial: \$ 3,000,000 Three million dollars
Territorial: \$0
Local: \$0
Total: \$3,000,000 Three million dollars
- The Proponent shall advise the Minister promptly of any further assistance provided during the term of this Agreement and adjustment of the maximum amount of the Contribution may be made.
- 5.4 The Minister will not contribute to any Eligible Costs Incurred by the Proponent prior to May 19, 2009 or after March 31 2014.

6. METHOD OF PAYMENT

- 6.1 Subject to the terms and conditions of this Agreement, following receipt of a claim, acceptable to the Minister, for payment of Eligible Costs Incurred by the Proponent, accompanied by copies of documents in accordance with the Schedule C or as otherwise requested by the Minister, Canada shall pay its contribution towards the Eligible Costs of the Project.
- 6.2 Canada shall withhold [insert a percentage equal or greater to **10%**] (**ten percent**) from any payment under this Agreement until:
- a) the Project has been completed to the satisfaction of the Minister;
 - b) a final report documenting the completion of the Project and all other final reports as set out in Schedule C, Section C, have been received and approved by the Minister;
 - c) the Proponent has certified, in the manner set out in Schedule D, that all claims for the payment of Eligible Costs of the Project have been Incurred and Paid by the Proponent; and
 - d) the Minister has approved a final statement of Eligible Costs Incurred and Paid in respect of the Project.
- OR
- 6.1 Subject to the terms and conditions of this Agreement and Treasury Board Guidelines, Canada will provide quarterly advance payments to the Proponent based on cash flow forecast requirements submitted by the Proponent for each period PROVIDED THAT the Proponent has fully accounted for any preceding advance payment to the satisfaction of the Minister.
- 6.2 Canada shall withhold [**Insert a percentage equal or greater to 10% of the Contribution or reasonably equivalent dollar amount**] under this Agreement until:
- a) the Project has been completed to the satisfaction of the Minister;

- b) a final report documenting the completion of the Project and all other final reports as set out in Schedule C, Section C, have been received and approved by the Minister; and
 - c) the Proponent has certified, in the manner set out in Schedule D, that all claims for the payment of Eligible Costs of the Project have been Incurred and Paid the Proponent; and
 - d) the Minister has approved a final statement of Eligible Costs Incurred and Paid in respect of the Project.
- 6.3 The Proponent agrees that Canada may offset any unused funds from an advance payment against further payments and that at the completion of the Project or the termination of this Agreement any unused funds shall be promptly returned to Canada.
- 6.4 Where for any reason the Minister determines that the amount of the Contribution disbursed exceeds the amount to which the Proponent is entitled or the Proponent is not entitled to the Contribution, the Proponent must repay the Minister promptly and in any case no later than 30 days from the date of the Minister's notice, the amount of the Contribution disbursed or the amount of the overpayment, as the case may be, together with interest at the Interest Rate from the date of the notice to the day of repayment to the Minister in full. Any such amount is a debt due to Her Majesty in Right of Canada and is recoverable as such.
- 6.5 Without limiting the scope of the set-off rights provided for under the *Financial Administration Act*, it is understood that the Minister may set off against any amount that may be payable to the Proponent pursuant to this Agreement, any amounts owed and past due by the Proponent to Her Majesty the Queen in Right of Canada under any legislation or contribution agreements and the Proponent shall declare to the Minister all amounts outstanding in that regard when making any claim under this Agreement.

7. REPAYMENT OF CONTRIBUTION

- 7.1 For the period commencing on the **March 31 2014** and ending on March 31, 2019, the Proponent shall pay to Canada **35%** of annual profits derived from equipment, know-how, or other forms of intellectual property arising from the Project.
- 7.2 The Proponent shall submit sales reports and payments to Canada as described in Schedule C for the period set out in Article 7.1.
- 7.3 The Proponent agrees that all considerations to be received by the Proponent in respect of the licensing, selling, marketing or commercialization of the Intellectual Property shall be established in a bona fide arm's length transaction between parties.
- 7.4 The Proponent shall pay to Canada Interest Rate on any payment that is overdue from the date such amount becomes overdue until the date of payment, inclusive.

8. ACCOUNTS AND AUDIT

- 8.1 Prior to the Completion Date of the Project and for five (5) years thereafter the Proponent shall, at its own expense:

- a) keep proper books, accounts, and records of its revenue received and expenses Incurred and Paid in connection with the Project and shall keep its invoices, receipts, and vouchers relating thereto;
- b) keep proper and accurate records relating to the environmental impact (if any) of the Project;
- c) keep proper and accurate records of all data, analyses, and other scientific or technical assessments and reports, and any and all information relating to the outputs and outcomes of the Project;
- d) on demand, make available to Canada such books, accounts, records, invoices, receipts, and vouchers referred to above and permit Canada to examine and audit and take copies and extracts from such documents; and
- e) allow Canada, at Canada's own expense and discretion, to conduct a technical audit to verify that the proposed measures outlined in Schedule A were implemented in accordance with this Agreement.

