

Request for Proposals

**FOR THE THIRD RENEWABLE ELECTRICITY PROGRAM COMPETITION
REP ROUND 3**



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ALBERTA ELECTRIC SYSTEM OPERATOR

REQUEST FOR PROPOSALS

REP Round 3

RFP Issued: September 17, 2018

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REQUEST FOR PROPOSALS

PART A: TERMS AND CONDITIONS

1 INTRODUCTION

1.1 Purpose of RFP

The purpose of this RFP for the third Renewable Electricity Program competition is to: (i) invite Proponents to provide confirmation of their qualifications to develop, finance, build, own, operate and maintain Renewables Projects qualified through the RFQ; (ii) if any portion of the Site for a Renewables Project is located on Indigenous Land, confirm Indigenous Site Control, (iii) invite Proponents to offer the Strike Prices to the AESO in respect of such Renewables Projects, and (iv) identify, based on lowest submitted Strike Prices (subject to the application of any required tie-breaking methodology and/or any applicable RFP TNW Assessment or RFP Connection Capacity Assessment), Selected Proponent(s) who will be awarded a RESA(s) in respect of Selected Renewables Projects.

The award of any RESA(s) will be subject to Ministerial approval under Section 7(3) of the REA.

Unless otherwise indicated, capitalized terms and acronyms used in this RFP have the meanings given such capitalized terms and acronyms in the Glossary of Terms contained in Appendix A. Capitalized terms and acronyms used but not defined herein have the meanings given those terms and acronyms in the RFQ and the RESA.

1.2 Background

The REA establishes the target that by 2030, at least 30% of electric energy produced in Alberta will be generated from renewable energy resources, and authorizes the Minister to direct the AESO to develop Renewable Electricity Programs, including this Competition.

The AESO concluded the first Renewable Electricity Program competition ("**REP Round 1**") in December of 2017. Under REP Round 1, the AESO procured nearly 600 MW of renewable generation.

On February 2, 2018, the Minister directed the AESO to develop the second Renewable Electricity Program competition ("**REP Round 2**") that leverages the success of REP Round 1 and reflects, among other things, the Government of Alberta's commitment to work with Indigenous peoples and communities to support their participation in Alberta's broader electricity sector and the development of Renewable Electricity. Pursuant to the REA, on March 27, 2018 the Minister approved REP Round 2 to promote the development of large-scale Renewable Electricity generation in Alberta and has authorized a procurement target of up to 300 MW in respect of REP Round 2. On April 27, 2018, the AESO opened the request for qualifications stage of REP Round 2.

Concurrently with the direction in respect of REP Round 2, the Minister directed the AESO to develop a competition proposal for REP Round 3. Similar to REP Round 2, REP Round 3 is intended to select a party, or parties, to enter into RESAs to develop, finance, build, own, operate and maintain projects which produce Electricity from renewable energy resources. Unlike REP Round 2, REP Round 3 will not have an Indigenous participation requirement. Pursuant to the REA, on March 27, 2018 the Minister approved REP Round 3 to promote the development of large-scale Renewable Electricity generation in Alberta and authorized a procurement target of up to 400 MW in respect of REP Round 3. On April 27, 2018, the AESO opened the RFQ stage of the Competition. This RFP represents the final stage of REP Round 3.

REP Round 2 and REP Round 3 are running in parallel, provided that the REP Round 2 transmission connection capacity assessment, to be undertaken at the request for proposals stage of that competition, will be carried out and completed, and REP Round 2 renewable electricity support agreements will be awarded before any applicable RFP TNW Assessment or RFP Connection Assessment is completed for REP Round 3. The effect of this is that Successful REP Round 2 Projects (which may include projects approved by the Minister in excess of the REP Round 2 procurement target of up to 300 MW) will be given priority with respect to the assessment of both transmission connection capacity and Tangible Net Worth.

1.3 RESA

Pursuant to this RFP, the AESO will potentially acquire, on behalf of the Government of Alberta, the Renewable Attributes associated with a procurement target of up to 400 MW of Renewables Projects, and provide support payments for them under the terms of RESAs. RESAs will obligate the Counterparties to develop, finance, construct, operate and maintain the Selected Renewables Projects. Each RESA will have a support period of twenty (20) years from the later of April 1, 2020 and the Commercial Operation Date of the Selected Renewables Project provided it achieves Commercial Operation on or before the Target COD of June 30, 2021. Neither the AESO nor the Government of Alberta will be acquiring Electricity or other electric energy through the RESAs, but the AESO will (on behalf of the Government of Alberta) acquire all of the Renewable Attributes associated with each MWh of Electricity produced by Selected Renewables Projects.

The final form of the RESA has been approved by the Minister and is attached as Appendix B. Proponents are strongly advised to review, in consultation with legal counsel, the form of the RESA in its entirety for a detailed and complete description of the parties' respective rights and obligations thereunder.

RESA Counterparties will not be permitted to sell or distribute Electricity other than through the Power Pool during the Term of the applicable RESA.

No Electricity from Selected Renewables Projects may be sold under bi-lateral or other arrangements, nor may Counterparties seek or obtain other funding or incentives in respect of such project from the Government of Alberta, whether in relation to generation or to reduction of emissions credits. Counterparties will, however, be able to seek additional government funding or incentives, from other governmental authorities. If any Counterparty receives any such funding or incentives under an Incentive Program, and did not have knowledge that it will be receiving same until after the RFP Submission Deadline, then such funding or incentive will be shared 50/50 with the AESO. This sharing requirement applies only to the Counterparty, and not to the other Proponent Team Members.

RESAs, if any, will be awarded based on lowest submitted Strike Prices, subject to the application of any required tie-breaking methodology and/or any applicable RFP TNW Assessment or RFP Connection Capacity Assessment.

The REA requires the Government of Alberta to fund the AESO with the support payments which will be available to Counterparties under the RESAs.

The Government of Alberta has established an affordability threshold for this Competition, and as a result, the AESO may not award RESAs with aggregate Contract Capacities of up to the Procurement Target and may not enter into any RESAs.

Notwithstanding any statement in the REOI, the RFQ or this RFP that the AESO will award RESAs with aggregate Contract Capacities up to the Procurement Target, with the approval of

the Minister under Section 7(3) of the REA, the AESO may (but will not be required to), award RESAs with aggregate Contract Capacities in excess of the Procurement Target.

Notwithstanding the evaluation of RFP Submissions by the AESO, no RESAs will be awarded following such evaluation without approval of the Minister in accordance with Section 7(3) of the REA.

1.4 Financial Commitment to Participate in this RFP

Each Proponent must provide Bid Security to the AESO, which Bid Security should be: (i) provided separately for each of its RFP Submissions and (ii) equal to \$25,000 per MW of Contract Capacity of the Renewables Project associated with the applicable RFP Submission.

Provided the Proponent or the Renewables Project has not been Disqualified, Bid Security in respect of a Renewables Project will be returned to the Proponent if such project does not become a Selected Renewables Project. Bid Security will also be returned if the AESO, either before or after evaluation of RFP Submissions, cancels the RFP, unless the Proponent or the Renewables Project is Disqualified prior to such cancellation. If the Proponent becomes a Selected Proponent in respect of a Renewables Project and the Counterparty fails to execute the RESA and deliver the required Performance Security and Solicitor's Opinion in accordance with Section 2.11 of Part A, the Bid Security provided in respect of such Renewables Project will be forfeited to the AESO without limiting any of the AESO's other rights. If the Counterparty duly executes the RESA and delivers the Performance Security and Solicitor's Opinion, such Bid Security will be returned to the Selected Proponent.

Each Counterparty to a RESA awarded pursuant to this RFP must provide Performance Security to the AESO in respect of such RESA before the Delivery Time (or on or before such other later date or time indicated by the AESO in writing). Performance Security should be provided in the amount of \$50,000 per MW of Contract Capacity of the Selected Renewables Project. If a Counterparty fails to provide such Performance Security as and when required, the applicable Renewables Project and its associated RFP Submission may, in the AESO's sole discretion, be Disqualified (in which case the Proponent will forfeit its Bid Security provided in respect of such Renewables Project).

The AESO may in its discretion and without prior notice (notice to be provided promptly to the Proponent thereafter) draw on and retain proceeds of:

- a) the Bid Security provided by a Proponent in respect of all of its RFP Submissions for the AESO's own use if the Proponent is Disqualified at any time; or
- b) the Bid Security provided in respect of a Renewables Project for the AESO's own use if such project or its associated RFP Submission is Disqualified at any time.

1.5 No Exclusivity

The AESO is not obliged, pursuant to this RFP, to deal exclusively with a single Proponent. The AESO may, in its sole and absolute discretion, deal with one or more Selected Proponents. By submitting an RFP Submission, a Proponent will be deemed to have acknowledged that the AESO may, pursuant to this RFP, contract with others in relation to Renewables Projects.

2 RFP PROCESS

2.1 Overview of RFP Process

The AESO is seeking RFP Submissions from Proponents for Renewables Projects. This RFP has been formulated to identify each Proponent whose Renewables Project or Renewables Projects, as determined pursuant to the RFQ stage to be qualified to participate in this RFP, can be confirmed to be qualified in the manner required by this RFP.

RESAs, if any, will be awarded to Proponents of such qualified Renewables Projects based on lowest submitted Strike Prices (subject to the application of any required tie-breaking methodology and/or any applicable RFP TNW Assessment or RFP Connection Capacity Assessment), all in accordance with and as further described in Section 3 of Part A.

2.2 Proponent's Representative

The Respondent's Representative identified as such during the RFQ stage of this Competition will remain the sole contact for all communications to the Proponent from the AESO regarding this RFP. Such Individual will continue to be responsible for all communications on behalf of the Proponent to the AESO (hereinafter, the "**Proponent's Representative**"). The AESO will be entitled to rely on any communication from the Proponent's Representative as having been duly authorized and given by the Proponent and all its Proponent Team Members.

A Proponent may change its Proponent's Representative only by a notice to the AESO through the Proponent's Account signed either by the previous Proponent's Representative or by an officer of the Proponent whose authority to do so, and to bind all Proponent Team Members in that regard, is affirmed in a manner satisfactory to the AESO.

2.3 Counterparty

The SPV which is to be the Counterparty to the RESA in respect of a Renewables Project must, prior to the delivery of an RFP Submission, be formed and duly registered, as necessary, to carry on business in the Province of Alberta, as confirmed and certified to the AESO pursuant to Appendix E. The Counterparty, if it is not the Proponent, must be controlled by one or a combination of the Proponent, the Designated Equity Providers or the Project Team Lead for the Renewables Project. No Change in Control of the Counterparty will be permitted between the RFP Submission Deadline and the execution of the applicable RESA, and thereafter only in accordance with the RESA.

2.4 RFP Submissions

Each Proponent should submit a separate and distinct RFP Submission to the AESO for each Renewables Project it wishes to submit in this RFP stage of the Competition, provided that Proponents may only submit RFP Submissions in respect of Renewables Projects determined in the RFQ stage of this Competition to be qualified to participate in this RFP. Proponents are advised to carefully review the requirements and instructions stipulated in Part B when preparing and submitting their RFP Submissions. Proponents should not submit REP Round 2 projects in REP Round 3, and *vice versa*.

The AESO will, in accordance with this RFP, evaluate each RFP Submission separately from all other RFP Submissions to determine if the applicable Renewables Project is a Selected Renewables Project and if the applicable Proponent is determined to be a Selected Proponent in respect of such Renewables Project.

2.5 Tangible Net Worth Reassessments

If one or more of the Proponent's Designated Equity Providers or Equity Support Persons for a Renewables Project has experienced Adverse Facts or Circumstances since the date of its Qualification Submission, the Proponent must provide the AESO with assurance that each such Designated Equity Provider(s) and/or Equity Support Person(s) continues to meet the applicable TNW Requirement as further described in Section 2(c) of Part B.

In addition, if one of the Proponent's Designated Equity Providers in respect of a Renewables Project is also a designated equity provider in respect of one or more Successful REP Round 2 Projects, the AESO will, as further described in Section 3.1 of Part A, assess whether or not such Designated Equity Provider has sufficient Tangible Net Worth to support the total equity commitment made by it in respect of: (i) such Renewables Project, (ii) any other higher ranked REP Round 3 Renewables Projects in respect of which such Designated Equity Provider has made an Equity Commitment and (iii) such Successful REP Round 2 Projects.

2.6 RFP Submission Delivery Deadline

RFP Submissions must be received by the AESO through the Bonfirehub Site (or, in the case of the Bid Security, at the Delivery Address) before the RFP Submission Deadline. The AESO will not evaluate any RFP Submission until after the RFP Submission Deadline.

2.7 Bid Security, Performance Security and Solicitor's Opinion

The Bid Security required to be provided to the AESO pursuant to this RFP must: (i) be delivered to the AESO substantially in the form of Appendix C, (ii) have a date of expiry no earlier than the Conclusion Date and (iii) be issued by a financial institution listed in either Schedule I or II of the *Bank Act* (Canada), or any other financial institution having a branch in Canada and a minimum credit rating of: (A) A- with S&P, (B) A3 with Moody's, (C) A low with Dominion Bond Rating Service, or (D) A with Fitch IBCA (if more than one (1) of the foregoing credit rating agencies provides a credit rating for the applicable financial institution, the AESO will apply the lowest of such ratings for purposes of its evaluation).

If the Proponent becomes a Selected Proponent:

- a) The Performance Security required to be provided to the AESO pursuant to this RFP and the RESA must: (i) be delivered to the AESO substantially in the form of Appendix 1 to Schedule 2 of the RESA, (ii) have a date of expiry no earlier than March 31, 2019 and (iii) be issued by a financial institution meeting the requirements set out in Section 10.1(d) of the RESA.
- b) The Solicitor's Opinion required to be provided to the AESO pursuant to this RFP should be provided in the form of Appendix I. If a Proponent wishes to request changes to the form of Solicitor's Opinion, the proponent may submit its request through the Proponent's Account no later than the Deadline for Enquiry and include with the request the reasons for such request and a blackline of Appendix I evidencing the exact changes proposed to be made. The AESO may or may not approve such request or may provide to the Proponent an alternate form of change acceptable to the AESO for use by the Proponent. The AESO will provide its consent or alternate form of changes to the Proponent not later than five (5) Business Days following receipt of the request; provided that if the AESO has not done either within such five (5) Business Days, the AESO shall be deemed to have not consented to the requested change.

2.8 Amending or Withdrawing RFP Submissions

At any time prior to the RFP Submission Deadline, a Proponent may amend or withdraw a submitted RFP Submission by submitting the Prescribed Form – RFP Submission Amendment or Withdrawal in Appendix J. Such form, as well as any material which is to replace material that has already been submitted, must be received by the AESO through the Bonfirehub Site no later than the RFP Submission Deadline. Any amendment to an RFP Submission should clearly indicate what part of the RFP Submission the amendment is intending to affect or replace. Proponents will not be permitted to amend or withdraw a submitted RFP Submission after the RFP Submission Deadline has passed.

Provided it or its applicable RFP Submission / Renewables Project has not been Disqualified, a Proponent which withdraws a submitted RFP Submission at any time prior to the RFP Submission Deadline, will have the Bid Security it previously provided in respect of such RFP Submission returned to it.

2.9 Irrevocability

Each RFP Submission not withdrawn prior to the RFP Submission Deadline pursuant to Section 2.8 of Part A, including for certainty the Strike Price offer in the RFP Submission, may not be withdrawn and will remain irrevocable from the RFP Submission Deadline until the Conclusion Date. Bid Security provided with an RFP Submission will only be returned to the Proponent as expressly provided in this RFP and, otherwise, shall be forfeited to and retained by the AESO.

2.10 Timetable

The Timetable with respect to the entire process for this RFP is set out below.

Release of RFP	no earlier than September 17, 2018
Deadline for Enquiry	October 4, 2018, 4:00 p.m. Mountain Time
RFP Submission Deadline	October 23, 2018, 3:00 p.m. Mountain Time
Notification of Selected Proponents	on or prior to December 17, 2018
Delivery Time (delivery of executed RESA, Performance Security and Solicitor's Opinion)	5 Business Days after the applicable Proponent receives notice from the AESO that it has become a Selected Proponent, 12:00 p.m. Mountain Time
Conclusion Date	January 31, 2019

The AESO reserves the right to accelerate or postpone any of the dates set out in the Timetable (other than the Conclusion Date). The acceleration or postponement of any date (other than the Conclusion Date) set out in the Timetable shall be made by way of Addendum to Proponents posted on the REP Bonfirehub Site, which notice may be issued at any time: (i) before or after the RFP Submission Deadline and/or (ii) after the date which is being postponed.

2.11 Execution Version of RESA, Performance Security and Solicitor's Opinion

Concurrently with the AESO's notification to a Proponent that it has become a Selected Proponent in respect of a Selected Renewables Project, the AESO will, through the Proponent's Account, deliver to its Proponent's Representative an execution version of the RESA applicable to such Selected Renewables Project.

The Selected Proponent must, in respect of a Selected Renewables Project, hand deliver (or cause to be hand delivered) the following documents in hard copy format to the Delivery Address by no later than the Delivery Time (or on or before such other later date or time indicated by the AESO):

- a) the execution version of the RESA (as provided by the AESO) duly executed by the Counterparty;
- b) the original and duly executed Performance Security, which Performance Security:
 - i) must: (A) be delivered to the AESO substantially in the form of Appendix 1 to Schedule 2 of the RESA, (B) have a date of expiry no earlier than March 31, 2019 and (B) be issued by a financial institution meeting the requirements set out in Section 10.1(d) of the RESA; and
 - ii) should be provided in the amount of \$50,000 per MW of Contract Capacity of the Selected Renewables Project; and
- c) the original and duly executed Solicitor's Opinion, which opinion should be in the form of Appendix I.

If the Selected Proponent fails to comply with the foregoing, the Selected Renewables Project will be Disqualified and the Selected Proponent will forfeit its Bid Security provided in respect of such Selected Renewables Project. In such an event, the AESO reserves the right to re-run the evaluation described in Section 3 of Part A and select additional Renewables Projects as Selected Renewables Projects.

