

## ADDENDUM No. 1

**dated August 5, 2005 to the  
Renewable Energy Supply II Contract (RES II Contract)  
associated with the Ministry of Energy's  
Request for Proposals for up to 1,000 MW of Renewable Energy Supply from Renewable  
Generating Facilities with a Contract Capacity of Between 20.0 MW and 200.0 MW Inclusive  
(the "Renewables II RFP") referenced as RFP No. SSB-071540**

In accordance with Section 4.2(b) of the Renewables II RFP, this Addendum No. 1 contains amendments to the RES II Contract posted on the Renewables II RFP section of the RFP website on June 17, 2005 which will be reflected and incorporated into the RES II Contract to be executed by the Buyer and Selected Proponents. Prospective Proponents are advised that the Proposal Submission Deadline under the Renewables II RFP shall not be extended by virtue of this Addendum.

1. In Section 1.1, replace the definition of **"Baseline Electricity"** with the following:

**"Baseline Electricity"** means the simple average of the quantities of electricity (in MWh) generated and delivered to the delivery point by an existing Facility for given time(s) within the Baseline Reference Period. Without limiting the generality of the foregoing, the Baseline Electricity with respect to any calendar month within the Term is equal to the Monthly Baseline Electricity."

2. In Section 1.1, replace the definition of **"Baseline Reference Period"** with the following:

**"Baseline Reference Period"** means the last five (5) calendar years prior to the "Proposal Submission Deadline", as that term is defined in the Renewables II RFP."

3. In Section 1.1, amend the definition of **"Environmental Attributes"** by adding the following after subsection (e):

", and

- (f) any tax or other benefit under the Government of Canada's Canadian Renewable and Conservation Expenses (CRCE) or successor program which may be available in connection with a renewable generating facility."

4. In Section 1.1, add the following definition of **"Excluded Sub-Zone"**:

**"Excluded Sub-Zone"** means any area identified as an Excluded Sub-Zone in Appendix L of the Renewables II RFP."

5. In Section 1.1, replace the definition of **"Negative Outlook"** with the following:

**"Negative Outlook"** means, with respect to any credit rating agency providing a Credit Rating for purposes of this Agreement, a potential or threatened downgrade to the Credit Rating of any Person."

6. In Section 1.1, replace the definition of **"Proposal"** with the following:

**"Proposal"** means the proposal submission made by the Supplier in response to the Renewables II RFP in respect of constructing, developing, and operating the Contract Facility and which was selected by the Government of Ontario, and all clarifications in respect of such Proposal provided by the Supplier in writing as requested by or on behalf of, and accepted by, the Ontario Ministry of Energy from time to time in accordance with the Renewables II RFP prior to the date of this Agreement, a copy of all of which is attached as Exhibit I."

7. In Section 1.1, amend the definition of **"Total Contract Energy"** as follows:

**"Total Contract Energy"** means a quantity of Electricity expressed in MWh:

- (a) as recorded by the Contract Facility's meter, where it is separately metered; or

- (b) as recorded by the Facility's meter less Baseline Electricity, where the Electricity flowing from the Contract Capacity is not separately metered from the Energy From Nameplate Capacity and the Contract Facility, as stated in the Proposal, comprises an upgrade or an expansion of an existing Facility and such Facility was in commercial operation for at least the Baseline Reference Period; or
  - (c) in all other cases, calculated as the Energy From Nameplate Capacity multiplied by the Contracted Proportion of Output."
- 8. In Sections 1.7(a), (b), and (c), replace the phrase "all of the suppliers that have signed RES II Contracts with the Buyer pursuant to the Renewables II RFP (and any suppliers who have signed RES Contracts and who have agreed to participate)" with the phrase "all of the suppliers that have signed RES II Contracts with the Buyer (and any suppliers who have signed RES Contracts with the Buyer and who have agreed to participate)".
- 9. Replace the second sentence of Section 2.1(b) with the following:

"Where the Contract Facility has more than one Connection Point and if any Connection Point is located within any Restricted Sub-Zone, then all Connection Points must be located in the same Restricted Sub-Zone. Moreover, no Connection Point shall be located in an Excluded Sub-Zone."
- 10. In Section 2.2(c), delete the phrase "(or any portion of the Energy From Nameplate Capacity or Related Products with respect to the Contract Facility, where the Total Contract Energy is not separately metered from the Energy From Nameplate Capacity) that" starting in the 17<sup>th</sup> line, and delete "(or any portion of the Energy From Nameplate Capacity or Related Products with respect to the Contract Facility, where the Total Contract Energy is not separately metered from the Energy From Nameplate Capacity)" starting in the 23<sup>rd</sup> line. Also, in the last sentence, replace the phrase "any other power purchase agreements have been executed" with "any power purchase and other applicable agreements have been executed".
- 11. Replace the second sentence of Section 2.3(b) with the following:

"(b) if the Proposal provides that any Connection Point is located within any Restricted Sub-Zone, then any and all Connection Points are located within the same Restricted Sub-Zone."
- 12. In Section 2.5(b), add the phrase "or wilful misconduct" after the word "negligence" in the last line.
- 13. In Sections 2.6(a)(iii)(A) and 2.6(a)(iv), replace the reference to "Ontario Power Authority" with "the Buyer". Also, in Sections 8.6 and 14.3, replace the reference to "Ontario Power Authority" with the phrase "the Buyer, the Ontario Power Authority (to the extent that it is no longer the Buyer)".
- 14. In Section 2.6(e), replace the phrase "commencement date of this Agreement" in both places where it appears with "commencement of construction of the Contract Facility".
- 15. In Section 3.1(a) after the phrase "provided that the Supplier has registered the Buyer with the IESO as the 'Metered Market Participant' pursuant to Section 2.7(c)", add the phrase "and further provided that the Buyer is satisfied, pursuant to Section 2.2(c), that no portion of the Total Contract Energy or Contract Related Products is subject to any agreement or undertaking for the sale, delivery, or conveyance thereof other than this RES II Contract,"
- 16. In Section 3.4(d)(i), replace the phrase "where the Contract Facility comprises an upgrade or an expansion of a Facility as stated in the Proposal" with the phrase "where the Total Contract Energy is calculated in accordance with subparagraph (b) of that definition".
- 17. In Section 3.4(d)(ii), replace the phrase "where the Contract Facility does not comprise an upgrade or an expansion of a Facility as stated in the Proposal" with the phrase "where the Total Contract Energy is calculated in accordance with subparagraph (c) of that definition".

18. In Section 6.4(a), replace the last three sentences with the following:

“Notwithstanding the foregoing, in the event the Guarantor has a Negative Outlook, then its Credit Rating, for purposes of calculating the Creditworthiness Value of the Guarantor in Section 6.4(b)(i), will automatically be demoted by one row in the table in Section 6.4(b)(i). For greater certainty, a Guarantor with a Credit Rating in the 4<sup>th</sup> level set forth below without a Negative Outlook will no longer be able to provide a Guarantee if it subsequently receives a Negative Outlook. Subject to Section 6.2(a), the amount of the Guarantee shall be equal to or less than the Creditworthiness Value of the Guarantor, failing which the Supplier shall be required to provide alternative acceptable security as provided in Section 6.2(b) so as to remain in compliance with the Completion and Performance Security requirements set out in Section 6.1.”

19. Restate Section 6.4(b) as Section 6.4(b)(i), and add “in accordance with Section 6.4(a) or 6.4(b)(ii), as applicable” after the phrase “as adjusted by any Negative Outlook” in both places where it appears. Also, delete the words “of Guarantor” in the heading of the table and delete the last paragraph following the table.

20. Add a new Section 6.4(ii) as follows:

“(ii) In the event that any Person has a Negative Outlook, then its Credit Rating will automatically be demoted by one row in the table in Section 6.4(b)(i).”