9. INTELLECTUAL PROPERTY

- 9.1 All Intellectual Property that arises in the course of the Project shall vest in the Proponent.
- 9.2 The Proponent shall supply to Canada the reports and documents described in Schedule C or as otherwise required by the Minister under Article 12 (Reports), and the Proponent hereby grants to Canada a non-exclusive, irrevocable, world-wide, free and royalty-free licence in perpetuity to use and modify such reports and documents for non-commercial governmental purposes.

10. INDEMNITY

- 10.1 Neither Canada, nor its employees, officers and agents, will have any liability in respect of claims of any nature, including claims for injury or damages, made by any person involved in the activities of the Project or as a result of or arising out of the Agreement, and the Proponent will indemnify and save harmless Canada, its employees, officers and agents, in respect of such claims.

11. DEFAULT

- 11.1 The Minister may declare that an event of default has occurred if:
 - a) the Proponent becomes insolvent or is adjudged or declared bankrupt or if it goes into receivership or takes the benefit of any statute from time to time in force relating to bankrupt or insolvent debtors;
 - b) an order is made which is not being contested or appealed by the Proponent or a resolution is passed for the winding up of the Proponent or it is dissolved;
 - c) in the opinion of the Minister, there has been a misrepresentation or breach of warranty under Article 2 (Representations and Warranties);
 - d) in the opinion of the Minister, acting reasonably, a material adverse change in risk affecting the fulfilment of the terms and conditions of this Agreement has occurred;
 - e) any term, condition or undertaking in this Agreement is not complied with in any material respect and any such defect has not been cured by or remedied by the Proponent within thirty (30) days of written notice of such defect having been provided to the Proponent; or
 - f) The Proponent neglects or fails to pay to the Minister any amount due in accordance with this Agreement.
- 11.2 If the Minister declares that an event of default has occurred, in addition to all other remedies provided under contract law, the Minister may exercise one or more of the following remedies:
 - a) suspend any obligation to contribute or continue to contribute to the Eligible Costs of the Project or a part of the Project, including any obligation to pay any amount owing prior to the date of such suspension;

- b) require the Proponent to repay all or part of the Contribution which has been paid to the Proponent, together with interest from the date of demand at the Interest Rate; or
- c) terminate any obligation to contribute or continue to contribute to the Eligible Costs of the Project, including any obligation to pay any amount owing prior to the date of such termination.

For greater clarity, all above remedies are cumulative.

- 11.3 The fact that the Minister refrains from exercising a remedy that the Minister is entitled to exercise under this Agreement will not constitute a waiver of such right and any partial exercise of a right will not prevent the Minister in any way from later exercising any other right or remedy under this Agreement or other applicable law.

12. ACCESS

- 12.1 The Proponent shall provide the Minister or the Minister's representatives, during the duration of this Agreement and for a period of 5 years after the Project Completion Date, reasonable access to any premises where the Project takes place to assess the Project's progress or any element thereof.

13. REPORTS

- 13.1 The Proponent shall submit Project reports satisfactory to the Minister in accordance with the provisions of Schedule C or as otherwise requested by the Minister.
- 13.2 Upon completion of the Project, the Proponent shall provide the Minister with a declaration as to the total amount of contributions or payments the Proponent received in respect of the Project.

14. DISPOSITION OF PROPERTY

- 14.1 If, prior to the Completion Date of the Project and for five (5) years thereafter, the Proponent sells, leases or otherwise disposes of any property other than Intellectual Property, where the cost of the property is part of the Eligible Costs under the Project to which Canada has contributed under this Agreement, the Proponent shall immediately notify the Minister in writing of such sale, lease or disposition and, if the Minister so requires, the Proponent shall share with Canada the proceeds of the disposition in the same ratio as that of Canada's contribution to the purchase of the property, except that Canada's share shall not exceed its contribution under this Agreement.

15. SUBCONTRACTS

- 15.1 The Proponent shall not subcontract all or any part of the Project funded by Canada unless the Proponent has obtained the prior written consent of the Minister, or except as provided in the Proposal. Every subcontract entered into by the Proponent shall provide that the subcontractor shall comply with the terms and conditions of this Agreement, which are applicable to the subcontract. For greater certainty, for the purposes of this Article, there is no privity of contract between Canada and any of the Proponent's subcontractors; as such, the selection and amendment of any of Proponent's subcontractors as may be listed in the Proposal is the sole responsibility of the Proponent and is not subject to the Minister's consent.

16. LEGAL RELATIONSHIP

- 16.1 Nothing contained in this Agreement shall create the relationship of principal and agent, employer and employee, partnership or joint venture between the Parties.
- 16.2 The Proponent shall not make any representation that:
 - a) the Proponent is an agent of Canada; or

- b) could reasonably lead any member of the public to believe that the Proponent or its contractors are agents of Canada.

17. ACKNOWLEDGEMENT

- 17.1 The Proponent will acknowledge the financial support of Canada in all public information produced as part of the Project.

18. TIME OF ESSENCE

- 18.1 Time is of the essence with respect to all provisions of this Agreement that specify a time for performance.

19. MEMBERS OF PARLIAMENT

- 19.1 No Member of the House of Commons or Senate shall be admitted to any share or part of this Agreement or to any benefit arising therefrom.

