This page sets out the instructions for completing the **Prescribed Form – Acknowledgement and Consent**.

All capitalized terms used in these instructions and the Prescribed Form – Acknowledgement and Consent, unless otherwise stated, have the meanings ascribed to them in the REP Round 3 Contract.

**INSTRUCTIONS APPLICABLE TO ALL PRESCRIBED FORMS:**

1. This instruction page is not required to be submitted with the Prescribed Form.
2. Where the Prescribed Form has multiple pages, the pages of the Prescribed Form should be kept together in sequential order.
3. Apart from the completion of any blanks, drop down lists, check boxes or similar incomplete information in a Prescribed Form, no amendments may be made to the wording of a Prescribed Form.
4. Each Prescribed Form must be completed in its entirety. Fields marked “if applicable” must be completed if applicable to the Project. If not applicable, they should be marked "not applicable".
5. If the signature of the Generator is required for a Prescribed Form, the Prescribed Form must be signed by the Contract Representative appointed in accordance with Section 18.8 of the REP Round 3 Contract, unless specified otherwise.
6. With the exception of this instruction page, instructions within a Prescribed Form will be enclosed in square brackets.

**INSTRUCTIONS SPECIFIC TO THE PRESCRIBED FORM – ACKNOWLEDGMENT AND CONSENT**

1. Both the Generator and the Contracting Party shall execute a completed Acknowledgement and Consent, in the form of Exhibit A to this Prescribed Form, and immediately thereafter deliver an original hard copy of such completed Acknowledgement and Consent, along with an original hardcopy of the completed Prescribed Form, to the AESO (ATTN: Director, Commercial), to the address specified in Section 18.1 of the REP Round 3 Contract; and an electronic copy of such completed Acknowledgement and Consent and completed Prescribed Form, must also be simultaneously emailed to the AESO at Commercial.REP@AESO.ca.

**PRESCRIBED FORM – ACKNOWLEDGEMENT AND CONSENT**

**SUBMIT BY EMAIL (PDF WITH SIGNATURE) TO** **COMMERCIAL.REP@AESO.CA** **AND DELIVER AN ORIGINAL HARD COPY TO THE AESO, ATTN: DIRECTOR, COMMERCIAL.**

Capitalized terms not defined herein have the meaning ascribed thereto in the REP Round 3 Contract, which has been executed in respect of the project referenced below (the “**Agreement**”).

|  |  |
| --- | --- |
| **Date** | 2019/01/01 |
| **Legal Name of Generator** | [insert legal name of Generator] |
| **Name of Project** | [insert name of Project] |
| **Agreement Date** | 2018/12/05 |
| **Legal Name of the Contracting Party** | [insert legal name of the Contracting Party, as referenced in the attached Acknowledgement and Consent]  | (the “**Contracting Party**”) |

Pursuant to Section 10.2 of the Agreement, the Generator is obligated to provide AESO Security Documents to the AESO. The AESO Security Documents include, amongst other documents, acknowledgements and consents whereby the contracting party under an agreement, right, franchise, licence or permit between such contracting party and the Generator (or to which the Generator has the benefit) acknowledges and consents to such agreement, right, franchise, licence or permit being subject to the AESO Security, including the Fixed and Floating Charge Debenture.

Attached hereto is a completed form of Acknowledgement and Consent, in the form of Exhibit A, which has been executed by the Generator and the Contracting Party.

The Generator represents and warrants that all of the information in this Prescribed Form, including the executed Acknowledgement and Consent attached hereto, is complete, true and accurate, and there is no material information omitted from this Prescribed Form, or from such executed Acknowledgement and Consent, that makes the information contained herein misleading or inaccurate.