2.12 Public Disclosure of Selection

Neither the Proponent, nor any of its Proponent Team Members, nor any of its or their Affiliates shall make any public communication or disclosure about being or becoming a Selected Proponent until such time that a public announcement is made by the Government of Alberta, unless otherwise required by Law (in which case any such required public communication or disclosure may be made after reasonable prior written notice thereof has been provided to the AESO).

2.13 Breach of RFP/RESA - Additional Consequences

If a Counterparty for a Selected Renewables Project fails to execute a RESA and provide Performance Security and a Solicitor's Opinion in accordance with Section 2.11 of Part A or the Counterparty fails to achieve Commencement of Construction or Commercial Operation of the Selected Renewables Project by the applicable Longstop Date, the Counterparty and its Control Group Members associated with the Selected Renewables Project may, at the discretion of the AESO, be prohibited from participating in any future competition carried out by the AESO under the REA. In addition, the AESO may prohibit the inclusion of some or all Sites associated with such Selected Renewables Project in any such future competitions.

3 EVALUATION PROCESS

3.1 Evaluation Process

The evaluation of the RFP Submissions and award of RESAs will be conducted by the AESO in the following stages:

- (i) **Stage 1 – RFP Submission Compliance Requirement:** The AESO will determine, on a pass/fail basis, whether each of the RFP Submissions contains the required Bid Security, all of the other completed Stage 1 Prescribed Forms (i.e. the Prescribed Forms set out in Appendices D, E and H and, if applicable, Appendices F and G) and all other applicable materials and documents described in Section 2 of Part B (including, if required, any financial statements, narrative statements and other materials described in Section 2(b) of Part B). In assessing this compliance requirement, the AESO will consider, *inter alia*, whether an RFP Submission complies with the instructions contained in this RFP and includes a content submission for each applicable item of each applicable Prescribed Form, and attaches, as applicable, any documents specified in such Prescribed Forms.

RFP Submissions that do not comply with the above requirements will not pass, will not be evaluated further, will be Ineligible and the Proponent will not be awarded a RESA in respect of the corresponding Renewables Project.

- (ii) **Stage 2 – Renewables Project Compliance Requirements:** The AESO will determine, on a pass/fail basis, whether each RFP Submission which passes Stage 1: (i) meets, and is in compliance with, all of the requirements of and satisfies this RFP by containing all of the required information and other content applicable to the Renewables Project set out in each applicable Stage 1 Prescribed Form and, if necessary, all of the financial statements, documents and other materials set out in Section 2(b) of Part B and (ii) demonstrates to the AESO that the applicable Renewables Project complies with and satisfies the requirements set out in Section 2 of Part B of this RFP (including, if necessary, the Tangible Net Worth requirements described in Section 2(b) of Part B).

RFP Submissions that do not comply with the above requirements will not pass, will not be evaluated further, will be Ineligible and the Proponent will not be awarded a RESA in respect of the corresponding Renewables Project.

- (iii) **Stage 3 – Strike Price Ranking:** In Stage 3, the AESO will rank, by the Strike Prices contained in the RFP Submissions (to two decimal places), all RFP Submissions (and associated Renewables Projects) which have passed Stages 1 and 2 of the evaluation (each a "**Ranked RFP Submission**" or "**Ranked Renewables Project**", as the case may be). Such ranking shall be from the lowest Strike Price to the highest Strike Price, with those RFP Submissions (and associated Renewables Projects) with the lowest Strike Prices having the highest priority. If a Strike Price is not provided to two decimal places, then any required, but not provided, Strike Price digit will be deemed to be zero. If the Strike Price is provided to three or more decimal places, then all such decimal places, other than the first two decimal places, will be deemed to be zero.

RFP Submissions (and associated Renewables Projects) with identical Strike Prices (to two decimal places) will be deemed to be tied in such ranking order with each of the other RFP Submissions (and associated Renewables Projects) with identical Strike Prices. The AESO will break such ties and determine the ranking order of such tied RFP Submissions (and associated Renewables Projects) by way of coin flip (in the case of two tied RFP Submissions) or the drawing of straws (in the case of three or more tied RFP Submissions). Such tie-breaking process will be overseen by the AESO's Director of Procurement and witnessed and monitored by the Fairness Advisor.

(iv) **Stage 4 – Connection Capacity and TNW Assessments:** Following Stage 3, the AESO will, in respect of each Ranked Renewables Project:

- (a) if any Designated Equity Provider in respect of such Ranked Renewables Project is also a designated equity provider in respect of one or more Successful REP Round 2 Projects, undertake an additional Tangible Net Worth assessment in respect of such Designated Equity Provider to ensure that such Designated Equity Provider has sufficient Tangible Net Worth to support the total equity commitment made by it in respect of: (A) such Ranked Renewables Project, (B) any higher priority Ranked Renewables Projects (i.e. a Ranked Renewables Project with a lower Strike Price than the applicable Ranked Renewables Project) in respect of which such Designated Equity Provider has made an Equity Commitment, and (C) such Successful REP Round 2 Projects (each an "**RFP TNW Assessment**"); and
- (b) unless it has already assessed any Designated Equity Provider in respect of such Ranked Renewables Project as having insufficient Tangible Net Worth in accordance with an RFP TNW Assessment, assess whether, in the sole opinion of the AESO, such Ranked Renewables Project can be connected to the Transmission System without an expansion thereof, having regard to: (1) all Successful REP Round 2 Projects which are proposed to connect at the same substation, line, or planning area/region at which such Ranked Renewables Project is proposed to connect; and (2) all other Ranked Renewables Projects which: have proposed to connect at the same such substation, line or planning area/region; have a higher priority ranking (i.e. a lower Strike Price); and have already passed the Stage 4 Assessments (i.e. have not already been determined to be Ineligible pursuant to the provisions of this sub-section (iv)) (the "**RFP Connection Capacity Assessment**").

The order of Ranked Renewables Projects in respect of which the AESO will undertake the RFP Connection Capacity Assessment and, if applicable, the RFP TNW Assessment(s) (collectively the "**Stage 4 Assessments**") will be from the highest priority Ranked Renewables Project (i.e. the lowest Strike Price) to the lowest priority Ranked Renewables Project (i.e. the highest Strike Price).

If, upon undertaking and completing the Stage 4 Assessments in respect of a Ranked Renewables Project, the AESO determines either that:

- (1) a Designated Equity Provider in respect of such Ranked Renewables Project which is also a designated equity provider in respect of one or more Successful REP Round 2 Projects does not have sufficient Tangible Net Worth to support the total equity commitment made by it in respect of: (A) such Ranked Renewables Project, (B) any higher priority Ranked Renewables Projects in respect of which such Designated Equity Provider has made an Equity Commitment, and (C) such Successful REP Round 2 Projects; or
- (2) a Transmission System expansion will be required in order to connect such Ranked Renewables Project to the Transmission System (assuming that all Successful REP Round 2 Projects and all Ranked Renewables Projects in the priority ranking ahead of such Ranked Renewables Project which have already passed the Stage 4 Assessments are connected to the Transmission System);

then the RFP Submission containing such Renewables Project will be Ineligible.

All Ineligible RFP Submissions will be removed from further evaluation, and in no event (even if RESAs are awarded for an aggregate capacity amount greater than the

Procurement Target) will Proponents be awarded RESAs in respect of such Renewables Projects.

For purposes of the RFP Connection Capacity Assessment, the base case against which a Ranked Renewables Project will be assessed relative to connection to the substation, line or planning area/region identified for it will be comprised of the same transmission system, generation, and load assumptions set forth in Section 4.1 of the RFQ with respect to the RFQ Connection Capacity Assessment, with the exception that the assumption with respect to generation being delivered to the Transmission System shall additionally include all Successful REP Round 2 Projects and all Ranked Renewables Projects in the priority ranking ahead of such Ranked Renewables Project which have already passed the Stage 4 Assessments.

For purposes of the RFP TNW Assessment, the Tangible Net Worth for any Designated Equity Provider of a Ranked Renewables Project which is also a designated equity provider in respect of one or more Successful REP Round 2 Projects will be assessed in accordance with Section 4 of Part B of the RFQ, which shall apply *mutatis mutandis*, with the exception that: (i) the TNW Requirement shall be based on the equity commitment of such Designated Equity Participant in respect of such Ranked Renewables Project plus its equity commitment as a designated equity provider in respect of all such Successful REP Round 2 Projects and all Ranked Renewables Projects in the priority ranking ahead of such Ranked Renewables Project which have already passed the Stage 4 Assessments, and (ii) such assessment shall not take into account the Priority for Evaluation.

- (v) **Stage 5 – Selection of Ranked Renewables Projects:** Ranked Renewables Projects that: (i) have not been determined to be Ineligible pursuant to the application of the Stage 4 Assessments or otherwise determined to be Ineligible or Disqualified pursuant to the terms of this RFP, (ii) have been ranked with the highest priority (i.e. have the lowest Strike Prices) and (iii) have aggregate Contract Capacities of up to, but not exceeding, the Procurement Target, will be Selected Renewables Projects and their corresponding Proponents will be Selected Proponents in respect of such projects. Subject to approval of the Minister under Section 7(3) of the REA, the Selected Proponents will be awarded RESAs in respect of such Selected Renewables Projects.

Notwithstanding the foregoing paragraph, the AESO may in its sole discretion and with the approval of the Minister under Section 7(3) of the REA, award RESAs in respect of Renewables Projects such that the aggregate Contract Capacities of all Renewables Projects awarded RESAs pursuant to this Stage 5 exceeds the Procurement Target.

The AESO reserves the right to award RESAs in respect of Ranked Renewables Projects with Strike Prices higher than the Strike Prices of unsuccessful Ranked Renewables Projects if: such unsuccessful Ranked Renewables Projects are Ineligible, Disqualified, or are otherwise rejected pursuant to the terms of this RFP.

3.2 Compliance

In addition to the AESO's other rights in this RFP relating to RFP Submissions, Renewables Projects and the evaluation of same, if, in the sole and absolute discretion of the AESO, an RFP Submission does not comply with, meet or satisfy the terms or requirements of this RFP, the AESO may, but will not be required, to do one or more of the following: (i) reject, but will not be required to reject, and either Disqualify such RFP Submission (if permitted pursuant to the terms of this RFP) or determine such RFP Submission to be Ineligible, in either case without liability, cost or penalty, (ii) request additional information from the applicable Proponent respecting any deviation from the requirements or terms of this RFP which, in its opinion, is not a Material Deviation and incorporate the Proponent's response into the applicable RFP Submission, (iii)

request that the Proponent correct or remedy any deviation, error, omission or failure to comply that, in the AESO's sole and absolute discretion, does not constitute a Material Deviation and incorporate the Proponent's corrected or remedied submissions into the applicable RFP Submission, or (iv) waive any failure to comply that, in the AESO's sole and absolute discretion, does not constitute a Material Deviation. In addition, the AESO shall determine, in its discretion, whether or not a Prescribed Form has been completed.

For purposes of this RFP:

- a) **"comply"** and **"compliance"** means that the RFP Submission conforms to the requirements or terms of the RFP without Material Deviation;
- b) **"must"** when used in connection with a submission requirement, means a requirement that must be met in order for the RFP Submission to receive further consideration, and the failure to satisfy same will result in the automatic rejection of such RFP Submission (and determination that such RFP Submission is Ineligible); and
- c) **"should"** when used in connection with a submission requirement, means a requirement that has a significant degree of importance to the objective of the RFP, and failure to satisfy same may result in the rejection of the RFP Submission (and a determination that such RFP Submission is Ineligible).

Each Proponent acknowledges and agrees that the AESO's evaluation of compliance with this RFP is not an evaluation of absolute compliance.

3.3 Evaluation Notice to Proponent

Following the AESO's completion of its evaluations of the RFP Submissions and determination of Selected Renewables Projects, the AESO will give notice to each Proponent (by giving notice to its Proponent's Representative) informing the Proponent as to whether or not each of its Renewables Projects has become a Selected Renewables Project. Notification in respect of unsuccessful Renewables Projects will occur after all REP Round 3 RESAs have been awarded.

A notice from the AESO advising a Proponent that its Renewables Project has become a Selected Renewables Project will be deemed delivered to the Proponent's Representative and the Proponent twenty-four (24) hours following the time, in the records of the AESO, at which the AESO sends such notice through the Proponent's Account to the Proponent's Representative.

3.4 Debriefing

Proponents may request a debriefing after being notified by the AESO under Section 3.3 of Part A. The AESO will hold a single debrief meeting for each such Proponent in which they can discuss any Renewables Projects of the Proponent. Requests must be made in writing through the Proponent's Account and must be made within thirty (30) days of such notification. The sole purpose of the debriefing session is to assist the Proponent in presenting better RFQ Submissions and RFP Submissions in subsequent procurements by the AESO. Debriefing is not available for the purpose of providing an opportunity to challenge the AESO's evaluations or this Competition.

3.5 Fairness Advisor

The AESO has appointed a Fairness Advisor for this Competition. The Fairness Advisor will review and comment on the evaluation process for the RFP for purposes of identifying potential fairness issues, and will monitor all stages of the Competition to ensure that it is carried out in a

fair and transparent manner, and in a manner that is consistent with the REP Round 3 terms and conditions. The Fairness Advisor will be provided with full access to any documents it may need, and to all meetings. The Fairness Advisor will provide a written report which will be made public by the AESO at the end of the Competition.

If a Proponent wishes to make direct contact with the Fairness Advisor, it must make such a request in writing to the AESO through the REP Bonfirehub Site. The AESO will discuss all such requests for direct contact with the Fairness Advisor and, if the Fairness Advisor agrees that direct contact with the Proponent is appropriate, the Proponent will be notified and the Fairness Advisor will initiate the arrangements for the direct contact, as it determines appropriate.

3.6 Limited Evaluation

By participating in this Competition, the Proponent acknowledges that the AESO's evaluations under the RFQ and RFP are for the limited purpose of evaluating eligibility to participate in this Competition and that the AESO has not, and will not, as part of the RFQ and RFP evaluations, review any Qualification Submissions or RFP Submissions for compliance with Laws. The AESO makes no representation that any Selected Renewables Projects complies applicable Laws.

4 COMMUNICATIONS AND INFORMATION

4.1 Communications, Enquiries and Requests for Clarification

Except as otherwise set out in this RFP, communications, Clarifications and Enquiries from the Proponent related to this RFP should be submitted to the AESO through the REP Bonfirehub Site. Except as otherwise set out in this RFP, all communications, responses, Requests for Clarification and Addenda from the AESO to a Proponent will be made through the REP Bonfirehub Site. All communications made by the AESO through the Proponent's Account will be deemed to be communications provided by the AESO to the Proponent's Representative. All communications received by the AESO through the Proponent's Account will be deemed to be communications provided to the AESO by the Proponent's Representative. No communications may be provided to the AESO by the Proponent other than through the Proponent's Account. It is the Proponent's responsibility to continually check the REP Bonfirehub Site for updates and communications.

The AESO may, but will not be obligated to, respond to any communications or Enquiry but if it does so, it may respond at such time as it determines.

All Enquiries in respect of this RFP or RFP Submissions must be submitted to the AESO not later than the Deadline for Enquiry. A Proponent may, if it considers that its Enquiry relates to commercially sensitive matters, request the Enquiry be kept confidential by setting out such request in the Enquiry and by clearly marking the Enquiry as "Commercial in Confidence". An Enquiry should only be marked "Commercial in Confidence" if it contains commercially sensitive information related to the business or assets of the Proponent. The AESO may, in its discretion, respond to the Enquiry submitted as "Commercial in Confidence" or not as it determines in its discretion.

If the AESO concludes, in its discretion and including for purposes of fairness in the Competition, that the AESO should not respond to an Enquiry on a confidential basis, the AESO will endeavour to notify the Proponent who submitted the Enquiry marked "Commercial in Confidence" of same within three (3) Business Days of such Enquiry being submitted to the AESO. The Enquiry will be deemed withdrawn upon issuance of the AESO's notice.

Despite any other part of this RFP, and despite any matter being identified by a Proponent as "Commercial in Confidence", the AESO may issue one or more communications, Addenda or other responses to all Proponents if the AESO, in its discretion, considers the matter to be a matter of substance that should be brought to the attention of all Proponents for purposes of fairness in, or maintaining the integrity of, the Competition.

The following provisions will apply to any communications with the AESO, or the delivery of documents to the AESO through the Proponent's Account where such communications or deliveries are permitted by the terms of this RFP:

- a) the AESO does not assume any risk or responsibility or liability whatsoever to any Proponent for ensuring that the Proponent's Account is in good working order, able to receive transmissions, or not engaged in receiving other transmissions such that a Proponent's transmission cannot be received, or if a permitted communication or delivery is not received by the AESO or received in less than its entirety, within any time limit specified by this RFP, or that a Proponent's transmission is not subject to being intercepted or that the confidentiality of such transmission will not be otherwise comprised during transit; and

- b) all permitted communications with, or delivery of documents to, the AESO will be deemed as having been received by the AESO on the dates and times indicated on the REP Bonfirehub Site in respect of the Proponent's Account.

4.2 Addenda

This RFP may be amended by Addenda in accordance with this Section 4.2 of Part A. If the AESO, for any reason, determines that it is necessary to provide additional information adding to or relating to this RFP, such information will be communicated by posting an Addendum on the REP Bonfirehub Site.

Each Addendum may contain important information, including significant changes to this RFP, and Proponents are responsible for visiting the REP Bonfirehub Site as often as is necessary to ensure that they obtain all of the Addenda to this RFP and other notices issued by the AESO from time to time.

4.3 Clarification and Additional Information

The AESO may in its sole discretion request additional information from or make a Request for Clarification to any Proponent before or after the RFP Submission of that Proponent has been received. Proponents are to submit the additional information or Clarifications to the AESO through the Proponent's Account, or as otherwise stipulated by the AESO, within the time limit specified by the AESO. Proponents are responsible for visiting the REP Bonfirehub Site as often as is necessary to ensure that they receive such requests issued by the AESO from time to time.

The AESO may incorporate such additional information or Clarifications into the Proponent's applicable RFP Submission provided that such additional information or Clarification shall not be incorporated to the extent it contains, in the AESO's opinion, material additions, variations or alterations to the RFP Submission.