20. CONFLICT OF INTEREST

- 20.1 It is a term of this Agreement that no individual, for whom the post-employment provisions of the *Conflict of Interest and Post-Employment Code for Public Office Holders* or the *Values and Ethics Code for the Public Service* apply, shall derive a direct benefit from this Agreement unless that individual is in compliance with the applicable post-employment provisions.

21. FORCE MAJEURE

- 21.1 The Parties shall not be in default or in breach of this Agreement due to any delay or failure to meet any of their obligations caused by or arising from any event beyond their reasonable control and without their fault or negligence, including any act of God or other cause which delays or frustrates the performance of this Agreement (a "force majeure event"). If a force majeure event frustrates the performance of this Agreement, Canada will only be liable for its proportionate share of the Eligible Costs Incurred and Paid to the date of the occurrence of the event.
- 21.2 The performance of the obligation affected by a "force majeure event" as set out in Paragraph 20.1, shall be delayed by the length of time over which the event lasted. However, should the interruption continue for more than thirty (30) days, this Agreement may be terminated by Canada.
- 21.3 Should either party claim the existence of a "force majeure event" as set out in Paragraph 20.1, prompt notice thereof shall be given to the other party and the party claiming the existence of a "force majeure event" shall have the obligation to provide proof of such event and use its best efforts to mitigate any damages to the other party.

22. GOVERNING LAW

- 22.1 This Agreement shall be interpreted in accordance with the applicable federal laws and the laws in force in the Province of **Maritime**.

23. ASSIGNMENT

- 23.1 This Agreement shall not be assigned in whole or in part by the Proponent without the prior written consent of the Minister and any assignment made without that consent is void and of no effect.

24. NOTICES

- 24.1 The claims for payment, requests, notices, and information referred to in this Agreement shall be sent in writing or by any method of telecommunication and, unless notice to the contrary is given, shall be addressed to the Party concerned at the following address:

To Canada:

CEF Program
Natural Resources Canada
580 Booth Street, 14th Floor
Ottawa, Ontario K1A 0E4

Telephone: (xxx) xxx-xxxx
Facsimile: (xxx) xxx-xxxx
E-mail:

To the Proponent:

CEO,
Coastal Windpower Inc
Address
Telephone: (xxx)
Facsimile: (xxx)
E-mail:

Cheques are to be mailed in the same address as above.

- 24.2 Notices, requests and documents are deemed to have been received, if sent by registered mail, when the postal receipt is acknowledged by the other Party; by facsimile or electronic mail, when transmitted and receipt is confirmed; and by messenger or specialized courier agency, when delivered.

25. AMENDMENTS

- 25.1 No amendment of this Agreement or waiver of any of its terms and conditions shall be deemed valid unless effected by a written amendment signed by the Parties.

26. DISPUTE RESOLUTION

- 26.1 The Parties may attempt to resolve any dispute arising out of or pursuant to this Agreement by recourse to the dispute resolution methods identified in the following sequence, although steps may be by-passed by mutual consent.
- 1) negotiations;
 - 2) non-binding mediation or conciliation; or
 - 3) binding arbitration.
- 26.2 If the Parties cannot agree on any of the foregoing dispute resolution mechanisms, either Party may, at any time, elect to have such dispute resolved by litigation in the proper judicial forum in Canada.
- 26.3 Any Party may within fifteen (15) days take the dispute to the next step if the parties fail to agree on the appointment or procedure referred to in this Article.
- 26.4 When mediation or conciliation is selected by the parties, they shall jointly appoint one impartial expert mediator or conciliator to undertake the process according to mutually agreed upon procedures.
- 26.5 If the Parties decide to submit a dispute to arbitration, it shall be carried out pursuant to the *Commercial Arbitration Act* of Canada. The arbitral award shall be in terms of money only, and shall not include punitive damages, costs or interim measures. The Parties shall attempt to appoint jointly one impartial expert arbitrator. If the Parties cannot agree within thirty (30) days

on the choice of an arbitrator, each Party shall appoint, at its own cost, one impartial expert arbitrator and those two arbitrators shall appoint an expert third arbitrator as chairperson of an arbitral tribunal.

- 26.6 When one of the above steps 25.1(2) or (3) is selected to resolve a dispute, the Parties shall jointly enter into a contract with the required mediator or conciliator, third party, arbitrator or arbitrators, as the case may be, to pay the costs for the desired services and to bear their own costs of participating in the process involved. The contracts referred to and contemplated by this Article shall be in the form and content as proposed by Canada.

27. APPROPRIATION

- 27.1 The payment of monies by Canada under this Agreement is subject to there being an appropriation by Parliament for the Fiscal Year in which the payment of monies is to be made.
- 27.2 Notwithstanding any other provision of this Agreement, Canada may reduce or cancel its financial contribution to the Project upon written notice to the Proponent in the event that the funding levels for the Department of Natural Resources are changed by Parliament during the term of this Agreement. In the event that Canada reduces or cancels its financial contribution, the Parties agree to amend the Project and the Eligible Costs of the Project, namely this Agreement, to take into account the reduction or cancellation of Canada's financial contribution.

