

APPENDIX (iii) VECC Question # 4a

MANAGEMENT, OPERATIONS AND MAINTENANCE AGREEMENT

THIS AGREEMENT made as of May 1st, 2007.

BETWEEN:

LAKEFRONT UTILITY SERVICES INC., a corporation
incorporated under the laws of the Province of Ontario
(hereinafter called the “**Service Provider**”),

OF THE FIRST PART;

- and –

LAKEFRONT UTILITIES INC. (hereinafter called the
“**Client**”),

OF THE SECOND PART.

RECITALS

1. Client and the Service Provider have agreed to enter into this Agreement pursuant to which the Service Provider will assume responsibility for the services listed herein.

NOW THEREFORE THIS AGREEMENT WITNESSES THAT, in consideration of the covenants and agreements herein contained, the parties hereto agree as follows:

ARTICLE ONE

DEFINITIONS AND SCHEDULES

1.1 Definitions

In this Agreement, unless something in the subject matter is inconsistent therewith, all capitalized terms shall have the meanings set forth below:

“Affiliate Relationships Code” means the Affiliate Relationships Code of the Ontario Energy Board as the same may be amended from time to time.

“Agreement” means this Agreement and all amendments made hereto in accordance with the provisions hereof.

“Business” means providing a selected range of energy services, telecommunications and products, as well as business activities incidental thereto.

“Business Day” means a day other than Saturday, Sunday or a legal holiday.

“Event of Default” means any of the events described in Section 6.1.

“Force Majeure” means a cause which is unavoidable or beyond the reasonable control of a party hereto and which by the exercise of due diligence such party is unable to prevent or overcome, including, without limitation, acts of God, acts of public enemy, war, hostilities, invasion, insurrection, riot, the order of any competent civil or military government, explosion, fire, strikes, lockouts, labour disputes, malicious acts, vandalism, failure of equipment beyond the reasonable control of a party hereto, accident to any facilities, storms, or other adverse weather conditions, or other causes of similar nature which wholly or partially prevent the parties or either of them from carrying out the terms of this Agreement (other than for the payment of monies due hereunder); provided that either party shall have the right to determine and settle any strike, lockout and labour dispute in which that party may be involved in its sole discretion and provided further that Force Majeure shall exclude lack of funds or economic hardship.

“Insolvent” means, in relation to any Person, being insolvent, bankrupt, making a proposal under the *Bankruptcy and Insolvency Act* (Canada) or having a trustee or receiver or manager appointed in respect of its assets.

“Prudent Industry Practice” means any of the practices, methods and acts which, in the exercise of reasonable judgment in the light of the facts known to the Service Provider, at the time that a decision was made, could reasonably have been expected to accomplish the desired result at a reasonable cost, consistent with applicable laws, licensing and regulatory considerations, environmental considerations, reliability, safety and expedition. Prudent Industry Practice is not intended to be limited to the optimum practice, method or act, to the exclusion of all others, but rather to be a spectrum of possible practices, methods or acts employed by owners and operators of businesses similar in size, type and operational characteristics to Client’s business, and having due regard for applicable industry, safety and maintenance codes and standards, manufacturers’ warranties, and applicable laws and shall, in any event, evidence the degree of care, diligence and skill that a reasonable prudent advisor and manager having responsibility for the management of a similar business would exercise in comparable circumstances.

“Term” shall mean the period from May 1, 2007 to the fifth anniversary thereof, or such earlier date as this Agreement may be terminated in accordance with its terms.

1.2 Headings

The division of this Agreement into Articles, Sections, paragraphs and subparagraphs and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. The Terms “hereof”, “hereunder” and similar expressions refer to this Agreement and not to any particular Article, Section or other portion hereof and include any agreement supplemental hereto. Unless something in the subject matter or context is inconsistent therewith, references herein to Articles and Sections are to Articles and Sections of this Agreement.

1.3 Interpretation

Words importing the singular number only shall include the plural and vice versa, words importing gender shall include all genders. Where the word “including” or “includes” is used in this Agreement it means “including without limitation” or “Includes without Limitation”, respectively. Any reference to any Document shall include a reference to any schedule, amendment or supplement thereto or any agreement in replacement thereof, all as permitted under the Documents.

