

Dated: November 14, 2002

**FRAMEWORK AGREEMENT** for the Development of Gull Island, made at St. John's, in Newfoundland and Labrador, this ● day of November 2002.

**Between:** **Gull Island Energy Corporation**, a corporation incorporated under the laws of the Province of Newfoundland and Labrador, and having its head office in St. John's, Newfoundland and Labrador.

("Gull Island")

**And:** **Newfoundland and Labrador Hydro**, a corporation incorporated by statute, an agent of Her Majesty in Right of Newfoundland and Labrador, and having its head office in St. John's, Newfoundland and Labrador.

("NLH")

**And:** **Hydro-Québec**, a corporation duly incorporated and regulated by the Hydro-Québec Act, Chapter H-5, Revised Statutes of Québec, an agent of the Government of Québec, and having its head office in Montréal, Québec.

("HQ")

**And:** **Her Majesty in Right of Newfoundland and Labrador**

("Newfoundland & Labrador")

**And:** **The Government of Québec**

("Québec")

## **PREAMBLE**

WHEREAS the Parties desire to enter into this Framework Agreement to provide for: (i) the ownership, development, engineering and construction by Gull Island of the hydro-electric project at Gull Island located in Newfoundland and Labrador and related transmission facilities to be located in Newfoundland and Labrador ("the Project"), (ii) the construction financing and the long term financing for the Project by HQ, (iii) the operation and maintenance of the Project by Gull Island, (iv) the sale and delivery of energy generated by the Gull Island facility and transmitted to the Delivery Point by Gull Island and its purchase by HQ at that point, (v) the conditions precedent for Project Release, and (vi) the framework for the Additional Agreements required, all as is more fully described in this Framework Agreement.

NOW THEREFORE in consideration of the agreements set forth in this Framework Agreement, the Parties agree as follows:

### **Article 1: Principles of Interpretation**

#### **1.1 Language**

This Framework Agreement has been prepared in both the English and French languages, both of which versions are authoritative.

## **1.2 Definitions**

Capitalized terms used in this Framework Agreement shall have the meaning ascribed to them herein or in the Glossary.

## **1.3 Terms of Reference**

The Terms of Reference to this Framework Agreement constitute an integral part of the Framework Agreement.

## **1.4 Currency**

In this Framework Agreement, all references to "\$" or "dollars" are to the currency of Canada.

## **Article 2: Ownership and Financial Terms**

### **2.1. Ownership**

The Project will be built, owned and operated by Gull Island, a single purpose, newly incorporated Crown corporation, a wholly-owned subsidiary of NLH, which in turn is wholly-owned by Newfoundland & Labrador. All required additional transmission facilities within Québec ("the Québec Transmission Expansion Project") are to be built, owned and operated by HQ.

### **2.2 Energy**

Gull Island will sell and deliver, and HQ will purchase from the Project In-Service Date and during the Term at the Delivery Point, all power (energy with capacity) produced at the Project, less any power recalled by Gull Island, as provided for in Article 2.9, in accordance with a Power Purchase Agreement.

### **2.3 Price**

The price for the power will be \$35.50 per megawatt hour, adjusted with the base year being the year in which Project Release occurs. The price cannot be less than \$33.50 per megawatt hour for the first full ten years of the Term after the Project In-Service Date.

### **2.4 Annual Price Index**

The price will be indexed to changes in HQ's weighted average annual gross sales price per megawatt hour for power in North America, commencing at the Project Release Date, in accordance with the formula set out in the Annual Price Index Terms of Reference.

### **2.5 Term of the Power Purchase Agreement**

The Term of the Power Purchase Agreement will be 45 years from the Project Completion Date.

## **2.6 Completion Risk**

Gull Island will assume and take appropriate steps to mitigate completion risk relating to the Project. HQ will assume completion risk for the construction of the Québec Transmission Expansion Project and regulatory issues relating to such construction.

## **2.7 Financing**

HQ will act as lender to Gull Island and will provide construction and long-term financing for the cost of the Project consistent with the Financing Terms of Reference.

## **2.8 Pre-Release Costs**

NLH and HQ have agreed to share pre-release Project costs incurred by Gull Island after the date of the Framework Agreement, on a 50%-50% basis, on the terms set out in an agreement executed concurrently with this Framework Agreement. These costs will be reimbursed with interest on the conversion of the Construction Loan to the Term Loan.