28. LOBBYING ACT

- 28.1 The Proponent shall ensure that any person lobbying on behalf of the Proponent is registered pursuant to the *Lobbying Act* and that the fees paid to the lobbyist are not to be related to the value of the financial contribution pursuant to the terms of this Agreement.

29. SUCCESSORS AND ASSIGNS

- 29.1 This Agreement shall inure to the benefit of and be binding on the Parties and their respective representatives, successors and assigns.

30. OFFICIAL LANGUAGES/LANGUES OFFICIELLES

- 30.1 This Agreement is drawn in **English** at the request of the Parties. Les Parties ont convenu que le présent Accord soit rédigé en **anglais**.
- 30.2 All public information documents related to the Project prepared or paid in whole or in part by Canada must be made available in both official languages, when the Department of Natural Resources judges that this is required under the *Official Languages Act*. Tout document d'information publique préparé ou payé en tout ou en partie par le Canada ayant trait au Projet doit être offert dans les deux langues officielles, lorsque le Ministère des Ressources Naturelles le juge pertinent, conformément à la *Loi sur les langues officielles*.

31. SEVERABILITY

- 31.1 Any provision of this Agreement prohibited by law or otherwise ineffective, will be ineffective only to the extent of such prohibition or ineffectiveness and will be severable without invalidating or otherwise affecting the remaining provisions of the Agreement.

32. ENTIRE AGREEMENT

- 32.1 This Agreement constitutes the complete and exclusive agreement between the Parties with respect to the subject matter hereof, superseding and replacing any and all prior agreements, communications and understandings, both written and oral, regarding such matter. There are no other warranties, agreements or representations between the Parties except as expressly set forth herein.

IN WITNESS WHEREOF this Agreement has been executed on behalf of **Her Majesty the Queen in right of Canada** by an officer duly authorized by the Minister of Natural Resources and on behalf of the **Proponent**, by an officer duly authorized on its behalf.

HER MAJESTY THE QUEEN IN RIGHT OF CANADA

Date

Name and Title
Sector, Natural Resources Canada

Coastal WindPower Inc.

Date

Name
Title

DECLASSIFIED
2010-03-04

SCHEDULE A

To the Agreement between

HER MAJESTY THE QUEEN IN RIGHT OF CANADA

And

COASTAL WINDPOWER INC.

STATEMENT OF WORK OFFSHORE WIND TURBINE DEMONSTRATION

1. BACKGROUND:

This project is being proposed by a experienced wind developer Coastal WindPower Inc that has existing wind farms in Alberta, Ontario and the Maritimes with a total of 220 MW in operation and 150 MW under development. The company has an existing wind farm in the Maritimes adjacent to a shallow ocean bay location which has, it is believed the potential to install up to 500 MW of large wind turbines in an excellent wind resource. The company has a business objective to become a leader in offshore wind turbines because it believes access to large high wind speed wind resources will be very important over the next twenty years. In order to develop the offshore opportunity Coastal WindPower has established an 8 year development plan that involves a series of steps, such as carrying out an Environmental Assessment on the potential offshore site area including carrying out bird studies. One of the steps would be to carry out due diligence on the large turbines that would be required to be deployed off shore and in particular to engage in a comparative assessment of 4 MW wind turbines from two different suppliers. The existing on shore wind farm, owned by Coastal WindPower has already obtained all Provincial and Federal EA clearance and a location has been identified on shore adjacent to the water for the installation of these two 4 MW machines. The project team will consist of:

Proponent

Coastal WindPower

Collaborators

ABC Windmachines : Supplier of a 4 MW offshore wind turbine

XYZ Windmachines : Supplier of a 4MW offshore wind turbine

Electron Utilities

Maritime Province

Association of Maritime Utilities

Both turbine suppliers have offered a 25% discount to the list turbine price which will be applied as an in-kind contribution to the project

Electron Utilities is the local utility company and will be participating by providing the capital cost of the electrical interconnect as well as designing and constructing this interconnect. Electron and Coastal have a letter of intent to complete a 20 year Power Purchase Agreement (PPA). This will be used by Coastal to secure its project financing. The PPA has a low payment rate during the first seven years and a higher rate later on.

The Maritime Province is also interested in this project and has allocated a \$3 million contribution from its Wind Development Fund provided that the two European turbine suppliers can include certain components supplied by Canadian companies in the demonstration. These may include blades, towers or generators

The other three utilities in the region have expressed interest in the project and will provide \$300,000 towards the project with the understanding that their representatives will received six monthly briefings during construction and performance information from Electron Utilities over the 5 years of operation where the Clean Energy Fund (CEF) reporting is required. This support will be provided through the Association of Maritime Utilities.

Because of the significant cash flow requirements Coastal WindPower will be requesting quarterly advance payments from the CEF at the start of each fiscal year to pay invoices as they become due, based on a cash flow forecast.

2. OBJECTIVE/PURPOSE:

The objective/purpose of this Project is to establish the installed cost (onshore) of two innovative large wind machines and their comparative operational experience in both output and operation and maintenance costs considering impacts of the nearby ocean. The project will also provide a platform on which Canadian component companies can demonstrate that Canadian components can be used for these large machines, and electrical utilities can learn about the electrical behaviour of the large turbines in a coastal environment. The project will also provide valuable environmental impact information that can be used to obtain the Environmental Screening of the larger 500 MW project.