1.4 Accounting Principles

Wherever in this Agreement reference is made to generally accepted accounting principles, such reference shall be deemed to be to the generally accepted accounting principles from time to time approved by the Canadian Institute of Chartered Accountants, or any successor institute, applicable as at the date on which such calculation is made or required to be made in accordance with generally accepted accounting principles. Where the charter or amount of any asset or liability or item of revenue or expense is required to be determined, or any consolidation or other accounting computation is required to be made for the purpose of this Agreement or any document, such determination or calculation shall, to the extent applicable and except as otherwise specified herein or as otherwise agreed in writing by the parties, be made in accordance with generally accepted accounting principles applied on a consistent basis.

1.5 Funds

All dollar amounts referred to in this agreement are in lawful money of Canada.

ARTICLE TWO

THE SERVICE PROVIDER'S FUNCTIONS AND POWERS

2.1 Appointment of the Service Provider

Client hereby appoints the Service Provider and the Service Provider hereby accepts its responsibility for all aspects of the operation, maintenance, management and management of the Business in accordance with Prudent Industry Practice and the terms of this Agreement throughout the Term including without limitation, providing all necessary staff to operate the Business.

2.2 Services Provided

- (1) The Service Provider shall have authority during the Term to manage, control, administer and operate the Business in accordance with Prudent Industry Practice, subject to the overall responsibility for management of Client by its senior officers ("Client's Management") and the Client's Board of Directors ("Client's Directors") and subject to and limited by the provisions of this Agreement.

Without limiting the generality of the foregoing, the Service Provider shall be vested with the following powers which it shall exercise on behalf of the Client:

- (a) to report to Client's Management and the Client's Directors with respect to the business and affairs of the Client and the business as may be requested from time to time by Client's Management and the Client's Directors;
 - (b) to provide all administrative services for business of Client including accounting and bookkeeping services; and
 - (c) to negotiate, execute, amend, administer, perform and carry out the terms of all agreements and commitments, the performance of which by or on behalf of Client in respect of the Business and the Business is necessary or advisable.
- (2) Without limiting the generality of the foregoing the Service Provider shall provide or arrange for all of the operations and maintenance services necessary to prudently and efficiently operate and maintain Client's Business, including but not limited to:
 - (a) co-ordinate the purchase and sale of electricity under applicable contracts and pay on behalf of Client and collect all amounts payable and receivable thereunder;

- (b) operate and maintain the Business in accordance with Prudent Industry Practice, applicable laws and all Client's agreements, to provide maintenance for Client's facilities in the most cost-effective manner to prevent deterioration beyond normal wear and tear; provided that such efforts shall be necessarily limited by the operating life, capacity and maintenance requirements of the Client's facilities and by the requirements of all applicable laws;
- (c) use all reasonable care necessary to keep Client's facilities clean, orderly and free from debris, rubbish or waste to the extent consistent with the operation of the Business;
- (d) use all reasonable care not to generate, store, transport, accumulate, dispose, discharge or release any hazardous substance on, in or from any property in connection with Client's facilities, except in compliance with all applicable environmental laws and regulations;
- (e) assist Client in obtaining and maintaining all necessary regulatory and operational approvals including those required from the Ontario Energy Board and the Independent Electricity Market Operator for the Business and renewals therefore including preparing and submitting all associated applications and filing;
- (f) use its reasonable efforts to secure and maintain from vendors, suppliers and subcontractors the best indemnities, warranties and guarantees as may be commercially available in accordance with Prudent Industry Practice regarding supplies, equipment and services purchased for the Business and assist Client in preserving and enforcing such indemnities, warranties or guarantees;
- (g) provide administrative services for the Business including:
 - (i) arrange insurance for the Business and Client consistent with Prudent Industry Practice;
 - (ii) maintain and preserve equipment maintenance, accounting, management of billing and receivables, banking and other necessary records, reports, documents, data and the like for the Business and Client;
 - (iii) perform cash management services for the Business and Client;
 - (iv) on a timely basis prepare financial statements and deliver them to the Client's Directors;

- (v) assist in the administration of all agreements to which Client is a party or by which it is bound, including negotiations and communications with third parties in connection therewith; and
- (vi) make all banking and financing agreements;
- (h) employ, and ensure adequate training and testing of all qualified personnel (duly licensed where required) required for the operation and maintenance of Client's facilities consistent with Prudent Industry Practice;
- (i) implement an inventory control system to identify, catalogue and disburse spare parts for the maintenance of Client's facilities and procure, as agent for Client initial and replacement spare parts and refurbish, where practical or economical, spare parts to allow their reuse;
- (j) perform for Client such other services as may from time to time be reasonably requested or are reasonably necessary or appropriate in connection with the operation and maintenance of Client facilities;
- (k) promptly provide Client with such other information relative to the Business as Client may reasonably request.