## **2.9 Recall**

During the Term of the Power Purchase Agreement, Gull Island will have the following cumulative rights to recall up to an aggregate of 500 MW with a load factor of up to 100% (with respect to energy with capacity, "Recall Power", and with respect to the rights to recall Recall Power, "Recall Rights"):

- Up to 150 MW Recall Power, available from and after the Project In-service Date, by giving HQ a prior written notice of the Recall at least five years prior to the effective date of the Recall;
- Up to an additional 150 MW Recall Power, available from and after the tenth anniversary of Project In-service Date, by giving HQ a prior written notice of the Recall at least five years prior to the effective date of the additional Recall;
- Up to an additional 200 MW of Recall Power, available from and after the twentieth anniversary of Project In-service Date, by giving HQ a prior written notice of the Recall at least five years prior to the effective date of the additional Recall;

all on the terms to be set out in the Power Purchase Agreement. Upon the exercise of a Recall Right, Gull Island will compensate HQ for stranded transmission costs for the Québec Transmission Expansion Facilities, subject to mitigation adjustments by HQ in certain cases.

## **2.10 Ownership of Greenhouse Gas Emission Credits**

Greenhouse Gas Emission Credits associated with the Project will be owned by Newfoundland & Labrador.

## **Article 3: Innu, Benefits And Implementation**

### **3.1 Innu**

Newfoundland & Labrador with respect to the Project and Québec with respect to the Québec Transmission Expansion Project (collectively "the Projects") agree within their respective jurisdictions:

- to consult with the Innu affected by each of the Projects in a timely fashion and in good faith;
- to seek appropriate relationships with the Innu affected by each of the Projects;
- to conduct, in a coordinated fashion and in good faith, all discussions and negotiations with the Innu affected by each of the Projects; and
- to ensure that in any environmental process agreement the interests of Innu affected by each of the Projects are taken into account.

### **3.2 EPC Contract**

A company or consortium having the appropriate expertise, experience and creditworthiness to act as an EPC Contractor will be selected.

### **3.3 Benefits and Labour**

Subject to considerations of economic efficiency of the Project, the Parties will use commercially reasonable efforts to maximize the economic benefits of the Project for Newfoundland & Labrador and Québec and to achieve fair and equitable sharing of such benefits in a manner consistent with the bilateral and multilateral commitments adopted by Canada as they may apply to Newfoundland & Labrador and Québec.

To effect this policy, the Premiers of Newfoundland & Labrador and Québec will create a panel of senior officials (the "Benefits Committee") who will meet regularly in a cooperative effort to ensure that HQ, Gull Island and the EPC Contractor maximize opportunities for the residents of Newfoundland & Labrador and Québec, including the Innu.

The Parties will cooperate in the Benefits Committee to ensure, in both the EPC contract and in the labour agreements, that benefits are maximized to both Newfoundland & Labrador and Québec, consistent with the Benefits Committee Terms of Reference.

The Governments of Newfoundland & Labrador and Québec commit to remove legislative and administrative obstacles that impede Newfoundland & Labrador and Québec residents and firms from access and participation in the work related to the Project in both jurisdictions including, but not limited to being consistent with the Newfoundland & Labrador – Québec Agreement on Labour Mobility and Recognition of Qualification, Skills and Work Experience in the Construction Industry, dated April 24<sup>th</sup>, 1998.

## **Article 4: Technical And Regulatory Issues**

### **4.1 Choice of Law and Jurisdiction and Dispute Resolution**

All agreements, including the Gull Island Power Purchase Agreement and the Water Management Agreement, but excluding the Construction and Term Loan Agreement, will be governed by the laws of, and adjudicated by the courts of, Newfoundland and Labrador, subject to appeal to the Supreme Court of Canada. The Construction and Term Loan Agreement will be governed by the law of, and adjudicated by the courts of, Québec, subject to appeal to the Supreme Court of Canada.

The financial consequences of any changes in law which affect the Project after Project Release, with respect to Newfoundland and Labrador law, will be borne by Newfoundland & Labrador, and with respect to Québec law, will be borne by Québec, in accordance with Reciprocal Indemnity Agreements to be entered into by the Parties.

Governments shall provide for alternate non-binding dispute resolution mechanisms, including an inter-utility liaison committee, intergovernmental committees and conciliation provisions, before resort is taken to courts.

The agreements will provide for a methodology for establishing the amount that the Party contravening a contractual obligation will compensate the Party harmed by such contravention.