The Generator acknowledges and agrees that this Prescribed Form, and such Acknowledgement and Consent, are being delivered to the AESO solely for the purposes of the Agreement. This Prescribed Form does not constitute a notice for any other purpose, including, without limitation, to meet an obligation to provide notice to the AESO pursuant to the ISO Rules.

|  |
| --- |
| Generator: [insert legal name of Generator] |
| Signature: |
| Name: [insert legal name of Contract Representative] |
| Title: [insert title of Contract Representative] |
| I have the authority to bind the Generator. |
| Dated this       day of       , 20   |

**EXHIBIT A**

ACKNOWLEDGEMENT AND CONSENT

This Acknowledgment and Consent (this "**Consent**"), dated as of [insert Date], is executed by and among [insert name of the Contracting Party] (the "**Contracting Party**"), [insert name of Generator] (the "**Generator**") and the Independent System Operator, operating as the Alberta Electric System Operator (the "**AESO**"). This Consent is ancillary to the [insert Name of Project]REP Round 3 Contract, between the AESO and the Generator, dated [insert Agreement Date] (the “**Agreement**”). Capitalized terms not defined herein have the meaning ascribed thereto in the Agreement.

Whereas the Contracting Party and the Generator have entered into the agreement(s) specified in Schedule A hereto (the "**Assigned Agreement(s)**");

Whereas pursuant to the AESO Security Documents the Generator has assigned all of its right, title and interest (but not its obligations, liabilities or duties) in, to and under the Assigned Agreement(s) to the AESO as security for the payment and performance by the Generator of its obligations under the Agreement; and

Whereas it is a requirement of the Agreement and of the AESO that the Contracting Party acknowledges and consents to the Assigned Agreement(s) being subject to the AESO Security by executing this Consent.

NOW, THEREFORE for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, and intending to be legally bound, the parties hereto hereby agree, anything in the Assigned Agreement(s) notwithstanding, as follows:

1. Consent to Assignment.
2. The Contracting Party hereby acknowledges and consents to the pledge and assignment of all right, title and interest of the Generator in, to and under (but not its obligations, liabilities or duties with respect to) the Assigned Agreement(s) by the Generator to the AESO; provided that such consent shall not waive or modify in any respect any of the rights of the Contracting Party under the Assigned Agreement(s) against the Generator or relieve the Generator from the observance and performance of any of covenants owed to the Contracting Party under the Assigned Agreement(s), in each case except as expressly provided for herein.
3. The Contracting Party hereby agrees to make all payments required to be made by it to the Generator in accordance with the Assigned Agreement(s) or as otherwise provided in this Consent. From and after the date hereof and unless and until the Contracting Party shall have received written notice from the AESO that the security interests constituted by the AESO Security Documents have been released in full, the AESO shall have the right, but not the obligation, following a Generator Event of Default or upon the occurrence of the Termination Date (each such event, a "**Default or Termination**") to provide written notice to the Contracting Party (with concurrent delivery of a copy of such notice to the Generator) directing the Contracting Party to make, and upon receipt of such notice the Contracting Party shall make, all payments due to the Generator under the Assigned Agreement(s) directly to such other person or account as may be specified from time to time by the AESO to the Contracting Party in writing. All parties hereto agree that each payment by the Contracting Party as specified in the preceding sentence of amounts due to the Generator from the Contracting Party under the Assigned Agreement(s) shall satisfy the Contracting Party’s corresponding payment obligation under the Assigned Agreement(s). All payments required to be made by the Contracting Party under the Assigned Agreement(s) shall be made without any netting, set-off, recoupment, abatement, withholding or other reduction, other than as expressly permitted under the Assigned Agreement(s).
4. Representations and Warranties. The Contracting Party represents and warrants as follows to the AESO:
5. No Amendments. Except as described in Schedule A hereto, there are no amendments, modifications or supplements (whether by waiver, consent or otherwise) to the Assigned Agreement(s), whether oral or written.
6. No Other Agreements. Except as described in Schedule A hereto, there are no agreements, arrangements, understandings or dealings entered into between the Contracting Party and the Generator other than the Assigned Agreement(s).
7. No Previous Assignments. The Contracting Party affirms that it has no notice of any assignment relating to the right, title and interest of the Generator in, to and under the Assigned Agreement(s) other than the pledge and assignment to the AESO referred to in Section 1 above.
8. No Assigned Agreement Default: No Disputes. After giving effect to the pledge and assignment referred to in Section 1, and after giving effect to the consent to such pledge and assignment by the Contracting Party, to the knowledge of the Contracting Party there exists no event or condition (an "**Assigned Agreement Default**") that would, either immediately or with the passage of time or giving of notice, or both, entitle the Contracting Party to terminate the Assigned Agreement(s) or suspend the performance of its obligations under the Assigned Agreement(s). For greater certainty, the grant of security under the AESO Security Documents shall not constitute an Assigned Agreement Default or cause the termination of the Assigned Agreement(s), nor shall any of the following cause such a termination or Assigned Agreement Default: (i) the enforcement by the AESO or its designee of its rights and remedies under the AESO Security Documents, and (ii) the acquisition of the right, title and interest of the Generator in the Assigned Agreement(s) by the AESO or its designee pursuant to the AESO Security Documents or otherwise. Except as set forth on Schedule B hereto, to the knowledge of the Contracting Party, there are no material unresolved disputes between the parties under the Assigned Agreement(s) and there exists no event or condition that would, either immediately or with the passage of time or giving of notice, or both, entitle the Generator to terminate the Assigned Agreement(s) or suspend the performance of its obligations under the Assigned Agreement(s).
9. Authority and Authorization. The Contracting Party (i) has the corporate power and authority to execute and deliver the Assigned Agreement(s) and this Consent and perform all of its obligations thereunder and hereunder and (ii) the person(s) who executed the Assigned Agreement(s) and this Consent on behalf of the Contracting Party had the authority to execute and deliver the Assigned Agreement(s) and this Consent and to bind the Contracting Party thereto.
10. Enforceability. As of the date hereof, each of the Assigned Agreement(s) and this Consent constitutes a legally valid and binding obligation of the Contracting Party enforceable against it in accordance with its terms, except, in each case, to the extent that its enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors’ rights generally or by general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).
11. Right to Cure.
12. From and after the date hereof and unless and until the Contracting Party shall have received written notice from the AESO that the security interests constituted by the AESO Security Documents have been released in full, the AESO shall have the right, but not the obligation, following a Default or Termination, to pay all sums due under the Assigned Agreement(s) by the Generator and to perform any other act, duty or obligation required of the Generator thereunder as described in Section 3(b) below and the Contracting Party will accept such performance as if it was performed by the Generator; provided, that no such payment or performance shall be construed as an assumption by the AESO of any covenants, agreements or obligations of the Generator under or in respect of the Assigned Agreement(s).
