

Request for Proposal

Number

LC-PM-070

for

Independent Supply Decision Review

for

Nalcor Energy - Lower Churchill Project

PART 1

INSTRUCTIONS TO BIDDERS

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INSTRUCTIONS TO BIDDERS

1.0 INTRODUCTION / GENERAL INSTRUCTIONS

1.1 General Instructions for Preparing Proposal

- 1.1.1 Upon receipt of the RFP, Bidder must confirm intent to submit proposal within Four (4) days of receipt. Additionally Bidder must sign and date both the Form of Acknowledgement & Company's Non-Disclosure and Conflict of Interest Agreement – Attachment 5 herein.
- 1.1.2 Bidder shall incorporate in the Proposal all relevant and required information concerning the Work as stated hereunder.
- 1.1.3 All prices stated shall be complete and no qualification thereto shall be accepted.
- 1.1.4 Bidder shall not be reimbursed for any costs, expenses or charges which Bidder incurs or is required to expend in its preparation of a Proposal hereunder.

1.2 Validity of Proposal, Execution of a Agreement

- 1.2.1 The Proposal shall remain open for acceptance by Nalcor and irrevocable for a period of sixty (60) days after the closing date and time of receipt as defined in Section 1.6.3 hereof. Bidders shall be notified in writing when selection of a successful Bidder has been made.
- 1.2.2 The successful Bidder(s) shall execute an Agreement in the form set out herein.
- 1.2.3 The lowest cost or any Proposal will not necessarily be accepted. Nalcor reserves the right to accept the Proposal which it deems to have the best value for the Work, and also reserves the right to reject any or all Proposals, in each case without notice.
- 1.2.4 Nalcor reserves the right, at its sole discretion, to negotiate with any Bidder it believes has the most advantageous Proposal or with any other Bidder or Bidders concurrently. In no event will Nalcor be required to offer any modified terms to any other Bidder prior to entering into an Agreement with the successful Bidder.

1.3 Qualifications of Bidder

- 1.3.1 If requested by Nalcor, before execution of an Agreement, Bidder shall furnish additional evidence to satisfy Nalcor that Bidder has the necessary ability, experience, facilities and financing to perform the Work as set out in the RFP.

1.4 Discrepancies, Omissions, Clarifications

- 1.4.1 Bidder is required to study the RFP carefully and to obtain all information as it may require enabling it to submit its Proposal. Bidder shall be deemed to have satisfied itself as to the correctness and sufficiency of its Proposal. No claims whatsoever shall be entertained arising out of Bidder's failure to study the RFP. No Proposal shall be conditional upon the availability of labour, staff, equipment, materials, permits, authorizations or anything whatsoever which Bidder is required to provide.

- 1.4.2 Should Bidder find discrepancies in or omissions from, the RFP, or have any doubt as to the meaning or intent of any part thereof, Bidder shall at once notify Nalcor by letter or by facsimile to the following address:

Nalcor Energy - Lower Churchill Project
P. O. Box. 12800, 500 Columbus Drive
St. John's, NL
Canada, A1B 0C9

Attn: Paul Kennedy
Telephone: (709) 737-4215
Facsimile: (709) 737-1985
Email address: paulkennedy@nalcenergy.com

Ref: RFP No: LC-PM-070
Independent Supply Decision Review

- 1.4.3 Any additional information or clarification shall be issued by Nalcor in writing, in the form of an Addendum, and shall be circulated to all Bidders. All Addenda shall be deemed to become part of the RFP. Oral instructions, corrections or interpretations shall not be binding.

1.5 Rejection of Proposal

- 1.5.1 Nalcor reserves the right to reject any Proposal or part thereof which is incomplete, conditional or obscure, or which contains additions not called for or irregularities of any kind. Nalcor further reserves the right to not award this Agreement.

1.6 Preparation and Submittal of Proposal

- 1.6.1 Bidder shall not include in its Proposal any qualification to the requirements, provisions, specifications and stipulations of the RFP. Failure to comply with this condition may result in a rejection of any Proposal.
- 1.6.2 The submission of a Proposal indicates acceptance by Bidder of any and all conditions contained herein.
- 1.6.3 Bidder shall submit One (1) original signed copy of the Proposal in paper or portable document file (PDF) format and one (1) electronic copy (in native file format). Additionally, Proposal must be received with the Bid Form Letter – Attachment 6 herein.

The Proposal shall be delivered to the address shown in 1.6.4, by 1500 hours Newfoundland Standard Time on **20 May 2011**. Any Proposal not complying with this condition may not be considered and may be returned, unopened, to Bidder

- 1.6.4 The original and all documents in connection therewith shall be enclosed in one or more sealed packages marked:

PROPOSAL - DO NOT OPEN
(NAME OF BIDDER):
PROPOSAL FOR:
Independent Supply Decision Review
RFP No: **LC-PM-070**
Nalcor Energy - Lower Churchill Project
P. O. Box. 12800, 500 Columbus Drive
St. John's, NL
Canada, A1B 0C9

Attn: Paul Kennedy
Telephone: (709) 737-4215
Facsimile: (709) 737-1985
Email Address: paulkennedy@nalcorenergy.com

No other markings shall appear on the package (s).

2.0 COMMERCIAL INSTRUCTIONS

2.1 Rates and Fees

- 2.1.1 Rates shall be completed in Commercial Form of Proposal (Part 1, Attachment 1) and an estimate shall be provided in the Cost, Time and Resource Estimate (Part 1, Attachment 2), which will be conformed as a part of the successful Bidder's Agreement.
- 2.1.2 In the case of any discrepancy between words and figures, the words shall prevail. In the case of errors in addition or extensions, the individual rates quoted shall prevail.
- 2.1.3 Bidder must understand that the commercial information provided by Bidder in its Proposal as negotiated & agreed will form the basis of the Agreement LC-PM-070 – Appendix B (attached).

2.2 Taxes and Duties

- 2.2.1 Prices provided shall be exclusive of GST & HST.

2.3 Bidder Clearances

- 2.3.1 Bidder shall include with the Proposal a 'Letter of Good Standing' from the Workplace, Health, Safety and Compensation Commission of Newfoundland and Labrador or other province(s) where the work is being performed.
- 2.3.2 Not used.
- 2.3.3 Bidder shall include with the Proposal certificate(s) from their insurer(s) validating conformance with the insurance requirements specified in the Agreement.

3.0 INSTRUCTIONS SPECIFIC TO THIS REQUEST FOR PROPOSAL

Proposal shall be arranged in sections in the order set out below.

3.1 Commercial Form of Proposal (Part 1, Attachment 1)

- 3.1.1 Contractor shall provide a complete set of direct Labour Rates by Resource Category that may be utilized in the execution of the Work. The rates, as negotiated, provided in this section, will be included in Agreement Appendix B - Compensation. Labour Rates shall include an allowance for indirect labour including but not limited to; project management, contract administration, planning, estimating, reporting (progress, cost, time, etc.), logistics, accounting and administrative support associated with these activities. Additionally, the unit



rates quoted shall not be subject to mark-up for any type of office or administrative fees.

3.2 Cost, Time and Resource Estimate (Part 1, Attachment 2)

3.2.1 Contractor shall provide a complete time phased estimate for the Work, as described in Part 2 Agreement, Appendix A – Scope of Work by completing Part 1 - Attachment 2 - Cost, Time and Resource Estimate form, attached. The estimate shall be built using the Resource Categories and Rates provided in Part 1 - Attachment 1.

Estimate shall also include travel, equipment rentals or any other expenses associated with the work.

3.3 Newfoundland and Labrador Content (Part 1, Attachment 3)

3.3.1 Contractor is required to complete the attached Newfoundland and Labrador Benefits questionnaire (Part 1, Attachment 3) which will be used to assess the Newfoundland and Labrador Benefits content contained in Contractor's proposal.

