



HYDROGEN INNOVATION FUND CONTRIBUTION

AGREEMENT

This Hydrogen Innovation Fund Contribution Agreement (this “**Agreement**”) is made as of the _____ day of _____, 2023, between:

INDEPENDENT ELECTRICITY SYSTEM OPERATOR (the “**IESO**”)

-and-

[INSERT FULL LEGAL NAME OF THE RECIPIENT] (the “**Recipient**”)

RECITALS:

- I. The IESO established a fund (the “**Hydrogen Innovation Fund**”) in 2023 to provide funding to eligible recipients for action-oriented, sector-specific pilot projects with the purpose of investigating, evaluating and demonstrating how low-carbon hydrogen technologies can be integrated into Ontario’s electricity grid for the purposes of balancing and strengthening Ontario’s reliable electricity system.
- II. On [Date] the IESO issued a Request for Proposals for the Hydrogen Innovation Fund, and required proposals to be submitted in accordance with The Hydrogen Innovation Fund Request for Proposals – Proposal Guideline (the “**Hydrogen Innovation Fund Proposal Guideline**”) available on the IESO’s website and as may be amended from time-to-time.
- III. Pursuant to the Hydrogen Innovation Fund Proposal Guideline, the Recipient wishes to apply for Hydrogen Innovation Fund funding and has submitted a Proposal for a project to [insert brief purpose and description of project] (the “**Project**”).
- IV. The Recipient’s Project Proposal was accepted by the IESO, and the IESO has agreed to award financial assistance under the Hydrogen Innovation Fund (the “**Contribution**”) to the Recipient for carrying out the Project, subject to the terms and conditions set out in this Agreement and the Schedules attached hereto.

IN CONSIDERATION of the covenants of the parties to this Agreement, the parties covenant and agree with each other as follows:

- 1. Definitions:** The following capitalized terms will have the meanings stated below when used in this Agreement:

“Agreement” has the meaning given to it on the recital page of this Agreement.

“Applicable Law” means any applicable law, including any statute, legislation, treaty, regulation and any applicable guideline, directive, rule, code, standard, requirement, policy, order, judgment, injunction, award or decree of a Governmental Authority and any applicable Governmental Approvals.

“Claim” means any actual, threatened, or potential civil, criminal, administrative, regulator, arbitral or investigative demand, allegation, action, suit, investigation or proceeding, or any other claim or demand.

“Confidential Information” has the meaning given to it in Section 10(a).

“Contribution” has the meaning given to it in the recitals of this Agreement.

“Contribution Payment Amount” has the meaning given to it in Section 4(a).

“Dispute” has the meaning given to it in Section 17(a).

“Effective Date” has the meaning given to it in Section 27.

“Eligibility Requirements” means the eligibility requirements to receive funding and participate in the Hydrogen Innovation Fund, as set out in the Hydrogen Innovation Fund Proposal Guideline and this Agreement.

“Eligible Expenses” means expenses (as further described in Appendix B) that are directly related to the design, development, demonstration, installation, implementation, testing, measurement and performance verification of the Project which meet the Eligibility Requirements for reimbursement and may be reimbursed by the IESO in accordance with Section 4.

“Environmental Attributes” means the interests or rights arising out of attributes or characteristics relating to the environmental impacts associated with the Project, and includes:

- (i) rights to any fungible or non-fungible attributes, whether arising from a generating or storage facility itself, from the interaction of a generating or storage facility with the IESO-controlled grid, a distribution system or an end-user or because of Applicable Law or voluntary programs established by Governmental Authorities;
- (ii) any and all rights relating to the nature of the energy source as may be defined and awarded through Applicable Law or voluntary programs. Specific environmental attributes include ownership rights to Emission Reduction Credits or entitlements resulting from interaction of the generation facility with the IESO-controlled grid, the distribution system or an end-user or as specified by Applicable Law or voluntary programs, and the right to qualify and register these with competent authorities; and
- (iii) all revenues, entitlements, benefits and other proceeds arising from or related to the foregoing.

“Emission Reduction Credits” means the credits associated with the amount of emissions to the air avoided by reducing the emissions below the lower of actual historical emissions or regulatory limits, including “emission reduction credits” as may be defined in any regulation as may be promulgated under the *Environmental Protection Act* (Ontario).