4.4 No Public Disclosure

No communication about or disclosure of any information included in its RFP Submission, shall be issued or made by any Proponent, any of its Proponent Team Members, or any of its or their Affiliates either during or after the Competition without first obtaining the prior written consent of the AESO.

Each Proponent shall ensure that all of its Proponent Team Members and their Affiliates comply with this provision. Any breach of this provision may result in Disqualification of the Proponent from the Competition.

4.5 Prohibited Communications

Proponent communications must be only for Permitted Purposes and for no other purposes and may not be for Excluded Purposes. In cases of breach of the foregoing communications rules, the AESO may, in its sole and absolute discretion, without any liability, cost or penalty, and in addition to any other remedies available to it at Law, Disqualify the Proponent or any of its RFP Submissions.

If a Proponent or any Proponent Team Member has any questions regarding the appropriateness of specific communications, they are advised to seek advice from the AESO through the REP Bonfirehub Site.

The AESO shall have the right to request and obtain from a Proponent, and the Proponent shall if so requested promptly provide to the AESO, information regarding any communications by such

Proponent or any of its Proponent Team Members with respect to the Competition, its RFP Submission or REP Round 2 after the issuance of the RFQ. The Proponent shall provide all information reasonably necessary or appropriate to allow the AESO to assess whether such communications are or were for Permitted Purposes or Excluded Purposes.

4.6 No Lobbying

Proponents and Proponent Team Members are strictly prohibited from communicating with any officer, member or employee of the AESO, the Government of Alberta or any of its departments, any Restricted Party, or any other Person involved in development, administration or evaluation activities in respect of the RFP with an aim to influence the outcome of the RFP process. Failure to comply with this provision may result in Disqualification of such Proponent from the RFP process.

4.7 FOIP Act

The AESO is a public body subject to the provisions of Alberta's *Freedom of Information and Protection of Privacy Act* ("**FOIP**"). FOIP provides broad access to information rights to the public, however it does include mandatory exceptions that prohibit the disclosure of certain third party information supplied explicitly or implicitly in confidence, when disclosure could reasonably be expected to, among other things, significantly harm the business interests of a third party or when disclosure would unreasonably invade individual privacy.

Information provided by a Proponent is subject to, and may be released in accordance with, the provisions of FOIP. Proponents should clearly understand that despite marking portions of their RFP Submission(s) as confidential, the AESO may be required to disclose some or all of that information, where that information is not protected from disclosure through an exemption in FOIP Act or other applicable legislation. Proponents should not assume that such an exemption is available.

4.8 Disclosure of Information About Proponents

RFP Submissions will, as deemed necessary or appropriate by the AESO, be disclosed on a confidential basis to the evaluation team, the AESO's Fairness Advisor, the AESO's counsel and other advisors retained in connection with the Competition.

Notwithstanding anything else in this RFP and except as restricted by law, the AESO may choose to, and will be entitled to, publish or otherwise disclose Proponents' names, Selected Proponents' names, aggregated information or data regarding RFP Submissions and Proponents, specific information in respect of Selected Renewables Projects (other than the Strike Price), and other specific information in respect of the Competition (which information does not specifically identify Proponents or their RFP Submissions), including the following:

- the number of Proponents and RFP Submissions;
- the number of RFP Submissions submitted, rejected, Disqualified or determined to be Ineligible;
- the number of Renewables Project(s) awarded RESAs;
- Selected Renewables Projects' names, locations, and Contract Capacities;
- the Contract Capacity (both range and aggregate total) of the proposed Renewables Projects in respect of which RFP Submissions were made;

- weighted average Strike Prices and/or range of Strike Prices of Selected Renewables Projects; and
- a breakdown of any of the foregoing information by type of Renewable Fuel.

In all events, any and all information provided by Proponents, including all information contained in RFP Submissions, may be disclosed by the AESO to the Government of Alberta. The Government of Alberta may publish or disclose such information as it deems appropriate.

4.9 Accuracy of Information

While the information in this RFP and all other information provided by the AESO (including any information provided on the AESO website: www.aeso.ca) has been prepared in good faith, the AESO does not represent such information to be accurate, comprehensive or to have been independently verified. The information and materials provided to Proponents by the AESO, including reports, maps, analyses, and other materials, through the REP Bonfirehub Site or the Proponent's Account or otherwise in connection with the Competition, may have been originally produced by the AESO, or by a third party or originally produced by a third party and altered, varied or summarised by the AESO. All such information and material is used by each Proponent on an "as is" basis and entirely at its own risk. The AESO neither represents nor warrants nor guarantees that the same constitute all or correct or complete or current versions thereof or of all Laws, standards and other materials applicable to a Proponent or Renewables Projects or this Competition and the AESO makes no representation of any kind (express or implied) with respect thereto. Each Proponent is solely responsible for becoming familiar with, and is required to satisfy itself as to, all Laws, standards and other information, materials and matters applicable to it in relation to Renewables Projects and this Competition. All such information and materials are provided by the AESO without, and the AESO expressly disclaims, warranty, representation or guarantee of any kind or nature (including express or implied) and none of same may be relied upon in any way by the Proponent and the Proponent shall have no recourse to the AESO nor any third party who has provided information (and the Proponent will not pursue any Claim against any such third party in relation to such information), nor shall the AESO or any such third party have any liability (all of which is disclaimed) to any of them, in respect thereof.

All information provided whether by the AESO or a third party for purposes of this RFP is intended to be used solely by the Proponent in relation to this Competition. No such information may be used for any other purpose whatsoever, including commercial gain. The AESO may add, remove or alter information and other materials to, from or in the REP Bonfirehub Site or the Proponent's Account at any time and from time to time as it sees fit in relation to this RFP and throughout the Competition. It is the responsibility of each Proponent to remain current with respect to information and other materials in the REP Bonfirehub Site and Proponent's Account. The AESO at no time accepts responsibility to inform (nor shall it have any liability for not informing) any Proponent of any such additions, removals or alterations to, from or in the REP Bonfirehub Site or Proponent's Account. For absolute clarity, a Proponent uses material and information provided by the AESO at its own risk and must rely entirely on its own investigations and diligence with respect to the Competition and Renewables Projects.

5 CONFLICTS, CHANGES AND COLLUSION

5.1 Conflict of Interest

A Proponent must not conduct itself in a manner that creates or is likely to create a Conflict of Interest or, without the consent of the AESO, the perception of a Conflict of Interest. Failure to comply with this provision may result in Disqualification of the Proponent from the Competition.

5.2 Changes

No Changes to the Proponent Team may be implemented following the RFP Submission Deadline. For clarity, no changes to the Proponent Team may be made prior to the RFP Submission Deadline except in accordance with the provisions of the RFQ.

Following the RFP Submission Deadline, the AESO will not consider a Change to have occurred where a Proponent removes an Individual from its Proponent Team, provided that the Individual was employed with an Entity that was a Proponent Team Member and that same Entity remains a Proponent Team Member.

5.3 Collusion

Proponents must ensure that their participation in this RFP is conducted in compliance with the Non-Collusion Requirements and without fraud or anti-competitive behaviour on their part in connection with the preparation and submission of their RFP Submissions. Proponents and Proponent Team Members, in connection with the preparation and submission of their RFP Submissions, shall not engage in discussions or other communications with any other Proponents or any team participating in REP Round 2 (except in the case where all members of the Proponent Team Members and the team participating in REP Round 2 are the same). Breach of this provision may result in Disqualification of the Proponent from the RFP process.

In the event a Proponent or any Proponent Team Member has, or may have, business relationships or business or other exchanges outside the scope of the Competition and, particularly this RFP, with any other Proponent, or its Proponent Team Members or any participants in REP Round 2 which business relationships, business or other exchanges have not been the subject of a decision or advance decision by the AESO pursuant to the RFQ, and any of them is concerned that such relationships or exchanges might be viewed by the AESO as being non-compliant with the Non-Collusion Requirements, or providing an opportunity for fraud or anti-competitive behaviour, then they may request a decision or advance decision from the AESO in respect thereof as set out below.

A Proponent or a current or prospective Proponent Team Member which has concerns regarding whether it or a current or prospective employee, advisor or Proponent Team Member of such Proponent is, or may be, a Restricted Party, or has a concern about any Conflict of Interest or any unfair advantage it may have or be perceived to have, is encouraged to request a decision or advance decision from the AESO by Submitting the following information:

- a) name and contact information of the Person about which the decision is requested;
- b) a description of the relationship that raises the possibility or perception of a Conflict of Interest or unfair advantage;
- c) a description of the steps taken to date, and future steps proposed to be taken, to mitigate the Conflict of Interest, perception of Conflict of Interest or unfair advantage; and

- d) copies of any relevant documentation.

If a Proponent or prospective Proponent Team Member or advisor becomes a Restricted Party, it may be listed in an Addendum, or in subsequent Competition documents, as a Restricted Party.

5.4 Decision Final and Binding

The decision of the AESO in any matters referred to in Section 5.3 of Part A is final and binding on the Persons requesting the ruling and all other Persons including all Proponents, their Proponent Team Members, and the AESO. The AESO reserves the discretion to establish relevant processes, from time to time, relating to any of the foregoing including identifying any circumstances in which a decision may be reconsidered.

The AESO may provide any circumstances and information relating to any decision, and the decision by it, regarding any of the foregoing to all Proponents if the AESO, in its discretion, determines that the decision is of general application or is in the interests of a fair and transparent Competition.

6 GENERAL TERMS AND CONDITIONS

6.1 RFP Documents

The following materials form part of, and are incorporated into, this RFP:

- a) the body of this RFP;
- b) all Appendices hereto; and
- c) all Addenda.

Any conflict or inconsistency between the body of this RFP, the Appendices and any Addenda shall be resolved by interpreting the documents and information in the following order from highest priority to lowest priority:

- a) Addenda;
- b) Part A;
- c) Part B; and
- d) the Appendices.

All information and materials (including responses to questions or Enquiries, information on the AESO website (www.aeso.ca) and information provided otherwise) are provided for information purposes only, do not form part of this RFP and are not binding on the AESO.

6.2 Proponents to Bear All Costs

Proponents will bear all costs and expenses in connection with their participation in this RFP, including any costs incurred in the review of this RFP and any expert advice required in responding to this RFP. The AESO and its advisors shall not be liable to pay any Proponent costs under any circumstances. In particular, the AESO will not (except and to the extent provided in Section 1.4 of Part A) reimburse or compensate any Proponent in any manner whatsoever in the event of rejection of its RFP Submission or in the event of the cancellation of this RFP. By submitting an RFP Submission in response to this RFP, the Proponent irrevocably and unconditionally waives any Claims against the AESO and its advisors relating to the Proponent's costs and expenses.

6.3 Due Diligence by Proponents

Proponents are required to conduct their own due diligence in relation to all aspects of this RFP and the Competition. Proponents are responsible for carrying out any independent investigations, surveys, and studies which they consider necessary or appropriate in connection with satisfying their due diligence responsibilities, at their own cost.

6.4 Verification

All statements, information and documentation submitted as part of the RFP Submission are subject to verification in accordance with the terms of this RFP. If such statements, information or documentation are determined by the AESO to be incorrect or misleading, the AESO reserves the right to re-evaluate the Proponent's compliance with this RFP and to revise the RFP Submission's status, and, in the AESO's sole discretion, thereafter Disqualify the relevant

Renewables Project or the Proponent, or declare the relevant Renewables Project or the Proponent to be Ineligible.

6.5 Ownership of RFP Submissions

Each and every RFP Submission submitted to the AESO becomes the property of the AESO immediately upon receipt by the AESO and, subject to the terms of this RFP and all applicable Laws, rules, regulations and demands of authorities, will be held along with other information provided by the Proponent in confidence by the AESO.

6.6 No Offer

This RFP does not constitute an offer of any kind by the AESO. No contract of any kind is formed under, or arises from, this RFP including as a result of the submission of an RFP Submission and no contract is entered into in connection with this RFP, save and except pursuant to any Strike Price Offer; Bid Security; Confirmation, Bid Security, RESA Provisions and Release and Indemnity Agreement; Performance Security; and RESA provided by a Proponent. This RFP does not commit or make the AESO responsible in any way, whether in contract, tort or otherwise to select a Selected Proponent or proceed with completion of the Competition.

6.7 Cancellation

Although it is the current intention of the AESO to select Selected Proponents and to enter into RESAs, the AESO may in its discretion, at any time prior to the execution of any RESA for any reason or no reason cancel the Competition including this RFP by delivering a Cancellation Notice to all Proponents.

In the event that the AESO cancels this RFP, the AESO may proceed with a new Competition in such manner as the AESO in its discretion considers appropriate.

6.8 No Liability

The AESO does not, by issuing this RFP or by any communication or documentation made or provided in connection with this RFP, incur any duty of care or contractual obligation to anyone including Proponents and expressly disclaims any liability or obligation to anyone including all of the foregoing in connection with this RFP and shall have no liability to any Person in connection with any Claim made in relation to this RFP. Statements in this RFP of the AESO's expectation in relation to the Renewables Projects and the Competition are relied upon or acted upon by all Persons solely at their own risk.

The AESO and its officials, employees, representatives, agents, consultants and advisors, including the Fairness Advisor will have no responsibility, obligations or liability whatsoever in contract, tort, or otherwise, for reimbursement, costs, liabilities, expenses, damages or losses, including loss of profits or loss of opportunity, incurred or suffered in any way by any Proponent or any other Person whatsoever in connection with, relating to or arising howsoever from the Competition or the cancellation thereof at any time, or any part or parts thereof, or any departure whether material or otherwise from the terms of this RFP or the Competition.

6.9 Legal Liability for Breach of RFP

Without limiting the terms of Section 6.8 of Part A, if a court of competent jurisdiction finds that the AESO is liable to the Proponent for any reason, the Proponent agrees the aggregate amount of damages recoverable against the AESO for any such liability, whether based upon an action or Claim in contract, warranty, equity, negligence, intended conduct or otherwise, including any action or Claim arising from the acts or omissions, negligent or otherwise, of the AESO, shall be

no greater than the Submission Fee paid by such Proponent in the RFQ stage of this Competition.

6.10 Disqualification and Prohibition

If Disqualified for any reason, a Proponent will not be permitted to continue to participate in REP Round 3 and all of its RFP Submissions and Renewables Projects will be Disqualified (and the Bid Security which it provided in respect of any of its RFP Submissions submitted pursuant to this RFP will not be returned to it). If a Renewables Project or its associated RFP Submission is Disqualified for any reason, such Renewables Project / RFP Submission will not be permitted to continue to participate in REP Round 3 and the Bid Security which it provided in respect of such Renewables Project / RFP Submission will not be returned to it.

In addition to AESO's entitlements to Disqualify a Proponent as otherwise provided in this RFP, the AESO may Disqualify a Proponent if it determines any of the following have occurred:

- a) the Proponent, or a Proponent Team Member, has committed a material breach of the RFP;
- b) the Proponent, or a Proponent Team Member, has knowingly provided false or misleading information to the AESO in its RFP Submission;
- c) there is a material intentional misrepresentation of information in the Proponent's RFP Submission;
- d) the Proponent, or a Proponent Team Member, has colluded with one or more other Proponents in preparing the RFP Submission; or
- e) the Proponent, or a Proponent Team Member, has engaged in anti-competitive behaviour, as determined by the AESO in its discretion, with respect to the Competition.

If a Proponent is Disqualified or the Counterparty for a RESA fails to provide the Performance Security and Solicitor's Opinion for, or execute, the RESA as required, then the AESO may, in its discretion:

- f) prohibit the Proponent and any of its Control Group Members from participation in some or all future competitions to promote Electricity from renewable energy resources under the REA; and
- g) prohibit the inclusion of some or all Sites associated with the Renewables Project identified in such Proponent's RFP Submission in any such future competitions.

6.11 Reservation of Rights

The AESO reserves the right to do any or all of the following at its sole and absolute discretion:

- a) before or after the submission of any RFP Submissions, request a Clarification from any Proponent and incorporate a Proponent's response to that Request for Clarification into the Proponent's applicable RFP Submissions; provided that such response shall not be incorporated to the extent it contains, in the AESO's opinion, material additions, variations or alterations to the RFP Submission;
- b) before or after the submission of any RFP Submissions, request additional information from any Proponent and incorporate a Proponent's response to that

request into the Proponent's applicable RFP Submissions; provided that such response shall not be incorporated to the extent it contains, in the AESO's opinion, material additions, variations or alterations to the RFP Submission;

- c) before or after the submission of any RFP Submissions, request that the Proponent correct or remedy any deviation, error, omission or failure to comply that, in the AESO's sole and absolute discretion, does not constitute a Material Deviation (including, for example, inadvertently submitting a REP Round 3 submission in the REP Round 2 process and *vice versa*) and incorporate the Proponent's corrected or remedied submissions into the applicable RFP Submission;
- d) request that the Proponent update and resubmit one or more Prescribed Forms and incorporate the Proponent's updated and resubmitted Prescribed Form(s) into the applicable RFP Submission; provided that such updated and resubmitted Prescribed Form(s) shall not be incorporated to the extent it contains, in the AESO's opinion, material additions, variations or alterations to the RFP Submission;
- e) rely on information provided as part of any REP Round 2 request for qualifications or request for proposals submission in order to determine whether any RFP Submission complies with the terms of this RFP;
- f) meet with some or all Proponents to discuss aspects of their RFP Submissions;
- g) seek a Proponent's acknowledgment of the AESO's interpretation of an RFP Submission or any part of an RFP Submission;
- h) contact any Designated Equity Provider or Equity Support Person, and obtain information on such party whether directly from the party or a third party;
- i) verify with any Proponent, or with a third party, any information set out in an RFP Submission;
- j) declare a Proponent, or determine any RFP Submission of such Proponent, to be Ineligible if such Proponent or any of its employees, agents, contractors or representatives breaches the provisions of this RFP;
- k) waive any informality or irregularity or defect, including any alteration, qualification, omission, inaccuracy or misstatement, non-compliance, non-conformity (including in form, content and substance) or irregularity in an RFP Submission which is not material;
- l) postpone, or suspend, temporarily or otherwise, this RFP process;
- m) cancel this RFP;
- n) if only one RFP Submission is received, elect to award a RESA in respect of such RFP Submission or not award a RESA in respect of such RFP Submission;
or
- o) request the delivery of an original hardcopy of any document delivered or submitted to it electronically;

and these reserved rights are in addition to any other express rights or any other rights which may be implied in the circumstances, and the AESO shall not be liable for any expenses, costs, losses or any direct or indirect damages incurred or suffered by any Proponent or any third party resulting from the AESO exercising any of its express or implied rights under this RFP.