3.4 Technical Questionnaire (Part 1, Attachment 4)

3.4.1 Contractor shall submit to Company all deliverables as specified in Part 1, Attachment 4.

PART 1
ATTACHMENT 1

COMMERCIAL FORM OF PROPOSAL

CIMFP Exhibit P-01461
COMMERCIAL FORM OF PROPOSAL

Page 10

Co. Name _____
 Address _____

 Contact _____
 Phone _____
 Email _____

Part I: **Attachment 1**
 RFP: **LC-PM-070**

Date : _____
 Bidder Reference #: _____

Item#	Description	Unit of Measure	List Price	% Discount	Net Price
1.00	Labour Rates				
		Hour			\$ -
		Hour			\$ -
		Hour			\$ -
		Hour			\$ -
		Hour			\$ -
		Hour			\$ -
		Hour			\$ -
		Hour			\$ -
		Hour			\$ -
		Hour			\$ -
		Hour			\$ -
		Hour			\$ -
		Hour			\$ -
		Hour			\$ -
2.00	Equipment Rates (if applicable)				\$ -
					\$ -
					\$ -
					\$ -
3.00	Materials / Consumables				
					\$ -
					\$ -
					\$ -
					\$ -
4.00	Currency	Canadian Dollars (CAD)			
5.00	Term of Validity after Proposal				
	Prices Quoted	Days	60		
6.00	Company Information				
	Legal Name of Bidder	0			
	Country of Incorporation				
	City of Incorporation				
	Province of Incorporation				
	GST/HST Registration #				

 Signed

 Dated

 Bidder Initials

PART 1
ATTACHMENT 2

COST, TIME AND RESOURCE ESTIMATE



ATTACHMENT 2

COST-TIME & RESOURCES ESTIMATE

Project: LOWER CHURCHILL PROJECT		Author:
Description:		Contract #: LC-PM-070
Contractor:		Contractor Reference No.:
Start Date:	Due Date:	Revision:
Duration Days:		Date:

					This Revision:			Previously Approved				Total Estimate		Month	Jan-00	Jan-00	Feb-00	Mar-00	Apr-00	May-00	Jun-00	Jul-00	Aug-00	Sep-00	Oct-00	
Activity #	Resource Category	Start Date	End Date	UOM	Quan	Rate	Cost	Quan	Rate	Cost		Hours	Cost													
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PART 1
ATTACHMENT 3

NEWFOUNDLAND AND LABRADOR BENEFITS QUESTIONNAIRE

ATTACHMENT 3

NEWFOUNDLAND AND LABRADOR BENEFITS QUESTIONNAIRE

Extracts from this submission will be included in the final Agreement.

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1.0 Introduction

The following constitutes the Newfoundland and Labrador Benefits questionnaire for the Project. This questionnaire is used to assess the Newfoundland and Labrador Benefits content contained in Contractor's Proposal.

Contractor is required to respond to the questions/statements requested in this questionnaire in a submission that follows the format presented in the various sections herein. In addition, Contractor is required to complete Attachments A and B using instructions provided in sections 3.0 and 4.0. Failure to provide the information required may result in its Proposal being rejected. Accurate information, consistent with Canadian General Standards Board, is imperative. Information provided is subject to audit by Company.

2.0 Resources Assigned To Newfoundland and Labrador Benefits Initiatives and Reporting

Contractor is asked to detail resources assigned by Contractor to ensure Newfoundland and Labrador Benefits initiatives and reporting will be adequately addressed, including all of the following:

- (a) Name of Personnel assigned to Newfoundland and Labrador Benefits initiatives and reporting.

3.0 Newfoundland and Labrador Benefits Content – Person Hour Estimate

Contractor is required to provide an estimate of the labour (in person hours) used to complete the Services in terms of work location and residency of the workers using the forms in Attachment A.

4.0 Newfoundland and Labrador Benefits Content – Expenditure Estimate

Contractor is required to provide an estimate of the expenditure percentages associated with the Services in terms of Newfoundland and Labrador, Other Canadian and Foreign Content in the form provided in Attachment B.

A.0 Attachment A**A.1.0 Employment Table**

Contractor shall provide, where applicable, the total estimated number of persons and the corresponding estimated number of person-hours anticipated to be utilized in completing this Scope of Services, categorized as follows:

Contractors Name: _____

Attachment A - Employment Table (Person Hours and Number of Persons)										
Residency										
Employment Category	Labrador		Newfoundland		Other Canada		Foreign		Total	
	# of Persons	# of Person Hours	# of Persons	# of Person Hours	# of Persons	# of Person Hours	# of Persons	# of Person Hours	# of Persons	# of Person Hours
Project Management										
Engineering Management										
Procurement and Contract Management										
Construction Management										
Other										

Attachment A - Employment Table (Person Hours and Number of Persons)										
Work Location										
Employment Category	Labrador		Newfoundland		Other Canada		Foreign		Total	
	# of Persons	# of Person Hours	# of Persons	# of Person Hours	# of Persons	# of Person Hours	# of Persons	# of Person Hours	# of Persons	# of Person Hours
Project Management										
Engineering Management										
Procurement and Contract Management										
Construction Management										
Other										

Note: If the occupation categories are not appropriate, Contractor may add categories accordingly.

B.0 Attachment B**B.1.0 Expenditure Table**

Contractor shall provide, where applicable, an estimate of the expenditure percentages associated with the Services in terms of Newfoundland and Labrador, other Canadian and Foreign content as outlined in attachment B in relation to this Request for Proposal:

Contractor's Name: _____

Table B - Expenditure Table						
Component	Location of Work	<u>% Content of Bid</u>				
		Newfoundland %	Labrador %	Other Cdn.%	Foreign %	Total %
Materials and Equipment						
Direct Labour						
Services						
Overhead and Profit						
Other						
Total						

PART 1
ATTACHMENT 4

TECHNICAL QUESTIONNAIRE

ATTACHMENT 4

TECHNICAL PROPOSAL QUESTIONNAIRE

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1.0 Introduction

The Technical Proposal Questionnaire must be completed and submitted as part of the Proposal. The submitted questionnaire shall be referred to herein as the Technical Proposal. It will be evaluated by Company as part of Company's overall evaluation process.

Where applicable, information provided in the Technical Proposal will form part of the Agreement.

The entire Agreement contains Consultant's obligations and must be considered by Bidder in completing the Technical Proposal Questionnaire.

2.0 General Instructions

All sections of the questionnaire must be completed.

If a document is submitted in support of a response, it shall be clearly referenced in the text and attached as an appendix.

Questionnaire responses shall be presented in the same order, numbering system and format as presented in the questionnaire.

Information requested in the questionnaire might be repetitive to information requested in other sections of this RFP. It is important that Bidder's response to this questionnaire be complete. Accordingly, if necessary, Bidder should repeat any such information.

Do not include manuals and procedures with the questionnaire responses unless specifically requested.

3.0 Execution Proposal

3.1 General

Subsequent to award of the Agreement, Consultant shall be required to prepare for Company's acceptance an Execution Plan.

The Technical Proposal shall include a detailed outline complete with a summary of its Execution Plan. The submission shall describe how the Execution Plan will encompass the Scope of Work.

The submission shall provide sufficient detail so as to enable Company to fully assess Bidder's understanding of the Services and the Project, and to evaluate Bidder's approach, commitment and ability to provide the Services to the Project.

As a minimum, the detailed outline / summary of the Execution Plan should address the items noted below.

Extracts from the Technical Proposal may form part of the Agreement.

3.2 Complete Scope of Work

The Technical Proposal shall fully detail and explain:

- a) How the implementation of the work shall be organized and delivered;
- b) How each of the Services will be provided;
- c) When each of the Services will be started and completed;
- d) Where each of the Services will be provided and completed;

3.3 Specific Requirements

The Technical Proposal shall specifically address:

- a) Project organization and execution strategy;
- b) Bidder's organization; (further detail regarding organization and Key Personnel shall be provided in response to question 5.0 herein);
- c) Overall roles and responsibilities
- d) Planning and scheduling methodology;
- e) Reporting;

3.4 Schedule

Bidder shall provide, in its Technical Proposal, a summary schedule for the implementation of the work.

4.0 Subcontractors

If applicable, Bidder shall provide a complete listing and details of all proposed Subcontractors, including the details of the Services proposed to be subcontracted.

5.0 Organization and Key Personnel

5.1 General

Bidder shall provide sufficient detail with respect to Bidder's corporate structure and proposed Project organization and Key Personnel to demonstrate a thorough understanding of the requirements for the provision of the Services and the satisfaction of all obligations of Contractor under the Agreement.

5.2 Project Organization

Bidder shall provide, as an appendix to its response to this question, details of the Project-specific organization that Bidder proposes for the provision of the Services. The organizational structure shall be presented as an organization chart that clearly identifies the lines of authority, reporting structure, and relationships for all Agreement management functions.

The organization chart shall be arranged to present the proposed organization.

The respective organization chart shall clearly identify:

- Bidder's proposed Key Personnel;
- Any Subcontractor personnel that are proposed to be integrated into Bidder's project management organization;
- The organization of any nominated Subcontractor, including any Key Personnel of the Subcontractor;
- Identification of specialist personnel.

As part of its submission, provide resumes of all personnel identified as Key Personnel positions as identified in Attachment 1 and all other key positions as identified by the Bidder.

5.3 Key Personnel

Bidder shall provide the following with respect to its list of proposed Key Personnel:

- Roles and responsibilities, including detailed role descriptions.
- Resumes for all Key Personnel candidate nominations.
- For each Key Personnel, confirmation of his/her availability and anticipated duration of assignment to the Services. This requirement also applies to Key Personnel to be provided from Subcontractors.
- Relevant experience of Key Personnel (redacted copies of work) which is applicable/related to the Scope of Work requested.

Contractor's Key Personnel, as agreed with Company, shall form Appendix A of the Agreement.

6.0 Cost Time and Resources (CTR) Estimate Forms

Bidder shall provide details of its CTR estimate(s) for the provision of the Services. The CTR estimate(s) shall be completed on the CTR Estimate Forms provided in Attachment 2.