“Good Engineering Practices” means any of the practices, methods and activities adopted by a significant portion of North American industries as good practices applicable to the design, building, and operation of projects of similar type, size and capacity or any of the practices, methods or activities which, in the exercise of skill, diligence, prudence, foresight and reasonable judgment by a prudent engineer in light of all the facts known at the time the decision was made, could reasonably have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety, expedition and Applicable Law. Good Engineering Practices are not intended to be the optimum practices, methods or acts to the exclusion of all others, but rather are intended to delineate acceptable practices, methods or acts generally accepted in North American industries.

“Governmental Approvals” means any declaration, filing or registration with, notice to or license, permit, certificate, registration, authorization, consent or approval of, any Governmental Authority pertaining to a Project.

“Governmental Authority” means any federal, provincial, or municipal government, parliament or legislature, or any regulatory authority, agency, tribunal, commission, board or department of any such government, parliament or legislature, or any court or other law, regulation or rule-making entity, having jurisdiction in the relevant circumstances, including the IESO in its capacity as the operator of the IESO-controlled grid, the Ontario Energy Board, the Electrical Safety Authority, the Office of the Auditor General of Ontario, and any person acting under the authority of any of the foregoing or their respective successor entities.

“HST” has the meaning given to it in Section 4(c).

“Hydrogen Innovation Fund” has the meaning given to it in the recitals of this Agreement.

“Hydrogen Innovation Fund Proposal Guideline” has the meaning given to it in the recitals of this Agreement.

“Ineligible Expenses” means expenses (as further described in Appendix B) that do not meet the Eligibility Requirements for reimbursement and are not eligible for reimbursement by the IESO pursuant to Section 4.

“IESO” has the meaning given to it on the recital page of this Agreement.

“Intellectual Property” has the meaning given to it in Section 12(a).

“Milestone” has the meaning given to it in Section 4(a).

“Milestone Report” has the meaning given to it in Section 9(a).

“Losses” means any and all damages, Claims, fines, penalties, deficiencies, losses, injuries, liabilities (including settlements and judgments), costs and expenses (including interest, court costs, reasonable fees and expenses of lawyers, accountants and other experts and professionals or other reasonable fees and expenses of litigation or other proceedings or of any Claim, default or assessment).

“Project” has the meaning given to it in the recitals of this Agreement.

“Proposal” means the proposal submitted by the Recipient pursuant to the Request for Proposals for the Hydrogen Innovation Fund and in accordance with the Hydrogen Innovation Fund Proposal Guideline, which was accepted by the IESO for participation in the Hydrogen Innovation Fund and attached to this Agreement as Schedule C. For certainty, the Proposal includes any amendments or changes approved by the IESO as part of the review and acceptance process of the proposal.

“Recipient” has the meaning given to it on the recital page of this Agreement.

“Recipient’s Marks” has the meaning given to it in Section 12(d).

“Request for Proposals for the Hydrogen Innovation Fund” means the request for proposals issued by the IESO on [Date] for hydrogen demonstration projects and research/feasibility studies that could support electricity supply, capacity, storage and demand management applied to clean energy integration, peak generation capacity, ancillary services and long-term/seasonal storage, as further described in the Hydrogen Innovation Fund Proposal Guideline.

“Term” has the meaning given to it in Section 7.

2. Schedules: The following schedules are attached to and form a part of this Agreement:

Schedule A	Specific Project Requirements
Schedule B	Invoices and Eligible Expenses
Schedule C	Proposal

and such additional schedules in respect of which the IESO from time to time may notify the Recipient.

3. Obligations of the Recipient:

(a) The Recipient shall:

- (i) implement the Project substantially as described in the Proposal, and meeting the specific requirements set forth in Schedule “A”;

- (ii) obtain financial commitments from parties other than the IESO including, but not limited to, the commitments listed in Schedule “A”;
 - (iii) diligently perform all of its obligations hereunder, including, but not limited to, the implementation, operation and maintenance of the Project, in accordance with this Agreement, Good Engineering Practices, and all Applicable Law;
 - (iv) obtain and maintain in good standing all Governmental Approvals necessary for the design, engineering, installation, implementation, verification, operation and maintenance of the Project;
 - (v) use the Contribution solely for the purposes of the Project; and
 - (vi) not make any material change to the Project (including to the scope or objectives, financial and/or in-kind contributions, or Project partners) without the prior written consent of the IESO.
- (b) The IESO shall provide a Contribution of up to a maximum of [\$● insert maximum amount] (including all reimbursements, expenses and any other payments) plus applicable sales taxes to the Project.
- (c) Unless otherwise agreed to by the IESO in writing, the Recipient must **[FOR EXISTING FACILITIES: commence demonstration of the Project by [June 30, 2024]; FOR NEW FACILITIES: commence demonstration of the Project by [December 31, 2025]; RESEARCH/FEASIBILITY: submit reports on research/feasibility by [June 30, 2024]].**
*****Please note, the description of and requirements for commencing demonstration (including any associated timelines) will be determined at the discretion of the IESO in response to the actual projects selected for participation in the HIF, and subject to direction or guidance from the Ministry of Energy*****

