

## CLARINGTON #1

**THIS STUDY AGREEMENT** made in duplicate as of the \_\_\_\_\_ day of \_\_\_\_\_ month, 2008 between Hydro One Networks Inc. ("Networks") and THE REGIONAL MUNICIPALITY OF DURHAM (the "Generator")

### WHEREAS:

A. the Generator intends to build a generating facility described as CLARINGTON #1, LOT#27, CLARINGTON, ON (the "Generating Facility") that would be connected to Networks' distribution system through the Generator's electrical system (the "Proposed Project");

B. the Generator has requested and Networks has agreed to conduct the Work with respect to the Proposed Project.

C. the Generator has requested and Networks has agreed to conduct the Work with respect to the Proposed Project; and

D. Networks has entered or will enter into an agreement with the Independent Electricity System Operator (the "IESO") to have the IESO prepare a Connection Assessment ("CA") under the IESO's Connection Assessment and Approval Process ("CAA").

**NOW THEREFORE** in consideration of the mutual covenants, agreements, terms and conditions herein and other good and valuable consideration, the receipt and sufficiency of which is hereby irrevocably acknowledged, the parties agree as follows:

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

**"Actual Cost"** means Networks' charge for equipment, labour and materials at Networks' standard rates plus Networks' standard overheads and interest thereon.

**"Agreement"** means this agreement together with Schedules "A", "B" and "C" attached hereto.

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

**"Good Utility Practice"** means any of the practices, methods and acts engaged in or approved by a significant portion of the electrical utility industry in North America during the relevant time period, or any of the practices,

methods and acts which, in the exercise of reasonable judgement in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to optimum practice, method or act to the exclusion of all others, but rather to include all practices, methods or acts generally accepted in North America.

**"Work"** means the work to be conducted in accordance with the Scope of Work attached hereto as Schedule "A" and in accordance with the terms and conditions of this Agreement.

2. The recitals in this agreement are acknowledged as true and correct in substance and in fact and are hereby incorporated into and form part of this Agreement.

3. The Generator and Networks shall perform their respective obligations outlined in this Agreement in a manner consistent with Good Utility Practice and in compliance with all Applicable Laws.

4. In order for Networks to conduct the Work, the Generator, at its own cost and expense, shall provide Networks with the following information with respect to the Proposed Project:

- (a) site Location Map(s) with suitable details of the Generating Facility, line routing and the proposed connection to Network's distribution facilities;
- (b) the information listed in Schedule "B"; and
- (c) any other information as may be required and requested by Networks in order to conduct the Work.

5. Networks shall complete the Work by no later than 90 calendar days after the latter of: (a) the Generator executing this Agreement; (b) the Generator paying Hydro One the amount specified in Section 7; and (c) the Generator providing the information described in Section 4. Should the Generator make any changes to the information provided in accordance with Section 4 above after Networks has commenced the Work, and those changes result in an increase in the cost of or the time required for Networks performance of the terms of this Agreement or otherwise affect any other provision of this Agreement, Networks may make an equitable adjustment to Networks' compensation under Section 7 and any other provision of this Agreement which is thereby affected. The Generator agrees to pay Networks any amounts invoiced in accordance with this Section 7 by no later than 30 days following receipt of the invoice.

6. The Generator acknowledges and agrees that:

- a. the Generator is responsible for contacting the IESO to have them conduct a System Impact Assessment (SIA). Furthermore, the Generator is responsible for any resulting

requirements that come from the IESO's review of the dynamic studies that were not part of the IESO System Impact Assessment including, but not limited to any changes required to be made to the Work as a consequence of such review;

b. should the Proposed Project proceed, an agreement must be executed by the Generator and Networks to address the terms and conditions (which may include capital contribution and revenue guarantee requirements) of Networks performing the work required in order to provide for the connection of the Generating Facility prior to Networks initiating any modifications to Networks' facilities or purchasing any equipment;

c. the Generator will be responsible for ensuring that the Generating Facility and the Proposed Project complies with all Applicable Laws;

d. all right, title and interest, including copyright ownership, to all information and material of any kind whatsoever (including, but not limited to the work product developed as part of the Work) that may be developed, conceived and/or produced by Networks during the performance of this Agreement is the property of Networks and the Generator shall not do any act that may compromise or diminish Networks' interest as aforesaid;

e. the Generator will be responsible to rectify at its expense, any negative impacts that the connection of the Generating Facility and operation of the Generating Facility following connection may have on Networks' distribution system (the "Distribution System") in accordance to the satisfaction of Networks;

The negative impacts can include, but is not limited to the impacts on safety, reliability, efficiency, power factor and power quality (voltage disturbances, voltage flicker, or objectionable harmonics on the Distribution System or on other distribution connected customers' electrical and communication systems).