PART 1
ATTACHMENT 5

FORM OF ACKNOWLEDGEMENT & NON-DISCLOSURE AND CONFLICT OF INTEREST AGREEMENT

ATTACHMENT 5

**FORM OF ACKNOWLEDGEMENT &
NON-DISCLOSURE AND CONFLICT OF INTEREST AGREEMENT**

FORM OF ACKNOWLEDGEMENT

Date: _____

From: _____

Nalcor Energy - Lower Churchill Project
P.O. Box 12800, 500 Columbus Drive
St. John's, Newfoundland, A1B 0C9
Canada

Telephone: (709) 737-4215

Facsimile: (709) 737-1985

Attention: Paul Kennedy

Ref: RFP No: LC-PM-070
Independent Supply Decision Review

We hereby acknowledge receipt of your Request for Proposal for the subject work, complete with all documents contained therein. We shall respond to your request and shall submit our Proposal not later than the date requested.

We further acknowledge that Company's Non-Disclosure and Conflict of Interest Agreement pertaining to Proprietary Information is duly signed and enclosed herewith and that all partnership or joint venture participants and proposed subcontractors shall comply with the requirements stated therein.

Yours truly,

Name
Title

Enclosure – Non-Disclosure and Conflict of Interest Agreement

NON-DISCLOSURE AND CONFLICT OF INTEREST AGREEMENT

THIS AGREEMENT made at St. John's in the Province of Newfoundland and Labrador as of the 5th day of May 2011.

BETWEEN **NALCOR ENERGY**, a body corporate constituted pursuant to the *Energy Corporation Act*, S.N. 2007, c. E-11.01 and having its head office at the City of St. John's, Province of Newfoundland and Labrador, (hereinafter referred to as "Company") of the first part,

AND **CONSULTANT LEGAL NAME**, having an office in the City of _____ in the Province of _____ (hereinafter referred to as "Consultant") of the second part.

WHEREAS Company requests Consultant to participate in the Request for Proposal process for the Independent Supply Decision Review (LC-PM-070), (hereinafter called the "Purpose"); and

WHEREAS Consultant chooses to perform such services in support of the Purpose;

NOW THEREFORE in consideration of the premises and obligations contained herein and for other good and valuable consideration (the receipt, adequacy and sufficiency of which are hereby acknowledged), the Parties intending to be legally bound hereby agree as follows:

1.0 DEFINITIONS

For the purposes of this Agreement;

- 1.1 "Consultant" includes the Consultant as previously designated herein and all of its employees, directors, agents, servants and sub-consultants required in support of the Purpose.
- 1.2 "Agreement" means this Agreement as amended and supplemented from time to time.
- 1.3 "Confidential Information" means all oral, written, electronic, magnetic or optical data and machine-readable information and data which Consultant receives, either directly or indirectly, from Company and ownership and title of such information and data shall at all times remain exclusively vested in Company except information falling into any of the following categories:
 - 1.3.1 information which, at the time of disclosure or acquisition hereunder, is already known to Consultant and was not acquired under any obligation of confidentiality;
 - 1.3.2 information which, at the time of disclosure or acquisition hereunder, is or thereafter becomes a part of the public domain through no act or failure to act on the part of Consultant or on the part of any third party under an obligation of confidentiality with respect to such information; and
 - 1.3.3 information which is disclosed to Consultant by a third party who did not acquire such information under an obligation of confidentiality either directly or indirectly from Company.
- 1.4 "Person" is to be interpreted broadly and includes, without limitation (i) any individual or group, and any firm, corporation, company, association, partnership, joint venture, trust, unincorporated organization, a state or political subdivision thereof, a government and every agency or instrumentality thereof or any other legal entity, and (ii) the media.
- 1.5 "Conflict of Interest" (hereinafter referred to as "Conflict") means a situation where a Person is involved in multiple interests, one of which could possibly corrupt the motivation for an act in the other.

2.0 CONFIDENTIAL INFORMATION AND PRIVACY

- 2.1 Consultant shall use the Confidential Information for the Purpose only and shall hold the Confidential Information in confidence at all times and not use or disclose it to anyone without Company's prior written approval, which approval

may be withheld at Company's sole discretion.

- 2.2 Consultant may disclose the Confidential Information to those of its employees, agents, servants or subcontractors to whom disclosure is required by Consultant for the Purpose, but only after each such employee, agent, servant or subcontractor has properly assumed obligations identical in principle to those which Consultant has assumed in this Agreement. Consultant shall ensure that all such employees, agents, servants and subcontractors at all times comply with such obligations.
- 2.3 Unless permitted or requested by Company in writing, Consultant shall not disclose to any third party or use for any other purpose, any of the materials prepared or developed by Consultant in the performance of the Purpose, including documents, calculations, maps, sketches, notes, reports, data, models and samples. The foregoing materials shall, when prepared, become the property of Company and shall be delivered to Company upon the earlier of:
 - 2.3.1 Company's request; or
 - 2.3.2 termination of this Agreement.
- 2.4 It is not Company's desire to be afforded access to Consultant's or any of Consultant's agent's or subcontractor's or any other third party's, confidential information. Therefore, Consultant shall ensure that any information, which Consultant supplies or arranges to have supplied to Company shall not be subject to any obligation of confidentiality. Company shall not be liable for any use or disclosure of such information, and Consultant shall hold Company harmless against any liability arising from such use or disclosure.
- 2.5 Consultant shall use all personal information collected, received, handled or processed by it under this Agreement on behalf of Company (hereinafter referred to as "Personal Information") only for the Purpose, and shall not, for any reason, use the Personal Information for other, or its own purposes. Company shall have the right, on reasonable notice, to audit or review Consultant's processes and procedures to ensure that the Personal Information is not being collected, used or disclosed in an unauthorized manner, and that the provisions of this Agreement are being fully complied with.
- 2.6 Company is subject to the Access to Information and Protection of Privacy Act, Statutes of Newfoundland and Labrador, 2002 Chapter A-1.1 (hereinafter referred to as the "ATIPP Act"), and consequently the public has a right of access to Company's records.
- 2.7 Although section 27 of the ATIPP Act provides an exception,

NON-DISCLOSURE AND CONFLICT OF INTEREST
AGREEMENT

which may sometimes be enforceable when access to information relating to a third party is requested, there may be instances when Company is required to provide a member of the public with access to such information. The Consultant should familiarize itself with the provisions of the ATIPP Act.

3.0 PRESS RELEASES

- 3.1 All publicity releases or advertising dealing with the Purpose shall be submitted for approval of Company prior to release to the news media.

4.0 CONFLICT OF INTEREST

- 4.1 The Consultant confirms that it is not currently subject to any mandate, which would be in Conflict with Company interest. On an ongoing basis, the Consultant shall ensure that it will not accept a mandate, which would put it in Conflict with Company interests. In the event that any potential Conflict should be identified, it will be immediately communicated to Company and a mutually satisfactory resolution determined.

5.0 NOTICES

- 5.1 All notices shall be addressed as follows or to such other address as either of the parties shall designate by written notice.

COMPANY:

Nalcor Energy – Lower Churchill Project
P. O. Box 12800
500 Columbus Drive
St. John's, Newfoundland and Labrador
A1B 0C9

Attention: Paul Kennedy
Email: paulkennedy@nalcorenergy.com
Phone (709) 737 4215

CONSULTANT:

Attention: _____
Email: _____
Phone: _____

Any such notice, request, consent, demand, waiver or other communication shall: (i) if delivered, be deemed to have been given or made at the time of delivery; and (ii) if sent by fax or other similar form of written communication, be deemed to have been given or made at the time in which it was successfully transmitted as evidenced by automatic confirmation of receipt.

6.0 NO WAIVER

- 6.1 None of the provisions of the Agreement shall be considered to be waived by the Consultant or Company except when such waiver is given in writing. No such waiver shall be or shall be construed to be, a waiver of any past or future default, breach or modification of any of the terms, provisions, conditions or covenants of the Agreement except as expressly stipulated in such waiver.

7.0 GOVERNING LAW AND FORUM

- 7.1 The Agreement shall be governed by and construed in accordance with the laws of the Province of Newfoundland and Labrador and every action or other proceeding arising hereunder shall be determined exclusively by a court of competent jurisdiction in the Province of Newfoundland and Labrador, subject to the right of appeal up to the Supreme Court of Canada where such appeal lies.

8.0 REMEDIES

- 8.1 Consultant agrees that Company will be irreparably damaged if any provision of this Agreement is not performed by the Consultant in accordance with its terms and that monetary damages may not be sufficient to remedy any breach by the Consultant of any term or provision of this Agreement and the Consultant further agrees that the Company shall be entitled to equitable relief, including injunctive and specific performance, in the event of any breach hereof and in addition to any other remedy available at law or in equity.

9.0 CONTINUING OBLIGATIONS

- 9.1 The covenants contained herein shall survive any termination of this Agreement for any cause whatsoever.

10.0 ENTIRETY OF AGREEMENT

- 10.1 This Agreement constitutes the entire agreement between the parties and shall govern the relationship of the parties with respect to the Purpose. It supersedes all other agreements related to the Purpose, either written or verbal, between the parties.