4. Contribution Payment Terms: The IESO shall pay the Contribution as follows:

- (a) Following completion of each Project milestone specified in Schedule A (each a “Milestone”) and provided that (i) the Recipient is not in breach of any of its obligations under this Agreement, (ii) the Recipient has completed and delivered the applicable Milestone Report and all associated deliverables as specified in Schedule A, and (ii) the Milestone Report and associated deliverables have been accepted by the IESO, the Recipient shall be entitled to submit an invoice for reimbursement of the Eligible Expenses specified in Schedule B up to the contribution payment amount (each, a “Contribution Payment Amount”) corresponding to that Milestone, as specified in Schedule A.
- (b) All invoices must reference the applicable Milestone and Milestone Report and may include only Eligible Expenses. The IESO may accept or refuse an invoice, acting reasonably. Invoices that are accepted by the IESO will be funded within 30 days after the day on which such

invoice is received. For invoices for the purchase of work, services or goods from third parties with Eligible Expenses greater than \$50,000.00 (CAD), accounting records, contractor invoices, and any other evidence required by the IESO to verify the Eligible Expenses must be submitted by the Recipient to the satisfaction of the IESO, acting in its sole discretion, prior to payment.

- (c) Harmonized Sales Tax (“HST”) and all other applicable taxes will be shown separately on all invoices. The Recipient shall deduct all recoverable HST from expenses and other costs of the Recipient before calculating HST on amounts to be invoiced to the IESO. The Recipient shall provide the IESO at the time of issuing the invoice with all supporting documentation required for the IESO to claim an input tax credit in respect of the HST incurred by it in connection with this Agreement. The IESO has the right to request further details (including copies of previously submitted invoices or any documentation required in support thereof) in order to establish its claim for any input tax credit or rebate in respect of any HST incurred by the IESO in connection with this Agreement. The Recipient shall co-operate to the reasonable extent necessary in providing such documentation to the IESO on a timely basis.
- (d) The Recipient must provide at least 25% of the total Project budget in financial contributions. For certainty, this may include financial contributions from third party Project partners, as specified in the Proposal.

5. No Duplicate Funding: Except as expressly permitted in Schedule A, the Recipient shall not invoice, apply for or accept duplicate funding for the Project or any part of the Project. The Recipient must disclose whether it has or plans to receive funding or income for the Project from other IESO or Government of Ontario administered programs or the IESO-administered markets over the Term of this Agreement.

6. No Subcontracting: With the exception of work, services or goods procured prior to the Term of this Agreement, if the Recipient uses all or any part of the Contribution to fund the purchase of work, services or goods from third parties (other than hiring employees) in an amount greater than **[FOR NEW AND EXISTING FACILITY PROJECTS: \$200,000.00 OR FOR RESEARCH/FEASIBILITY STUDY PROJECTS: \$50,000.00]**, the Recipient shall use a competitive bidding process to purchase such work, services or goods, and shall obtain the written approval of the IESO before awarding the subcontract. The Recipient will not hire or purchase work, services or goods from any third party that has a conflict of interest with the Recipient or the Project. Third parties that are identified as members of the Project team in the Project Proposal, and whose costs are accurately reflected in the budget set out Proposal, will not be subject to this Section 6.

7. Term and Termination: This Agreement will continue until [● insert date] (the “Term”), unless earlier terminated under any one of the following circumstances:

- (a) IESO may terminate this Agreement immediately at any time during the Term if funding to the IESO is terminated or the Hydrogen Innovation Fund is suspended, revoked or terminated. In such instance IESO shall make payment to the Recipient only of amounts due

pursuant to Section 4 as of the termination date, but as yet unpaid. The Recipient agrees that such amount shall be its sole and exclusive payment, and it shall not be entitled to any other amounts whether as damages, costs, expenses or otherwise.