3. DESCRIPTION/SCOPE:

Task 1: Initial Project Planning

These activities were carried out by the Proponent after May 19th, 2009 but before the date of signing of the Contribution Agreement. These activities were carried out at the proponent's risk.

Sub-Task 1A: Engage Consultant to prepare Environmental Impact Statement based on earlier studies and EA approvals associated with the existing wind farm and to liaise with Canada to have Environmental Screening sign off.

This Sub-Task provides the environmental information necessary to complete the Canadian Environmental Assessment Act requirements, necessary for Canada to agree to proceed with the project.

Output: Completed Environmental Impact Statement Eligible Costs \$100,000

Sub-Task 1B: Engineering, Management and Financial studies and activities directly related to the Project

This Sub-Task provides the information that forms the basis for the Project's business case, engineering project plan and estimated costs. The direct cost of preparing the CEF proposal are not eligible costs

Output: Completed Project Plan and Statement of Work Eligible Costs \$900,000

Sub-Task 1C: Project Management Activities.

This Sub-Task covers years 2-5 Project management and engineering activities

Output: Annual Project reports Total Eligible Costs \$1,750,000

Task 2: Order Wind Turbines

Contracts are signed between Coastal and the two wind turbine manufacturers ABC and XYZ. Both machines cost \$12 million FOB site excluding all taxes. The contracts have the following payment schedule.

- \$4million due on contract signing
- \$4 million due on delivery of generator to wind supplier's premises
- \$4 million due 30 days after commissioning.

Delivery of the machines is 18 months from order

In addition, a seven year comprehensive warranty contract is signed with each supplier. This will cost \$3 million for each turbine and is will be invoiced and paid in full on commissioning.

Output: One (1) wind turbine supply contract signed with ABC Windmachines
Eligible Costs \$6,000,000

Three milestone payments of \$2,000,000 each

One (1) wind turbine supply contract signed with XYZ Windmachines

Eligible costs \$ 6,000,000

Three milestone payments of \$2,000,000 each

Two (2) signed warranty contracts with each supplier Eligible Costs \$3,000,000

Task 3: Contract and Book Crane Support

There is only one crane big enough to lift the generator and blades located in the Eastern part of Canada. This crane and the related erection services will be booked 18 month ahead of the date with a 25% non refundable deposit. The remaining 75% cost will be expensed in Task 5.

Output: Signed contract for crane and related wind turbine erection services.

Eligible Costs \$250,000

Task 4: Site Preparation and Civil Works

Road and site construction will be completed the year before the erection of the turbines, between April and October of 2011.

Output: Completion of road and site construction for the wind turbines.

The site plan, a report and photographs of the site will be provided.

A site visit by a federal technical expert will be arranged.

Eligible Costs \$5,000,000

Task 5: Erection of Turbines

The two turbines are expected to be erected within the same time frame, in Summer 2011. The erection period will take two weeks allowing one week for bad weather. The crane will be on site for this period.

Output: Installation of two 4 MW wind turbines at Coastal's onshore maritime site.

An installation report and photographs of the site will be provided.

Eligible Costs \$250,000

Task 6: Commissioning

The turbines are commissioned by the suppliers and put into commercial operation. This cost is included as part of the supply contract. Commissioning will take place in Fall 2011.

Output: Commissioning of two 4 MW wind turbines at Coastal's onshore maritime site.

A site commissioning report will be provided.

A site visit by a federal technical expert will be arranged.

Eligible Costs \$750,000

Task 7: Commercial Operation & Monitoring

Once commissioned, the wind turbines will be commercially operated and carefully monitored. In addition, receipt of funds from the CEF requires regular reporting during the project, and for five years following the project.

Output: Completion of CEF reporting as laid out in Schedule C. Payment of warranty program

Eligible Costs \$3,000,000

4. BENEFITS:

Benefits to Stakeholders:

The project will reduce the risk to Coastal of using a large modern wind turbine that is larger than any previously installed in Canada. The use of Canadian components, desired by the Maritime Province also pose a technical and financial risk to the Proponent. CEF funding will reduce this risk. The two wind turbine suppliers will get to operate their machines in a cold maritime climate that is quite different from the European conditions the machines have been used in to date. The local utility will participate and determine the probability that the 500 MW following on project might occur and adjust its generation plans accordingly. The utility group's benefit is similar in that they have offshore large wind turbine potential and by participating in this project they can consider similar projects in their own jurisdictions.

Benefits to Canada:

This project will enable a significant project of 8 MW to be installed in a utility service area where the alternative new generation would be either natural gas or coal fired generation. The project itself is expected to provide GHG savings but of greater significance is that the project will facilitate the future outcome of the deployment of a large 500MW offshore wind farm. Both the pilot project and the follow on project meet the Output and Outcome requirement of the Clean Energy Fund.

SCHEDULE B

To the Agreement between

HER MAJESTY THE QUEEN IN RIGHT OF CANADA

And

COASTAL WINDPOWER INC.