IN WITNESS WHEREOF the parties have executed this Agreement as of the day and year first above written.

NALCOR ENERGY
Sign Paul Kennedy
Print PAUL KENNEDY

CONSULTANT
Sign _____
Print _____

PART 1
ATTACHMENT 6

BID FORM LETTER

ATTACHMENT 6

BID FORM

Nalcor Energy - Lower Churchill Project
P. O. Box 12800, 500 Columbus Drive
St. John's, Newfoundland, A1B 0C9
Canada

Attention: Paul Kennedy
Telephone: (709) 737-4215
Email: paulkennedy@nalcorenergy.com

Ref: RFP No: LC-PM-070
Independent Supply Decision Review

Gentlemen:

I/We Legal (Registered) Name of Bidder hereby agree that:

1. After carefully examining the Request for Proposal, we do hereby offer to perform the Work described therein, at the prices quoted in the Proposal, as applicable, all in accordance with the said documents;
2. This Proposal is made without any collusion, comparison of figures or arrangement with any other Bidder;
3. We have carefully examined the Request for Proposal, including the following Bulletins:

Bulletin Number	_____	dated	_____
	_____	dated	_____
	_____	dated	_____
	_____	dated	_____

4. We hereby propose and offer to enter into the Agreement contained in the Request for Proposal to complete the Work and hereby agree to do all that is set out or called for in the Request for Proposal, within the time specified and for the prices quoted in the Proposal;
5. We agree to carry out additional work when required by Company, as provided for in the Agreement;
6. We agree that this Proposal is to remain valid for acceptance and is irrevocable for sixty (60) days and Company may, at any time during said period, accept the Proposal;

7. We agree that, upon receipt of notification of acceptance of this Proposal, we shall execute the Agreement;
8. If selected as a Successful Bidder, we agree that, prior to the execution of the Agreement, if required by Company, we shall provide a Parent Company Guarantee and, irrevocable and unconditional letter(s) of credit in accordance with the requirements of the Request for Proposal;
9. We agree that we shall not be reimbursed for any cost incurred in the preparation of the Proposal or any costs incurred for performing any part of the Work prior to entering into the Agreement; and
10. We hereby warrant and represent that we have the right to transfer all information contained within this Proposal and that the transfer of such information does not infringe the proprietary rights of any third party nor does the receipt and use by Company constitute unauthorized disclosure or use of any trade secret, patent or copyright of Bidder or of any third party.

Executed on behalf of _____, the Bidder

(Witness)

Signature

Name of signatory
(please print)

Office Held

Dated at City of Signing this ____ day of ____, 20____

PART 2

PRO-FORMA AGREEMENT

**AGREEMENT
LC-PM-070**

FOR

INDEPENDENT SUPPLY DECISION REVIEW

FOR

THE LOWER CHURCHILL PROJECT

BETWEEN

Nalcor Energy

AND

Insert Contractor Name

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APPENDICES:

Appendix A	Scope of Work;
Appendix B	Compensation;
Appendix C	Personnel;
Appendix D	Forms.

THIS AGREEMENT made at St. John's in the Province of Newfoundland and Labrador as of the
day of 2011.

BETWEEN **NALCOR ENERGY**, a body corporate existing pursuant to the *Energy Corporation Act*, S.N. 2007, Chapter E-11.01, as amended, and having its head office at the City of St. John's, Province of Newfoundland and Labrador, (hereinafter referred to as "**Company**") of the first part,

AND **CONTRACTOR LEGAL NAME**, a body incorporated under the laws of the Province of and having its head office in the City of in the Province of (hereinafter referred to as "**Contractor**") of the second part.

WHEREAS Company requires the performance of those services set forth in Appendix "A" – Scope of Work, attached hereto, (hereinafter called the "Work"); and

WHEREAS Contractor is engaged in the business of performing such services and is prepared to provide the equipment and personnel required to perform the Work;

NOW THEREFORE in consideration of the payments to be made hereunder and the respective covenants, agreements, terms and conditions of the parties hereto, Company and Contractor agree as follows:

1.0 AGREEMENT DOCUMENTS

1.1 The below listed appendices attached hereto shall form part of this Agreement:

- (a) Appendix A Scope of Work;
- (b) Appendix B Compensation;
- (c) Appendix C Personnel;
- (d) Appendix D Forms.

1.2 This Agreement shall also include:

- (a)
- (b)

1.3 In case of a conflict between the main body of this Agreement, the Appendices attached hereto or other items, as referenced in Article 1.2, the order of precedence shall be:

- (a) Main body of Agreement;
- (b) Appendices;

- (c) Other items.

2.0 DEFINITIONS

- 2.1 "Contractor" includes the Contractor as previously designated herein and all of its employees, directors, agents, servants and subcontractors involved in the execution of the Work.
- 2.2 "Intellectual Property" means all data, designs, plans, drawings, specifications, research, reports, notes, estimates, summaries, calculations, surveys, papers, completed work, and work in progress and such other information and materials or parts thereof as are compiled, drawn and produced by the Contractor in performing this Work, including computer printouts and computer models and all copyrights thereto and all patents, trademarks and industrial designs arising there from.
- 2.3 "Company" includes the following entities and persons individually and collectively:
- (a) Company as previously designated herein;
 - (b) Company's other contractors; and
 - (c) the directors, officers, employees, servants, invitees and agents of all of those entities.
- 2.4 "Consequential Loss" means consequential or indirect losses and includes but is not limited to, loss or anticipated loss of profit, loss or anticipated loss of revenue, loss or anticipated loss of business opportunity or business interruption.
- 2.5 "Personnel", in relation to any person or entity, means the directors, officers, employees, non-employed representatives and agents of such person or entity;
- 2.6 "Third Parties" means all persons and entities, which are included in neither Company nor Contractor.

3.0 INTERPRETATION

- 3.1 The doctrine of contra proferentem shall not apply in the interpretation of this document(s) meaning that if there is any ambiguous language in this document it shall not be interpreted more strongly against the party who prepared or drafted the ambiguous language.
- 3.2 The words "include", "includes" and "including" as used in the Agreement are not to be construed as words of limitation.
- 3.3 Article headings are inserted herein for convenience of reference only and shall not form a part hereof for purposes of interpretation.

- 3.4 Wherever, in the Agreement, a number of days are prescribed for any purpose, unless otherwise specified, the days shall be calendar days and shall be reckoned exclusively of the first and inclusively of the last.
- 3.5 The rights and recourse of Company and Contractor contained in the Agreement are cumulative and not in the alternative unless otherwise provided. The exercise of any such rights or recourse shall not constitute a waiver or renunciation of any other rights or recourse.

4.0 SCOPE OF WORK

- 4.1 Contractor represents and warrants that it has the required skills and capacity to perform the Work as set forth in Appendix A, and covenants that it will perform the Work with all due diligence and in a manner which would normally be employed by a recognized professional performing work of a comparable nature.
- 4.2 Contractor shall report to and carry out the directives of the Company representative, or such other person as shall be designated by Company in writing.
- 4.3 Company shall have the right at any time to order changes in the Work or additional Work. All additional Work or changes to the Work shall be governed by the provisions of this Agreement subject to the amendment of this Agreement, if required, upon mutual agreement of the parties. No additional Work or changes in the Work shall be implemented by Contractor unless such additional Work or changes in the Work, and the associated costs, have been approved by Company in writing.
- 4.4 In no event shall Contractor utilize an agent or a subcontractor to perform the Work without the prior written consent of Company. Contractor shall ensure that all Subcontracts are consistent with the provisions of this Agreement and, in particular, with the rights of Company and the obligations of Contractor under this Agreement
- 4.5 Contractor shall assign the personnel listed on Appendix C to the Work. Contractor shall not replace such personnel without the prior written consent of Company, which consent shall not be unreasonably withheld.
- 4.6 Contractor represents and warrants that it shall complete the Work in conformity with the provisions of this Agreement.

5.0 DELAY

- 5.1 Where either party is aware of an event or any circumstances which are delaying or are expected to delay the performance of the Work, that party shall give written notice, within seven (7) days, to the other party of the particulars of the cause and the expected length of the delay and the steps that the party intends to take to mitigate the effects of the delay.

6.0 EFFECTIVE DATE AND TERM

- 6.1 Notwithstanding the date of execution of this Agreement, this Agreement shall commence on the _____ day of _____, 2011 (hereinafter called the "Effective Date"). The Agreement shall expire on _____ day of _____, 2011 (hereinafter called the "Expiry Date"). Agreement Term may be extended as mutually agreed in writing.

7.0 SUSPENSION OR TERMINATION

- 7.1 Company shall have the right to terminate this Agreement at any time by giving Contractor seven (7) days' written notice prior to the date of termination of the Agreement.
- 7.2 The termination shall not affect the rights of the parties hereto which have accrued prior to the date of termination and shall not relieve any party from its obligations, which may have arisen during the Term hereof.
- 7.3 Within fourteen (14) days of notice of termination, the Contractor shall submit to Company a schedule of costs and expenses incurred plus any additional costs and expenses that the Contractor expects to incur after the date of termination and for which the Contractor will require reimbursement.
- 7.4 Company may suspend the performance of the Work hereunder, in whole or in part, at any time and from time to time for a period not exceeding six (6) calendar months on each occasion. During the period of suspension, Contractor shall remain prepared to reactivate its Work and shall resume the performance of its Work as directed by Company. Upon resumption of the Work, Contractor shall make every reasonable attempt to reassemble the original team, it being understood that in the event of a prolonged suspension some personnel may not be immediately available.