21. In Section 7.1(g), add “as of the date of this Agreement” after the word “Buyer”.

22. In Section 8.6, replace the phrase “any suppliers who have signed RES Contracts” in the last sentence with “any suppliers who have RES Contracts with the Buyer”.

23. Delete Section 10.2(b) in its entirety and replace it with the phrase “Intentionally Deleted”. In Section 10.2(c), delete the phrase “referred to in Sections 10.1(a) or 10.1(l)”. In Section 10.2(d), delete “10.2(b),”

24. In Section 10.5(e), replace the last sentence with the following:

“If the Defaulting Party is the Buyer, there shall be added to the Early Termination Payment an amount equal to the positive difference, if any, and there shall be deducted from the Early Termination Payment an amount equal to the absolute value of the negative difference, if any, between: (i) all amounts owed but not yet paid by the Buyer to the Supplier, whether or not such amounts are then due pursuant to this Agreement, and (ii) all amounts owed but not yet paid by the Supplier to the Buyer, whether or not such amounts are then due pursuant to this Agreement. If the Defaulting Party is the Supplier, there shall be added to the Early Termination Payment an amount equal to the absolute value of the negative difference, if any, and there shall be deducted from the Early Termination Payment an amount equal to the positive difference if any, between: (A) all amounts owed but not yet paid by the Buyer to the Supplier, whether or not such amounts are then due pursuant to this Agreement, and (B) all amounts owed but not paid by the Supplier to the Buyer, whether or not such amounts are then due pursuant to this Agreement.”

25. In Section 11.3(d), delete the phrase “or third party”.

26. Replace Section 12.1(e) with the following:

“(e) If the Supplier is in default under or pursuant to the Secured Lender’s Security Agreement and the Secured Lender intends to exercise any rights afforded to the Secured Lender under the RES II Contract, then the Secured Lender shall give notice of such default to the Buyer at least five (5) Business Days prior to exercising any such rights.”

27. In Section 12.2(e), delete the word “not” before the words “at Arms’ Length” in the last sentence.

28. At the end of Section 13.3(c), add the phrase “without first having to comply with Section 16.1.”

29. In Section 15.2, add the phrase “, the IESO, a LDC,” after “Ontario Electricity Financial Corporation”.

30. Replace Section 16.5(d)(ii) with the following:

“(ii) the assignee, upon the assignment of this RES II Contract and any simultaneous assignment of any RES Contracts, any other RES II Contracts, and any RES III Contracts (being renewable energy supply contracts entered into pursuant to the Ministry's request for proposals no. OSS-072116), will have a Credit Rating, as evidenced by a written confirmation issued by the applicable credit rating agency or agencies, that, when adjusted for any Negative Outlook in accordance with Section 6.4(b)(ii), is no lower than any of the respective credit ratings contained in the last row of the table set out in Section 6.4(b)(i).”
31. Replace Section 16.6(b) with the following:

“(b) For the purposes of Sections 16.6(a) and 16.7(b), a change of Control shall exclude a change in ownership of any shares or units of ownership that are listed on a recognized stock exchange, and shall include a change of Control resulting from a change in ownership in any shares or units of ownership in any entity that directly owns the Contract Facility whose special or sole purpose is the ownership of the Facility or the Contract Facility and other renewable generating facilities which are subject to a renewable energy supply contract with the Buyer in the same standard form as this RES II Contract.”
32. In Section 16.8, replace the phrase “and 16.5(c)” with “, 16.5(c), and 16.5(d)”.
33. In Exhibit D, replace “Ontario Electricity Financial Corporation” with “Ontario Power Authority” in the first paragraph.
34. Replace the last sentence of Section 15(b) of Exhibit D with the following:

“Notwithstanding the foregoing, if the Buyer assigns the Agreement to an assignee pursuant to Section 16.5(d) of the RES II Contract, then the Buyer may assign this Guarantee to such assignee without the consent of the Guarantor or the Supplier.”
35. In Section 1 of Exhibit J, replace the phrase “any suppliers who have signed RES Contracts”, in both places where it appears, with “any suppliers who have RES Contracts with the Buyer”.