#### **4.2 Environmental Approval**

The Governments of Newfoundland & Labrador and Québec acknowledge it is their intent to conduct an appropriate environmental assessment of the Project components in a manner that is consistent with, and respects the statutory and regulatory requirements of, all jurisdictions concerned. To this effect the Governments, in consultation with the other interested parties, will establish a precise time-table for each step in the process, consistent with the jurisdiction and decision-making authority of Newfoundland & Labrador and Québec for environmental matters within their territories.

The Governments of Newfoundland & Labrador and Québec will create a joint committee to monitor pre-feasibility studies and inter-jurisdictional issues.

#### **4.3 Conditions Precedent**

The obligations of HQ and Gull Island to proceed with Project Release are subject to satisfaction of the conditions precedent contained in the Conditions Precedent Terms of Reference.

#### **4.4 Water Management**

HQ, CF(L)Co, NLH and Gull Island will execute a Water Management Agreement to provide a mechanism to maximize production and minimize spills on the Churchill River.

#### **4.5 Technical Standards**

The Project shall be built with a configuration and to technical standards consistent with the latest study reports and North American electric industry standards.

#### **4.6 Project Co-ordination**

Gull Island, CF(L)Co, NLH and HQ agree to develop, with respect to the Project and the Québec Transmission Expansion Project, mechanisms to:

- co-ordinate the activities with respect to construction timetable and sequencing matters;
- co-ordinate the activities with respect to procurement matters;
- co-ordinate the activities with respect to their relationships and consultations with the Innu;
- report to each other on progress of construction on a timely basis.

HQ and Gull Island will establish a Project Liaison Committee comprised of two representatives appointed by HQ and two by Gull Island with the authority to represent their respective interests in the matters referred to in this article.

#### 4.7 Amendments

The Parties may amend the configuration of the Project or any term of this Framework Agreement by prior written consent.

#### 4.8 Public Announcements

The Parties will co-ordinate their public announcements.

#### 4.9 Waiver

The Parties agree that any waiver by any Party of any of its rights or entitlements under this Framework Agreement must be in writing and shall affect only the rights or entitlements specified in the waiver, and shall not affect any right or entitlement not so specified.

A failure or delay in exercising any right under this Framework Agreement shall not operate as a waiver, and a single or partial exercise of any right shall not preclude any subsequent or further exercise of that right or the exercise of any other right.

#### 4.10 Notices

Any notice or other communication required to be given by any Party to the other shall be in writing and shall be validly given if personally delivered, sent by prepaid registered mail or sent by facsimile or electronic mail (E-mail) to the Party addressed as follows:

If to Gull Island:  
Gull Island Energy Corporation  
Hydro Place, 500 Columbus Drive  
P. O. Box 12400  
St. John's, Newfoundland and Labrador  
A1B 4K7

Facsimile No: (709) 737-1829  
e-mail: hydro@nlh.nf.ca  
Attention: President & CEO

If to NLH:  
Newfoundland and Labrador Hydro  
Hydro Place, 500 Columbus Drive  
P. O. Box 12400  
St. John's, Newfoundland and Labrador  
A1B 4K7

Facsimile No: (709) 737-1782  
e-mail: hydro@nlh.nf.ca  
Attention: President & CEO

With a copy to: General Counsel

Facsimile No: (709) 737-1829  
e-mail: hydro@nlh.nf.ca

If to HQ:  
Hydro-Québec  
75 René-Lévesque Boulevard West  
18<sup>th</sup> Floor  
Montréal, Québec  
H2Z 1A4  
Facsimile No: (514) 289-4672  
e-mail: vandal.thierry@hydro.qc.ca  
Attention: President, Hydro-Québec  
Production

If to Québec:  
Deputy Minister for Canadian Intergovern-  
mental Affairs  
875, avenue Grande Allée Est  
Bureau 2.600  
Québec (Québec)  
G1R 4Y8

Deputy Minister of Natural Resources  
5700, 4<sup>e</sup> avenue Ouest  
Bureau A304  
Québec (Québec)  
G1H 6R1

Any notice or other communication to be personally delivered shall be taken as having been received on the date of delivery. Any notice or other communication sent by post shall be taken as having been received on the third Business Day after the date of the postmark evidencing the day of its mailing. Any notice or other communication sent by facsimile or by E-mail shall be taken as having been received on the date indicated on the confirmation sheet returned to the sender.

Any Party may by notice to the other designate a new address to which notices or communications for it shall be sent, and may make further such designations from time to time.