In the event of suspension of the performance of the Work at the request of Company the payment of costs incurred to that date, calculated in accordance with agreed Agreement rates, shall be deemed to be reasonable compensation

to Contractor for the Work rendered prior to that date.

If during any period of suspension requested by Company, Contractor reasonably incurs expenses under the Agreement which have been mutually agreed to in writing by Company and Contractor and provision for compensating Contractor in respect of such expenses is not made elsewhere in the Agreement, Company shall pay Contractor for same an amount to be determined on a fair and equitable basis.

- 7.5 Company shall not be liable for any losses or damages of any kind suffered by Contractor on account of the termination or suspension.

8.0 FORCE MAJEURE

- 8.1 Neither party shall be considered in default in the performance of any of its obligations hereunder to the extent that performance of any such obligations is delayed, hindered, or prevented by Force Majeure.
- 8.2 Force Majeure shall be any cause beyond the control of the party pleading it which such party could not reasonably have foreseen and guarded against.
- 8.3 Force Majeure includes acts of God, floods, earthquakes, strikes, fires, riots, incendiarism, interference by civil or military authorities, compliance with the regulations or order of any government authority, acts of war (declared or undeclared) and civil disobedience, provided that such cause could not reasonably have been foreseen and guarded against by it.

9.0 REMUNERATION

- 9.1 Unless otherwise stated herein, Contractor shall be paid in Canadian funds for performing the Work in accordance with the terms and conditions outlined in Appendix B and subject to the holdback provisions and setoff provisions of Article 10.
- 9.2 No change in such terms and conditions shall be permitted unless acknowledged in writing by Company.
- 9.3 Company shall have no obligation to pay Contractor for any goods or services not approved by Company.
- 9.4 No overtime shall be paid for by Company unless so authorized in writing by Company.

9.5 Contractor shall submit invoices, in a format acceptable to Company, accompanied by relevant supporting documentation (approved timesheets, supplier invoices, receipts or other such proof of expenditure) to Company at the beginning of each month for the work performed during the previous month or in accordance with agreed payment milestones. Invoices shall clearly identify the Company assigned Agreement number, and where applicable shall be broken down by WTO number, and shall be broken down in accordance with the rates and items specified in Appendix B or other details as requested by Company.

9.6 Contractor shall present its invoices to Company's office at:

Nalcor Energy - Lower Churchill Project

P. O. Box 12800
500 Columbus Drive
St. John's, NL, A1B 0C9

Attention: Accounts Payable

9.7 Contractor's invoice shall identify separately the total amount of Goods and Services Tax or Harmonized Sales Tax ("GST/HST") applicable to the invoice value, and shall indicate on the invoice the Contractor's GST/HST Registration Number. Company will be under no obligation to pay GST/HST on invoices unless the Contractor provides its GST/HST Registration Number on the invoice. In the event Contractor does not invoice Company for GST/HST, Contractor shall indicate on the invoice the basis upon which Contractor is exempt from the obligation to collect GST/HST.

9.8 Any dispute concerning the amount of any payment(s) including, without limitation, any dispute as to Company's right under this Agreement or otherwise to offset any claim it may have, shall not relieve Contractor of its obligation to proceed with all due diligence to complete all the Work to be performed under this Agreement in accordance with agreed schedules and Contractor hereby irrevocably grants to Company, its employees, agents and representatives such rights of access to all premises or facilities occupied by Contractor or any of its Affiliates or Subcontractors as may be required by Company to take possession of the Work. Company shall be entitled to take possession of the Work against payment of the undisputed amount(s).

9.9 Within thirty (30) calendar days after receipt of such invoice, Company shall, after any appropriate adjustments and subject always to possible further verification and correction, pay Contractor for such monthly invoices.

- 9.10 The acceptance by Contractor of the final payment under the Agreement shall operate as, and shall be, a release to Company and its agents from any and all claims of and liability to Contractor for anything done or furnished for, or in relation to, the Work or the Agreement, or for any act of neglect or omission of Company and its agents relating to or affecting the Agreement or the Work, except claims that have been identified and remain unsettled.
- 9.11 Delay by Company in making a payment when it becomes due and payable shall not be deemed to be a breach of the Agreement by Company.

10.0 WITHHOLDING, SETOFFS AND DEDUCTIONS

- 10.1 Company shall be entitled to withhold payment or to deduct from Contractor's compensation to the extent necessary to protect Company in respect of:
- (a) invoiced amounts reasonably disputed by Company;
 - (b) failure of Contractor to make payments promptly to subcontractors, governing agencies, agents, or suppliers;
 - (c) defective Work not remedied;
 - (d) liens or claims filed, or reasonable evidence indicating to Company the probability of claims or liens being filed, with respect to the Work; and
 - (e) as permitted or required by law or as expressly provided in Article 10, Appendix B, or elsewhere in this Agreement.
- 10.2 Any indebtedness of Contractor to Company, or to a parent, subsidiary or affiliate of Company may, in the sole discretion of Company, be setoff by Company against any indebtedness of Company to Contractor hereunder.
- 10.3 Company may deduct from Contractor's compensation, the amount, if any, of Contractor's required contributions to the Workplace Health Safety and Compensation Commission (WHSCC), Canada Pension Plan and Employment Insurance Commission, where Company, in its sole discretion, determines that such amounts may be assessed against Company, and Company shall remit such amounts to the appropriate authorities on Contractor's behalf.
- 10.4 If Company is required by the Canada Customs and Revenue Agency, or if Company, in its sole discretion, determines that it is required by Canada Customs and Revenue Agency to withhold from any monies due to Contractor hereunder, any amount required under Canadian income tax legislation, then Company shall withhold such amount. Company shall not be liable for any costs or interest to Contractor as a result of withholding as specified herein

11.0 RECORDS AND ACCOUNTS OF COSTS

- 11.1 Contractor shall keep and maintain complete and accurate records of time and costs incurred with respect to the Work, and maintain books and accounts in accordance with generally accepted accounting procedures, principles and practices respecting all matters pertinent to this Agreement.
- 11.2 Company shall have the right to access and audit the records, referenced in 11.1, with seven (7) days written notice for a period of twenty-four (24) months following completion of the Work.
- 11.3 Any claims or discrepancies disclosed by such review shall be made in writing to Contractor, and Company and Contractor shall exercise good faith to resolve all review exceptions within a reasonable period of time after completion of such review and promptly settle accounts in accordance therewith.

12.0 INDEPENDENT CONTRACTOR

- 12.1 In the performance of the Work, Contractor shall operate as an independent contractor. Nothing in this Agreement will be construed to constitute Contractor as an agent, employee, agent, servant or subcontractor of Company.
- 12.2 Contractor shall indemnify and hold Company harmless from all costs and expenses arising out of any claim or liability by reason that Contractor is considered an agent, servant, or employee or subcontractor of Company.

13.0 CONFLICT OF INTEREST

- 13.1 The Contractor confirms that it is not currently subject to any mandate, which would be in conflict with Company interest. On an ongoing basis, the Contractor shall ensure that it will not accept a mandate, which would put it in conflict with Company interests. In the event that any potential conflict of interest should be identified, it will be immediately communicated to Company and a mutually satisfactory resolution determined.

14.0 CONFIDENTIALITY AND PRIVACY

- 14.1 Contractor shall not divulge to any person or persons any information relating to the Work or any personal information relating to an individual furnished to Contractor by Company or otherwise acquired by Contractor during the performance of the Work, and Contractor shall treat all such information so furnished or arising under the Agreement as confidential except as to persons

specifically designated and approved by Company and except as required for the performance of the Work. Contractor shall return all such information upon termination of this Agreement. The foregoing shall not apply to any information and Data which:

- (a) were in Contractor's possession prior to the invitation to commencement of the Work; or
- (b) become published through some agency other than Contractor or become generally available to the public or are in the public domain; or
- (c) are the same as technical information and Data hereafter lawfully acquired by Contractor from third parties not connected with the Work or with the performance of the Work.

14.2 All publicity releases or advertising dealing with the Work shall be submitted for approval of Company prior to release to the news media.

14.3 Company is subject to the Access to Information and Protection of Privacy Act, Statutes of Newfoundland and Labrador, 2002 Chapter A-1.1 (hereinafter referred to as the "ATIPP Act"), and consequently the public has a right of access to Company's records.

14.4 Although section 27 of the ATIPP Act provides an exception, which may sometimes be enforceable when access to information relating to a third party is requested, there may be instances when Company is required to provide a member of the public with access to such information. The Contractor should familiarize itself with the provisions of the ATIPP Act.