BUDGET AND ELIGIBLE COSTS

1. Subject to the terms and conditions of this Agreement, the Proponent shall be reimbursed for Eligible Costs Incurred. Eligible Costs shall be approved in accordance with Treasury Board Guidelines and the Applicants Guide associated with the execution of the various tasks as described in Schedule A.
2. Subject to the terms and conditions of this Agreement, Canada shall make a contribution to the Proponent toward the Eligible Costs of the Project Incurred between May 19th 2009 and **March 31 2014**, unless terminated earlier pursuant to the provisions of this Agreement.
3. **CANADA'S TOTAL OBLIGATION AND CONTRIBUTION \$8,662,500 Eight million, six hundred and sixty two thousand five hundred dollars**

4. Subject to the terms and conditions of this Agreement, Canada's contribution shall be allocated to the Proponent in the following amounts by Fiscal Year:

Fiscal Year	Canada's Amount
2009-2010	\$1,750,000 One million seven hundred and fifty thousand dollars
2010-2011	\$2,012,500 Two million, twelve thousand five hundred dollars
2011-2012	\$3,500,000 Three million, five hundred thousand dollars
2012-2013	\$1,312,500 One million, three hundred and twelve thousand five hundred dollars
2013-2014	\$87,500 Eighty seven thousand five hundred dollars

5. **Other contributors:**

For example (\$ millions)

Proponent (cash)	\$7,787,500	Seven million, seven hundred and eighty,seven thousand, five hundred dollars
Proponent (in-kind)	\$0	Zero dollars
ABC Wind turbines (in-kind)	\$1,000,000	One million dollars
XYZ Wind turbines (in-kind)	\$1,000,000	One million dollars
Electron Utilities (in-kind)	\$3,000,000	Three million dollars
Maritime Province (cash)	\$3,000,000	Three million dollars
Association of Maritime Provinces (cash)	\$300,000	Three million dollars

6. Budget Description by Task (CEF Contribution):

Task 1 Initial Project Planning	\$ 962,500
Task 2 Order Wind Turbines	\$ 4,200,000
Task 3 Contract and Book Crane Support	\$350,000
Task 4 Site Prep, Civil Works	\$1,750,000
Task 5 Erection of Turbines	\$87,500
Task 6 Commissioning	\$262,500
Task 7 Commercial Operation, Payment of Service contract	\$1,050,000

7. Eligible Costs: (taken from Applicants Guide)

- Salaries and benefits;
 - Overhead expenses* considered on a case-by-case basis;
 - Professional, scientific and contracting services;
 - Printing services;
 - Data collection services, including processing, analysis and management;
 - License fees and permits;
 - Field testing services;
 - Travel, including meals and accommodations;
 - Equipment and products, including diagnostic and testing tools and instruments;
 - Laboratory and field supplies and materials;
 - Expenses related to the construction and operation of demonstration and pre demonstration (R&D) projects, including plant & equipment, but excluding land.
- (*Overhead expenses are legitimate eligible costs in the implementation of a project and should be included in the Total Project Costs to a maximum of 15% of eligible costs.)

8. Notwithstanding Article 25, provided Canada's total contribution of \$8,662,500 eight million six hundred and sixty two million five hundred is not exceeded, the funds allocated for **"any budget task"** may be adjusted by the Proponent up to and including a maximum of twenty percent (20%) without notice having to be provided to Canada. At the time of submitting a claim for payment, the Proponent must provide Canada with a revised budget. Any adjustment greater than twenty percent (20%) shall require the submission of a revised budget to Canada and written approval of the Minister in accordance with the methods described in Article 24 of this Agreement.

SCHEDULE C

To the Agreement between

HER MAJESTY THE QUEEN IN RIGHT OF CANADA

And

COASTAL WINDPOWER INC.

REPORTS

A. Payment Claims:

The Proponent shall provide the following documentation when submitting each claim for payment and on a quarterly basis:

- 1) a financial report signed by the Chief Financial Officer or Duly Authorized Officer of the organization which outlines Eligible Costs Incurred by task;
- 2) An updated project cash flow statement and budget when requesting an advance payment.
- 3) a detailed report of all travel including a breakdown of all transportation (e.g. airline costs, train costs, taxis, etc...), accommodation, travel times, per diem meal amounts, and any other travel costs;
- 4) a detailed breakdown of any major equipment purchased (greater than \$250,000 in total cost), including make, model and unit price; and
- 5) Supply in support of a claim for payment for incurred costs of all signed contracts with equipment and service providers

Subject to the terms and conditions of this Agreement, if the Proponent cannot submit a claim for payment on or before March 31 of a Fiscal Year, the Proponent shall **no later than April 5** provide the Minister with a signed statement of anticipated Eligible Costs Incurred up to March 31, in order for the Minister to establish a Payable at Year-End.

B. On-going Progress/Technical Reports:

No later than March 31 of each fiscal year, the Proponent shall provide Canada with an annual report:

This annual report will be in a format to be provided by Canada and will include:

- The progress and results (e.g. outputs and outcomes) of projects undertaken linking science & technology and non-technical activities to the work plans
- An assessment of performance measurement (indicators and activities)
- A financial report providing actual costs incurred for the project.