#### 4.11 Relationship of Parties

The Parties declare that they have no intent to create any joint venture, association, partnership or similar legal relationship between all or any of them by reason of entering into this Framework Agreement or giving effect to the transactions contemplated in it.

The obligations and liabilities of each of the Parties under this Framework Agreement are several and not joint and several. Each Party shall be solely responsible for its own obli-

With a copy to: Corporate Secretary

Facsimile No: (709) 737-1782  
e-mail: hydro@nlh.nf.ca

With a copy to:  
Hydro-Québec  
75 René-Lévesque Boulevard West  
4<sup>th</sup> Floor  
Montréal, Québec  
H2Z 1A4  
Facsimile No: (514) 289-3317  
e-mail: nadeau.mariejose@hydro.qc.ca  
Attention: Executive Vice-President –  
Corporate and Secretary General

If to Newfoundland & Labrador:

●  
Facsimile No: ●  
e-mail: ●  
Attention: ●

gations and liabilities under this Framework Agreement. No Party shall have the right or power to bind any other Party by reason of entering into this Framework Agreement.

**4.12 Third Party Beneficiaries**

Nothing in this Framework Agreement is intended to confer any rights or remedies under or by reason of this Framework Agreement on any Person other than the Parties to this Framework Agreement.

**4.13 No Assignments**

No Party may assign any of its rights, entitlements or obligations under this Framework Agreement.

**4.14 Co-operation and Consultations**

The Parties shall each designate one or more officials to be responsible for ensuring that consultations and negotiations take place, where required, so that the provisions of this Framework Agreement are carried out expeditiously.

**4.15 Churchill Falls Contracts**

The Parties acknowledge and agree that the Churchill Falls Contracts are unaffected by this Framework Agreement or any subsequent Additional Agreements, and nothing in the Framework Agreement or Additional Agreements will derogate or in any way limit their respective rights, obligations, remedies, powers or recourses with respect to the Churchill Falls Contracts.

IN WITNESS of which the Parties have executed this Framework Agreement at St. John's, Newfoundland and Labrador on the ● day of November 2002.

**GULL ISLAND ENERGY CORPORATION**

Per: \_\_\_\_\_

Per: \_\_\_\_\_

**NEWFOUNDLAND AND LABRADOR HYDRO**

Per: \_\_\_\_\_

Per: \_\_\_\_\_



**HYDRO-QUÉBEC**

Per: \_\_\_\_\_

Per: \_\_\_\_\_

**HER MAJESTY IN RIGHT OF NEWFOUNDLAND AND LABRADOR**

Per: \_\_\_\_\_

Per: \_\_\_\_\_

**THE GOVERNMENT OF QUÉBEC**

Per: \_\_\_\_\_

Per: \_\_\_\_\_

Churchill Falls (Labrador) Corporation Limited intervenes to this Framework Agreement for the purpose of acknowledging that it has taken cognizance of this Framework Agreement and agrees to be bound by all of the terms applicable to it.

**CHURCHILL FALLS (LABRADOR) CORPORATION LIMITED**

Per: \_\_\_\_\_

Per: \_\_\_\_\_

## ANNUAL PRICE INDEX TERMS OF REFERENCE

$$\text{Annual Price Index} = 1 + \left[ \frac{(\text{HQ's Avg. Gross Sales price (per MWh)}_{\text{Year X}} - \text{HQ's Avg. Gross Sales price (per MWh)}_{\text{Year X-1}})}{\text{HQ's Avg. Gross Sales price (per MWh)}_{\text{Year X-1}}} \right]$$

Where HQ's Avg. Gross Sales Price =  $\frac{\text{HQ's total annual revenue from sales of power (\$) in North America}^1}{\text{HQ's total quantity of power sold (MWh) in North America}^1}$

The Annual Price Index is multiplied by the adjusted price as determined in the previous year or Contract Year, as applicable.

The first base year for the adjustment will be the year in which Project Release occurs.

- Year X will be the current year or Contract Year, the adjustment will be applied annually in year X, adjusted to reflect actual annually reported results at the end of the relevant year or Contract Year.

<sup>1</sup> - audited results

The prices referred to in this Framework Agreement are exclusive of applicable taxes.