f. the Generator will also be responsible to rectify at its own expense any negative impacts that the connection of the Generating Facility and operation of the Generating Facility following connection may have on the IESO-controlled grid (as that term is defined in the *Electricity Act, 1998 (Ontario)*);

g. the Generator is responsible for obtaining all applicable approvals required by the IESO for the connection of the Generating Facility to Networks' distribution system;

h. that Networks will not normally change its feeder operating, protection and reclosing practice to accommodate the connection of the Generating Facility,

since this would be detrimental to the existing customers connected to these feeders; and

i. the Generator agrees that it will provide a deposit to the IESO for the IESO studies in relation to the Proposed Project. In the event that the IESO refunds part of the deposit to Networks, Networks will refund such funds to the Generator within 30 days of receipt by Networks. In the event that the IESO studies cost more than the deposit, the Generator agrees that it will pay the additional costs of such studies as invoiced by the IESO; and

j. Networks performs the Work based on the system conditions at the time the Work is performed, should there be any changes to system conditions between the time that Networks completes the Work and when the Generator proposes to connect the Proposed Project, the Work may have to be revised at the Generator's expense at that time.

k. although there may be one or more other proposed generation connection projects that are ahead of the Proposed Project in the queue for connection at the Proposed Connection Point, the Generator has requested that Hydro One perform the Work as if there is available capacity at the Proposed Connection Point. If one or more of the other proposed projects ahead of the Proposed Project in the queue use the remaining capacity available at the Proposed Connection Point, the Generator acknowledges and agrees that the Work will have to be re-performed at the Generator's expense once the Generator selects another connection point.

7(a). The Generator shall provide Networks the sum of \$6,000.00 (plus GST) for the Work upon the execution of this Agreement.

(b) Invoiced amounts are due 30 days after invoice issuance. All overdue amounts, including but not limited to, amounts that are not invoiced but required under the terms of this Agreement to be paid in a specified time period, shall bear interest at 1.5% per month compounded monthly (19.56 percent per year) for the time they remain unpaid.

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

9. Networks shall only be liable to the Generator for damages that arise directly out of the negligence or the willful misconduct of Networks in meeting its obligations under this Agreement.

Notwithstanding the foregoing, Networks shall not be liable under any circumstances whatsoever for any loss of profits or revenues, business interruption losses, loss of contract or loss of goodwill, or for any indirect,

consequential, incidental or special damages, including but not limited to punitive or exemplary damages, whether any of the said liability, loss or damages arise in contract, tort or otherwise.

In any event, the total liability of Networks to the Generator for any claim for damages will not exceed the amounts paid by the Generator under the terms of this Agreement.

This Section 9 shall survive the termination of this Agreement.

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

If a party is prevented or delayed in the performance of any such obligation by Force Majeure, such party shall immediately provide notice to the other party of the circumstances preventing or delaying performance and the expected duration thereof. Such notice shall be confirmed in writing as soon as reasonably possible. The party so affected by the Force Majeure shall endeavour to remove the obstacles which prevent performance and shall resume performance of its obligations as soon as reasonably practicable, except that there shall be no obligation on the party so affected by the Force Majeure where the event of Force Majeure is a strike, lockout or other labour disturbance.

11. Each party agrees that no portion of this Agreement shall be interpreted less favourably to either party because that party or its counsel was primarily responsible for the drafting of that portion.

12. No amendment, modification or supplement to this Agreement or any waiver shall be valid or binding unless set out in writing and executed by the parties with the same degree of formality as the execution of this Agreement.

13. This Agreement shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the laws of the Province of Ontario and the laws of Canada applicable therein, and the courts of Ontario shall have exclusive jurisdiction to determine all disputes arising out of this Agreement.

14. This Agreement may be executed in counterparts, including facsimile counterparts, each of which shall be

deemed an original, but all of which shall together constitute one and the same agreement.

15. Notwithstanding the terms of Schedule "C", the Generator acknowledges and agrees that Networks may publish on its web site for public viewing, the following information:

- Queue Position #;
- Date of Connection and Cost Recovery Agreement used for Queue Position or OPA contract date;
- Your Name
- Location ( TS & Feeder) of the Proposed Project
- Proposed Size (MW)
- In-service Date (Q, Yr)
- Status of this Agreement or CCRA status (Active or complete)

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed by the signatures of their proper officers, as of the day and year first written above.

**HYDRO ONE NETWORKS INC.**

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Bob Singh  
Manager – Generator Connections  
**I have the authority to bind the corporation**

**INSERT CORPORATE NAME OF THE GENERATOR**  
**THE REGIONAL MUNICIPALITY OF DURHAM**

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Name: **CLIFF CURTIS**  
Title: **COMMISSIONER OF PUBLIC WORKS**  
**I have the authority to bind the corporation**

## CLARINGTON #1

### SCHEDULE "A": Scope of Work

#### General Description:

Networks will prepare a Connection Impact Assessment for the connection of the proposed generation project and review the feasibility of the proposed connection arrangement.