The AESO, in particular, reserves the right, in its sole discretion, to allow changes to: (i) the Prescribed Form – Solicitor's Confirmation Opinion in any RFP Submission which changes are required by the solicitor of the Proponent in order to permit such solicitor to issue the Solicitor's Confirmation Opinion and which are satisfactory to the AESO in its sole discretion; and (ii) the Prescribed Form – Solicitor's Opinion in any RFP Submission which changes are approved or otherwise specified by the AESO in its sole discretion pursuant to Section 2.7(b) of Part A; and (iii) the Prescribed Form – Solicitor's Opinion with respect to: (A) consequential amendments to the opinion relating to the Counterparty being other than a corporation, or (B) the list of records reviewed by the solicitor of the Proponent, which in either case are required by the solicitor of the Proponent in order to permit such solicitor to issue the Solicitor's Opinion and which are satisfactory to the AESO in its sole discretion.

The AESO is not obligated to seek Clarification or verification of any aspect of an RFP Submission or any statement by a Proponent, including an ambiguity in an RFP Submission or in a statement made by a Proponent.

By submitting its RFP Submission, the Proponent authorizes the collection by the AESO of any information that the AESO elects to collect in exercising its rights reserved in this Section 6.11 of Part A.

6.12 Governing Law of this RFP

This RFP shall be governed by and construed in accordance with the laws of the Province of Alberta and the federal laws of Canada applicable therein. Each Proponent submits to the exclusive jurisdiction of the Courts of the Province of Alberta situated in Calgary.

REQUEST FOR PROPOSALS

PART B: RFP SUBMISSIONS – INSTRUCTIONS AND REQUIREMENTS

1 RFP SUBMISSIONS – INSTRUCTIONS

- (a) **General Instructions.** Except in respect of the Bid Security, each RFP Submission (for clarity, a separate and distinct RFP Submission should be provided for each Renewables Project):
- (i) Must, on or before the RFP Submission Deadline, be delivered to the AESO through the REP Bonfirehub Site. An RFP Submission submitted after the RFP Submission Deadline will not be considered. The calendar and clock in the REP Bonfirehub Site, whether accurate or not, will establish the time of delivery.
 - (ii) Must be in English. If and to the extent all or any portion of an RFP Submission is not in English, such RFP Submission shall not be automatically Disqualified or considered to be Ineligible by virtue of such non-compliance alone, but the AESO will remove the portion of such RFP Submission which is not in English and such portion of the RFP Submission will not be considered or evaluated by the AESO (and as a result of such removal and non-evaluation, such RFP Submission may be Disqualified or determined to be Ineligible if it does not meet the requirements of this RFP).
 - (iii) Must include pdf format signature pages of any and all Prescribed Forms and other submissions requiring the signature of an Individual whether in his or her own capacity or on behalf of any Entity.
 - (iv) Should be clearly subject titled "AESO REP Round 3, RFP Submission" and indicate Proponent's name and the applicable Renewable Project's name.
 - (v) Should be separately tabbed as stipulated in "Table – General Submission Tabs" below, and if required, as stipulated in "Table – Tangible Net Worth Tabs" following Section 2(b) of Part B.

Table – General RFP Submission Tabs

Tab	Form
1 – Confirmation, Bid Security, RESA Provisions and Release and Indemnity Agreement	Prescribed Form – Confirmation, Bid Security, RESA Provisions and Release and Indemnity Agreement – Appendix D
2 – Proponent Declarations	Prescribed Form – Proponent Declarations – Appendix E
3 – Solicitor's Confirmation Opinion (Note: only submit if applicable)	Prescribed Form – Solicitor's Confirmation Opinion Respecting Indigenous Site Control – Appendix F
4 – Section 89 Waiver (Note: only submit if applicable)	Prescribed Form – Section 89 Waiver – Appendix G

Tab	Form
5 – Strike Price Offer	Prescribed Form – Strike Price Offer – Appendix H

- (vi) Should ensure that Prescribed Forms which are submitted in Word format (or pdf documents created from Word documents), are, or are formatted for, 8.5" x 11" paper, having text with 1.5 line spacing and minimum 10 point font size (for clarity this requirement does not apply to materials the Proponent might submit which are not provided in Word format) or as pdf documents created from Word documents.
 - (vii) Should be prepared having regard to this RFP, including the Glossary of Terms set out in Appendix A.
- (b) **Bid Security.** The Bid Security in respect of an RFP Submission (and its associated Renewables Project) must be delivered by hand to the Delivery Address in hard copy format on or before the RFP Submission Deadline (but may be delivered either before, concurrent with or after submission of the remainder of the RFP Submission and may be delivered to the AESO directly from the issuing financial institution). If the Bid Security is not delivered to the Delivery Address before the RFP Submission Deadline, the corresponding RFP Submission will not be considered and will be deemed Ineligible. The calendar and clock at the Delivery Address, whether accurate or not, will establish the time of delivery.

The Bid Security:

- (i) must: (A) be substantially in the form of Appendix C; (B) have a date of expiry no earlier than the Conclusion Date; and (C) be issued (and duly executed) by a financial institution listed in either Schedule I or II of the *Bank Act* (Canada), or any other financial institution having a branch in Canada and a minimum credit rating of: (1) A- with S&P, (2) A3 with Moody's, (3) A low with Dominion Bond Rating Service, or (4) A with Fitch IBCA (if more than one (1) of the foregoing credit rating agencies provides a credit rating for the applicable financial institution, the AESO will apply the lowest of such ratings for purposes of its evaluation); and
 - (ii) should: (A) be in an amount equal to or greater than \$25,000 for each MW of Contract Capacity of the applicable Renewables Project and (B) be provided separately for each RFP Submission.
- (c) **Specific Instructions for Prescribed Forms.**
- (i) The pages of Prescribed Forms should be kept together in the RFP Submission.
 - (ii) Apart from the completion of any blanks, bullets or similar uncompleted information in the Prescribed Forms, a Proponent should not make amendments to the pre-printed wording of the Prescribed Forms (unless the wording in such forms is intended and designed to be deleted).
 - (iii) Any amendments made to the Prescribed Forms, whether on the face of such forms or contained elsewhere in the RFP Submission, and if they constitute Material Deviations, may result in such RFP Submission being found to be Ineligible.

- (iv) All Prescribed Forms requiring signature of the Proponent must be signed by the Proponent's Representative or such other Individual acceptable to the AESO, in its sole discretion (which acceptance may be granted either before or after submission of the RFP Submission).
- (v) In instances where there are discrepancies or inconsistencies between the statements or declarations in the Prescribed Forms and those otherwise in the RFP Submission, the AESO may, but shall not be required to, determine such RFP Submission to be Ineligible or may seek Clarification or additional information from the Proponent if such discrepancies or inconsistencies do not represent Material Deviations.

2 RFP SUBMISSIONS – REQUIREMENTS

- (a) **General RFP Submission Requirements.** Each RFP Submission must include:
 - (i) the Bid Security, provided in accordance with Section 1(b) of Part B;
 - (ii) Prescribed Form – Proponent Declarations, completed in compliance with the instructions included with such form;
 - (iii) Prescribed Form – Strike Price Offer, which form must be completed as indicated in such form and signed; and
 - (iv) Prescribed Form – Confirmation, Bid Security, RESA Provisions and Release and Indemnity Agreement, which agreement should be completed as indicated in such agreement and must be signed.
- (b) **Indigenous Site Control.** If all or any portion of the Site is located on Indigenous Land, the Proponent should have site control for the portion of the Site located on Indigenous Land by way of the following ("**Indigenous Site Control**"):
 - (i) in respect of any portion of the Site which is located on First Nation Land:
 - (A) a First Nation Land Designation; and
 - (B) either:
 - (I) a lease from her Majesty the Queen in Right of Canada, or a sublease thereof, or an option or other agreement to acquire such a lease or sublease; or
 - (II) a binding agreement (including, without limitation, a letter of intent, proposal, memorandum of understanding or other agreement) with the applicable First Nation which sets forth the terms and conditions upon which the SPV will enter into a binding lease (or a binding sub-lease, or option or other agreement to acquire a lease or sub-lease) with the Crown in respect of such First Nation Land, subject only to (if applicable) the approval of, or such changes as may be required by, the Crown, together with evidence of a band council resolution authorizing the reserve land manager to request the Crown to finalize a lease which incorporates the terms and conditions of such binding agreement (along with evidence that such resolution has been submitted to the reserve land manager);

- (ii) if any portion of the Site is located on First Nation Land, a waiver of the applicable First Nation's rights under Section 89 of the *Indian Act* (Canada); and
- (iii) in respect of any portion of the Site which is located on Métis Land, a lease from the applicable Settlement Council, or a sublease thereof, or an option or other agreement to acquire such a lease or sublease, subject only to (if applicable) the enactment of a bylaw of the applicable Métis Settlement which authorizes a lease term which is longer than ten (10) years and which will not expire prior to the earlier of the expiration of the term of the RESA and June 30, 2041.

Each RFP Submission must, if all or any portion of the Site is located on Indigenous Land, include Prescribed Form – Solicitor's Confirmation Opinion Respecting Indigenous Site Control, completed in compliance with the instructions included with such form and signed by the Proponent's solicitor.

Each RFP Submission must, if all or any portion of the Site is located on First Nation Land, include Prescribed Form – Section 89 Waiver, which form must be completed as indicated in such form and signed by the applicable First Nation.

The submission of a completed Prescribed Form – Solicitor's Confirmation Opinion Respecting Indigenous Site Control and, if applicable, Prescribed Form – Section 89 Waiver will evidence the Indigenous Site Control in respect of the applicable Renewables Project.

- (c) **Tangible Net Worth.** In respect of an RFP Submission, if one or more of the Proponent's Designated Equity Providers and/or Equity Support Persons for the Renewables Project included in the RFP Submission has experienced Adverse Facts or Circumstances since the date of the Qualification Submission, the RFP Submission must provide the AESO with assurance that the revised Tangible Net Worth of each such Designated Equity Provider and/or Equity Support Person, estimated reasonably and in accordance with GAAP and having regard to such Adverse Facts or Circumstances, does not result in its Tangible Net Worth at the end of each of its last two (2) fiscal years and at the end of its most recently completed interim fiscal period (if financial statements are available for such interim fiscal period), as restated and/or updated in accordance with Tab 7, being less than the threshold amount for the TNW Requirement for it, as calculated in accordance with Section 4 of Part B of the RFQ. If the Proponent has, in Section 5(b) of the applicable Prescribed Forms – Proponent Declarations, declared a restated Contract Capacity for one or more of its Renewables Projects, such revised Contract Capacities will be used in such TNW calculations.

The foregoing Tangible Net Worth requirement should be addressed by the submission of the documents and other materials described in the following "Table – Tangible Net Worth Tabs" in respect of each such Designated Equity Provider and/or Equity Support Person.

The AESO may, in its sole and absolute discretion, recalculate or reconsider the TNW of such Designated Equity Providers or Equity Support Persons based on a calculation the AESO deems appropriate, having regard to the definition of TNW, and determine the applicable RFP Submissions to be Ineligible if the above TNW requirement is not satisfied. If the AESO determines that a Designated Equity Provider or Equity Support Person has sufficient TNW for some, but not all, relevant Renewables Projects, the AESO will determine such Renewables Projects to be Ineligible in the priority stipulated by the Proponent in its Prescribed Form – Priority for Evaluation included in its Qualification Submission until the TNW of such Person is sufficient for the remaining Renewables Projects for which it is a Designated Equity Provider or Equity Support Person (as applicable).

Table – Tangible Net Worth Tabs

Tabs	Contents Requirements
6 – Financial Statements	<p>For each Designated Equity Provider and Equity Support Person which has experienced Adverse Facts or Circumstances since the date of the Qualification Submission: (i) financial statements for its two most recently completed fiscal years and, if available, its most recently completed interim fiscal period (audited if available) unless such financial statements were submitted in the Qualification Submission and have not been restated or qualified and (ii) a summary of any material off-balance sheet financing arrangements and, if none, a confirmation of such.</p> <p>If interim financial statements for any applicable Designated Equity Provider or Equity Support Person are not provided in accordance with item (i) above, a certificate of an officer of the Designated Equity Provider or Equity Support Person confirming that the Designated Equity Provider or Equity Support Person does not issue financial statements on an interim basis.</p> <p>If any of the financial statements provided in the RFP Submission are not audited, then they should be submitted together with a statutory declaration of an officer of the applicable Designated Equity Provider and/or Equity Support Person (or the Designated Equity Provider or Equity Support Person itself, if it is an Individual) stating that such financial statements present fairly, in all material respects, the financial position of such Designated Equity Provider or Equity Support Person (as applicable).</p>

Tabs	Contents Requirements
7 – TNW Values and TNW Methodology	<p>For each Designated Equity Provider or Equity Support Person that has experienced Adverse Facts or Circumstances since the date of the Qualification Submission, submission of a summary outlining and describing the methodology / calculations ("TNW Methodology") used to determine the TNW of the Designated Equity Provider(s) or Equity Support Person(s) (as applicable) based on the information provided and in accordance with the definition of TNW.</p> <p>The summary should clearly explain the methodology used to link each applicable line item contained in the financial statements submitted with the TNW value of the Designated Equity Provider(s) or Equity Support Person(s) (as applicable). To the extent that there are any relevant line items, including any assets or liabilities that are identified in such financial statements, which the Proponent believes should not be included in the TNW calculations, the summary should clearly identify those amounts and explain the rationale for excluding such amounts.</p> <p>The summary should include a methodology and calculations used to revise such Person's TNW to account for the applicable Adverse Facts or Circumstances, with a reconciliation provided to support such calculation.</p> <p>If any applicable line item contained in a financial statement submitted with the RFP Submission is not determined in accordance with GAAP, then as part of the TNW Methodology, such line item should be recalculated to be in accordance with GAAP and a reconciliation provided to support such recalculation.</p> <p>To the extent such Adverse Facts or Circumstances could reasonably have a material adverse impact on the credit quality or financial condition of the Designated Equity Provider or Equity Support Person, either as set out in the relevant financial statements or since the most recently produced (and submitted) financial statement, then for the affected Designated Equity Provider or Equity Support Person, provide: (i) a revised value of its Tangible Net Worth at the end of each of its last two (2) fiscal years and at the end of its most recently completed interim fiscal period (if financial statements are available for such interim fiscal period), and (ii) a revised value of its Tangible Net Worth since the most recently produced (and submitted) financial statement, in all cases estimated reasonably and in accordance with GAAP, having regard for the Adverse Facts or Circumstances together with the calculations supporting such revised value.</p>
8 – Narrative Description of Adverse Facts and Circumstances	<p>For each Designated Equity Provider and Equity Support Person which has experienced Adverse Facts or Circumstances since the date of the Qualification Submission, a detailed narrative description of such Adverse Facts or Circumstances.</p>

AESO REP ROUND 3
REQUEST FOR PROPOSALS
APPENDIX A

GLOSSARY OF TERMS AND RFP INTERPRETATION PROVISIONS

In addition to capitalized terms otherwise defined herein, in this RFP each of the following capitalized terms (and their root terms and derivations) and acronyms has the meaning set out below corresponding to such term or acronym.

TERM OR ACRONYM	MEANING
Addendum or Addenda	Means any addendum and all addenda issued by the AESO with respect to, and in accordance with, this RFP.
Adverse Facts or Circumstances	Means, in respect of a Designated Equity Provider or Equity Support Person, that since the date of the applicable Qualification Submission, facts or circumstances have arisen which are reasonably expected to materially adversely affect its credit quality or financial condition as set out in its financial statements as provided in the Qualification Submission or which would require such financial statements to be qualified or restated, or which should be disclosed in order to keep such financial statements from being misleading.
AESO or ISO	Has the meaning given the term "independent system operator" in the EUA.
Affiliate	Means, with respect to any Person, any other Person directly or indirectly controlling, or directly or indirectly controlled by, or under direct or indirect common control with, such Person.
AIES	Has the meaning given the term "interconnected electric system" in the EUA.
Appendix or Appendices	Means each Appendix and all Appendices that form part of this RFP.
Approved Connection Proposal	Has the meaning given such term in the RESA.

TERM OR ACRONYM	MEANING
Bid Security	<p>Means in respect of an RFP Submission for a Renewables Project, security to be provided to the AESO in the Prescribed Form – Bid Security (Appendix C) in an amount equal to \$25,000 for each MW of Contract Capacity of such Renewables Project (using such project's exact Contract Capacity), with a date of expiry no earlier than the Conclusion Date.</p> <p>Bid Security Calculation Example (assuming a Proponent submits two Renewables Projects, project #1 with a Contract Capacity of 100 MW and project #2 with a Contract Capacity of 125.25 MW):</p> <ul style="list-style-type: none"> • Project #1: \$25,000 x 100 MW = Project #1 Bid Security of \$2,500,000 • Project #2: \$25,000 x 125.25 MW = Project #2 Bid Security of \$3,131,250
Business Day	Means a day, other than a Saturday or Sunday, or a statutory holiday recognized in Alberta.
Cancellation Notice	Means a notice delivered to a Proponent by the AESO, through the REP Bonfirehub Site, cancelling this RFP.
Capacity Factor	Means the expected annual production of Electricity from a Renewables Project measured at or corrected to the Connection Point calculated in MWh per year and expressed as a percentage of the maximum annual production of Electricity from such Renewables Project, where such maximum annual production is calculated to be the result of the Contract Capacity of the Renewables Project multiplied by the number of hours in a year which is not a leap year.
Change	Means, in respect of a Proponent, a redesignation, modification, removal (except as specifically contemplated in Section 5.2 of Part A), reorganization, addition, substitution or change to such Proponent and includes any Change in Control of an Entity that is part of its Proponent Team.
Change in Control	Means, with respect to any Person, that Control of such Person has changed to a Person(s) which is not its Affiliate.
Claim	Means any claim, demand, suit, action, or cause of action, whether arising in contract, tort or otherwise, and all costs and expenses relating thereto.
Clarification	Means the response of a Proponent to a Request for Clarification.
Commencement of Construction	Means the deemed commencement of construction of a Renewables Project pursuant to Section 2.2(d) of the RESA.
Commercial Operation	Means the deemed commercial operation of a Renewables Project pursuant to Section 2.6(a) of the RESA.