At the sole discretion of Canada, at any time prior to the Completion Date of the Project, Proponents shall submit on-going progress/technical reports on a quarterly basis if so requested by Canada.

C. Final Reports (Financial and Progress/Technical):

No later than March 31 2014 the Proponent shall provide Canada with:

- 1) A financial report that shall demonstrate how the contribution was spent, with a declaration as to the total amount of contributions or payments received from other sources in respect of the Project.

2) A final narrative report to describe how project activities have contributed to the achievement of the objectives of the Project, including: (1) a review of the results of the project in comparison to the original outputs and work plan, with explanations of any deviations, (2) a description of the benefits that have or will accrue as a result of the project including energy efficiency, environmental impact, costs and paybacks, and any other appropriate measures such as productivity and quality improvements.; and (3) a final project cost table.

D. For a period of 5 years following the end of the CEF-funded project, the Proponent shall provide Canada annually, no later than March 31 2019 with:

- 1) an updated Outcomes Report, using a template supplied by Canada to report on short term, intermediate term, and long term outcomes. Short term outcomes will include: knowledge transfer and collaboration. Intermediate outcomes will include: new and revised policies, codes, standards and regulations; strengthened Canadian capacity for the implementation of clean energy alternatives; and commercialization activities. Long term outcomes: will include evidence of progress along the innovation spectrum and potential for GHG reduction. Also to be included in the Report is an update to any knowledge dissemination activities, as well as any new information that can be made available to the industry and the public.
- 2) As applicable in each individual case, copies of any reports prepared during the course of the project, such as engineering & design studies, GHG emission reduction assessments, etc.
- 3) A fact sheet about the project, including major achievements and their impact, graphics, photos, and schematics from material included in the final report. The fact sheet could be used by Canada for public information dissemination.
- 4) A report which describes the Proponent's knowledge dissemination activities. In addition, the Proponent will provide Canada with an information package of materials that can be shared with industry and with the general public. This information will be provided in soft copy to Canada. Canada will have the right to post this information on its web site and make it available to the industry and the public, through various means, for example by making it available at public and international conferences. The package of information materials that can be shared with industry and the public will include:
- 5) Non-proprietary technical results that can be widely shared

If applicable:

- 6) Copies of PowerPoint and other presentation materials presented at conferences and other public events
- 7) Links to web pages posted on public web sites
- 8) Copies of journal articles (or journal article abstract and links to the journal article if it is a paid publication)
- 9) Case studies

E. Revenue Reports:

The Proponent shall provide to the Minister not later than 30 days after May 31st in each calendar year, for the period of the payment obligation described in **Article 7 (Repayment of Contribution)** of this Agreement, a complete and accurate report (including nil reports) of any Revenue received by the Proponent and shall include any payments due to Canada. The reports shall:

- 1) contain a statement of the Revenue received by the Proponent;
- 2) include a computation of any share of the Revenue, if any, due and payable to Canada; and
- 3) be certified as correct by the Treasurer or some other senior officer of the Proponent.

SCHEDULE D

To the Agreement between

HER MAJESTY THE QUEEN IN RIGHT OF CANADA

And

COASTAL WINDPOWER

CERTIFICATION OF COSTS INCURRED AND PAID

1. Pursuant to Article 6 of this Agreement, the Proponent must submit the following certification in writing on company letterhead and signed by the duly authorized officer as follows.

"All claims for payment submitted to Canada for the reimbursement of Eligible Costs of the Project have been Incurred and Paid by _____ (organization's legal name as stated in the Contribution Agreement) ("Proponent") as of the date of this certification by the undersigned and all supporting documents to this effect have been kept in our records and will be made available to the Minister (NRCan) upon request."

"I _____ an officer, of _____ (organization's legal name as stated in the Contribution Agreement), duly authorized on behalf of the Proponent hereby represent and warrant that the above noted declaration is true and accurate. I understand that if, in the opinion of the Minister, there has been a misrepresentation or a breach of this warranty, the Minister could place the Proponent in default of the terms, conditions or obligations of the Agreement, and may exercise the Minister's right to terminate this Agreement and direct the Proponent to repay forthwith all or any part of the monies paid by Canada pursuant to this Agreement."

SCHEDULE E
To the Agreement between
HER MAJESTY THE QUEEN IN RIGHT OF CANADA
And
COASTAL WINDPOWER
PROPOSAL

CME INTERROGATORY #2

INTERROGATORY

Exhibit A, Tab 1, Schedule 3, page 1 of 13, paragraph 3, EGO confirms that after executing a Contribution Agreement, it will continue to seek funding from "other partners". CME wishes to better understand the relationship EGO has, or anticipates developing, with the "other partners". In this regard, please provide the following:

- a) A list of all parties that have agreed to partner with EGO for funding to support the pilot project, along with all Contribution Agreements, or other agreements, executed between those parties and EGO;
- b) A list of all potential partners who EGO has approached; and
- c) A list of all parties that EGO has identified as potential partners, but to date, has not approached. With respect to this latter category, please explain why these potential partners have not already been approached.

RESPONSE

- a) Please refer to Board Staff Interrogatory #2 at Exhibit B, Tab 1, Schedule 2.
- b) Please refer to Board Staff Interrogatory #2 at Exhibit B, Tab 1, Schedule 2.
- c) Please refer to Board Staff Interrogatory #2 at Exhibit B, Tab 1, Schedule 2.

