

ATTACHMENT 1
COMMERCIAL TERMS OF SOLAR PHOTOVOLTAIC INSTALLATION
AGREEMENT
ON CITY OF TORONTO FACILITIES

1. **Parties:** The City of Toronto (City) and Toronto Hydro-Electric System Limited (THESL), collectively the Parties, wish to enter into agreements to jointly own solar photovoltaic systems (PV System) on the roof of specified City-owned facilities (Facility).
2. **Agreement:** Each individual Facility will have an individual agreement concerning the PV System. The aggregate net available roof area will not exceed 400,000 square feet across the portfolio of Facilities. The total PV System aggregate capacity for all Facilities is estimated at 2000 kW_{ac} with associated annual 2000 MWh aggregate yield.
3. **Term:** Each agreement will have a term (Term) of 21 years commencing on the construction start date for each Facility PV System.
4. **Facilities Selection:** The City and THESL will jointly review potential Facilities each with a net available roof area exceeding 20,000 square feet and jointly select suitable Facilities. At THESL's discretion, a Facility which has less than 20,000 square feet net available roof area or is unsuitable for other technical or economic reasons is excluded from this portfolio and the City may pursue this Facility independently. Suitable Facilities which pass this initial screen will proceed to feasibility study.
5. **Feasibility Studies:** Feasibility studies for suitable Facilities will review roof age, structural capacity, electrical interconnection and general suitability for PV Systems with capacity exceeding 100 kW_{ac} (inverter) at each Facility. The feasibility studies will include construction schedule, electrical design, structural design, estimated energy yield, firm construction costs and estimated maintenance costs for a 20 year lifecycle analysis. The Parties will complete the feasibility studies jointly. Third party engineering costs and each Party's associated internal labour costs will be tracked and included in development costs at market rates, in accordance with a jointly approved budget for feasibility studies. Each Party's internal labour costs will be capped at a percentage of total project costs to be agreed upon by both parties.

6. **Engineering and Construction:** THESL will be responsible to engineer and construct each PV System in a professional manner following City's requirements and obtaining all necessary permits and approvals. Third party engineering costs and each party's associated internal labour costs will be tracked and included in engineering and construction management costs at market rates, in accordance with a jointly approved budget for engineering and construction. Each Party's internal labour costs will be capped at a percentage of total project costs to be agreed upon by both parties. The City will review PV System engineering specifications and construction plans prepared by THESL within 20 business days of receipt and provide comments. Comments and modifications approved by both Parties will be incorporated into the PV System engineering specifications and construction plans by THESL. The PV System engineering specifications and construction plans will be deemed accepted as-is if the City has not provided comments within the initial 20 business days. Construction of PV Systems on each Facility will be scheduled to be completed by July 1, 2012 or earlier, subject to obtaining all necessary permits and approvals. The City will co-operate with THESL in submitting related permits and obtaining approvals.
7. **Operation and Maintenance:** THESL will be responsible to operate and maintain each PV System at each Facility over the Term, in accordance with a jointly approved budget for operation and maintenance. THESL will remotely monitor the health, availability and performance of the PV System at each Facility in real time, provide real time data access to the City and report status to the City monthly. THESL will provide the City with an annual report on energy produced, revenue received, operation and maintenance costs incurred for the PV System at each Facility. Any external services subcontracted by THESL for operation and maintenance will be obtained with competitive bid process every 5 years or earlier.
8. **Management Committee:** The Parties will jointly manage the development, engineering, construction, operation and maintenance of the PV Systems at each Facility. The management committee will meet quarterly, or at the request of either Party as required, to review safety, energy performance, financial results and other matters associated with the PV Systems at each Facility.