TERM OR ACRONYM	MEANING
Commercial Operation Date and COD	Means the date on which Commercial Operation is achieved.
Commitment Letter	Has the meaning given such term in the RFQ.
Common Interest Lands	Has the meaning given such term in the RFQ.
Common Ownership	Is a reference to participation by a Person as a Control Group Member of more than one Respondent or Proponent.
Competition	Means the stages and procedures, including the REOI, the RFQ and, this RFP, consultations and information sessions that make up the AESO's process for REP Round 3, which process will end upon Counterparties entering into RESAs with the AESO.
Conclusion Date	Means the time specified in Section 2.10 of Part A in respect of such term.
Conditionally Qualified Renewables Project	Means a Renewables Project which was determined to be conditionally able to deliver its full Contract Capacity to the Transmission System pursuant to the Connection Capacity Assessment undertaken pursuant to the RFQ.
Conflict of Interest	Means: (i) the inclusion in any Proponent Team of a Restricted Party, and (ii) any situation or circumstance where, in relation to this RFP or the Competition, the Proponent engages in conduct, directly or indirectly, that may give it an unfair advantage, including: (a) having access to information in the preparation of its RFP Submission that is confidential to the AESO or the Government of Alberta and not available to other Proponents; (b) communicating with any official or representative of the AESO or the Government of Alberta with a view to influencing preferred treatment in this RFP process; or (c) engaging in conduct that compromises or could be seen to compromise the integrity of a fair and transparent Competition or render the Competition non-competitive or unfair.
Connection Capacity Assessment	Means the connection capacity assessment described in Section 4.1 of Part A of the RFQ.
Connection Point	Means the high voltage side of the electrical point of connection between the Renewables Project and a Distribution System or the Transmission System where Electricity is injected into a Distribution System or the Transmission System (as applicable).
Contract Capacity	Means, with respect to a Renewables Project, other than a solar Renewables Project, the aggregate Nameplate Capacities of all generating units forming part thereof, and means in respect of a solar Renewables Project, the Nameplate Capacity of such Renewables Project.

TERM OR ACRONYM	MEANING
Control	Means, with respect to any Person at any time, the possession, directly or indirectly, of the power to either (i) elect a majority of the directors of that Person, or (ii) direct or cause the direction of the management or policies of that Person whether through ownership of securities or partnership or other ownership interests, by contract or otherwise; and includes, with correlative meanings, the terms "controlling", "controlled by" and "under common control with".
Control Group Member	Means in respect of a Proponent: (i) the Proponent, (ii) the Counterparty in respect of each Renewables Project Proposal of the Proponent and each Person that does or will own fifty percent (50%) or more of the ownership interest in or will Control such Counterparty, (iii) the Project Team Lead for each Renewables Project Proposal of the Proponent, (iv) the Designated Equity Provider(s) and Equity Support Person(s) for each Renewables Project Proposal of the Proponent, and (v) each Person which is an Affiliate of any of the foregoing.
Corporation	Means any corporation, company or other body corporate howsoever formed or incorporated.
Counterparty	Means, in respect of a Renewables Project contained in an RFP Submission, the Selected Proponent, if an SPV, or the SPV of the Selected Proponent which executes the RESA.
Deadline for Enquiry	Means the time specified in Section 2.10 of Part A in respect of such term.
Delivery Address	Means: Alberta Electric System Operator Calgary Place 2500, 330 – 5th Ave SW Calgary, AB T2P 0L4
Delivery Time	Means the time specified in Section 2.10 of Part A in respect of such term.
Designated Equity Provider and DEP	Has the meaning given such term in the RFQ.
Disqualification or Disqualified or Disqualify	Means, as the context requires, the exclusion by the AESO of a Proponent, a Renewables Project or an RFP Submission from, or from further participation in, the Competition, which exclusion will: (i) in the case of the Disqualification of a Proponent, result in the forfeiture of all Bid Security provided by such Proponent to the AESO or (ii) in the case of the Disqualification of a Renewables Project / RFP Submission, result in the forfeiture of the Bid Security provided in respect of such Renewables Project / RFP Submission to the AESO (in each case, without limiting any of the AESO's other rights).

TERM OR ACRONYM	MEANING
Distribution Entity	Means the owner or operator of a Distribution System including a rural electrification association which has an approved service area under the <i>Hydro and Electric Energy Act</i> (Alberta).
Distribution System	Means the distribution system of a Distribution Entity with a service area established under the <i>Hydro and Electric Energy Act</i> (Alberta) and includes any structures, equipment or other things used for that purpose.
Dollar, dollar or \$	Means Canadian currency unless otherwise specifically set out to the contrary.
Electricity	Has the meaning given the term "electricity" in the EUA.
Enquiry	Means a request by a Proponent to the AESO for information or clarification.
Entity	Means a Corporation or Unincorporated Association.
Equity Commitment	Has the meaning given such term in the RFQ.
Equity Support Person	Has the meaning given such term in the RFQ.
EUA	Means the <i>Electric Utilities Act</i> (Alberta).
Excluded Purpose	Has the meaning given such term in the RFQ.
Expansion	Has the meaning given such term in the RFQ.
Fairness Advisor	Means the Person who is retained by the AESO to provide: (a) assurance that the evaluation process is fair and transparent, and (b) a written report attesting that the Competition was conducted in a fair and transparent manner.
First Nation	Means "band" as defined in the <i>Indian Act</i> (Canada).
First Nation Land	Means land situated within the geographic boundaries of a "reserve", as such term is defined in the <i>Indian Act</i> (Canada).
First Nation Land Designation	Means, in respect of any First Nation Land, that such land has been designated for lease by the applicable First Nation under Section 38(2) of the <i>Indian Act</i> (Canada).
FOIP	Has the meaning given such term in Section 4.7 of Part A.
Generating Equipment	Means generating units and equipment used by a Renewable Generating Facility in the generation of Electricity, such as wind turbines, solar (PV) modules, hydroelectric turbines, biomass-fired boilers and generating sets for the combustion of biogas or landfill gas, but does not include transformers or other equipment used to collect, transform or transmit such Electricity.

TERM OR ACRONYM	MEANING
Generation Facility	Has the meaning given such term in the RFQ.
Glossary of Terms	Means this Glossary of Terms appended as Appendix A to, and forming part of, this RFP.
Government of Alberta	Means Her Majesty the Queen in Right of Alberta.
Governmental Authority	Means any federal, provincial, regional, municipal or local government, parliament or legislature, or any regulatory authority, agency, organization, tribunal, commission, board, department or political or other subdivision 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 Alberta Utilities Commission, the AESO; and any Person acting under the authority of any Governmental Authority.
Incentive Program	Has the meaning given such term in the RESA.
Indigenous Land	Means land which is First Nation Land or Métis Land.
Indigenous Site Control	Has the meaning given such term in Section 2(b) of Part B.
Individual	Means a natural person, but does not include a natural person in his or her capacity as trustee, executor, administrator or other legal representative.
Ineligible	Means, as the context requires, the exclusion by the AESO of a Proponent, a Renewables Project or an RFP Submission from, or from further participation in, the Competition, which exclusion will <u>not</u> , in and of itself, result in the forfeiture of any Bid Security.
ISO Rules	Means the ISO rules which are promulgated pursuant to the EUA.
Laws	<p>Means:</p> <ul style="list-style-type: none"> (a) all applicable federal, provincial or municipal laws, orders-in-council, bylaws, codes, rules, policies, regulations and statutes; (b) all applicable orders, decisions, codes, judgments, injunctions, decrees, awards and writs of any court, tribunal, arbitrator, Governmental Authority or other Person having jurisdiction; (c) all applicable rulings and conditions of any licence, permit, certificate, registration, authorization, consent and approval issued by a Governmental Authority; (d) all applicable requirements under or prescribed by applicable common law; and (e) the ISO Rules, as well as any manuals or interpretation bulletins issued by the AESO from time to time that are binding on a Selected Proponent.

TERM OR ACRONYM	MEANING
Legal Description	<p>Means, with respect to each Property forming part of a Site, the legal description of the Property in the following format:</p> <p>(a) in the case of Properties in respect of which no plan of subdivision has been registered, Meridian, Range, Township, Section, ¼ Section or Legal Subdivision;</p> <p>(b) in the case of Properties in respect of which a plan of subdivision has been registered: (i) Plan, Block, Lot; and (ii) Meridian, Range, Township, Section, ¼ Section or Legal Subdivision; or</p> <p>(c) in the case of Properties that constitute Indigenous Land, the parcel identification number, any information under (a) or (b) above that can reasonably be provided, and such other information as would generally constitute the legal description of such Properties or that would reasonably be required to allow the AESO to determine the physical location of such Properties.</p>
Longstop Dates	Means either or both, as the context permits, the Commencement of Construction Longstop Date and COD Longstop Date as each such term is defined in the RESA.
Material Deviation	Means a deviation from the requirements in this RFP, including any Prescribed Forms, which, in the opinion of the AESO, results in an RFP Submission being in non-compliance in a material way with a material component of this RFP or any requirement set out in this RFP.
Métis Land	Means land situated within the geographic boundaries of a "settlement area", as such term is defined in the <i>Metis Settlements Act</i> (Alberta).
Métis Settlement	Has the meaning given the term "settlement" under the <i>Metis Settlements Act</i> (Alberta).
Minister	Has the meaning given such term in the REA.
Moving Water	Has the meaning given the term "Moving Water" in the RESA.
MW	Means megawatt.
MWh	Means megawatt hour.

TERM OR ACRONYM	MEANING
Nameplate Capacity	Means, in respect of a generating unit, the manufacturer's installed rated capacity of the generating unit to generate Electricity, expressed in MW; and means for solar Generation Facilities the manufacturer's total installed rated capacity in MW as determined by taking the lesser of: (a) the sum of the manufacturer's capacity ratings (in direct current MW) for normal operation (e.g. continuous output ratings) of the installed solar modules (i.e. panels) of the Generation Facility; and (b) the sum of the manufacturer's capacity ratings (in alternating current MW) for normal operation (e.g. continuous output ratings) of the installed inverters of the Generation Facility.
New Build	Has the meaning given such term in the RFQ.
Non-Collusion Requirements	Means the requirement that a Proponent Team: <ul style="list-style-type: none"> (a) not coordinate its RFP Submission with any other Proponent or with any team participating in REP Round 2 (except in the case where all members of the Proponent Team and the team participating in REP Round 2 are the same); (b) keep its RFP Submissions confidential; (c) ensure that no member of its Proponent Team has entered into any agreement or arrangement with any member of another Proponent Team or with any member of a team participating in REP Round 2 (except in the case where all members of the Proponent Team and the team participating in REP Round 2 are the same) for purposes of affecting the Strike Price bid in any RFP Submission submitted by either Proponent or the strike price bid in any request for proposals submission of any such team participating in REP Round 2; and (d) not engage in any activity or communication that results in a Conflict of Interest, collusion or a violation of any of the civil or criminal provisions of the <i>Competition Act</i> (Canada).
Part A	Means Part A of this RFP.
Part B	Means Part B of this RFP.
Performance Security	Means the Completion and Performance Security as defined in the RESA.
Permitted Purpose	Has the meaning given such term in the RFQ.
Person(s)	Means an Entity or an Individual.
Power Pool	Has the meaning given the term "power pool" in the EUA.
Prescribed Form	Means each form described herein as a prescribed form and attached hereto as an Appendix.
Priority for Evaluation	Has the meaning given such term in the RFQ.

TERM OR ACRONYM	MEANING
Procurement Target	Means Renewables Projects awarded RESAs pursuant to this Competition with aggregate Contract Capacity of up to 400 MW.
Project Team Lead and Team Lead	Has the meaning given such term in the RFQ.
Proponent	Means, in respect of any Renewables Project, the Respondent identified with respect to such Renewables Project in a Qualification Submission, and if the context allows also means the Proponent Team Members.
Proponent Name	Means the name by which the Proponent was, as Respondent, identified as specified in the Prescribed Form – Respondent Declarations of the RFQ.
Proponent Team	Means the Proponent and all of the Proponent Team Members.
Proponent Team Members	Means, in respect of any Renewables Project, the Respondent identified with respect to such Renewables Project in a Qualification Submission and each Person who is a member of the Respondent Team in respect of such Respondent.
Proponent's Account	Means the REP Bonfirehub Site user account through which the AESO received the Proponent's Qualification Submission.
Proponent's Representative	Has the meaning given such term in Section 2.2 of Part A.
Qualification Submission	Means the submission made by a Respondent pursuant to the RFQ.
Ranked Renewables Project	Has the meaning given such term in Section 3.1(iii) of Part A.
Ranked RFP Submission	Has the meaning given such term in Section 3.1(iii) of Part A.
Releasees	Means the AESO and its members and its employees and its evaluators, consultants and advisors engaged by it in connection with the Competition.

TERM OR ACRONYM	MEANING
Renewable Attributes	<p>Means those attributes existing or coming into existence in the future, associated with a Generation Facility having decreased environmental impacts due to or through the generation of Electricity through the generation of Renewable Electricity, and includes:</p> <ul style="list-style-type: none"> (a) rights to any fungible or non-fungible attributes, whether arising from the Generation Facility itself, from the interaction of the Generation Facility with the AIES or because of applicable legislation or voluntary programs established by Governmental Authorities or agencies thereof; (b) any and all rights relating to the nature of the energy source as may be defined and awarded through applicable legislation or voluntary programs, including ownership rights to any emission reduction credits or entitlements resulting from interaction of the Generation Facility with the AIES or as specified by applicable legislation or voluntary programs, and the right to quantify and register such credits with competent authorities; and (c) all revenues, entitlements, benefits, and other proceeds arising from or related to the foregoing, <p>but which excludes:</p> <ul style="list-style-type: none"> (d) 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 Renewables Project.
Renewable Electricity	means "renewable electricity" as defined in the REA.
Renewable Electricity Act and REA	Means the <i>Renewable Electricity Act (Alberta)</i> .
Renewable Electricity Program	Means any "renewable electricity program" established by the AESO and approved by the Minister pursuant to the REA.
Renewable Electricity Support Agreement and RESA	Means the Renewable Electricity Support Agreement in the form set out in Appendix B to this RFP.
Renewable Fuel	Means an energy resource that occurs naturally and that can be replenished or renewed within a human lifespan, including: (i) Moving Water, (ii) wind, (iii) heat from the earth, (iv) sunlight, and (v) Sustainable Biomass.
Renewable Generating Facility	Means an Electricity generating facility which generates Electricity exclusively from one or more Renewable Fuels (except in the case of a facility utilizing Sustainable Biomass to generate Electricity) and delivers that Electricity through its own meter connected to the AIES in accordance with all Laws.

TERM OR ACRONYM	MEANING
Renewables Project	Means a Renewable Generating Facility which is the subject of a Renewables Project Proposal which was determined by the AESO through the RFQ to be qualified to participate in this RFP through an RFP Submission.
Renewables Project Proposal	Means a proposal made by a Respondent in respect of a Renewables Project contained in a Qualification Submission.
REP Bonfirehub Site	Means the electronic information sharing site maintained by the AESO for purposes of this Competition.
REP Round 1	Has the meaning given such term in Section 1.2 of Part A.
REP Round 2	Has the meaning given such term in Section 1.2 of Part A.
REP Round 3	Means this third competition being carried out by the AESO pursuant to the REA to promote the development of up to 400 MW of Renewables Projects and, where the context allows, also means "Competition"
Request for Clarifications	Means requests made by the AESO to a Proponent for Clarification of information already provided to the AESO.
Request for Expressions of Interest and REOI	Means the Request for Expressions of Interest in respect of REP Round 3 issued by the AESO on March 29, 2018.
Request for Proposals or RFP	Means this request for proposals issued by the AESO as part of the Competition, including all of the Appendices, as amended from time to time by the AESO in accordance with the terms hereof.
Request for Qualifications or RFQ	Means the request for qualifications issued by the AESO on April 27, 2018 in connection with the Competition, as amended by Addenda issued by the AESO.
Respondent	Has the meaning given such term in the RFQ.
Respondent Team	Means the Respondent and the Respondent's Designated Equity Providers, Equity Support Persons and Project Team Leads as well as any other Persons identified as Respondent Team Members in the Qualification Submission of the Respondent.
Respondent Team Members	Means each Person that is a member of the Respondent Team.
Respondent's Representative	Has the meaning given such term in the RFQ.

TERM OR ACRONYM	MEANING
Restricted Party	<p>Means a Person who had, or currently has, participation or involvement in:</p> <ul style="list-style-type: none"> (a) the Competition on behalf of the AESO; (b) the design, planning or implementation of the Competition for the AESO; or (c) any other relationship with the AESO related to the Competition; <p>and who, as a result, and in the opinion of the AESO in relation to the Competition has an actual conflict of interest or creates the perception of a conflict of interest or may provide a material unfair advantage to any Respondent or confidential information to any Respondent that is not, or would not reasonably be expected to be, available to other Respondents, and includes the Persons listed in Section 6.1 of Part A of the RFQ; and Restricted Party means any one of such Persons.</p>
RFP Connection Capacity Assessment	Has the meaning given such term in Section 3.1(iv)(b) of Part A.
RFP Submission	Means a submission made by a Proponent pursuant to this RFP, containing the information and other requirements set out and stipulated in Part B in respect of a Renewables Project, and means, if applicable, the RESA, Performance Security and Solicitor's Opinion in respect of a Selected Renewables Project.
RFP Submission Deadline	Means the time specified in Section 2.10 of Part A in respect of such term.
RFP TNW Assessment	Has the meaning given such term in Section 3.1(iv)(a) of Part A.
Ringfence Covenants	<p>Means the covenants of the Counterparty contained in the RESA requiring the Counterparty:</p> <ul style="list-style-type: none"> (a) not to undertake any business other than that associated with the Renewables Project; (b) not modify the Renewables Project without consent of the AESO; and (c) other than in respect of its business, not incur indebtedness, including indebtedness on behalf of, or a guarantee of the obligations of any other Person.
Selected Proponent	Means a Proponent that, pursuant to evaluation under the terms of this RFP and the approvals of the Minister required under Section 7(3) the REA, becomes entitled, if an SPV, to become Counterparty to, or if not an SPV, then whose SPV becomes entitled to become Counterparty to a RESA with the AESO for a Renewables Project, and, in the latter case, includes such SPV.