15.0 COMPLIANCE WITH LAWS AND PERMITS

15.1 Contractor shall be required to comply with, observe, perform and fulfill the obligations and requirements of all federal, provincial and municipal statutes, by-laws, ordinances, regulations and orders in force and effect and shall ensure that its subcontractors, employees and agents likewise comply with, observe, perform and fulfill the obligations and requirements of all federal, provincial and municipal statutes, by-laws, ordinances, regulations and orders in force and effect during the term of the Agreement.

15.2 Contractor shall be responsible for obtaining from the proper authority all permits, approvals, licenses and authorizations required for the Work.

16.0 GOVERNING LAW AND FORUM

- 16.1 The Agreement shall be governed by and construed in accordance with the laws of the Province of Newfoundland and Labrador and every action or other proceeding arising hereunder shall be determined exclusively by a court of competent jurisdiction in the Province of Newfoundland and Labrador, subject to the right of appeal up to the Supreme Court of Canada where such appeal lies.

17.0 LIABILITY AND INDEMNITY

- 17.1 Notwithstanding any other provision of this Agreement, Contractor shall waive all rights of legal recourse in respect of and, in addition, indemnify and keep indemnified and hold harmless Company from and against, any Claim arising from or in connection with this Agreement in respect of loss of or damage to the property of Contractor, howsoever caused and regardless of whether or not and to what extent such Claim is caused or contributed by breach of agreement, negligence, breach of duty or other default on the part of any party to be indemnified pursuant to this Article 17.1 except to the extent that such claim is caused or contributed to by the gross negligence or willful acts or omissions on the part of any party or parties to be indemnified pursuant to this Article 17.1.
- 17.2 Notwithstanding any other provision of this Agreement, Company shall waive all rights of legal recourse in respect of and, in addition, indemnify and keep indemnified and hold harmless Contractor from and against, any Claim arising from or in connection with this Agreement in respect of loss of or damage to the property of Company, howsoever caused and regardless of whether or not and to what extent such Claim is caused or contributed to by breach of agreement, negligence, breach of duty or other default on the part of any party or parties to be indemnified pursuant to this Article 17.2, except to the extent that such claim is caused or contributed to by the gross negligence or willful acts or omissions on the part of any party or parties to be indemnified pursuant to this Article 17.2.
- 17.3 Notwithstanding any other provision of this Agreement, Contractor shall waive all rights of legal recourse in respect of and, in addition, indemnify, keep indemnified and hold harmless Company from and against, any Claim arising from or in connection with this Agreement in respect of personal injury (including disease or illness) or death sustained or alleged to be sustained by the Personnel of Contractor, howsoever caused and regardless of whether or not and to what extent such Claim is caused or contributed to by breach of agreement, negligence, breach of duty or other default on the part of any party or parties to be indemnified pursuant to this Article 17.3.
- 17.4 Notwithstanding any other provision of this Agreement, Company shall waive all rights of legal recourse in respect of and, in addition, indemnify, keep indemnified and hold harmless Contractor from and against, any Claim arising

from or in connection with this Agreement in respect of personal injury (including disease or illness) or death sustained or alleged to be sustained by the Personnel of Company, howsoever caused and regardless of whether or not and to what extent such Claim is caused or contributed to by breach of agreement, negligence, breach of duty or other default on the part of any party or parties to be indemnified pursuant to this Article 17.4.

- 17.5 Contractor shall be liable for and, in addition, indemnify, keep indemnified and hold harmless Company from and against all Claims, arising from or in connection with this Agreement, including Claims brought by Third Parties for Consequential Loss, in respect of:
- (a) death of or personal injury sustained or alleged to be sustained by a Third Party; or
 - (b) loss of or damage to the property of any Third Party;
except to the extent that such Claims are caused or contributed to by the negligence or willful acts or omissions of Company.
- 17.6 Except as provided in Article 17.5 neither Company nor the Contractor shall bear any liability to the other for Consequential Loss.
- 17.7 Contractor shall be liable for and indemnify and save harmless Company for any amounts assessed against and paid by Company to the Workplace Health Safety and Compensation Commission (WHSCC), Employment Insurance (EI) or such similar government agency, where the assessment is a result of the Contractor's failure to pay required contributions to the government agency.
- 17.8 Notwithstanding anything else herein contained, Contractor shall indemnify Company against all costs, charges and expenses which may be incurred by Company in connection with any default by Contractor in paying to the Canada Customs and Revenue Agency any tax due arising from payments made by Company to Contractor.
- 17.9 Contractor shall indemnify and save Company harmless from any claims or liability for income tax, excess profits tax and any other taxes of a similar nature assessed or levied by the government of any country, state, province, or other authority against Company on account of the compensation paid by Company to Contractor hereunder.
- 17.10 Contractor shall indemnify and save Company harmless against all taxes assessed or levied against Company on account of wages, salaries or other benefits to Contractor's employees, agents and subcontractors and all taxes assessed or levied against Company on account of any property or equipment of Contractor.
- 17.11 Contractor shall defend, indemnify and save Company harmless from claims

arising out of any copyright, patent or trade secret infringement or claims thereof for any copyright or patent application made prior to the date of this Agreement, pertaining to the Work performed under this Agreement. Nothing herein shall authorize Contractor to settle any such suit or action without the prior written authorization of Company, if, by such settlement, Company is obliged to make any monetary payment, to part with any property or any interest therein, to assume any obligation, to be subject to any injunction, or to grant any licences or other rights under its copyright, patent or trade secret rights.

- 17.12 Contractor shall require that any of its employees, servants, agents or subcontractors who perform any portion of the Work assume obligations identical in principle with those contained in this Article.

18.0 INSURANCE

- 18.1 Contractor shall carry professional errors and omissions liability insurance in an amount not less than one million (\$1,000,000) dollars and shall ensure that each sub-contractor who has a professional liability exposure and who is engaged by the Contractor in the performance of the Work is covered against professional errors and omissions in an amount not less than one million (\$1,000,000) dollars. Such insurance shall be in effect for at least twelve (12) months following Final Acceptance or completion of the Work, whichever is longer.
- 18.2 Contractor shall maintain at its expense Commercial General Liability Insurance for an amount not less than one million (\$1,000,000.00) dollars for any one accident or occurrence. Such insurance shall include Company as an additional insured and contain a cross liability clause. Where applicable, Contractor's insurance will include the following riders; Environmental Impairment / Pollution, Blasting, Collapse/Underpinning, Watercraft, Marine Protection Indemnity from a reputable club (for vessels > 26').
- 18.3 Contractor shall maintain at its expense Automobile Liability Insurance for an amount not less than one million (\$1,000,000.00) dollars for any one occurrence involving bodily injury and/or property damage.
- 18.4 Contractor shall provide Company with proof of the insurance coverage which it is required to maintain in full force and effect during the performance of the Work.
- 18.5 All insurance policies shall provide that the insurance shall not be cancelled, reduced, restricted, terminated, or materially changed in any way or be allowed to lapse without at least thirty (30) calendar days written notice to Company,

except in the event of non-payment when policy conditions dealing with termination will apply. Such notice shall be sent in accordance with Article 22. In the event of any such cancellation, reduction, restriction, termination, change, or lapse in any insurance, Contractor shall immediately replace such insurance.

- 18.6 Prior to commencing the performance of any part of the Work on the Site, the Contractor shall have in place any other insurance which is required by law and may also have in place any other insurance which the Contractor considers necessary or prudent.
- 18.7 Where Contractor fails to comply with the requirements of this Article Company may take all the necessary steps to affect and maintain the required insurance coverage at Contractor's cost.
- 18.8 Where an insurer fails or refuses to pay any claims under an insurance policy covering the activities of Contractor or a subcontractor of Contractor relating to or arising out of the Agreement or performing the Work, Contractor and its subcontractor shall not be released from any liability arising under the Agreement.

19.0 WORKERS' COMPENSATION

- 19.1 Contractor shall pay all assessments due under the relevant Workers' Compensation legislation. Prior to commencing the Work, Contractor shall obtain and deliver to Company a certificate or certificates establishing that it is in good standing with the Workplace Health, Safety and Compensation Commission (WHSCC) of Newfoundland and Labrador and with the comparable board or commission of any other province having jurisdiction in connection with Contractor's performance of the Work.
- 19.2 Contractor shall produce, upon the request of Company, a satisfactory certificate(s) clearing all indebtedness under relevant Workers' Compensation legislation prior to the payment of any monies owing to Contractor.

20.0 OWNERSHIP OF WORK

- 20.1 All drawings, calculations, work sheets, and like documents, including software and intellectual property, prepared or caused to be prepared by Contractor in connection with the Work shall become the property of Company and shall be delivered to Company upon completion of the Work or upon earlier termination of this Agreement. Contractor shall have the right to retain a copy of all such documents and to make use of them in the course of its general business, with

Company consent. Contractor shall not divulge, release or publish same, or any part thereof without the prior written permission of Company. Nevertheless, Contractor shall have the right to have access to all such original documents at any time during the life of the Work for purposes connected with the Work

- 20.2 Company shall be entitled to all property, including software and intellectual property, the cost of which has been reimbursed to Contractor under the provisions of the Agreement.