9. **Co-investment:** Each Party's investment is subject to their respective Council and Board Approvals. The City and THESL will share in the PV System investment, revenue, operation costs, maintenance costs and removal costs on a pro-rata basis at each Facility. The Parties will share in the PV System liability and damages on a pro-rata basis at each Facility. The City's investment share will be between 0% and 49% and THESL's investment share will be between 51% and 100% on a portfolio aggregate basis. The City's PV System investment share will not exceed \$8M in aggregate. PV System investment costs will include costs for feasibility studies, engineering, construction costs and construction interest for each Facility PV System. The City will be responsible for providing THESL with a milestone payment for each Facility PV System on the commercial operation date (COD) for that specific Facility PV System's in accordance with the City's investment share. If the City does not provide at least 25% investment share of a specific Facility PV System, then THESL becomes the 100% owner of that specific Facility PV System and the roof payment obligations between the Parties remain per section 11.
10. **Electricity Contract:** THESL will submit application to Ontario Power Authority (OPA) for Feed-in Tariff (FIT) electricity contract for each Facility PV System across the portfolio aggregate. The City will co-operate with THESL to submit FIT applications as Facility host. The FIT contract electrical revenue will be shared between the Parties in accordance with each Party's pro-rata investment share.
11. **Roof Payment:** The City will receive a roof payment for each Facility PV System, regardless of each Party's pro-rata investment share, equal to at least 4% of the FIT contract electrical revenue for that specific Facility PV System.
12. **Taxes and Insurance:** Any taxes, assessments and suitable insurance associated with the PV System at each Facility will be shared between the Parties in accordance with each Party's pro-rata investment share.
13. **Buy-out Option:** Either Party may request to buy-out the pro-rata share of the other Party for a specific Facility PV System after COD and prior to end of Term. The requesting Party will prepare a proposal for the other Party's consideration based on remaining contract value and remaining asset value. The Party receiving the buy-out proposal has no obligation to accept.
14. **End of Term Options:** At the City's sole discretion the City will elect one of the following options for each specific Facility PV System and associated end of Term:
 - a) the Facility PV System will be removed by THESL within 6 months of the end of Term and the remaining salvage value distributed according to each Party's pro-rata investment share.
 - b) 6 months prior to end of Term the City may elect to purchase THESL's pro-rata investment share at end of Term for the Facility PV System at Market Value and the PV System remains at that specific Facility.

15. **Market Value:** The Market Value for the PV System at end of term will be based on:
- a) Discounted cashflows for 10 year's PV System electricity revenue reflecting market electricity rates and measured PV System capacity, adjusted for degradation, plus
 - b) Discounted cashflows for 10 year's PV System maintenance costs, including inverter replacement and any associated system upgrades, plus
 - c) Re-roofing costs associated with the roof area under the PV System to allow 10 year's additional service life, using a
 - d) Discount rate equal to the Host's cost of capital (or THESL's cost of capital if the City has assigned this agreement),
- or such other method of determining Market Value as the Parties may agree.
16. **Assignment:** Neither Party shall assign or transfer any or all of its rights or obligations under this Agreement without having first obtained the written consent of the other Party, such consent not to be unreasonably withheld. Either Party may assign this agreement to a 100%-owned Affiliate without the consent of the other Party, provided however that the requesting Party is not in breach of this agreement and the Affiliate agrees to all obligations of the agreement. In the event THESL is sold, the City will have the right to purchase THESL's pro-rata share based on remaining contract value and remaining asset value which are jointly agreed by the Parties.
17. **Termination:** This agreement terminates if THESL does not obtain either:
- a) THESL Board approval for Facility PV Systems across the portfolio aggregate by Dec. 31, 2010 or,
 - b) FIT contract and associated regulatory approvals for each specific Facility PV System by July 31, 2011.
18. **Project Structure:** The Parties will jointly agree on a suitable structure for the PV Systems at each Facility which incorporates reasonable tax-efficiency, suitable risk management and appropriate governance to the financial benefit of both Parties.
19. **Dispute Resolution:** The Parties agree to resolve disputes via Management Committee first and if unresolved in 30 days, the dispute will be referred to the City Manager and the President of THESL. If the dispute remains unresolved after a further 30 days, either Party may then seek resolution via binding arbitration.
20. **Each Party's Separate Responsibilities:** Both Parties have statutory or regulated obligations with respect to permits, approvals, interconnections and metering which will remain in force separate and independent of this agreement.
21. **Additional Terms:** Such other terms (Definitions, Schedules, Liability, Indemnity, Default, Cure, etc.) as may be required to finalize definitive agreements which are satisfactory to both Parties.