## FINANCING TERMS OF REFERENCE

Commercially reasonable financing terms, including those relating to security, amortization and default will apply to the construction and term loan financing, and in particular:

### Principal Amount

- HQ will act as lender to Gull Island and will provide construction and long-term financing (non-recourse to Newfoundland and Labrador or NLH) for the Project Costs which shall be defined to include, without duplication, all Sunk Costs, Pre-Release Costs, the full amount of the EPC Contract agreed between Gull Island and the EPC Contractor prior to Project Release, interest during construction, Owner's costs during construction and an additional contingency fund, all on terms and conditions satisfactory to the Parties.
- Newfoundland & Labrador will have the right to contribute towards the cost of, or inject equity into, the Project.

### Interest

- Prior to the Project Completion Date and conversion of the Construction Loan to the term loan, interest on each Construction Loan will be at an annual rate equal to the semi-annual yield to maturity at the time of drawdown, on an acceptable HQ benchmark bond having a maturity near to the Project Completion Date, plus one hundred-fifty basis points (1.50%). Such interest will accrue and be capitalized. The one hundred-fifty basis points will compensate HQ for risks, costs and expenses associated with the financing of the Project, including additional financing to cover approved cost overruns of the Project.
- After Project Completion and conversion of the Construction Loan to the term loan, Gull Island will pay interest on the term loan, for each year of the financing term at that year's HQ<sub>cd</sub>.

### Amortization and repayment

- The term loan will be amortized over a period of 45 years, commencing the date of conversion to the term loan.
- Gull Island will have a one-time option to amortize the term loan for a period less than 45 years, such term to be determined not less than six months prior to the Project Completion Date.
- Repayment shall be on a 'mortgage style' repayment basis, with payments commencing in the first year of the term loan.
- Gull Island has the right to repay 10% of the original principal amount of the term loan every 5<sup>th</sup> year of the term loan, upon giving HQ twelve months' prior written notice.
- HQ shall have the right to take security over the assets of the Project and the shares of Gull Island.

### Lender's Engineer

- HQ will appoint a "Lender's Engineer". HQ shall be entitled to payment of the reasonable fees and expenses of the Lender's Engineer, which costs will be included in "Owner's Costs" and will be financed by HQ and capitalized in the cost of the Project.

### **Sunk Costs**

- Sunk Costs will form part of the Project costs upon Project Completion and conversion of the construction loan to the term loan.
- Sunk Costs means:
  - Costs of \$● incurred by NLH from March 9<sup>th</sup>, 1998 to the date hereof (including capitalized interest), together with interest from the date of the Framework Agreement to the date of reimbursement by Gull Island at NLH's weighted cost of capital.
  - Costs of \$● incurred by HQ since March 9<sup>th</sup>, 1998 to the date hereof (including capitalized interest), together with interest from the date of the Framework Agreement to the date of reimbursement by Gull Island at 9.25% per annum.
  - Sunk Costs exclude all costs incurred by Newfoundland & Labrador, NLH or Gull Island in the negotiation and any settlement of land claims with the Innu.

### **Pre-Release Costs**

- Pre-Release Costs means:
  - Pre-release costs incurred by Gull Island, NLH Pre-Release Costs and HQ Pre-Release Costs, together with interest from the date incurred to the date of reimbursement by Gull Island at the rates provided in the Pre-Release Costs Agreement.
  - Pre-release costs exclude all costs incurred by Newfoundland & Labrador, NLH or Gull Island in the negotiation and any settlement of land claims with the Innu.

## **BENEFITS ADVISORY COMMITTEE TERMS OF REFERENCE**

**Structure:** A joint Government of Québec/Government of Newfoundland and Labrador Committee with two members each.

**Role:** Assist the Governments in developing a program to maximize and monitor economic benefits for Newfoundland and Labrador and Québec from the Project.

**Mandate:** The Mandate of the Committee is to, in a manner consistent with the Principles described in this Terms of Reference:

- Review available project data to identify, in a useable format, the opportunities available in the Project.
- Match the data to available information on the capacities of each of Newfoundland and Labrador and Québec in these areas.
- Determine appropriate strategies to maximize the benefits from the Project. More specifically:
  - Develop a plan focused on providing full information to interested industry participants on Project opportunities.
  - Identify the measures that could be taken in the development of contracting/procurement methodology (e.g. package size) to ensure full and fair opportunity for potential suppliers of goods and services.
  - Develop a supplier development program for interested participants to ensure they understand project requirements and available strategies for maximizing their prospects for procurement of goods and services (pre-qualification requirements/partnering).
  - Identify key points that must be covered in negotiations with the EPC Contractor to ensure desired policies are implemented throughout the contracting chain and outline the nature of the working relationships between the EPC Contractor and Gull Island in this regard (communications/monitoring, etc.).
  - Monitor joint industrial and employment benefits, principles and objectives.
  - Develop a plan to ensure that the Employment and Training provisions are appropriately incorporated into applicable collective agreements, hiring practices and cross qualification requirements applicable to the Project.