- (b) This Agreement may be terminated at any time by either Party upon 90 days prior written notice. If terminated by the IESO pursuant to Section 7(b), the IESO shall make payment to the Recipient of amounts due pursuant to Section 4 for Milestones completed but unpaid as of the termination date. The Recipient agrees that such amount shall be its sole and exclusive payment, and it shall not be entitled to any other amounts whether as damages, costs, expenses or otherwise.
- (c) This Agreement may be terminated by the IESO immediately if the Recipient fails to meet the Project requirements set out in Section 3(c) or fails to deliver a Milestone Report acceptable to the IESO within 30 days of receipt by the Recipient of the IESO comments thereon. In such instance, the Recipient shall not be entitled to any further Contribution payments, or other payments whether as damages, expenses, costs or otherwise.
- (d) If there is a change in any Project partner(s) or Recipient contributions (including those financial and in-kind contributions provided by a Project partner listed under “Financial Commitments” in Schedule A) specified in the Schedule A or the Proposal, the IESO may terminate the Agreement upon written notice if the Recipient is unable to find a replacement for such partner, funding or in-kind contributions to the satisfaction of the IESO, acting in its sole discretion, within 90 days or prior to the expiry of this Agreement, whichever occurs first. The Recipient must submit a signed letter of support from the replacement partner, specifying the contribution amount and type (i.e. cash and/or in-kind) to the IESO for review and approval. If the Agreement is terminated pursuant to this Section 6(d), the Recipient

shall not be entitled to any further Contribution payments, or other payments whether as damages, expenses, costs or otherwise.

(e) This Agreement may be terminated by the IESO upon written notice if:

- (i) the Recipient materially fails to perform a covenant or obligation (other than those subject to termination pursuant to Section 6(c) or (d)) and fails to remedy such default within 15 days after receiving notice thereof, or
- (ii) a statement, representation or warranty contained in this Agreement, the Recipient's Proposal for funding or any other information provided to the IESO is materially untrue.

In such instance, the Recipient shall immediately repay all or any part of the Contribution advanced to the Recipient after:

1. such breach in the case of paragraph (i), or
2. the date on which the statement, representation or warranty was made in the case of paragraph (ii).

8. Representations and Warranties: The Recipient represents, warrants and covenants to the IESO as follows, and acknowledges that the IESO is relying on such representations and warranties in entering into this Agreement:

- (a) the Recipient and the Project meet and shall continue to meet the Eligibility Requirements for the Term of this Agreement;
- (b) all statements, specifications, data and information in the Proposal and Milestone Reports, including any attached documentation, is true, accurate and complete in all material respects and there is no material information omitted which makes the Proposal or any Milestone Report misleading or inaccurate;
- (c) the Recipient is duly organized and validly existing under the laws of the jurisdiction of its organization or incorporation and has all necessary power and authority to enter into this Agreement and to perform its obligations hereunder;
- (d) this Agreement is duly authorized, validly executed, will constitute a binding obligation of the Recipient in accordance with its terms, and will not result in a breach or violation of, constitute a default under, or cause a termination, cancellation or acceleration of any other material obligation of the Recipient;
- (e) the Recipient has the necessary experience, skill and personnel to perform its obligations hereunder; and

- (f) there are no bankruptcy, insolvency, reorganization, receivership, seizure, realization, arrangement or other similar proceedings pending against or being contemplated against the Recipient.

9. Reporting and Meetings:

- (a) The Recipient shall deliver a report (a “**Milestone Report**”) in the form prescribed, to the IESO following completion of each Milestone.
- (b) If the IESO does not accept the Milestone Report for any reason, the IESO will provide the Recipient with its comments, and the Recipient will have 30 days from receiving the comments to deliver a revised Milestone Report to the IESO for review and acceptance.
- (c) If the Recipient fails to complete a Milestone by its expected completion date, the Recipient shall, if requested by the IESO, prepare and deliver, within 30 days of the request, a report (i) explaining the reason for any failure to complete a Milestone by the expected completion date, (ii) detailing any activities being taken to address the issues creating the delay to completion, and (iii) providing an revised expected completion date.
- (d) The Recipient shall deliver periodic reports with respect to the Project upon the reasonable request of the IESO, including reports as to the status or progress of the Project, barriers and impediments to the advancement of the Project, outcomes of the Project and lessons learned from the implementation of the Project.
- (e) The Recipient shall deliver any reports as and when specified in Schedule A.
- (f) All Milestones, Milestone Reports and any other report delivered under this Agreement will be subject to Section 12(c) and shall be free of restrictions on use or the confidentiality requirements set out in Section 10.