TERM OR ACRONYM	MEANING
Selected Renewables Project	Means a Renewables Project that is selected pursuant to the evaluation under the terms of this RFP and the approvals of the Minister required under Section 7(3) of the REA, and in respect of which the applicable Proponent is awarded a RESA.
Settlement Council	Means a "settlement council" as such term is defined in the <i>Metis Settlements Act</i> (Alberta).
Site	Means, in respect of a Renewables Project, the lands and/or other physical location on, over, in, under or in respect of which such project is, or is to be, situated as such location is identified in the Prescribed Form – Renewables Project Profile which was submitted as part of the Qualification Submission for such Renewables Project.
Solicitor's Confirmation Opinion	Means the Solicitor's Confirmation Opinion Respecting Indigenous Site Control in the form set out in Appendix F.
Solicitor's Opinion	Means the Solicitor's Opinion regarding execution of the RESA in the form set out in Appendix I.
SPV	Means, with respect to a Renewables Project, a special purpose vehicle whether in the form of a Corporation or Unincorporated Association, controlled by one of or a combination of the Proponent, Designated Equity Providers or Project Team Lead created for the purpose of entering into the RESA with respect to such Renewables Project if it is awarded a RESA under this RFP and which will comply with the Ringfence Covenants contained in the RESA.
Stage 1 Prescribed Forms	<p>Means the following Prescribed Forms:</p> <ul style="list-style-type: none"> (a) Appendix C – Prescribed Form of Bid Security; (b) Appendix D – Prescribed Form of Confirmation, Bid Security, RESA Provisions and Release and Indemnity Agreement; (c) Appendix E – Prescribed Form of Proponent Declarations; (d) Appendix F – Prescribed Form of Solicitor's Opinion Respecting Indigenous Site Control (if applicable); (e) Appendix G – Prescribed Form of Section 89 Waiver (if applicable); and (f) Appendix H – Prescribed Form of Strike Price Offer.
Stage 4 Assessments	Has the meaning given such term in Section 3.1(iv) of Part A.
Strike Price	Means the amount (in \$/MWh (to two decimal places)) bid by a Proponent in respect of a Renewables Project as the amount which, subject to the terms of the RESA, will be used to determine the amount the AESO will pay to or will be entitled to receive from the Counterparty in respect of each MWh of Electricity generation from the Renewables Project up to the Contract Capacity, and in respect of the transfer of the associated Renewable Attributes.

TERM OR ACRONYM	MEANING
Submission Fee	Has the meaning given such term in the RFQ.
Substation Lands	Has the meaning given such term in the RFQ.
Successful REP Round 2 Project	Means a renewables project proposal in respect of which the Minister intends to award a renewable electricity support agreement pursuant to REP Round 2.
Sustainable Biomass	Has the meaning given to the term "Sustainable Biomass" set out in the RESA.

TERM OR ACRONYM	MEANING
Tangible Net Worth or TNW	<p>Means, in respect of a Designated Equity Provider or Equity Support Person (as applicable), at any time and without duplication, an amount determined in accordance with GAAP, and calculated as: (a) the sum of capital stock, preferred stock (unless presented as temporary equity under US GAAP), paid-in capital, contributed surplus, retained earnings (minus any deficit, accumulated deficit or negative retained earnings), capital reserves, cumulative translation adjustment (whether positive or negative), and accumulated other comprehensive income (whether positive or negative), minus (b) the sum of any amounts shown on account of any common stock reacquired by the Designated Equity Provider or Equity Support Person or guarantor as applicable, the Designated Equity Provider or Equity Support Person (as applicable) as a parent's interest in all intangible assets (including but not limited to: patents, patent applications, service marks, industrial designs, copyrights, trademarks and trade names, licenses, development assets and goodwill), prepaid assets, deferred tax assets, prepaid employee benefits, defined benefit pension fund assets, and leasehold improvements as presented in the Designated Equity Provider's or Equity Support Person's (as applicable) consolidated financial statements where:</p> <ul style="list-style-type: none"> <li data-bbox="727 930 1435 993">(i) all intangible assets shall be net of any accumulated amortization related to those intangible assets; <li data-bbox="727 1010 1435 1220">(ii) assets attributable to non-controlling interest ("NCI") are to be excluded from (b) provided that NCIs are not included in calculating (a), unless the Designated Equity Provider or Equity Support Person (as applicable) as parent has entered into an arrangement to fund, either directly or indirectly, minority investments made in the subsidiary; <li data-bbox="727 1236 1435 1446">(iii) the full amounts of goodwill, intangible assets and defined benefit pension fund assets are to be deducted in the calculation of Tangible Net Worth, net of any associated deferred tax liability which would be extinguished if the asset on the balance sheet becomes impaired or is derecognized under GAAP; and <li data-bbox="727 1463 1435 1736">(iv) deferred tax assets may be netted with associated deferred tax liabilities only if the deferred tax assets and deferred tax liabilities relate to taxes levied by the same taxation authority and offsetting is permitted by the relevant tax authorities. The deferred tax liabilities permitted to be netted against the deferred tax assets should exclude amounts already netted against the deduction of goodwill, intangible assets and defined benefit pension assets.
Target COD	Means June 30, 2021.

TERM OR ACRONYM	MEANING
Term	Means term of the RESA, being the period from the date of its execution through the period ending on the earlier of twenty (20) years following the COD of the Renewables Project or Target COD.
Timetable	Means the timetable set forth in Section 2.10 of Part A.
TNW Methodology	Has the meaning given such term in Section 2(c) of Part B.
TNW Requirement	Has the meaning given such term in the RFQ.
Transmission System	Has the meaning given the term "transmission system" in the EUA.
Unincorporated Association	Means a trust, pension fund, partnership, joint venture or other unincorporated association however formed and structured and for purposes of this RFP and the Competition includes any Person who is a partner, joint-venturer or associate in such Unincorporated Association.

Interpretation Provisions

This RFP shall be interpreted in accordance with the following:

- (a) the headings, captions, and formatting in this RFP are inserted for convenience only and do not form a part of this RFP and in no way define, limit, alter or enlarge the scope or meaning of any term of this RFP;
- (b) references in this RFP to "at the discretion", "in its discretion", "at its discretion", "in its opinion", "in the opinion", "in the AESO's sole opinion"; and "the exercise of discretion" when used in respect of the AESO will be, in each instance, interpreted to mean the sole, absolute and unfettered (including unfettered by any implied or express duties of good faith or of fairness), right, discretion or opinion, as the case may be, of the AESO;
- (c) references in this RFP to "comply" and "compliance", and references to "must" and "should" when used in connection with a submission requirement, shall be interpreted as set forth in Section 3.2 of Part A;
- (d) in this RFP, wherever the singular or masculine is used it will be construed as if the plural, the feminine or the neuter, and wherever the plural or the feminine or the neuter is used it will be construed as the singular or masculine, as the case may be, had been used where the context may require;
- (e) each Appendix, and table, contained in or attached to this RFP is an integral part of this RFP;
- (f) all monetary amounts referred to in this RFP are to lawful currency of Canada;
- (g) a reference in this RFP to Mountain Time includes a reference to Mountain Daylight Time if then applicable;
- (h) a reference in this RFP to a statute whether or not that statute has been defined, means a statute of Alberta unless otherwise stated;
- (i) a reference to a statute includes the statute as amended from time to time, and in the event that statute is repealed includes any successor legislation thereto including amendments to the successor legislation, and includes all regulations, by-laws and codes enacted thereunder as such regulations or by-laws, codes or rules may be amended from time to time;
- (j) in this RFP, the words "including" and "includes", when following any general term or statement, are not to be construed as limiting the general term or statement to the specific items or matters set forth or to similar items or matters, but rather as permitting the general term or statement to refer to all other items or matters that could reasonably fall within the broadest possible scope of the general term or statement;
- (k) capitalized terms and acronyms used in this RFP but not defined in this Appendix A have the meanings assigned to the same capitalized terms and acronyms used in the RFQ, in the RESA or within the text of this RFP;
- (l) a reference to this RFP or the RESA, or to the documents which make up the appendices to this RFP or the RESA, or to any part of those documents, shall be deemed to be a reference to the most current version of those documents, including all modifications and amendments thereto made and issued by the AESO to Proponents;

- (m) a reference to a part, section or article, without a further reference to another document or to a specific Appendix to this RFP, shall be deemed to be a reference to that part, section or article of this RFP, exclusive of appendices, unless the context otherwise expressly requires;
- (n) a reference to an Appendix by letter in this RFP or in an Appendix to this RFP shall be deemed to be a reference to an Appendix of this RFP unless the context otherwise expressly indicates; and
- (o) where a section, subsection, paragraph or other part of any document includes a list of items, whether or not enumerated, the list of items will be construed and interpreted conjunctively as if each was connected to the other by the word "and", unless the context specifically indicates the terms are to be construed and interpreted disjunctively by the use of the word "or" at the end of each item or at the end of that list.

**AESO REP ROUND 3
REQUEST FOR PROPOSALS
APPENDIX B
FINAL FORM OF RESA**

AESO REP ROUND 3
REQUEST FOR PROPOSALS
APPENDIX C
PRESCRIBED FORM - BID SECURITY
IRREVOCABLE AND UNCONDITIONAL STANDBY LETTER OF CREDIT

Letter of Credit Reference No.

Beneficiary:

Independent System Operator
2500, 330 – 5 Avenue S.W.
Calgary, AB
T2P 0L4

Applicant:

[Insert Proponent's / Counterparty's full legal name, address and contact person]

Attention: Vice President Finance

Amount: CAD **[Insert Amount]**

Date of Expiry: January 31, 2019

At the request of **[Insert Applicant's Name]** (the "**Applicant**"), we, **[Insert Name of Issuing Financial Institution]** (the "**Bank**") hereby issue in favour of Independent System Operator (the "**Beneficiary**") our irrevocable standby Letter of Credit No. **[Insert Reference Number]**, effective **[Insert RFP Submission Deadline]**, in the amount of CAD\$**[Insert Amount]**.

This Letter of Credit is issued in connection with the Request For Proposals issued on September 17, 2018 by the Beneficiary.

This Letter of Credit shall remain in effect until January 31, 2019 (the "**Expiry Date**") or any future Expiry Date in accordance with the terms of this Letter of Credit.

A payment under this Letter of Credit shall be made payable to the Beneficiary forthwith upon the Beneficiary presenting to the Bank on or before the Expiry Date, or any future Expiry Date, demand, in writing, for payment in the amount set out in a certificate signed by the Beneficiary, stating that such amount is payable or forfeited by the Applicant to the Beneficiary. Presentation of such certificate shall be made at **[Insert Bank Branch in Canada]** (a) by physical delivery of such certificate to such branch, or (b) by courier of such certificate to such branch, followed by oral confirmation by the Beneficiary (such presentation to be effective upon such oral confirmation).

Upon receipt by the Bank on or before the Expiry Date, or any future Expiry Date, of your demand and certificate as aforesaid, the Bank shall pay to the Beneficiary the amount stated in such certificate without inquiring whether you have a right to such amount as between yourself and the Applicant, provided that such amount does not exceed the amount of this Letter of Credit.

Partial and multiple drawings are permitted.

Except as otherwise expressly stated, this Letter of Credit is subject to the International Standby Practices 1998 (ISP 98).

[Issuing Financial Institution]

By:

Name:
Title:

Name:
Title:

AESO REP ROUND 3
REQUEST FOR PROPOSALS
APPENDIX D

**PRESCRIBED FORM - CONFIRMATION, BID SECURITY, RESA PROVISIONS AND
RELEASE AND INDEMNITY AGREEMENT**

•, 2018

Alberta Electric System Operator
2500, 330 – 5th Avenue SW
Calgary, AB
T2P 0L4

Attention: REP Office

Re: AESO REP Round 3 - Confirmation, Bid Security, RESA Provisions and Release and Indemnity Agreement (the "Agreement") in respect of the Request for Proposals issued by Alberta Electric System Operator ("AESO") on September 17, 2018 (the "RFP") - [Name of Renewables Project] (the "Renewables Project")

This Agreement sets out the terms and conditions between • **[insert name of Proponent]** (the "**Proponent**") and the AESO, pursuant to which (and in exchange for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged) the Proponent acknowledges to and agrees with the AESO in respect of the RFP, the RFP Submission and the Renewables Project as follows:

1. **Defined Terms.** Capitalized terms and acronyms used but not defined in this Agreement have the meanings given to them in the RFP.
2. **Participation.** The Proponent agrees that it and each of its Proponent Team Members will comply with the terms of this Agreement, and confirms and warrants that it is duly authorized by all Proponent Team Members to bind each to the terms of this Agreement and has duly authorized its Proponent's Representative to sign this Agreement on its behalf.
3. **Terms of RFP.** The Proponent and its Proponent Team Members agree: (a) that the terms of this Agreement do not limit the Proponent's obligations and requirements under the RFP, or any other document or requirement of the AESO and (b) to be bound by the disclaimers, limitations and waivers of liability and Claims and all indemnities contained in the RFP and this Agreement.
4. **Releases and Indemnities.** The Proponent:
 - (a) agrees that the AESO and each of the other Releasees will not under any circumstances, be responsible or liable for or in respect of any Claims by any Person (including the Proponent or any of its or their respective contractors, sub-contractors, directors, officers, employees, consultants, advisors or agents);
 - (b) releases and forever discharges the AESO and each of the other Releasees and each of them from any and all Claims; and

- (c) agrees that it will not bring or assert against the AESO nor any other Releasee, any Claims,

arising out of, in connection with or relating in any way to the Competition or any part of the Competition, including matters or issues contemplated or considered in the opinion of the Fairness Advisor or the actions of the AESO and any obligation to be performed by the Proponent under, the RFP, the RFQ and any other documents or arising under either the RFQ and the RFP, excepting only the RESA.

The Proponent will be liable for and hereby indemnifies and holds harmless the AESO and each of the other Releasees from and against any and all Claims brought by or on behalf of:

- (a) any present or former Proponent Team Member of the Proponent against the AESO or any other Releasee; and
- (b) any Person as a result of any act or omission of the Proponent, or any present or former Proponent Team Member of the Proponent,

arising out of, in connection with or relating in any way to the Competition or any part of the Competition, including matters or issues contemplated or considered in the opinion of the Fairness Advisor or pursuant to any actions of the AESO and any obligation to be performed by the Proponent under this RFP, the RFQ and any agreement or document arising under either of the RFQ and the RFP excepting only the RESA.

- 5. **Bid Security.** The Proponent acknowledges that it has delivered, or will prior to the RFP Submission Deadline deliver, the Bid Security in respect of the Renewables Project (the "**Renewables Project Bid Security**") to the AESO and agrees that the Renewables Project's continued qualification to participate in the RFP stage of the Competition and to be considered for selection as a Selected Renewables Project is conditional on the Bid Security remaining valid and effective. If at any time prior to the Conclusion Date the Renewables Project Bid Security ceases to be, in the AESO's opinion, valid or effective, the AESO may, but shall not be obligated to, Disqualify the Renewables Project.

The AESO will, subject to the terms of this Agreement, return the Renewables Project Bid Security to the Proponent, if the Proponent or the Renewables Project is not then Disqualified, by the Conclusion Date if:

- (a) the AESO issues a Cancellation Notice cancelling the RFP;
- (b) the Proponent withdraws from the RFP as permitted under Section 2.8 of Part A of the RFP;
- (c) the Proponent is notified by the AESO that it is not selected as a Selected Proponent in respect of the Renewables Project; or
- (d) the Renewables Project becomes a Selected Renewables Project and the Proponent delivers the executed RESA, the Performance Security and Solicitor's Opinion in respect of the Renewables Project to the AESO prior to the Delivery Time (or on or before such other later date or time indicated by the AESO in writing).

The AESO may in its discretion and without prior notice (notice to be provided promptly to the Proponent thereafter) draw on and retain proceeds of the Renewables Project Bid Security for its own use if:

- (a) the Proponent as required and after being selected as a Selected Proponent in respect of the Renewables Project, fails to execute or have executed by the SPV, and deliver the RESA in respect of the Renewables Project, or fails to deliver the duly executed Performance Security and Solicitor's Opinion in respect of the Renewables Project; or
 - (b) the Proponent or the Renewables Project is, at any time, Disqualified.
6. **RESA Provisions.** The Proponent acknowledges and agrees that the following information and specifications contained in its Qualification Submission and the RFP Submission in respect of the Renewables Project will be included in the applicable execution form of the RESA provided by the AESO in the event the Renewables Project becomes a Selected Renewables Project:
- (a) The Contract Capacity of the Renewables Project stated in the Qualification Submission, or if re-stated in the Prescribed Form – Proponent Declarations of the RFP Submission then as so re-stated, shall be included in Section 2.2 of Schedule 1 to the RESA.
 - (b) The Strike Price amount as set out in Prescribed Form – Strike Price Offer submitted in the RFP Submission shall be included in Section 2.2 of Schedule 1 to the RESA.
 - (c) The information contained in the Qualification Submission and in the RFP Submission, as applicable, respecting the Site, Renewable Fuel(s), New Build or Expansion type, number of generating units, proposed location of connection with the AIES and description of Generating Equipment and other equipment and facilities which are necessary to generate and deliver Electricity in respect of the Contract Capacity of, and in respect of, the Renewables Project shall be included in Section 2.2 of Schedule 1 of the RESA, along with the Connection Point as set out in the Approved Connection Proposal.
7. **Proponent's Representative.** The Proponent hereby confirms that **[name of individual]** remains the Proponent's Representative and that the Proponent's Representative is fully and duly authorized to represent, and is the duly authorized signatory to legally bind, the Proponent and all Proponent Team Members in any and all matters related to this RFP and the RFP Submission.
8. **General.** The Proponent and each Proponent Team Member hereby agrees, represents and warrants that:
- (a) it has the requisite power, authority and capacity to execute and deliver, or authorize the execution and delivery of, this Agreement;
 - (b) this Agreement has been duly and validly executed by it, or on its behalf, by the Proponent's duly authorized Proponent's Representative;
 - (c) this Agreement constitutes a legal, valid and binding agreement enforceable against it in accordance with its terms;
 - (d) if any portion of this Agreement is found to be invalid or unenforceable by law by a court of competent jurisdiction, then that portion will be severed and the remaining portion will remain in full force and effect;
 - (e) this Agreement enures to the benefit of the AESO and its successors;
 - (f) this Agreement is deemed to be made pursuant to the laws of the Province of Alberta and the laws of Canada applicable therein and will be governed by and construed in accordance with such laws;

- (g) the use of headings is for convenience only and is not to be used in the interpretation of this Agreement;
- (h) in this Agreement, words imputing any gender include all genders, as the context requires, and words in the singular include the plural and vice versa; and
- (i) the word "including" when used in this Agreement is not to be read as limiting.