2.3 Covenants of the Service Provider

The Service Provider covenants and agrees that in the performance of its services under this Agreement it shall:

- (a) perform all services at all times in accordance with Prudent Industry Practice and in compliance with applicable laws and consistent with the principles of the Affiliate Relationships Code;
- (b) comply with all instructions of Client's Management and the Client's Directors in relation to the performance of its services under this Agreement. The Directors will have the responsibility to provide governance for the Client and will include but not be limited to the approval of policy, approval of budgets and approval of business plans.
- (c) observe and perform or cause to be observed and performed on behalf of Client in every material respect the provisions of (i) the agreements from time to time entered into a connection with the Business, and (ii) all applicable laws including the Affiliate Relationships code;

2.4 No Liability of Service Provider

Notwithstanding any provision of this Agreement, neither Party shall in any circumstances whatsoever be liable hereunder to the other Party for incidental or consequential or punitive damages including, without limitation, loss of profit, sustained or claimed by the other Party. The Service Provider shall have no liability as a result of this Agreement to make or arrange for payments on account of operating expenses of Client or any other expenses relating to this Agreement out of its own funds. The Client accepts that any actions, legal or other, resulting from the performance of services by the Service Provider, shall be the liability of the Client.

ARTICLE THREE

TERM

3.1 Term of Agreement

This Agreement shall be effective as of May 1, 2007 and shall continue in full force and effect until April 30, 2012 unless sooner terminated. This Agreement shall be automatically renewed for successive periods of five years unless either party provides the other with written notice to the contrary at least one hundred and eighty (180) days prior to the end of the then incumbent term. Consideration of continuance of the contract will be brought to the attention of the Service Provider and the Client for consideration one year prior to renewal of the contract.

ARTICLE FOUR

COST OF SERVICES

4.1 Cost of Services

The parties agree, acting reasonably, that the charges for services provided by the Service Provider shall be "at cost", and that the Client accepts that the Service Provider is a non-profit company and therefore any costs relating to the provision of services are transferred to the Client and that the total employment costs related to the employees providing the services shall be borne by the Client. The Client further agrees that it shall pay its portion of the Service Provider's Board of Directors and Executive costs.

ARTICLE FIVE**FINANCIAL STATEMENTS, BUDGETS AND RECORDS****5.1 Books and Records**

The Service Provider shall keep proper books, records and accounts in which full, true and correct entries in conformity with generally accepted accounting principles and all requirements of applicable laws will be made of all dealings and transactions in relation to the Business and the performance of the Service Provider's services under this Agreement at the Service Provider's head office.

5.2 Examination of Records

The Service Provider shall make available to the Client and its authorized representatives at any time during normal business hours on a Business Day all records, documents or information related to the Business, wherever maintained. The Service Provider shall permit client and its authorized representatives at any time during normal business hours on a Business Day to examine the books, records, drawings, computer-stored data, correspondence, accounting procedures and practices, cost analyses and any other supporting financial data, including invoices, payments or claims and receipts pertaining to the Business maintained by the Service Provider at its head office. Client's examination of records at the Business or at the Service Provider's head office shall be conducted in a manner which will not unduly interfere with the conduct of the Business or of the Service Provider's business in the ordinary course. The Service Provider shall furnish to Client such financial and operating data and other information with respect to the Business as Client shall from time to time reasonably request.

5.3 Confidentiality

The Service Provider shall ensure that, unless required in connection with applicable laws, the books, records, and accounts of Client shall not be made available to any other person. The Client shall ensure, if it comes into possession of, or becomes aware of, any information the Service Provider has obtained relating to a specific consumer, retailer or generator in the process of providing current or prospective electricity distribution service, that it will not use such information for any improper purpose, in compliance with the Affiliate Relationships Code.

ARTICLE SIX**DEFAULT AND TERMINATION****6.1 Events of Default**

Each of the parties hereto shall be in default under this Agreement upon the happening or occurrence of any of the following events, each of which shall be deemed to be an Event of Default for the purposes of this Agreement:

- (a) the party breaches or fails to observe or perform any of the party's material obligations, covenants, or responsibilities under this agreement, and, within thirty (30) days after notice from the other party specifying the nature of such breach or failure, to the satisfaction of the other party's Management and Directors, the party fails to cure such breach or failure or to take steps to remedy such breach or failure and give reasonable assurances to the other party that such default shall be cured within a period of time satisfactory to the other party's Management and Directors:
- (b) the party:
 - (i) becomes Insolvent;
 - (ii) is subject to any proceeding, voluntary or involuntary, under the provisions of the *Bankruptcy and Insolvency Act* (Canada), the *Companies Creditors Arrangement Act* (Canada), or any other Act for the benefit of creditors;
 - (iii) goes into liquidation;
 - (iv) winds up either voluntarily or under an order of a Court of competent jurisdiction;
 - (v) makes a general assignment for the benefit of its creditors; or
 - (vi) otherwise takes any corporate action that acknowledges its Insolvency; or
- (c) gross negligence, willful default or fraud by the party in the performance of any of its obligations, covenants, or responsibilities under this Agreement.