21.0 ASSIGNMENT AND SUCCESSORS

- 21.1 Company may assign this Agreement to third parties without the consent of the Contractor.
- 21.2 Contractor shall not assign this Agreement nor subcontract the Work in part or in whole without the prior written consent of Company. Consent to assign or subcontract the work will not relieve the Contractor of any of its liabilities or obligations under this Agreement.
- 21.3 Contractor is not permitted to create any contractual relationship between a third party and Company.
- 21.4 The Agreement shall inure to the benefit of and be binding upon the successors and permitted assigns of the parties hereto.

22.0 NOTICES

- 22.1 All notices shall be addressed as follows or to such other address as either of the parties shall designate by written notice.

Company:

Nalcor Energy – Lower Churchill Project
P. O. Box 12800
500 Columbus Drive
St. John's, Newfoundland and Labrador
A1B 0C9

Attention:

Email:

Phone (709)

Fax: (709)

CONTRACTOR:

Attention:

Email:

[REDACTED]

Phone

(709)

Fax:

(709)

23.0 SAFETY AND ENVIRONMENT

- 23.1 Contractor shall maintain the highest possible standards of safety, environmental protection and loss prevention and shall comply with;
- (i) any safety, environmental and security instructions, orders or guidelines declared by Company; and
 - (ii) all safety and environmental standards, regulations and guidelines of any authority having jurisdiction over the area in which the Work is being performed.
- 23.2 Contractor shall require of its personnel, agents and subcontractors that they strictly obey all safety and environmental orders, government safety and environmental regulations and guidelines and instructions in force by Company.
- 23.3 All safety and environmental accidents and incidents shall be reported to Company in a written format acceptable to Company.
- 23.4 Where Contractor will be managing contracts involving site work, Contractor shall provide proof of completion by its field Managers and Supervisors of the Leadership for Safety Excellence component of the Certificate of Recognition Safety Program of the Newfoundland and Labrador Construction Safety Association (NLCSA). Prior to commencing such site work, Contractor shall obtain and deliver such proof or proof of completion of a similar safety program component to Company.
- 23.5 Where Contractor will be managing contracts involving site work, Company endorses the Environmental Awareness Program of the Newfoundland and Labrador Construction Safety Association. Contractor shall provide proof of completion, by its Supervisors and Managers, of this Environmental Awareness

Program or a similar program acceptable to Company. Proof shall be provided prior to the commencement of Work.

24.0 LANGUAGE

24.1 The language of this Agreement shall be English and all communications and dealings under and with respect to this Agreement shall be conducted in the English language.

25.0 NO WAIVER

25.1 None of the provisions of the Agreement shall be considered to be waived by the Contractor or Company except when such waiver is given in writing. No such waiver shall be or shall be construed to be, a waiver of any past or future default, breach or modification of any of the terms, provisions, conditions or covenants of the Agreement except as expressly stipulated in such waiver.

26.0 DUTY OF CARE

26.1 Contractor agrees to use reasonable care, skill, competence and judgment in the performance of the Work hereunder which are generally consistent with professional standards for individuals providing similar services at the same time, in the same locale, and under like circumstances. No other warranty, expressed or implied, is made or intended by this Agreement.

27.0 ENTIRETY OF AGREEMENT

27.1 This Agreement constitutes the entire agreement between the parties and shall govern the relationship of the parties with respect to the Work. It supersedes all other agreements, either written or verbal, between the parties.

28.0 EXECUTION

IN WITNESS WHEREOF the parties have executed this Agreement as of the day and year first above written.

NALCOR ENERGY

Per:

CONTRACTOR

Per:

Execution Page to Agreement number LC-PM-070 dated the _____, day of _____, 2011
between Nalcor Energy and _____.

APPENDIX A

SCOPE OF WORK

Overview

Nalcor's Decision Gate process is designed to ensure decisions are made at appropriate times, with the appropriate level of information, and at appropriate levels of expenditure. Nalcor's Decision Gate process focuses on key milestones to achieve gateway readiness and builds in "cold eyes" reviews at key decision points throughout the process.

The Lower Churchill Project Phase I (the "Project") recently passed through Decision Gate 2 ("DG2") which is Concept Selection. At that time, to select a preferred concept, Nalcor completed the appropriate activities and gathered the required information including field work, engineering and design, finalization of Labrador Innu Impacts and Benefits Agreement ("IBA"), environmental assessment progression, execution of water management agreement, completion of the Emera Term Sheet, financing preparation and economic analysis.

Decision Gate 3 ("DG3") which is Project Sanction requires the advancement of project activities and work streams to a level of progression which provides the certainty needed to sanction the Project (e.g. ratification of the IBA, receipt of environmental permits and approvals, completion of detailed engineering and design, market confirmation of financing strategy, finalization of definitive commercial agreements, etc.). The intent of DG3 is to validate the concept selected before committing the largest dollars.

Independent reviews are carried out in accordance with established Nalcor decision-making processes with each Decision Gate having differing requirements. For DG3, one such independent review is an independent review of the reasonableness of the Island supply decision as described below (the "Supply Decision Review") using the latest available project cost and schedule information.

Terms of Reference

The Supply Decision Review will be conducted by an external consultant (the "Consultant") with a focus on the reasonableness of the Island supply decision. For purposes of clarification, the scope of the Supply Decision Review does not extend to a review of the financing decision or the monetization of the excess power.

The Consultant will review the following:

- Reasonableness of the long-term (~60 years) Island supply options considered;
- Reasonableness of the process followed to screen and evaluate the appropriate Island supply options; and
- Assumptions used by Nalcor in assessing the Island supply options.

Based upon this review, the Consultant will provide an opinion on:

- whether the Project represents the least cost Island supply option which also fulfills the additional criteria requirements of security of supply and reliability, environmental responsibility, and risk and uncertainty; and
- the reasonableness of the related rate impact analysis.

To complete the necessary work to provide their opinion, the Consultant will complete their review using the following inputs:

- necessary internal financial and engineering models, reports, and discussions with management and personnel;
- the 2007 Energy Plan (available at www.nr.gov.nl.ca/nr/energy/plan/) that forms the policy framework used by Nalcor in determining the Island supply option;
- the Island supply option evaluation criteria used by Nalcor; and
- generally accepted utility practices for the evaluation of Island supply options.

The Island supply option evaluation criteria used by Nalcor are:

- Security of supply and reliability;
- Cost to ratepayers;
- Environmental responsibility; and
- Risk and uncertainty.

The Consultant will provide a report using DG2 estimates. The Consultant will provide a second report using DG3 estimates and assumptions prior to the conclusion of the DG3 process. These reports will be made public.

APPENDIX B

COMPENSATION

COMPENSATION

- 1.1 Company shall reimburse Contractor for all matters relating to and associated with performance of the Work, in accordance with the provisions of Appendix B. All sums, rates, prices, terms and conditions stated herein shall be deemed to include, without limitation, all Contractor's costs for all matters relating to and associated with the performance of Work. The rates and prices stated herein are **fully inclusive** of all costs and expenses incurred in connection with Contractor's performance of the Work hereunder. Only those rates/prices specifically identified shall be paid by Company to Contractor and costs not identified are deemed to be included in the rates and prices stated herein.
- 1.2 All activities performed by Contractor's corporate staff or any other corporate activities associated with the Work, or any part thereof, shall not be subject to reimbursement by Company. Such non-reimbursable costs are deemed to be included in the sums, rates, prices and conditions contained in this Appendix B.
- 1.3 All sums, rates, prices, terms and conditions stated herein shall be deemed fully inclusive of Contractor costs associated with premiums, renewals or liabilities which Contractor is obligated to pay or bear liability for in accordance with the insurance and indemnity provisions stated in Articles of this Agreement.
- 1.4 Unless otherwise specifically stated, all sums, rates and prices herein shall be in Canadian Dollars (\$CDN).

2.0 Personnel

Contractor will be reimbursed for actual hours worked by personnel as supported by monthly timesheets and material reports (Appendix D) approved by Company. Contractor shall be reimbursed at the below listed (Table 1) Hourly Rate(s) for approved personnel (Appendix D). No overtime or premium rates shall apply to hours worked in excess of a standard workday or on weekends or statutory holidays.

Table 1

Classification	Hourly Rate

3.0 Eligible Expenditures

Company approved travel expenses will be reimbursed at actual cost as supported by approved travel authorization, expense claim and receipts as appropriate. All travel shall be in accordance with Lower Churchill Project - Standards for Business Travel, and associated corporate policies, as revised.

Domestic travel per diems (including HST/GST) at time of Agreement execution are as follows. The incidental component of the per diem is only reimbursable when an overnight stay is required.

Island of Newfoundland			Labrador and Other Domestic		
Breakfast	\$	12.00	Breakfast	\$	13.00
Lunch	\$	16.00	Lunch	\$	17.00
Dinner	\$	24.00	Dinner	\$	25.00
Incidentals	\$	8.00	Incidentals	\$	8.00
TOTAL	\$	60.00	TOTAL	\$	63.00

International travel per diems will be in accordance with Canadian Federal Treasury Board Guidelines for the relevant city / country.