IN WITNESS WHEREOF, the Proponent has caused this Agreement to be executed by its duly authorized representative.

Name of Proponent:

Proponent's Representative

Signature

Name:

AESO REP ROUND 3
REQUEST FOR PROPOSALS
APPENDIX E

PRESCRIBED FORM – PROPONENT DECLARATIONS

All capitalized terms and acronyms used in these instructions and the Prescribed Form – Proponent Declarations, unless otherwise stated, have the meanings ascribed to them in the RFP.

Instructions Applicable to Prescribed Form – Proponent Declarations

- Proponent should complete and submit a Prescribed Form – Proponent Declarations for the Renewables Project included in its RFP Submission and should attach to such form, any exhibits, documents or other information required by such form.
- This instruction page is not required to be submitted with the Prescribed Form.
- The first page of the Prescribed Form should be marked with the name of the Renewables Project that was the subject of the Renewables Project Proposal determined in the RFQ stage of the Competition to be a qualified to participate in this RFP. The Proponent should use the name given to the Renewables Project in the Prescribed Form – Renewables Project Profile provided with the Qualification Submission.
- Apart from the completion of any bullets, or similar uncompleted information, or the deletion of provisions not selected when selection from a list is permitted, no amendments should be made to the wording of this Prescribed Form.
- Information provided in this Prescribed Form should be consistent with the information otherwise provided in the RFP Submission.
- The signature required for this Prescribed Form must be that of the Proponent's Representative (or such other individual acceptable to the AESO, in its sole discretion which acceptance may be granted either before or after the submission of the RFP Submission).
- The Prescribed Form must be certified by a Notary Public or Commissioner for the Taking of Oaths in Canada or (if the Prescribed Form is certified outside of Canada) by a person mentioned in Section 52 of the *Canada Evidence Act* (Canada).

Prescribed Form – Proponent Declarations

Name of Renewables Project:	<u>[insert name of Renewables Project as stated in Qualification Submission]</u>
Proponent	<u>[insert name of Respondent as stated in Qualification Submission]</u>
Counterparty	<u>[if not the Proponent, insert name of SPV stated in the Qualification Submission or later incorporated/formed, that is to be the Counterparty to the RESA]</u>

STATUTORY DECLARATION IN THE MATTER OF the AESO and [insert name of Renewables Project] included in the RFP Submission of [insert name of Proponent] under the RFP.

Capitalized terms not defined herein have the meanings ascribed to them, or adopted by reference, in the RFP.

I, [insert name of Proponent's Representative], of the [insert City/Town] [insert name of Province or State/County] DO SOLEMNLY DECLARE, on behalf of the Proponent [if the Counterparty is not the Proponent then include: and the Counterparty], without personal liability, the following:

- 1 I am the / an [insert office held, e.g. president, director, etc.] of the Proponent and have knowledge of the matters herein declared.
- 2 There have been no Changes to the Proponent Team of the Proponent since the submission of the Proponent's Qualification Submission [add if applicable: excepting only the incorporation/formation of the Counterparty and its addition to the Proponent Team].
- 3 The Counterparty, if it is not the Proponent, is controlled by one or a combination of the Proponent, and the Designated Equity Providers and Project Team Lead for the Renewables Project; and if it is the Proponent, then by one or a combination of such Designated Equity Providers and Team Lead.
- 4 *[Select (a) or select (i), (ii), (iii) or (iv) from (b) for inclusion in paragraph 4 of this declaration:]*
 - (a) The Counterparty, as named in the Renewables Project Proposal for the Renewables Project and in this declaration, remains duly [select: incorporated or formed] and in good standing in respect of all required filings by it under the laws of [insert name of jurisdiction], its jurisdiction of [select: incorporation or formation], and remains (if and as required) duly extra-provincially registered to carry on business in the Province of Alberta; and attached hereto as Exhibit "A" are copies, certified by a Notary Public or Commissioner for the Taking of Oaths in Alberta or in the jurisdiction of [select: incorporation or formation] of the Counterparty, of all renewals, registration of changes, annual returns or like registrations or filings, if any, that have been registered or filed in respect of the Counterparty since the date of the Proponent's Qualification Submission each with a production date no earlier than one month prior to the RFP Submission Deadline.
 - (b)
 - (i) The Counterparty is a body corporate duly incorporated under or pursuant to [insert name of incorporating legislation] of [insert name of promulgating jurisdiction] and is, if and as required, duly extra-provincially registered to carry

on business in the Province of Alberta; and attached hereto as Exhibit "A" is a copy certified as a true copy by a Notary Public or Commissioner for Taking Oaths in Alberta or in the jurisdiction of incorporation of the Counterparty, of a certificate of status, certificate of compliance, or similar instrument confirming such incorporation, its corporate status and, if applicable, its extra-provincial registration in Alberta under [insert name of incorporating legislation], each with a production date no earlier than one month prior to the RFP Submission Deadline.

- (ii) The Counterparty is a special or statutory corporation or other entity specifically [select: incorporated or formed] in [insert name of incorporating jurisdiction] under [insert name of specific incorporating legislation].
- (iii) The Counterparty is a [select: partnership or limited partnership] duly formed under [select: the laws of [insert name of jurisdiction of formation] OR [insert the title of legislation and name of promulgating jurisdiction]] and is, if and as required, duly extra-provincially registered to carry on business in Alberta; and attached hereto as Exhibit "A" is a copy, certified as a true copy by a Notary Public or Commissioner for Taking Oaths in Alberta or in the jurisdiction of formation of the Counterparty, of a certificate of status, certificate of compliance, Alberta Corporate Registry partnership search, or similar instrument confirming such formation, its [select: partnership or limited partnership] status and, if applicable, its extra-provincial registration in Alberta, each with a production date no earlier than one month prior to the RFP Submission Deadline.
- (iv) The Counterparty is [insert description of the nature of the legal entity]; and attached hereto as Exhibit "A" is evidence of the name of the Counterparty, or of each Entity constituting the Counterparty.

5 No changes have been made by the Proponent in respect of the Renewables Project which have or would require alteration or re-statement of the information provided to the AESO in respect of the Renewables Project in the Qualification Submission excepting only as follows [select and complete one or some of the following, as applicable]:

- (a) None.
- (b) The Contract Capacity of the Renewables Project set out in Section 2(f) of Prescribed Form – Renewables Project Profile provided in respect of the Renewables Project in the Qualification Submission is restated to be ● MW from the ● MW stated in such Prescribed Form, and such restated Contract Capacity is not greater than and is no more than 5% less than the Contract Capacity stated in such Prescribed Form.
- (c) The Capacity Factor of the Renewables Project set out in Section 2(g) of Prescribed Form – Renewables Project Profile in respect of the Renewables Project in the Qualification Submission is restated to be ●% from the ●% Capacity Factor stated in such Prescribed Form, and attached hereto as Exhibit "B" is a properly authenticated letter (including signature, date, permit to practice, and stamp) from an independent professional engineer duly qualified and licensed to practice engineering in the Province of Alberta confirming, in favour of the AESO, that having regard to resource data and other studies, determined appropriate and reasonable to such an engineer to provide such confirmation, and with reference to the stated or restated number of generating units for the Renewables Project, such restated Capacity Factor is reasonable and, where multiple Capacity Factors may be considered reasonable, depending on the equipment ultimately selected or other factors, the Capacity Factor restated above is the highest of those that may be considered reasonable.

- (d) The anticipated number of generating units set out in Section 2(h) of Prescribed Form – Renewables Project Profile provided in respect of the Renewables Project in the Qualification Submission, being ● in number, is restated to be ● in number.
- (e) The location(s) of equipment on the Site as set out in the site diagram referred to in Section 3(b) of Prescribed Form – Renewables Project Profile provided in respect of the Renewables Project in the Qualification Submission has been changed, but the Site had not been altered.
- (f) The single line diagram referred to in Section 4(d) of Prescribed Form – Renewables Project Profile provided in respect of the Renewables Project in the Qualification Submission has been changed, but only as permitted by Section 2.3 of Part A of the RFQ.
- (g) The Total Costs referred to in Section 2(d) of Prescribed Form – Renewables Project Financial Information provided in respect of the Renewables Project in the Qualification Submission has changed.
- (h) The Total Equity referred to in Section 2(e) of Prescribed Form - Renewables Project Financial Information provided in respect of the Renewables Project in the Qualification Submission has changed.
- 6 The declarations provided by the Proponent in Paragraphs 5, 6, 7, 8, 9, 10, 11, 12, 13 [and 14 – if applicable] in Prescribed Form – Respondent Declaration provided in respect of the Renewables Project in the Qualification Submission remain, as therein stated, true and accurate as at the date of this declaration.
- 7 The Proponent and Proponent Team have only engaged in communications in relation to the Competition for Permitted Purposes.
- 8 The Proponent and Proponent Team have not engaged in any communications in relation to the Competition for Excluded Purposes.
- 9 The Commitment Letter provided by each Designated Equity Provider or Equity Support Person in respect of the Renewables Project remains in effect and the issuer of such Commitment Letter has not altered or varied, in any manner, nor withdrawn its Commitment Letter.
- 10 [Select for inclusion in paragraph 10 of this declaration one of (a) or (b) below, as applicable.]
- (a) Since the date of the Qualification Submission in respect of the Renewables Project, no Adverse facts or Circumstances have arisen with respect to any Designated Equity Provider or Equity Support Person for the Renewables Project.
- (b) Since the date of the Qualification Submission in respect of the Renewables Project, Adverse Facts or Circumstances have arisen with respect to each of the following Designated Equity Provider(s) and/or Equity Support Person(s) for the Renewables Project: [●].

- 11 Titles, leases, subleases, easements or utility rights of way (or options or agreements therefor) to lands constituting the Site for the Renewables Project (including those in respect of Indigenous Lands, Common Interest Lands and Substation Lands) are held by the Counterparty as owner, lessee or sub-lessee, as applicable, or options or agreements for such titles, leases and subleases have been duly and fully transferred and assigned without condition to the Counterparty.
- 12 The Renewables Project is expected by the Proponent to attain Commercial Operation on or before the Target COD.
- 13 The Proponent has not, nor has any Proponent Team Member, engaged in any activity or communication that would constitute a Conflict of Interest, or engaged in any activity or communication that results in a violation of any of the civil or criminal code provisions of the *Competition Act* (Canada) in relation to the Competition. The RFP Submission was prepared without collusion by the Proponent and its Proponent Team Members or any team participating in REP Round 2 (except in the case where all members of the Proponent Team and the team participating in REP Round 2 are the same).
- 14 There is no Common Ownership as between [Insert name of Proponent] and its Control Group Members, and any other Proponent and its Control Group Members.
- 15 To the best of its knowledge, the Proponent is not aware of any facts or circumstances that would prevent the Counterparty from executing, or complying with the terms and conditions of, the RESA.

AND I MAKE THIS SOLEMN DECLARATION conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath by virtue of the *Canada Evidence Act*.

Name of Declarant <u>[insert name of declarant]</u>	Declared before me <u>[insert City, Town]</u> in the Province/State of <u>[insert name of Province/State]</u> this ____ day of _____, 2018
Signature of Declarant	Name of Commissioner for Oaths/Notary Public <u>[insert name of Commissioner for Oaths/Notary Public/person mentioned in Section 52 of the <i>Canada Evidence Act</i> (Canada)]</u>
[Note: Statutory declarations must be solemnly declared and signed before a Commissioner for Oaths, Notary Public, or person mentioned in Section 52 of the <i>Canada Evidence Act</i> (Canada)]	Signature of Commissioner for Oaths/Notary Public/person mentioned in Section 52 of the <i>Canada Evidence Act</i> (Canada)

AESO REP ROUND 3
REQUEST FOR PROPOSALS
APPENDIX F

**PRESCRIBED FORM – SOLICITOR’S CONFIRMATION OPINION RESPECTING
INDIGENOUS SITE CONTROL**

All capitalized terms used in this Prescribed Form – Solicitor’s Confirmation Opinion Respecting Indigenous Site Control and its instructions for completion, unless otherwise stated, have the meanings ascribed to them in the RFP.

Instructions applicable to this Prescribed Form – Solicitor’s Confirmation Opinion Respecting Indigenous Site Control

- The Prescribed Form - Solicitor’s Confirmation Opinion Respecting Indigenous Site Control must be completed and signed by a lawyer licensed to practice law in the province of Alberta ("**Solicitor**"), and be prepared on the letterhead of such Solicitor.
- Information provided in this Prescribed Form should be consistent with the information otherwise provided in the Qualification Submission.
- The site diagram attached as Exhibit B to this Prescribed Form must be identical to the site diagram attached as Exhibit 1 to the Prescribed Form – Renewables Project Profile which was provided in respect of the Renewables Project in the Qualification Submission, except in respect of any changes which have been made, or are expected to be made, in respect of the Renewables Project in relation to the anticipated number of generating units or the location(s) of equipment on the Site, which changes are declared pursuant to Section 6(d) of 6(e), as the case may be, of Prescribed Form – Proponent Declarations.

For Letterhead of Solicitor

[insert date]

Alberta Electric System Operator
2500, 330 – 5th Avenue SW
Calgary, AB T2P 0L4

Dear Sir/Madam:

Re: AESO REP Round 3 – Renewables Project Proposal Described Below (the "Renewables Project")

We have acted as legal advisors to [insert name of Respondent] in connection with the Renewables Project described in the following table:

Renewables Project:	[insert name of Renewables Project]
Proponent Team Member(s) holding interests in the Site	[insert name of Proponent Team Member(s) which hold interests in the Site]
Renewable Fuel(s) of the Renewables Project:	[insert Renewable Fuel(s) type]
Legal Description and municipal address (if available) of all Properties which are part of the Site and which are located on Indigenous Lands (the " IL Project Properties ")	[complete Exhibit A with the descriptions of the Properties which are part of the Site of the Renewables Project and which are located on Indigenous Lands]

Capitalized terms and acronyms not defined in this letter have the meanings ascribed to them in the REP Round 3 Request for Proposals issued by the AESO on September 17, 2018 (the "**RFP**").

EXAMINATIONS

For purposes of this letter, the term "**Documents**" means, collectively:

- 1 all of the following instruments in respect of the IL Project Properties to which the Proponent, a Proponent Team Member, or the applicable SPV is party (the "**Part 1 Documents**"):
 - (a) in the case of any IL Project Properties which are First Nation Land, either:
 - (i) a lease from her Majesty the Queen in Right of Canada, or a sublease thereof, or an option or other agreement to acquire such a lease or sublease; or
 - (ii) a binding agreement (including, without limitation, a letter of intent, proposal, memorandum of understanding or other agreement) with the applicable First Nation which sets forth the terms and conditions upon which the SPV will enter into a binding lease (or a binding sub-lease, or option or other agreement to acquire a lease or sub-lease) with the Crown in respect of such First Nation Land, subject only to (if applicable) the approval of, or such changes as may be required by, the Crown; and
 - (b) in the case of any IL Project Properties which are Métis Land, a lease from the applicable Settlement Council, or a sublease thereof, or an option or other agreement to acquire such a lease or sublease, subject only to (if applicable) the enactment of a bylaw of the

applicable Métis Settlement (a "**Métis Settlement Bylaw**") which authorizes a lease term which is longer than ten (10) years and which will not expire prior to the earlier of the expiration of the term of the RESA and June 30, 2041; and

- 2 all of the following instruments in respect of the IL Project Properties:
- (a) in the case of any IL Project Properties which are First Nation Land:
 - (i) a reserve general abstract report, a parcel abstract report, and/or plans of survey registered in the Canada Lands Survey Records;
 - (ii) a First Nation Land Designation; and
 - (iii) if there is a binding agreement of the type referenced in Section 1(a)(ii), evidence of a band council resolution authorizing the reserve land manager to request the Crown to finalize a lease which incorporates the terms and conditions of such binding agreement (along with evidence that such resolution has been submitted to the reserve land manager); and
 - (iv) a waiver from each First Nation which has the use and benefit of the First Nation Lands on which such IL Project Properties are located (each an "**Applicable First Nation**"), in the form of Appendix G to the RFP (Prescribed Form – Section 89 Waiver) (each a "**Section 89 Waiver**"), and evidence of a band council resolution authorizing each such Section 89 Waiver; and
 - (b) in the case of any IL Project Properties which are Métis Land:
 - (i) fee simple title; and
 - (ii) the Métis Settlement Bylaw, if any, in respect of any lease, sub-lease, option or other agreement of the type reference in Section 1(b) above.

For the purposes of this opinion, we have examined a fully executed copy of each of the Documents, if applicable, and have also made such investigations and searches and examined originals or copies, certified or otherwise identified to our satisfaction, of such certificates of public officials and such other certificates, documents, records and matters of law as we have considered necessary or relevant for the purposes of the opinions hereinafter expressed.

APPLICABLE LAW

This opinion is rendered solely with respect to the laws of Alberta and the federal laws of Canada applicable in Alberta (collectively the "**Laws**") in effect on the date of this opinion.