#### Specific Requirements:

##### **1.0 Connection Impact Assessment**

**1.1** Networks will conduct and provide a Connection Impact Assessment to determine the feasibility of connecting the Generating Facility to Networks' distribution system. The Connection Impact Assessment will review the impact of the Proposed Project on Networks' Distribution facilities and Networks' Transmission System.

**1.2** Networks will review the Generator's detailed Single Line Diagram (SLD) and provide comments with regard to interface connection items.

Note: The purpose of Networks review of the Generator's SLD and other information is to establish that the Generator's electrical interface design meets Networks' minimum requirements to permit the initial connection of the Generating Facility to Networks' distribution system. It is Generator's responsibility to ensure that its Generating Facility causes no negative impacts to Networks' distribution system or other customers of Networks.

**1.3** Networks will advise the Generator of site specific requirements, for each of the alternative connections that are identified by the Connection Impact Assessment.

**1.4** Networks will describe the necessary modifications to Networks' Transmission System and distribution facilities based on Networks' review of the Proposed Project in order to permit the connection of the Generating Facility to Networks' distribution system.

**SCHEDULE “B”:**

**The Generator must complete Networks’ information package (Form B or equivalent).**

The Generator must submit this information before Networks can begin the Connection Impact Assessment.

The completed **Networks’ information package (Form B or equivalent)** must be signed by a Professional Engineer licensed in Ontario.

**SCHEDULE “C”:**

**CONFIDENTIALITY TERMS**

1. For the purposes of this Schedule “C”, the following definitions will apply:

- a) “Confidential Information” means all information whether transmitted orally, electronically or in written form, relating to the Proposed Project which a party or its Representatives may receive or have received in the course of the Work and which contain or otherwise disclose information which the other party reasonably claims as confidential or proprietary, including, but not limited to, Networks’ distribution system or transmission system design and system specifications. For further clarity, all requests for information made by a party to the other party are Confidential Information.
- b) “Person” shall include individuals, trusts, partnerships, firms and corporation or any other legal entity.
- c) “Representative” means (i) a person controlling or controlled by or under common control of a party and each of the respective directors, officers, employees and independent contractors of a party and such party’s Representative, (ii) any consultants, agents or legal, financial or professional advisors of a party or such party’s Representative and (iii) in the case of Generator, any institution providing or considering providing financing for the Generating Facility, including such institutions directors, officers, employees and independent contractors or its consultants, agents or legal, financial or professional advisors.

**2. Disclosure of Confidential Information**

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

shall not use the confidential information for any purposes other than the Proposed Project or the Work without the disclosing party’s prior written consent.

**3. Information that is not Confidential**

Confidential Information shall not include information which:

- (a) is previously known to or lawfully in the possession of the receiving party prior to the date of disclosure as evidenced by the receiving party’s written record;
- (b) is independently known to or discovered by the receiving party, without any reference to the Confidential Information;
- (c) is obtained by the receiving party from an arm’s length third party having a bona fide right to disclose same and who was not otherwise under an obligation of confidence or fiduciary duty to the disclosing party or its Representatives;
- (d) is or becomes publicly available through no fault or omission of, or breach of this Schedule “C” by, the receiving party or its Representatives;
- (e) is disclosed by the disclosing party to another entity without obligation of confidentiality;
- (f) is required to be disclosed by the disclosing party in order to comply with any legislative or regulatory requirements including but not limited to, the requirements of the Independent Electricity System Operator; or
- (g) is required to be disclosed on a non-confidential basis pursuant to a judicial or governmental order or other legal process as described in Section 6 or as set forth in Section 5.

**4. Disclosure to Representatives**

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

**5. Compelled Disclosure**

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

#### **6. Records with respect to Confidential Information**

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

Notwithstanding the foregoing and provided that the Proposed Project is connected to Networks' transmission system, Networks shall have the right to retain such electrical information concerning the Proposed Project that it has received from the Generator or its Representatives for the purpose of Networks making the required calculations and decisions related to the design, operation, and maintenance of Networks' facilities and those for any other person that may connect or is considering connecting to Networks' transmission system that could be impacted by the Proposed Project.

#### **7. Remedies**

The receiving party agrees that the disclosing party would be irreparably injured by a breach of this Schedule "C" and that the disclosing party shall be entitled to equitable relief, including a restraining order, injunctive relief, specific performance and/or other relief as may be granted by a court to prevent breaches of this Schedule "C" and to

enforce specifically the terms and provision hereof in any action instituted in any court having subject matter jurisdiction, in addition to any other remedy to which the disclosing party may be entitled at law or in equity in the event of any breach of the provisions hereof. Such remedies shall not be deemed to be the exclusive remedies for a breach of this Schedule "C" but shall be in addition to all other remedies available at law or equity.

#### **8. Term**

This Agreement shall be effective as of the date of this Agreement and shall remain in force and effect for a period of three (3) years thereafter, unless modified by further written agreement of the parties.