For approval of travel expenses Contractor must submit a 'Contractor Authorization For Air Travel' (Appendix D) for Company approval, prior to travel.

The following travel expenses are eligible for reimbursement under the Agreement; hotels, rented accommodations, airfare (economy class), taxis, vehicle rentals, fuel (for business travel only), per diem (for meal and incidentals).

4.0 Control of Work

Approval of work scope and resources shall be in accordance with the following process:

- 4.1 Company shall supply a work scope definition under a Work Task Order (WTO) (form Appendix D), which shall describe the Work to be performed, deliverables, milestone dates, date required, the desired outcome and any additional pertinent details. Contractor will plan, schedule, report, manage, and execute the scope of work on a Work Task Order basis, including any scope changes.
- 4.2 Contractor shall, within three (3) working days of receiving the WTO respond with a completed/signed WTO, including the execution plan along with a Cost,

Time and Resource estimate (CTR) (form Appendix D) which shall detail the activities required to complete the scope of the WTO with estimated completion date, estimated hours to complete each activity, including any additional resources or sub contracted scope. The CTR shall provide the hourly costs and shall include a list of resources required to perform the activities, including resumes of assigned resources where applicable and not previously supplied.

- 4.3 Company issue an approved WTO/CTR to the Contractor approving the work. Contractor is not authorized to proceed with the work without an approved WTO. Contractor shall not exceed the approved amount of the WTO/CTR without the prior written approval (approved revised CTR/WTO) of Company.
- 4.4 Company shall request scope changes to a WTO by issuing a revised WTO to the Contractor. Contractor shall, within three (3) working days of receiving the revised WTO respond with a completed/signed revised and CTR. The revised WTO/CTR will detail all changes. Contractor is not authorized to proceed with the revised work-scope without an approved WTO.
- 4.5 Contractor will request additions or changes of personnel assigned to an approved WTO using a Project Assignment Authorization (PAA). The PAA shall name the specific resources, start/finish dates, total hours and rates, as well as a schedule for the work. The Contractor shall not substitute any resource identified in the approved PAA, without the prior written approval of Company. Where the rates specified in the WTO and Appendix B of the Agreement, Appendix B shall prevail.
- 4.6 Company shall compensate the Contractor for the resources, costs and hours as stipulated in the approved WTO/CTR as substantiated by a signed and approved time and material report. Contractor shall issue a time and material report, in both written and electronic format, to Company on a weekly basis for approval. This report shall list for each individual WTO the resources, equipment, material, etc. expended in completing the WTO during the reporting period. All required supporting material to be furnished by Contractor upon request by Company.

5.0 **Reporting:**

Contractor is required to submit weekly time and material reports/timesheets, bi-weekly progress reporting and monthly cost reporting in a format acceptable to Company (see current project templates, Appendix D). Weekly time and material reports/timesheets will be submitted for Company approval, as per the requirements of Appendix B, no later than three (3) days after the end of the work week being reported in both signed and native file format (i.e. MS Excel). Bi-weekly progress reporting shall be submitted no later than three (3) business days after the end of the two week

reporting period and shall contain a text summary of the work performed during the reporting period as well as a summary of issues or concerns, including but not limited to, those which may impact report outcome, schedule or cost. The cut off date for monthly cost reporting will be no earlier than the 24th of the month being reported and shall be submitted to Company **no later than three (3) business days** after month end. The actual cutoff date for reporting will be as agreed with the LCP project controls group.

All reporting, including timesheets, will be submitted to the attention of the Lower Churchill Project **Document Control**.

Email: lcpdcc@nalcorenergy.com
Fax: (709) 737-1985

6.0 Not Used

7.0 Invoicing

Invoices shall be submitted on a monthly basis in a format agreed by Company and shall be accompanied by relevant supporting documentation (approved timesheets, receipts, etc.). Invoices shall bear the Agreement number and WTO numbers. Where applicable invoices shall be broken down by WTO number.

Invoices will be submitted to:

Nalcor Energy – Lower Churchill Project
500 Columbus Drive
P. O. Box 12800
St. John's, NL A1B 0C9

Attention: **Accounts Payable**

APPENDIX C


PERSONNEL

Contractor shall only use key personnel to perform the Work who have been accepted by Company. Contractor may only substitute or replace the accepted key personnel with the prior written agreement of Company.

Company agrees to utilize the below listed personnel in the performance of the Work;

NAME	CLASSIFICATION

APPENDIX D**FORMS**

 Lower Churchill Project Contractor Bi-Weekly Time & Material (T&M) Sheet			WO DESCRIPTION										TOTAL HOURS PER PERSON PER DAY	
Contract No:			WTO/WO #											
Contractor:			Approved Hours											
			Approved Changes											
			Total Approved	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0		
			Previously Incurred											
			This Period	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0		
Period Beginning			To Date	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0		
Period Ending	^Enter Period Beginning Date Above^		To Complete	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0		
	NAME	Description		Hours	Hours	Hours	Hours	Hours	Hours	Hours	Hours	Hours		
Employees													0.0	
													0.0	
													0.0	
													0.0	
													0.0	
													0.0	
													0.0	
													0.0	
													0.0	
													0.0	
													0.0	
													0.0	
													0.0	
													0.0	
													0.0	
													0.0	
													0.0	
		TOTAL THIS PERIOD			0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Material, Equipment & Tools														
CLIENT (Verification)			LCP Verification											
Name			Date											
CONTRACTOR (Verification)														
Name			Date											
COMMENTS:														

**LOWER CHURCHILL PROJECT****Contractor Monthly Cost Report**Period Ending : DD - MM - YY

Service Provider:

Contractor Ref No.:

WBS Ref No.

Note: Include a separate section for each Work Task Order and Summarize.

Budget Summary									
Work Task Order No.: <input type="text"/>									
Cost Element	1) Original Budget	2) Approved Changes	3) Current Budget (1+2)	4) Committed Cost To-Date	5) Incurred Cost To-Date	6) Invoiced To-Date	7) Final Forecast Cost	8) Variance (7-3)	Comments
Salaries			\$0					\$0	
Materials			\$0					\$0	
Expenses			\$0					\$0	
Software			\$0					\$0	
Other			\$0					\$0	
Total	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	

Notes:

1) Committed Cost To-Date = Value of work or services contracted as of period ending.

2) Incurred Cost To-Date = Value of work or services performed as of period ending.

3) Final Forecast Cost = Projected final cost based on known scope and current performance as of period ending.

Summary of Key/Critical Issues:

TRAVEL AUTHORIZATION - LOWER CHURCHILL PROJECT

 REQUESTER NAME: **CIMFP Exhibit P-01461**

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EMPLOYER:

REQUESTER CONTACT INFO.:

EMPLOYEE ID NO.:

DEPT.:

(WORK)

(CELL)

EMAIL ADDRESS:

REASON FOR TRAVEL:

 DATE OF DEPARTURE:
 (DD/MM/YY)

 DATE OF RETURN:
 (DD/MM/YY)

COST CODE:

 WBS
 CODE:

 COST
 TYPE:

 INTERNAL CONTRACTOR
☐ 1145 ☐ 1130

WTO / WO No.:

AEROPLAN No.:

PREFERRED FLIGHT TIME'S:

VEHICLE RENTAL REQUIRED:

☐ YES ☐ NO

SEAT PREFERENCE:

☐ AISLE ☐ MIDDLE ☐ WINDOW

 ACCOMMODATIONS
 REQUIRED:

☐ YES ☐ NO
 * SELECT YES IF TRAVEL
 REQUIRES MORE THAN ONE DAY
 OR NIGHT'S STAY
 *IF NOT, SELECT NO.

FARES

DATE

FLIGHT NO.

TIME

VIA

DEPARTURE POINT

ARRIVAL POINT

CAR

DATE

AGENCY

CITY

 No. OF
 PEOPLE

LODGING

DATE

HOTEL / COMPANY APT. / FRIEND

CITY

No. OF DAYS

 SPECIAL
 INSTRUCTIONS

 REQUESTER
 SIGNATURE

(SIGNATURE)

TITLE:

DATE (DD/MM/YY):

 CONTRACTOR
 APPROVAL

(SIGNATURE)

TITLE:

DATE (DD/MM/YY):

 LCP BUDGET
 HOLDER
 APPROVAL

(SIGNATURE)

TITLE:

DATE (DD/MM/YY):

 LCP MANAGER
 APPROVAL

(SIGNATURE)

TITLE:

DATE (DD/MM/YY):

REQUIRED FOR INTERNATIONAL TRAVEL ONLY

LCP VP APPROVAL

(SIGNATURE)

DATE (DD/MM/YY):

 RESERVATIONS
 CONFIRMATION REF. NO.

AIRLINE:

HOTEL:

CAR:

ADMIN. ASSISTANT

(INITIAL)

TOTAL ESTIMATED COST: (\$)

DATE (DD/MM/YY):