**Principles:** The Committee will monitor and report to the Governments on the activities of Gull Island and will act in a manner consistent with the following principles:

**Sound Commercial Basis for Decisions:** Newfoundland & Labrador, Québec, HQ and Gull Island acknowledge the primacy of undertaking, developing and completing the Project on sound commercial principles, to achieve completion of the Project within schedule and budget and at the required quality specifications, with due regard to the safety of the employees and the protection of the environment and in a manner consistent with applicable Law and the bilateral and multilateral commitments adopted by Canada as they apply to Newfoundland and Labrador and Québec. Subject to this guiding principle, the Parties will comply with these economic benefits policies.

**Employment and Training:** There will be a Project employment strategy that ensures that first consideration is given to qualified residents of Newfoundland and Labrador, recognizing the principle of adjacency as it applies to Labrador, and then to qualified residents of Québec, for training and employment opportunities for the work program undertaken in Newfoundland and Labrador and the goal of effective Innu participation.

**Potential Suppliers:** Gull Island will, as soon as practicable, identify opportunities for the supply of goods and services required by the Project and work with Governmental Authorities and industry organizations in Newfoundland and Labrador and Québec to jointly identify potential suppliers of such required goods and services in such provinces.

**Procurement Policies and Procedures:** Gull Island will establish procurement policies and procedures consistent with these principles. These policies and procedures will include provisions to ensure that:

- requirements for goods and services for the Project are communicated, in a timely fashion, to supplier firms and individuals in Newfoundland and Labrador and Québec;
- the bid packaging, technical specifications, bidding procedures, and bid follow-up for the Project are prepared in a manner to provide supplier firms and individuals in Newfoundland and Labrador and Québec with a full and fair opportunity to compete for the supply of goods and services to the Project;
- where bids are competitive in terms of fair market price, quality and delivery, first consideration will be given to suppliers from Newfoundland and Labrador and then to suppliers from Québec; and
- all suppliers and contractors for the Project, including the EPC Contractor and their subcontractors and suppliers, shall comply with these policies.

**Disclosure:** Gull Island will require the EPC Contractor to fully disclose to the Project information relevant to the economic benefits policy contained in these principles with respect to the EPC Contract, including:

- the nature of arrangements among the participants in the EPC Contractor's consortium, including their respective shares of equity in the consortium; and
- the share and nature of the work to be carried out by each of such participants in connection with the Project.

**Project Management, Design and Procurement:** The Project shall be managed from Newfoundland and Labrador and will be staffed with managers having the appropriate decision-making authority and other staff with the appropriate skills and at an appropriate staff complement relative to the nature and level of the project activity taking place during the various phases of the Project. Overall activities will include feasibility engineering, design engineering, construction management, environmental and socio-economic studies related to the preparation of the Environmental Impact Statement, management of project development and operations, procurement, geo-scientific analysis, logistics and project related communications. For greater certainty, Gull Island shall ensure that the project management, procurement and engineering for the Project is carried out in Newfoundland and Labrador by individuals located within Newfoundland and

Labrador except for Specialized Engineering Services (defined to be engineering services requiring a limited number of specialists not available within Newfoundland and Labrador and required for a limited time duration within the Project schedule) that have been approved as such by the management of the Project. Furthermore, Gull Island will ensure that any consortium awarded an EPC Contract (or similar such contract) will use to the fullest extent possible the services of qualified engineering firms located within Newfoundland and Labrador.

**Location of Offices:** Gull Island will, and will cause the EPC Contractor, and where it considers it feasible and appropriate other sub-contractors for the Project, to establish offices for the Project, as soon as possible, in Newfoundland and Labrador.