10. Confidentiality:

- (a) “**Confidential Information**” means any information in any format (including discussions) identified as confidential by the disclosing party, including, without limitation, information concerning past, present or future customers, suppliers, technology, operations, processes, know-how or business; provided that, information which:
 - (i) is authorized in writing for release by the disclosing Party;
 - (ii) is required to be disclosed by Applicable Law or order of a court, government tribunal, government agency, or Government of Ontario (or any of its Ministries or representatives);
 - (iii) where the IESO is the receiving party, is requested by the Ministry of Energy (Ontario) or the Ontario Energy Board, or their respective successor entities;

- (iv) is or becomes part of public domain without material breach of this Agreement by the Party seeking to rely on this exclusion; or
- (v) was independently developed by the receiving Party without relying on any Confidential Information provided by the disclosing Party,

will not be considered Confidential Information.

- (b) A party may disclose Confidential Information to the other party to facilitate work under this Agreement. The receiving party shall safeguard and keep such information strictly confidential in accordance with its own standards for keeping confidential information, and at a minimum shall take such steps as a reasonably prudent commercial enterprise would take to protect such information from disclosure. Each party agrees that such information will be safeguarded and only disclosed to its employees, directors, officers, partners, representatives, agents or advisors (including a financial advisor, legal counsel or accountant) who have a need-to-know such Confidential Information for the purposes of this Agreement or the Project, who have been made aware of the confidentiality obligations under this Agreement and who are bound to keep such information confidential.
- (c) The receiving party will not use the disclosing party's Confidential Information for any purpose except for directly facilitating work under this Agreement.

11. Legislation: The Recipient acknowledges that all Confidential Information provided by or to the IESO may be subject to the *Freedom of Information and Protection of Privacy Act* (Ontario), as amended, the *Ontario Energy Board Act*, as amended, and the *Electricity Act, 1998*, as amended, and agrees to comply at all times with applicable privacy laws in connection with the collection and use of any personal information pursuant to this Agreement.

12. Intellectual Property:

- (a) **"Intellectual Property"** means any intellectual, industrial or other proprietary right of any type in any form protected or protectable under the laws of Canada, any foreign country, or any political subdivision of any country, including all trademarks, official marks, copyrights, applications and registrations therefore, confidential information, all programs, plans, procedures, art, drawings, designs, patterns, specifications, process, data, research, documents, reports, studies, papers, preliminary sketches, layouts, copy, commercial material, computer software, source codes, photography, films, video tapes, transcriptions, compilation of information, and all plans for advertising.
- (b) Each Party will retain all rights, title and interest in and to its Intellectual Property. Neither Party will acquire any right, title or interest in or to any Intellectual Property of the other Party pursuant to this Agreement except as provided expressly for herein.
- (c) The Recipient grants the IESO a non-exclusive, perpetual, royalty-free, irrevocable, worldwide and paid up right to use, modify, disclose, reproduce, publish, copy and

distribute a Milestone Report or any other report or Milestone delivered pursuant to this Agreement in whole or in part for any purpose.

- (d) The Recipient grants to the IESO a non-exclusive, non-transferable, royalty-free license to display the Recipient's marks, trademarks, official marks, logos and the like (the "**Recipient's Marks**") solely in connection with the exercise of the IESO's rights in Section 13. All such displays of the Recipient's Marks will comply with reasonable guidelines related thereto that may be provided by the Recipient to the IESO from time to time.
- (e) The Recipient shall indemnify and hold harmless the IESO from all actions, claims, costs, losses, damages, expenses arising out of or relating to any actual or alleged infringements of third party Intellectual Property rights by the Recipient.
- (g) The Recipient represents and warrants that it has obtained all required third party consents, permissions and authorizations to carry out the Project and to do all things contemplated in this Agreement, including granting the IESO the use rights in Section 13(b).

13. Publicity:

- (a) The Recipient shall recognize the IESO's Contribution in all publicity or publications related to the Project verbally and in written documents by including the following text:

"This project was supported by the financial contribution of the Independent Electricity System Operator."