13. If an Assigned Agreement Default shall occur which the Contracting Party is not waiving, the Contracting Party shall promptly notify the AESO thereof (with concurrent delivery of such notice to the Generator) and, prior to exercising any remedies to terminate the Assigned Agreement(s) or suspend the performance of any of its obligations under the Assigned Agreement(s) due to such Assigned Agreement Default, give the AESO a reasonable opportunity to cure such Assigned Agreement Default. For the avoidance of doubt, the Contracting Party shall not be required to monitor the Generator and shall only be required to deliver a notice of an Assigned Agreement Default upon becoming aware of such Assigned Agreement Default which it is not waiving. If the AESO elects to exercise its right to cure as herein provided, the AESO shall have 60 days or such other period as is reasonably required to cure such Assigned Agreement Default so long as the AESO has commenced and is diligently pursuing appropriate action to cure such Assigned Agreement Default; provided, however, that (i) if possession of the Assets is necessary to cure such Assigned Agreement Default and the AESO has commenced proceedings to enforce the AESO Security Documents, the AESO will be allowed a reasonable time to complete such proceedings, and (ii) if the AESO is prohibited from curing any such Assigned Agreement Default by any process, stay or injunction issued by any governmental authority or pursuant to any bankruptcy or insolvency proceeding or other similar proceeding involving the Generator, then the time periods specified herein for curing an Assigned Agreement Default shall be extended for the period of such prohibition or while the AESO is diligently proceeding with the enforcement of the AESO Security Documents (to the extent that it is not prohibited by any such prohibition) or an assignee of the Assigned Agreement(s) has assumed the obligations of the Generator arising under the Assigned Agreement(s) after such assignment in accordance with Section 5, respectively.
14. Any curing of or attempt to cure any Assigned Agreement Default shall not be construed as an assumption by the AESO of any covenants, agreements or obligations of the Generator under or in respect of the Assigned Agreement(s).
15. The AESO shall not be required to cure any Assigned Agreement Default by the Generator under the Assigned Agreement(s) (such as insolvency or breach of confidentiality if and to the extent these are in fact Assigned Agreement Defaults) which is not reasonably capable of being cured (each an "**Incurable Default**") and the Contracting Party shall not terminate the Assigned Agreement(s) or suspend the performance of any of its obligations under the Assigned Agreement(s) due to such Incurable Default.
16. Once an Assigned Agreement Default has been cured by the Generator, the AESO or its designee, there shall be deemed to be no longer any default under the Assigned Agreement(s) in respect of any such default so cured.
17. Replacement Agreement. Notwithstanding any provision in the Assigned Agreement(s) or this Consent to the contrary, if the Assigned Agreement(s) is rejected by a receiver or trustee in bankruptcy or otherwise terminated (x) by operation of law, (y) pursuant to any bankruptcy, insolvency or similar proceeding or (z) in connection with any enforcement of, or realization on, the AESO Security Documents, at the AESO’s request (if made within 90 days after the date of the relevant foregoing event and also includes a certification to the Contracting Party that the AESO or the AESO’s designee intends to perform the obligations of the Generator as and to the extent required under the Assigned Agreement(s) (other than Incurable Defaults), the Contracting Party will enter into a new agreement with the AESO or the AESO’s designee for the remainder of the originally scheduled term of the Assigned Agreement(s), effective as of the date of such rejection or termination, as the case may be, and (before giving effect to such events) with the same covenants, agreements, terms, provisions and limitations as are contained in the Assigned Agreement(s) (including any unperformed liabilities of the Generator thereunder but excluding any Incurable Defaults) and any reference herein to the Assigned Agreement(s) shall be deemed to include such new agreement.
18. Substitute Owner. The Contracting Party acknowledges that, in connection with the exercise of remedies following a default under the Agreement or any other document allowing the AESO to exercise remedies pursuant to the AESO Security Documents, the AESO or its designee may (but shall not be obligated to) assume, or cause any purchaser at any sale or any assignee or transferee under any instrument of assignment or transfer upon or relating to enforcement of the AESO Security Documents to assume, all of the interests, rights and obligations of the Generator thereafter arising under the Assigned Agreement(s), in each case by delivering written notice to the Contracting Party. If the interest of the Generator in the Assigned Agreement(s) is to be assumed, sold or transferred as provided above, the assuming party shall (i) cure all defaults of the Generator then existing under the Assigned Agreement(s) (other than any Incurable Defaults) and (ii) agree in writing to be bound by and to assume the terms and conditions of the Assigned Agreement(s) and any and all obligations to the Contracting Party arising or accruing thereunder whether before or after the date of such assumption (other than any Incurable Defaults), and the Contracting Party shall continue to perform its obligations under the Assigned Agreement(s) in favour of the assuming party as if such party had thereafter been named as the Generator under the Assigned Agreement(s). If the AESO realizes upon the AESO Security pursuant to the AESO Security Documents and transfers the Generator's interest in the Assigned Agreement(s) to a purchaser and such purchaser requires secured financing, the Contracting Party will execute and deliver to any such new credit providers (or any AESO on their behalf), upon their reasonable request, an agreement substantially in the same form as this Consent.
19. Termination. The Parties acknowledge that this Consent is only intended to survive only for so long as the security interests constituted by the AESO Security Documents have not been released in full and accordingly, this Consent shall terminate on the earliest of: (i) the date upon which the Generator has satisfied all of its indebtedness, liabilities and obligations in respect of the AESO Security Documents which shall be promptly confirmed in writing by the AESO to the Contracting Party, (ii) upon written notice by the AESO to the Contracting Party electing to terminate this Consent and (iii) the termination of the Assigned Agreement(s) at the end of its scheduled or extended term.
20. Notices. Any notice, consent, approval or other communication under any provision of this Consent must be in writing to be effective, and is effective when delivered by any means, including fax transmission or e-mail, to the following respective addresses:

|  |  |
| --- | --- |
| AESO: | Alberta Electric System Operator2500 Calgary Place330 - 5th Avenue SWCalgary, AB T2P 0L4Attention: Director, CommercialFacsimile: (403) 539-2949E-mail: Commercial.REP@AESO.cawith a copy to:Alberta Electric System Operator2500 Calgary Place330 - 5th Avenue SWCalgary, AB T2P 0L4Attention: General CounselFacsimile: (403) 539-2949E-mail: General.Counsel@aeso.ca |
| Generator: | [Insert Generator name and address]Attention: [●     ]Facsimile: [●     ]E-mail: [●     ]with a copy to:[Insert 2nd Generator name and address]Attention: [●     ]Facsimile: [●     ]E-mail: [●     ] |
| Contracting Party: | [Insert Contracting Party name and address]Attention: [●     ]Facsimile: [●     ]E-mail: [●     ]with a copy to:[Insert 2nd Contracting Party name and address] Attention: [●     ]Facsimile: [●     ]E-mail: [●     ] |

1. Successors and Assigns. This Consent shall be binding upon and shall inure to the benefit of the successors and assigns of the Contracting Party, and shall inure to the benefit of the AESO, the Generator and their respective successors, transferees and assigns.
2. Counterparts. This Consent may be executed in one or more counterparts with the same effect as if the signatures were upon the same instrument. Delivery of an executed counterpart of a signature page by facsimile, PDF or other electronic transmission shall be effective as delivery of an original executed counterpart of this Consent.
3. Governing Law; Submission to Jurisdiction. This Consent shall be governed by and construed in accordance with the laws of the Province of Alberta. Each of the parties hereto hereby irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of the courts of competent jurisdiction of the Province of Alberta, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Consent or for recognition or enforcement of any judgment. Each of the parties hereto irrevocably and unconditionally waives (a) any objection that it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Consent in any court in the Province of Alberta and (b) the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.
4. Interpretation. Unless otherwise defined herein, all initially capitalized words used in this Consent shall have the meaning ascribed thereto in the Agreement.

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized officers to execute and deliver this Consent as of the date first written above.

|  |  |
| --- | --- |
|  | **[Insert legal name of the Generator] by its general partner [Insert legal name of Generator's general partner]** |
|  |  |  |
|  | Per: |  |
|  |  | Name: |
|  |  | Title: |
|  |  |  |
|  | Per: |  |
|  |  | Name: |
|  |  | Title: |
|  |  |
|  |  |
|  | **The Independent System Operator, operating as the Alberta Electric System Operator** |
|  |  |  |
|  |  | Per: |  |
|  |  |  | Name: |
|  |  |  | Title: |
|  |  |  |  |
|  |  | Per: |

|  |
| --- |
|  |
| Name: |
| Title: |

 |
|  |  |  |  |
|  |  |  |  |
|  | **[Insert legal name of the Contracting Party]** |
|  |  |  |
|  |  | Per: |  |
|  |  |  | Name: |
|  |  |  | Title: |
|  |  |  |  |
|  |  | Per: |  |
|  |  |  | Name: |
|  |  |  | Title: |

[*Signature page to Exhibit A of the Prescribed Form – Acknowledgement and Consent*]

**SCHEDULE A**

**LIST OF ASSIGNED AGREEMENTS**

* 1.
	2.
	3.

[*Schedule A to Exhibit A of the Prescribed Form – Acknowledgement and Consent*]

**SCHEDULE B**

**DISCLOSURE OF MATERIAL UNRESOLVED DISPUTES**

* 1. *[Identify and explain any material unresolved disputes between the parties under the Assigned Agreement(s), including any pre-existing event or condition that would, either immediately or with the passage of time or giving of notice, or both, entitle the Generator to terminate the Assigned Agreement(s) or suspend the performance of its obligations under the Assigned Agreement(s).]*

[*Schedule B to Exhibit A of the Prescribed Form – Acknowledgement and Consent*]