## CONDITIONS PRECEDENT TERMS OF REFERENCE

The obligations of Gull Island and HQ to proceed with Project Release in accordance with the terms of this Framework Agreement are conditional on each being satisfied, in its sole discretion, acting in a commercially reasonable manner, that each of the following conditions has been met:

1. **Environmental:** The receipt of all Environmental Approvals required by law for the Project on terms and conditions satisfactory to Gull Island and HQ.
2. **Regulatory:** The receipt of all Regulatory Approvals required by law for the Project on terms and conditions satisfactory to Gull Island and HQ.
3. **Consultation with Innu:** The Parties being satisfied with the results of the consultations with the Innu.
4. **EPC Contract:** Gull Island has reached a final agreement for construction of the Project with an EPC Contractor, all on terms and conditions satisfactory to Gull Island and HQ.
5. **Québec Transmission Expansion Project:** HQ has received and confirmed its acceptance of the regulatory approvals required by law to proceed with the construction of the Québec Transmission Expansion Project with a final configuration acceptable to Gull Island and HQ and in a manner compatible with the Project Schedule.
6. **Additional Agreements:** The Parties shall have reached final agreement on the remaining terms of and executed the Additional Agreements.
7. **Additional Agreements Conditions Precedent:** The conditions precedent to Project Release in each of the Additional Agreements shall have been satisfied.
8. **Economic Viability:** The Project, including capital costs and Construction Schedule, is economically viable.
9. **Material Adverse Change in Law:** There is no material adverse change in the legislative and regulatory framework applicable to Gull Island or HQ or the Project or to any of the transactions contemplated by this Framework Agreement.
10. **Material Adverse Change:** No material adverse change shall have occurred and there shall exist no fact or circumstance that could reasonably be expected to have a material adverse effect on the Project, Gull Island, HQ or any of the transactions contemplated by this Framework Agreement.
11. **Enforceability of Additional Agreements:** The Additional Agreements will be enforceable in accordance with their terms and enabling legislation will have been passed to allow for such enforcement, if necessary.
12. **Performance of Obligations:** Each Party shall have performed in all material respects its obligations set forth in this Framework Agreement required to be performed by it.



The obligation of HQ to proceed with Project Release in accordance with the terms of this Framework Agreement is also conditional on HQ being satisfied in its sole discretion, acting in a commercially reasonable manner, that the following condition has been met:

13. **Québec Transmission Expansion Project:** HQ is satisfied with the capital costs for the Québec Transmission Expansion Project.

### **Board Approvals**

Whenever the approval of Gull Island or HQ is required for purposes of establishing that such Party is satisfied with a condition precedent to Project Release, such approval shall also be supported by a resolution of its Board of Directors.

### **Waiver or Modification of Conditions Precedent**

- Conditions precedent 1 through 12 are for the benefit of each of Gull Island and HQ and may only be waived or modified with the express prior written consent of each of them.
- Condition precedent 13 is for the sole benefit of HQ and may only be waived or modified with its express prior written consent.

### **Time for Satisfaction of Conditions Precedent**

- Conditions precedent 1, 2 and 7 through 12 must be satisfied on or before April 1<sup>st</sup>, 2006.
- Condition precedent 3 must be satisfied on or before June 30<sup>th</sup>, 2003.
- Condition precedent 4 must be satisfied on or before November 30<sup>th</sup>, 2004.
- Condition precedent 5 must be satisfied on or before March 31<sup>st</sup>, 2005.
- Condition precedent 6 must be satisfied on the relevant deadline date referred to in the section "Additional Agreements" below.
- Condition precedent 13 must be satisfied on or before April 1<sup>st</sup>, 2006.

The Parties agree that they will make commercially reasonable efforts to respect the timetable for the satisfaction of the conditions precedent.

### **Effect of Non-Satisfaction or Non-Waiver of Conditions Precedent**

Gull Island or HQ may at any time prior to the applicable deadline date for satisfaction of a condition precedent, notify the other Parties that in its opinion, acting in a commercially reasonable manner, any of conditions precedent 1, 2, 5, 7, 8, 9, 10 and 13 has not been satisfied.

In the event that: (i) following receipt of such a notice, the condition precedent specified in the notice has not been satisfied to the satisfaction of whichever of HQ or Gull Island gave the notice, within 6 months after the date of the notice, or (ii) any condition precedent is not satisfied by the relevant deadline date and is not waived or extended by whichever of Gull Island or HQ has the benefit of the condition precedent then, in either case, the Parties will be deemed to have decided not to proceed with the Project and this Framework Agreement shall terminate and the Parties shall be relieved and discharged of their respective obligations under this Framework Agreement, except that:

- Sections 4.1, 4.7 through 4.13 and 4.15 shall survive such termination and no Party shall be relieved of any liability for any breach of its obligations under this Framework Agreement occurring prior to such termination of this Framework Agreement; and
- All Additional Agreements executed before that time shall be void, and no Party will have any liability thereunder.