- (b) The Recipient shall obtain the IESO's approval of all public display and communications materials used by the Recipient in respect of the Project, and will offer the IESO the opportunity to co-brand all such material with marks owned or licensed to the IESO and to include quotes or other material at the IESO's discretion. The Recipient shall provide the IESO with all public display and communications materials for approval and co-branding a minimum of 10 days before the planned use of such materials.
- (c) The IESO may make reference to the Project and to the IESO's financial sponsorship in any publicity or publication. The Recipient agrees that the IESO may use and make public the following information for publicity purposes:
 - (i) A description of the Project and the Recipient's Marks;
 - (ii) the Recipient's Marks;
 - (iii) project progress, lessons, and results;
 - (iv) Recipient contact information; and
 - (v) any Milestone Report or other report delivered under this Agreement, in part or a summary thereof.

- (d) The Recipient shall not request that the IESO endorse any product or thing developed or produced as a result of, or in connection with, the Project.

14. Environmental Attributes

- (a) The IESO shall have no interest hereunder in any Environmental Attributes arising from the Project. The Recipient shall, at its sole expense, be responsible for complying with any Applicable Laws relating to environmental matters that may require the use or procurement of Environmental Attributes, including any costs associated with obtaining, quantifying and registering Environmental Attributes related to the Project.

15. Limitation of Liability and Indemnification:

- (a) The Recipient agrees that the IESO shall not be liable for any Claims, Losses, loss of profits, consequential, special, incidental, indirect, collateral, exemplary or punitive damages arising as a result of entering into this Agreement, and the Recipient agrees to indemnify and save the IESO harmless therefrom.
- (b) Without limiting any other terms or conditions of this Agreement, the Recipient agrees to defend, indemnify and hold harmless the IESO and its officers, directors, employees, agents and representatives from and against any claim, suit, action or proceeding, threatened or actual, arising out of or relating to:
 - (i) the Recipient's breach of any provision of this Agreement; or
 - (ii) any injury to persons (including injuries resulting in death) or loss of or damage to property of others which may be or be alleged to be caused or suffered as a result of or in connection with the performance by the Recipient or any of its employees or subcontractors of all or any part of the Recipient's obligations under this Agreement or as a result of, or in connection with, the Project.

16. Insurance:

- (a) The Recipient will obtain and maintain throughout the Term, at its own cost and expense, all the necessary and appropriate insurance covering such risks and in such amount that a prudent person would maintain when carrying out the Project. Under no circumstances will the IESO be liable to the Recipient or any employee thereof for any failure by the Recipient to obtain any insurance necessary or desirable in relation to the subject matter of this Agreement.
- (b) The Recipient shall, upon request of the IESO, provide proof of the insurance required by this Agreement in the form of valid certificates of insurance and confirm the required coverage exists, as at the time of the commencement of this Agreement, and, if applicable, renewal replacements on or before the expiry of any such insurance. Upon the request of the IESO, a copy of each insurance policy shall be made available to it.

17. Dispute Resolution:

- (a) Any controversy, dispute, difference, question or claim (collectively a “**Dispute**”) arising between the Parties in connection with the interpretation, performance, construction or implementation of this Agreement that cannot be resolved within 10 days after the Dispute has arisen will be settled in accordance with this Section 17.
- (b) The aggrieved party will send the other party written notice identifying the Dispute, the amount involved, if any, and the remedy sought, and invoking the procedures of this section. If the Dispute cannot be resolved within 30 days of the date the Dispute arose or such later date as agreed to by the parties, the Dispute will be resolved by arbitration in accordance with Sections 17(c), 17(d) and 17(e).
- (c) The parties will submit any arbitration under this Agreement to a single arbitrator agreed upon by both parties. If the Parties cannot agree upon a single arbitrator within 10 days after the Dispute is referred to arbitration, either party may make an application to a court of competent jurisdiction for appointment of an arbitrator. Any arbitrator selected to act under this Agreement will be qualified by education, training and experience to pass on the particular question in Dispute and will have no current or past business, financial relationship or connection to either of the parties other than acting in previous arbitrations.
- (d) The arbitrator will provide each of the parties an opportunity to be heard and will conduct the arbitration hearing in accordance with the Arbitration Act. Unless otherwise agreed by the parties, the arbitrator will render a decision within 90 days after the end of the arbitration hearing and will notify the Parties in writing of such decision with reasons. The decision of the arbitrator will be conclusive, final and binding on the parties. The decision of the arbitrator may be appealed solely on the grounds that the conduct of the arbitrator, or the decision itself, violated the Arbitration Act. The Arbitration Act will govern the procedures to apply in the enforcement of any award made. If it is necessary to enforce such award, all costs of enforcement will be payable and paid by the party against whom such award is enforced. Unless otherwise provided in the arbitral award, each party will bear (and be solely responsible for) its own costs incurred during the arbitration process, and each Party will bear (and be solely responsible for) its equal share of the costs of the arbitrator. Each party will otherwise be responsible for its own costs incurred during the arbitration process.
- (e) All proceedings and the making of the award in respect of Section 17(d) will be in private and the parties will ensure that the conduct of the arbitration and the terms of the award will, subject to registration of any award in court, be kept confidential unless the parties otherwise agree; provided, however, that such obligation to maintain confidentiality will not prohibit any party from complying with any Applicable Law.