OPINION

Subject to our assumptions and disclaimers below, based upon our review of the Documents, including copies of certificates of title, reserve general abstract reports and/or parcel abstract reports in respect of the IL Project Properties dated not more than 30 days prior to the date of this opinion and copies of the encumbrances registered against title to such IL Project Properties as of the date of our title search, in our opinion:

- (a) A Part 1 Document exists in respect of each of the IL Project Properties identified in Exhibit A to this opinion.

- (b) All of the Properties identified as being part of the Site and located on Indigenous Lands on the site diagram attached as Exhibit B to this opinion are also identified in the list of IL Project Properties in Exhibit A to this opinion. All of the Properties identified in the list of IL Project Properties in Exhibit A to this opinion are also identified as being part of the Site and located on Indigenous Lands on the site diagram attached as Exhibit B to this opinion;
- (c) The Part 1 Documents may, without requiring the consent or approval of the other parties thereto, be assigned by the Proponent or a Proponent Team Member to the SPV if the SPV is not already a party thereto.
- (d) The provisions of the Part 1 Documents give the SPV, if the SPV is the party thereto, or give the Proponent or Proponent Team Member, as applicable, if a party thereto and would give the SPV upon the transfer or assignment of the Part 1 Documents by such Proponent or Proponent Team Member to the SPV, the right to construct, operate and maintain (or have constructed, operated and maintained) the Renewables Project (or applicable part thereof) on the IL Project Properties until at least the earlier of the expiration of the term of the RESA in respect of the Renewables Project and June 30, 2041.
- (e) Each of the IL Project Properties identified in Exhibit A to this opinion as constituting First Nation Land: (i) is land within the geographic boundaries of a "reserve", within the meaning of the *Indian Act* (Canada); and (ii) is designated by a First Nation Land Designation in a manner which permits the lease, sub-lease or other agreement of the type referenced in Section 1(a)(i) or 1(a)(ii) of the Examinations section above in respect of such Property.
- (f) The RFP Submission contains a Section 89 Waiver from each Applicable First Nation.
- (g) Each of the IL Project Properties identified in Exhibit A to this opinion as constituting Métis Land is land within the geographic boundaries of a "settlement area", within the meaning of the *Metis Settlements Act* (Alberta), and if there is a Métis Settlement Bylaw in respect of any lease, sub-lease, option or other agreement of the type referenced in section 1(b) of the Examinations section above in respect of any of such IL Project Properties, such bylaw authorizes a lease term which is longer than ten (10) years and which will not expire prior to the earlier of the expiration of the term of the RESA in respect of the Renewables Project and June 30, 2041.

ASSUMPTIONS

Our opinions above assume:

- (a) That the Proponent, Proponent Team Member or SPV, as applicable, timely complies with all obligations imposed upon it as contained in the Documents respecting the entitlements including, without limitation, taking all actions necessary to duly and properly exercise all options contained in the Documents;
- (b) The genuineness of all signatures and the authenticity of all certificates and other documents submitted to us as originals and the conformity to originals of all documents submitted to us as photostatic, telecopied, certified or notarial copies;
- (c) The completeness, truth and accuracy and currency of the indices and filing systems maintained at, and the searches conducted by us at, the public offices in which we have conducted searches or inquiries or have caused searches or inquiries to be conducted;

- (d) The legal capacity at all relevant times of any natural person signing any Document;
- (e) The completeness, truth and accuracy and currency of any First Nation Land Designation contained in the Documents;
- (f) The due execution, authorization and delivery of the Documents by all other parties thereto, other than the Proponent, Proponent Team Member, or SPV, as applicable; and.
- (g) the completeness, truth and accuracy of the site diagram attached as Exhibit B to this opinion.

DISCLAIMER

For clarity, for purposes of this opinion the Renewables Project does not include collection system assets, the Site and the IL Project Properties do not include any lands and/or other physical location (including, without limitation, road allowances) in respect of which only collection system assets will be situate and the Documents do not include any utility rights of way, easements or other agreements in respect thereof, and we express no opinion with respect thereto.

We express no opinion with respect to the priority of the interests of third parties in and to the IL Project Properties relative to those contained in the Documents. We express no opinion with respect to title to any of the IL Project Properties nor the enforceability of any of the Documents.

This opinion is solely for the benefit of the AESO in connection with the Renewables Project and may not be used or relied upon by any other person or for any other purpose, or quoted or made public in any other way without our prior written consent. The opinions stated herein are limited to the matters expressly stated herein and no opinion is implied or is to be inferred beyond the matters expressly stated in this letter.

This opinion is given as of the above date and we expressly disclaim any undertaking or obligation to modify this opinion to reflect changes in facts or developments in the Laws which may occur after the date hereof.

Yours very truly

[insert Name of Firm]

Exhibit A

IL PROJECT PROPERTIES

Property	Legal Description:	Municipal address (if available):	Property Size (hectares or acres)	Property constitutes First Nation Land or Métis Land (indicate which)
1				
2				
3				
...				

Exhibit B
SITE DIAGRAM

AESO REP ROUND 3
REQUEST FOR PROPOSALS
APPENDIX G

PRESCRIBED FORM – SECTION 89 WAIVER

To: Independent System Operator (operating as the Alberta Electric System Operator) (the "**AESO**")

RE: The Renewable Electricity Support Agreement to be entered into between the AESO and [●] (the "**Generator**")

Capitalized terms used herein and not otherwise defined shall have the meaning ascribed to them in the final form of Renewable Electricity Support Agreement which is attached as Appendix B to the Request for Proposals which was issued by the AESO on September 17, 2018 in respect of REP Round 3 (such agreement, including as executed by the AESO and the Generator, and as amended, the "**RESA**").

The undersigned First Nation, in consideration of the AESO's agreement to execute and deliver the RESA, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, agrees to irrevocably waive, and irrevocably waives, in favour of the AESO and its successors and assigns and effective as of the date that the RESA is executed by the AESO and the Generator, all rights and protections the undersigned has or may have under Section 89 of the *Indian Act* (Canada) in relation to any of its real or personal property which is situated on a reserve and which is any way related to the Assets, the Project, or the undersigned's Economic Interest in the Generator.

DATED the ___ day of _____, 2018

[insert signature block for First Nation]

**AESO REP ROUND 3
REQUEST FOR PROPOSALS**

APPENDIX H

PRESCRIBED FORM - STRIKE PRICE OFFER

- A.** [insert NAME OF PROPONENT]
- B.** [insert NAME OF COUNTERPARTY if different than in A above]
- C.** [insert NAME OF RENEWABLES PROJECT as provided in Appendix E]
- D.** Strike Price offer for [insert NAME OF RENEWABLES PROJECT as provided in Appendix E], which Strike Price offer is irrevocable until the expiry of the Conclusion Date:

[\$XX.XX] per MWh.

The Strike Price should be provided to two decimal places. If the Strike Price is not provided to two decimal places, then any required, but not provided, Strike Price digits, will be deemed to be zero. If the Strike Price is provided to three or more decimal places, then all such decimal places, other than the first two decimal places, will be deemed to be zero.

[Insert name of Proponent]

Signature of Proponent's Representative

Name: _____

Title: _____

Organization: _____

AESO REP ROUND 3
REQUEST FOR PROPOSALS
APPENDIX I
PRESCRIBED FORM - SOLICITOR'S OPINION

Alberta Electric System Operator Calgary Place
2500, 330 - 5th Avenue S.W.
Calgary, AB
T2P 0L4

Dear Sir/Madam:

**Re: [Name of Renewables Project] (the "Project")
Renewable Electricity Support Agreement dated [●], 2018 between the AESO and [Name of Counterparty] (the "Agreement") in respect of the Project**

We have acted as legal advisors to [Insert name of Counterparty] (the "Counterparty") in connection with the Agreement.

Capitalized terms and acronyms used in this letter and not defined herein have the meanings given those same capitalized terms and acronyms in the Request for Proposals issued by the AESO on September 17, 2018 (as amended) respecting the Project.

I. Scope of Review

For the purposes of this opinion, we have examined an executed copy of the Agreement executed by the Counterparty.

We have also made such investigations and examined originals or copies certified or otherwise identified to our satisfaction, of such certificates of public officials and such other certificates, documents, records and matters of law as we have considered necessary or relevant for the purposes of the opinions hereinafter expressed, including **[NTD: Form to be consequentially altered if Counterparty is other than a Corporation]:**

- A. an Officer's Certificate of the Counterparty dated [●], 2018 as to the following factual matters, and attaching the following:
 - i. [●]
 - ii. [●]
 - iii. [●]

- iv. [●]
- v. the [Articles of Incorporation] of the Counterparty;
- vi. the [Bylaws] of the Counterparty;
- vii. certain resolutions of the [directors of the Counterparty]; and
- viii. [a certificate of incumbency]; and

- B.** a certificate of status dated [●], 2018 and issued by [Alberta Corporate Registries] in respect of the Counterparty.

We have not reviewed, except as described above, any other corporate records of the Counterparty. We have relied upon the certificates referred to in paragraphs A and B above with respect to the accuracy of the factual matters contained therein and we have not performed any independent investigation or verification of such factual matters. Notwithstanding the foregoing, none of the members of our firm who provided legal services to the Counterparty in connection with the Agreement is actually aware of any facts or circumstances that would render any of the facts and matters in those certificates inaccurate in any material respect.

II. Assumptions

We have assumed:

- A.** with respect to all documents (including the Agreement) examined by us (collectively the "Documents"), the genuineness of all signatures and the conformity with originals of all documents submitted to us as photocopies, by facsimile transmission or by Portable Document Format ("PDF");
- B.** that all facts set forth in the official public records, certificates and documents supplied by public officials or governmental authorities or otherwise conveyed to us by public officials or governmental authorities are complete, true and accurate;
- C.** subject to actual awareness to the contrary of those members of our firm who provided legal services to the Counterparty in connection with the Agreement, that all facts set forth in the officer's certificate referenced above are complete, true and accurate;
- D.** that the Agreement has been duly authorized, executed and delivered by the AESO;
- E.** that the Agreement constitutes a legal, valid and binding obligation of the AESO enforceable against it in accordance with its terms;
- F.** that if any obligation pursuant to the Agreement is required to be performed in any jurisdiction outside the Province of Alberta, the performance of that obligation will not be illegal under the laws of that jurisdiction; and
- G.** that the certificate of status referred to above continues to be accurate as of the date hereof.

III. Laws Addressed

This opinion is rendered solely with respect to the laws of Alberta and the federal laws of Canada applicable in Alberta (collectively the "Laws") in effect on the date of this opinion.

IV. Opinions

Based upon and subject to the foregoing assumptions, limitations and qualifications and the qualifications hereinafter expressed, including, without limitation, the qualifications set out in Schedule "A" attached hereto, we are of the opinion that:

- A. The Counterparty is duly **[incorporated / formed / organized]** under the laws of **[●]**;
- B. The Counterparty if not **[incorporated / formed/ organized]** in Alberta is duly registered to carry on business in the Province of Alberta (if necessary);
- C. The execution and delivery by the Counterparty of the Agreement and the performance by the Counterparty of its obligations thereunder have been duly authorized by all necessary **[corporate/partnership]** action. The Counterparty has full **[corporate/partnership]** power, capacity and authority to execute and deliver the Agreement and to perform and observe its obligations thereunder.
- D. All authorizations, approvals and other actions by, and all notices to and filings, registrations or recordings with, any governmental authority or regulatory body of the Province of Alberta required for the due execution and delivery by the Counterparty of the Agreement or to ensure the legality, validity and binding nature of the Agreement have been obtained.
- E. The Agreement has been duly executed and delivered by the Counterparty to the AESO and constitutes legal, valid and binding obligations of the Counterparty enforceable against it in accordance with its terms.

V. Reliance

This opinion is solely for the benefit of the AESO in connection with the Project and may not be used or relied upon by any other person or for any other purpose, or quoted or made public in any other way without our prior written consent. The opinions stated herein are limited to the matters expressly stated herein and no opinion is implied or is to be inferred beyond the matters expressly stated in this letter.

This opinion is given as of the above date and we expressly disclaim any undertaking or obligation to modify this opinion to reflect changes in facts or developments in the Laws which may occur after the date hereof.

Yours very truly,

[Name of Firm]

AESO REP ROUND 3
REQUEST FOR PROPOSALS
SCHEDULE A
QUALIFICATIONS TO OPINION

The following qualifications apply to our opinion:

- the enforceability of the Agreement may be limited by applicable bankruptcy, winding-up insolvency, moratorium, reorganization, liquidation, arrangement, fraudulent preference and conveyance, assignment and preference and other similar laws and judicial decisions affecting creditors' rights generally;
- the enforceability of the Agreement may be limited by equitable limitations on the availability of legal remedies, including, without limitation, that a court may exercise discretion in the granting of equitable remedies such as specific performance and injunction. Accordingly no opinion is expressed as to the availability of any equitable or discretionary remedies including, without limitation, the remedy of specific performance or injunctive relief;
- the enforceability of the Agreement may be limited by general principles of law and equity relating to the conduct of the parties prior to execution of or in the administration or performance of the Agreement, including, without limitation; (i) undue influence, unconscionability, duress, misrepresentation and deceit; (ii) estoppel and waiver; (iii) laches; and (iv) reasonableness and good faith in the exercise of discretionary powers.
- a court has statutory and inherent powers to grant relief from penalties or forfeiture, to stay proceedings before it and to stay executions of judgments;
- the choice of law and choice of jurisdiction provisions in the Agreement may be found by a court not to be enforceable according to their respective terms;
- the enforceability of the Agreement is subject to applicable laws regarding limitations of actions;
- the enforceability of any provision of the Agreement which purports to sever any provision which is prohibited or unenforceable under applicable laws without affecting the enforceability or validity of the remainder of such documents, or which allows for the compensation for, or the set-off of, un-matured or un-liquidated claims, would be determined only in the discretion of the court;
- the enforceability of any provisions of the Agreement which have the effect of exculpating a party from a liability or duty otherwise owed by it to another party may be limited under applicable law;
- provisions of the Agreement granting an irrevocable power of attorney may not be enforceable;
- provisions of the Agreement which provide that delay or failure by a party to exercise any right or remedy will not operate as a waiver thereof may not be enforceable;

- we express no opinion as to the enforceability of any exclusive jurisdiction clauses contained in the Agreement;
- we express no opinion as to the enforceability of any provision of the Agreement that states that amendments or waivers of or with respect to the Agreement that are not made in writing will not be effective;
- the enforceability of the Agreement may be limited by the discretion which a court may reserve to itself to decline to hear an action if it is contrary to public policy for it to do so or if it is not the proper forum to hear such action;
- no opinion is given that any particular remedy will be available upon any default or that each and every provision of the Agreement will be upheld or enforced in all circumstances by a court of competent jurisdiction;
- provisions in the Agreement providing for recovery of fees and expenses may be restricted by a court to a reasonable amount and counsel fees are subject to taxation;
- provisions of the Agreement that purport to establish evidentiary standards, such as provisions stating that certain calculations or certificates will be conclusive and binding, may not be enforceable or may be limited in their application;
- a court may decline to accept the factual and legal determinations of a party notwithstanding that a contract or instrument provides that the determinations of the party shall be conclusive;
- limitations under applicable legislation on the rate of interest which a prejudgment debt that is subsequently confirmed by judgment, or a judgment debt, bears may apply;
- the *Currency Act* (Canada) precludes a court in Canada from giving judgment in any currency other than Canadian currency;
- a court may decline to enforce rights of indemnification or contribution to the extent that they: (i) relate to liabilities imposed by law on the indemnified party for which it would be contrary to public policy to require indemnification or contribution by the indemnifying party, (ii) constitute a penalty, or (iii) relate to fraud, wilful misconduct or gross negligence on the part of the indemnified party;
- we express no opinion as to the enforceability by or against a person who is not a party to the Agreement of any provision in the Agreement which purports to bind or affect or confer a benefit upon that person;
- we express no opinion on the enforceability of any provisions of the Agreement referring certain matters to arbitration, since, under the *Arbitration Act* (Alberta) (the "**Act**"), a court of competent jurisdiction in Alberta (an "**Alberta Court**") may, in its discretion and on certain grounds, refuse to stay judicial proceedings in which event an arbitration proceeding pursuant to the Agreement may not be commenced or continued; and the Act provides that an Alberta Court may hear an appeal of an arbitration award on a question of law, or set aside an arbitration award or declare it invalid, in each case on certain prescribed grounds; and
- we express no opinion as to the compliance with the *Personal Information Protection and Electronic Documents Act* (Canada), the *Personal Information Protection Act* (Alberta), or any other privacy laws with respect to any provision in the Agreement which purports to

grant to the AESO or any other person access to books, correspondence, records or other information of any person.

AESO REP ROUND 3
REQUEST FOR PROPOSALS
APPENDIX J

PRESCRIBED FORM - RFP SUBMISSION AMENDMENT OR WITHDRAWAL

All capitalized terms used in this Prescribed Form - RFP Submission Amendment or Withdrawal, unless otherwise stated, have the meanings ascribed to them in the RFP.

Proponent Name: _____

Renewables Project Name: _____

Date:

[Select one of the options below]

I wish to withdraw the RFP Submission for [Name of Renewables Project]:

The Proponent acknowledges and agrees that by submitting a withdrawal request for the RFP Submission prior to the RFP Submission Deadline, the RFP Submission will be deemed withdrawn under the RFP effective upon the AESO's receipt of a completed withdrawal request. The Bid Security in respect of the Renewables Project will be returned to the Proponent (if any Bid Security was provided to the AESO) if this form is delivered to the AESO prior to the RFP Submission Deadline and the Proponent and/or the Renewables Project has not been Disqualified.

I wish to amend the RFP Submission:

[Provide a description of the specific aspects of the RFP Submission that are being deleted, superseded or amended, together with a list of all the specific materials which are to supplement or amend the materials that have already been submitted.]

[Provide the reasons for the amendment]

The Proponent acknowledges that the amendment of the RFP Submission will not be completed unless all replacement materials are received by the AESO no later than the RFP Submission Deadline.

Name of Proponent's Representative

Signature of Proponent's Representative