Witnesses: P. Hoey
A. Mandyam

CME INTERROGATORY #3

INTERROGATORY

Exhibit Ai Tab 1, Schedule 3, pages 9 to 10 of 13, EGO confirms that the maximum five-year budget is \$8.5M, of which NRCan will fund a maximum of \$3.975M. Please confirm that if EGO executes the Contribution Agreement, and does not obtain any partners to provide additional funding, its ratepayers will be required to pay a maximum of \$4.502M over the next five years. If this is incorrect, please set out the maximum amount that EGO's ratepayers will fund over the next five years.

RESPONSE

If EGD executes the Contribution Agreement, and does not obtain any partners to provide additional funding, its ratepayers would be required to pay a maximum of \$4.502M over the next 5 years. However, it is EGD's expectation and intent that all partners and participants contribute to this research project in some manner (please see CME Interrogatory #2, Exhibit B, Tab 5, Schedule 2).

Witnesses: P. Hoey
A. Mandyam

CME INTERROGATORY #4

INTERROGATORY

Do any of EGO's affiliates offer solar technologies? If yes, please provide complete details.

RESPONSE

None of EGD's affiliates offer solar space heating technologies or have any ownership interest in technology associated with solar thermal collectors or combined thermal storage alternatives. Enbridge Inc. and some of its affiliates have ventures that involve solar photovoltaic technologies. No such ventures involve solar thermal collectors or combined thermal storage alternatives.

The only initiative of potential interest is Enbridge Gas Distribution's involvement in the Solar Water Heating Program, delivered by Bullfrog Power, Enbridge Gas Distribution and EnerWorks as part of Natural Resources Canada's EcoEnergy for Renewable Heat Program.

On April 17, 2009, green electricity retailer Bullfrog Power Inc. entered into an agreement with the Government of Canada to obtain funding to facilitate the installation of 1,200 domestic solar water heating systems in Canadian homes. Enbridge Gas Distribution Inc. was engaged by Bullfrog to support the initiative, providing project management, marketing, data monitoring, and call centre services to facilitate the delivery of the Solar Water Heating Program across its franchise area and beyond. EnerWorks, the only manufacturer of solar water heating systems certified for all seasons by the Canadian Standards Association, was selected to supply solar units and train the installers.

Working together, the three companies have developed a full supply chain to make it easier for Ontario homeowners to use renewable energy to heat their water.

Witnesses: P. Hoey
A. Mandyam

CME INTERROGATORY #5

INTERROGATORY

Does EGD, or any of EGD's affiliates, have any ownership interest in technology associated with solar thermal collectors or combined thermal storage alternatives? If yes, please provide complete details.

RESPONSE

Please see response to CME Interrogatory #5, at Exhibit B, Tab 5, Schedule 4.

Witnesses: P. Hoey
A. Mandyam

CME INTERROGATORY #6

INTERROGATORY

Please provide EGO's assessments, if any, of the cost effectiveness of the pilot technologies. If EGO has not undertaken any analysis of the cost effectiveness of the pilot technologies, please explain why it has not done so.

RESPONSE

The clear intent of NRCan's Clean Energy Fund is to support the introduction of technologies to meet Canada's international commitments to reduce GHG emissions. Canada's goals are to reduce GHG emissions by 20 percent by 2020 from 2006 levels. The project is expected to reduce both GHG emissions by 50% and energy usage by 50%.

Inherent to this interest is the expectation of the future pricing of carbon through either a taxation system or through a trading and regulatory system. The future cost effectiveness of these pilot technologies would presumably be tied to a future price of carbon.

EGD has not done a cost effectiveness analysis of the technologies as the data collected through this research project and the assessment and analysis of the different technologies and combinations will provide the necessary information to determine the cost effectiveness of any future DSM programs.

Witnesses: P. Hoey
A. Mandyam

CME INTERROGATORY #7

INTERROGATORY

Exhibit A, Tab 1, Schedule 3, pages 4 to 7 of 13, EGD describes the pilot project. CME wishes to better understand the impact that the proposed pilot project will have on its members. Please identify the rate classes which will benefit from the pilot technology. Further, if ratepayers were called upon to fund the maximum amount of \$4.502M, please provide the anticipated cost allocation of that amount over the five years by rate class.

RESPONSE

Please see VECC Interrogatory #5, at Exhibit B, Tab 2, Schedule 5.

Witnesses: P. Hoey
A. Mandyam

CME INTERROGATORY #8

INTERROGATORY

Please describe all communications that EGD has had with its DSM Evaluation and Audit Committee (iEAC") and its DSM Consultative on the proposed pilot project to field test and evaluate different solar thermal collector types and storage technologies in different configurations. If there was no communication with the DSM EAC and the DSM Consultative prior to submitting the proposal to NRCan in September, 2009, please explain why these two groups were not consulted prior to submission of the proposal.

RESPONSE

Please see IGUA Interrogatory #7, at Exhibit B, Tab 4, Schedule 7.

Witnesses: P. Hoey
A. Mandyam