18. Record Keeping: The Recipient will maintain proper and distinct books, records, contracts, accounts, invoices and all other information relating to the Project and the Contribution during the term of

this Agreement and for a period of seven years thereafter. During that period, the Recipient shall provide the IESO, its agents, the Government of Ontario and the Ontario Energy Board (and any of their respective successor entities) with reasonable access to such information for any reasonable purpose, including for audit examination, process audit or evaluation, measurement and verification of Project results and impacts. For certainty, if the IESO requests any information documentation, the Recipient shall deliver it within 30 days. The Recipient shall comply with all laws and regulations applicable to it, including any privacy obligations.

- 19. Amendments:** This Agreement may be amended or altered or modified only by a written document signed by both the Recipient and the IESO.
- 20. Assignment:** The Recipient may not assign this Agreement in whole or in part without the prior written consent of the IESO.
- 21. Inconsistency:** In the event of any inconsistency between the provisions of this Agreement and any schedule to the Agreement, the Agreement will prevail.
- 22. No Partnership:** The IESO and the Recipient are independent operators and (a) nothing in this Agreement will be construed as creating a partnership, joint venture, or agency relationship between the parties; (b) neither party has any authority whatsoever to enter into legally binding obligations on behalf of the other, and (c) neither party shall make any representation to the contrary.
- 23. Survival:** Terms, provisions, covenants and conditions contained in this Agreement which, by their nature or terms, require their performance by the parties after the expiration or termination of this Contact shall continue in full force and effect following such expiry or termination, including Sections 10, 12(c) and (d), 13, 14, 15, 16, and 18.
- 24. Interpretation:**
 - (a) In the event of any inconsistency between the provisions of this Agreement and any schedule to the Agreement, the Agreement will prevail.
 - (b) In this Agreement, unless the context otherwise requires:
 - (i) where words denoting inclusion (e.g. "including") are followed by a list of specific matters or items, such lists will not restrict the generality of such provision; and
 - (ii) a reference to dollar amounts is a reference to Canadian dollars.
- 26. Governing Law and Attornment:** This Agreement will be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. For the purpose of all legal proceedings, this Agreement will be deemed to have been made and performed in the Province of Ontario and the courts of the Province of Ontario will have exclusive jurisdiction

to entertain any action arising under this Agreement. The IESO and the Recipient each hereby attorns to the exclusive jurisdiction of the courts of the Province of Ontario.

- 26. Notices:** For all purposes of this Agreement, notice to a Party shall be delivered in writing or electronically to the addresses set out below. Notices shall be deemed to be received on the earlier of the time of actual receipt or two clear days (excluding Saturdays, Sundays and civic holidays in the Province of Ontario) after the sending thereof. Addresses for notices to a Party are as follows:

For the IESO:

Organization Independent Electricity System Operator
Address 120 Adelaide Street West, Suite 1600
Toronto, Ontario
M5H 1T1

Attention: Manager, Hydrogen Innovation Fund
Telephone: 416-967-7474
Email: hydrogeninnovationfund@ieso.ca
(with a copy to: general.counsel@ieso.ca)

For the Recipient:

{ Organization }
{ Address }
{ Attention: }
{ Telephone: }
{ Email: }

With a copy to:

{ Attention: }
{ Telephone: }
{ Facsimile: }
{ Email: }

27. Effectiveness Date: This Agreement will become effective when all the parties have signed it. The date this Agreement is signed by the last party to sign it (as indicated by the date associated with that party's signature) will be deemed effective date of this Agreement (the "**Effective Date**").