**Gull Island Additional Agreements:**

The Parties acknowledge that each of them has full authority to negotiate in good faith, acting in a commercially reasonable manner, and to conclude, all agreements required to achieve the objectives of this Framework Agreement (collectively "the Additional Agreements") to which they will be parties, including those listed below:

- The Reciprocal Indemnity Agreements between all Parties,
- The EPC Contract and related agreements between Gull Island and the EPC Contractor,
- The Power Purchase Agreement, between HQ and Gull Island,
- The Water Management Agreement, between CF(L)Co, HQ, Gull Island and NLH,
- The Financing Agreements between HQ, NLH and Newfoundland and Labrador and Gull Island, and
- The GHG Emission Credits Agreement between all Parties, if necessary.

With a view to finalising them in accordance with the following timetable:

- The form of the Power Purchase Agreement and the Financing Agreements, including the Construction and Term Loan Agreement and the Security Documents, by September 30<sup>th</sup>, 2003, will be agreed, except for provisions which are not capable of being completed as of that date. Upon finalization, the form of agreements will supersede the provisions of this Framework Agreement which deal with the subject matter set out in such form,
- The Reciprocal Indemnity Agreements on or before July 31<sup>st</sup>, 2003,
- The EPC Contract and related agreements on or before November 30<sup>th</sup> 2004,
- The definitive Power Purchase Agreement on or before November 30<sup>th</sup>, 2004,
- The Water Management Agreement on or before November 30<sup>th</sup>, 2004,
- The definitive Financing Agreements on or before November 30<sup>th</sup>, 2004, and
- The GHG Emission Credits Agreement between all Parties, if necessary, on or before November 30<sup>th</sup>, 2004,

or such other date as the Parties may agree.

The Additional Agreements will provide for the continuity of the Annual Price Index, the HQ benchmark bond rate and the weighted average cost of debt of HQ mechanisms.

Upon execution, each of the Additional Agreements shall supersede those provisions of this Framework Agreement which deal with the subject matter of such Additional Agreement.

Upon Project Release, the Framework Agreement shall cease and be terminated.

## GLOSSARY

“Churchill Falls Contracts” means all contracts between CF(L)Co and NLH, CF(L)Co and HQ, CF(L)Co, NLH and HQ, and NLH and HQ, in effect as of the date of this Framework Agreement relating to Churchill Falls, including:

1. Sublease of Water Rights, as amended, dated November 15, 1961, between CF(L)Co, as sublessor, and Twinco, as sublessee, which expires on December 31, 2014, subject to earlier termination.
2. Trust Deed of Hypothec, Mortgage and Pledge Securing General Mortgage Bonds, dated September 1, 1968, between CF(L)Co and General Trust of Canada.
3. Power Contract, dated May 12, 1969, between HQ and CF(L)Co, including renewal of the Power Contract in accordance with its terms.
4. Deed of Trust and Mortgage Securing First Mortgage Bonds, dated May 15, 1969, between CF(L)Co., the Royal Trust Company, Newfoundland & Labrador, HQ, and General Trust of Canada.
5. Contract, dated as of March 9, 1998, between CF(L)Co and NLH, relating to the sale of up to 300 MW of energy.
6. Operating Agreement, dated November 1, 1990, between CF(L)Co and HQ.
7. Guaranteed Winter Availability Contract, dated as of November 1, 1998, between HQ and CF(L)Co.
8. Shareholders’ Agreement, dated as of June 18, 1999, among NLH, HQ and CF(L)Co.
9. Amended and Restated Purchase and Sale Agreement made as of February 19, 2001 between HQ, NLH and CF(L)Co.

**[NLH to provide details on other contracts to be added]**

“ $HQ_{cd}$ ” will be equal to the weighted average cost of debt of Hydro-Québec using data as published in Hydro-Québec’s Annual Audited Consolidated Financial Statements contained in the Annual Report. The weighted average will include borrowings in all currencies and all maturities including perpetuals. It will take into account the nominal interest rates on borrowings, the related discounts, premiums and issuance expenses, the impact of hedging activities, but will exclude any impacts associated with the payment of loan guarantee fees to the Province of Québec.

“Project” means the Gull Island power plant and associated facilities and transmission lines located in Newfoundland and Labrador.

“Québec Transmission Expansion Project” means the approximately 500 km of additional 735-kV transmission lines, the Montagnais-2 substation and associated facilities, located in Québec, required to transmit the firm energy with capacity of the Project on the Hydro-Québec TransÉnergie system.