6.2 Termination

Upon three occurrences as described in section 6.1(a) within one calendar year, or upon the occurrence of an Event of Default of the party but subject to section 6.3, the other party may without recourse to legal process but without limiting any other rights or remedies which it may have at law or otherwise, terminate this Agreement by delivery of written notice of termination to the party.

6.3 Restriction on Termination during Force Majeure

During the occurrence of an event of Force Majeure, the obligations of the party affected by such event of Force Majeure, to the extent that such obligations cannot be performed as a result of such event of Force Majeure, shall be suspended, and such party shall not be considered to be in default hereunder, for the period of such occurrence except that the occurrence of an event of Force Majeure affecting Client (but not affecting the performance of the Service Provider's obligations hereunder) shall not relieve it of its obligation to make payments to the Service Provider hereunder. The non-performing party shall give the other party prompt written notice of the particulars of the event of Force Majeure and its expected duration, shall continue to furnish regular reports with respect thereto on a timely basis during the continuance of the event of Force Majeure and shall use its best efforts to remedy its inability to perform. The suspension of performance is to be of no greater scope and of no longer duration than is required by the Force Majeure condition. No obligations of either party that arose before the Force Majeure causing the suspension of performance are excused as a result of the Force Majeure.

6.4 Post-Termination Arrangements

In the event of termination of this Agreement;

- (a) the Service Provider shall deliver to Client all books, records, accounts, systems and manuals which it has developed and maintained relating to Client. Client's facilities and the Business pursuant to this Agreement;
- (b) the parties shall take all steps as may be reasonable required to complete and final accounting between them and Client will pay to Service Provider all fees accrued to date and to provide, if applicable, for the orderly transfer of insurance and completion of any other matter contemplated by this Agreement; and
- (c) title to all materials, equipment, supplies, consumables, spare parts and other items purchased or obtained by the Service Provider for the Business shall pass to and vest in Client upon the passage of title from the vendor or supplier thereof and payment or reimbursement of costs by Client.

ARTICLE SEVEN**GENERAL MATTERS****7.1 Governing Law**

This Agreement shall be conclusively deemed to be a contract made under, and shall for all purposes be construed and interpreted in accordance with the laws of the Province of Ontario, and the laws of Canada applicable in such Province.

7.2 Benefit of the Agreement

This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

7.3 Severability

Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall not invalidate the remaining provisions hereof and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provisions in any other jurisdiction. In respect of any provision so determined to be unenforceable or invalid, the parties agree to negotiate in good faith to replace the unenforceable or invalid provision with a new provision that is enforceable and valid in order to give effect to the business intent of the original provision to the extent permitted by law and in accordance with the intent of this Agreement.

7.4 Amendments and Waivers

No modification of or amendment to this Agreement shall be valid or binding unless set forth in writing and duly executed by both of the parties hereto and no waiver of any breach of any term or provision of this Agreement shall be effective or binding unless made in writing and signed by the party purporting to give the same and, unless otherwise provided, shall be limited to the specific breach waived.

7.5 Further Assurances

Each of Client and the Service Provider shall from time to time execute and deliver all such further documents and instruments and do all acts and things as the other party may reasonably require to effectively carry out or better evidence or perfect the full intent and meaning of this Agreement.

7.6 Time of the Essence

Time shall be of the essence of this Agreement.

7.7 No Partnership

It is understood and agreed that nothing contained in this Agreement nor any acts of the parties shall be deemed to constitute the Service Provider and Client as partners of each other.

7.8 Dispute Resolution

In the event there is any disagreement between the parties as to the performance or implementation of any provision of this agreement, including the amount of fees to be paid pursuant to Section 4.1, or the provision for termination of the agreement, the issue will be submitted to arbitration pursuant to the *Arbitration Act*.

IN WITNESS WHEREOF this Agreement has been executed by the parties hereto as of the 1st day of May, 2007.

LAKEFRONT UTILITIES INC.

Per: _____

LAKEFRONT UTILITY SERVICES INC.

Per: _____