[signature page follows]

The duly authorized representatives of each party are signing this Agreement on the date stated beneath that party's signature.

INDEPENDENT ELECTRICITY SYSTEM OPERATOR

By:

Name:

Title:

Date:

[**Insert Recipient's legal name**] []

[] []

[]

[]

By: [] [] []

[] _____ []

Name: [] []

[] Title: [] [] []

[] Date: [] [] []

SCHEDULE "A"

Specific Project Requirements

Specific Project Requirements

For the purposes of Section 3(a)(i) of this Agreement, the following are the specific requirements:

[Insert specific project requirements]/if none insert "Not Applicable"

Financial Commitments (Non-IESO)

For the purposes of Section 3(a)(ii) of this Agreement, the following commitments shall be obtained:

[Enter information here]

Project Milestones

Please provide details on all Project Milestones using the format set out below, including additional rows as required. Include details for each Milestone identified for the Project, with descriptions consistent with the information provided in Schedule C. Please number all deliverables and associated activities.

Milestone number	Reporting Milestone	Milestone Deadline (dd/mm/yy)	Contribution Amount
	Project Completion (Final Milestone)		

Permitted Funding

For the purposes of Section 5 of this Agreement, the following funding is permitted:

Section **Error! Reference source not found.** – Additional Funding from the IESO-Administered Markets or an IESO or Government of Ontario Administered or Funded Program

[insert any permitted funding]/if none insert "Not Applicable"

Additional Reports

For the purposes of Section 9(d) of this Agreement, the following reports are required:

[insert any additional reports [include timing of reports]/if none insert "Not Applicable"]

SCHEDULE "B"

INVOICES AND ELIGIBLE EXPENSES

1. Invoices: The Recipient will submit invoices to the IESO as follows:

- (a) The Recipient may submit standard company invoice forms.
- (b) The following information must be reflected on each invoice:
 - (i) Full Project name and number [to be provided];
 - (ii) Milestone number and description (e.g. 1 of 6, Pre-selection of ...) and the date of the corresponding Milestone Report (including both the date submitted to IESO and date approved by IESO);
 - (iii) Total Contribution Amount invoiced to date (e.g. \$67,500/\$240,000);
 - (iv) IESO Purchase Order Number (which will be provided by the IESO following the signing of the Agreement); and
- (c) Invoices must be delivered [via email, mail or courier]
- (d) Invoices are to be addressed as follows:

Independent Electricity System Operator
120 Adelaide Street West
Suite 1600
Toronto, ON M5H 1T1

Email : accounts.payable.adelaide@ieso.ca

Attention : Accounts Payable

2. Eligible Expenses:

The IESO may reimburse the Recipient for Eligible Expenses, but will not reimburse Ineligible Expenses, which shall comprise of the following:

Eligible Expenses	Ineligible Expenses
<ul style="list-style-type: none"> ✓ Project-specific materials, equipment, products and services ✓ Salaries and benefits of employees directly involved in the design, selection, purchase and installation of the project ✓ Professional, engineering, scientific, technical, management and contracting services, including training ✓ Permits and licence fees ✓ Funding for marketing, communications and workshops directly related to project activities ✓ Costs associated with the monitoring, verification and evaluation of the project's impacts, including data collection, processing, analysis and management ✓ Equipment and products, including diagnostic and testing tools and instruments and associated software ✓ Costs associated with providing approved incentives to project participants 	<ul style="list-style-type: none"> ✗ Budget deficits ✗ Activities completed or costs incurred before the funding is approved or after the project is completed ✗ For research/feasibility studies, costs over \$50,000 for any single consultant or contractor that has not been selected through a competitive process ✗ For new or existing demonstration projects, costs over \$200,000 for any single consultant or contractor that has not been selected through a competitive process ✗ Costs associated with the purchase of real estate ✗ Any overhead costs generated by the lead applicant or third parties, such as operating costs related to general maintenance and repair ✗ Hospitality, incidental or food expenses for the project team ✗ Hospitality or travel costs not in compliance with the Government of Ontario's Travel, Meals and Hospitality Expenses Directive ✗ Any costs not directly related to the achievement of the project's objectives as defined in the contribution agreement between the IESO and the applicant ✗ Any cost related to System Impact Assessment (SIA) or Customer Impact Assessment (CIA) processes

SCHEDULE "C"
PROJECT PROPOSAL

[Project Proposal follows]