

Low Impact Certification and Certification Mark License Agreement

This Low Impact Certification and Certification Mark License Agreement and all attached Schedules and Exhibits, each of which is expressly incorporated herein by this reference, as each may be amended, modified or supplemented from time to time (collectively the “**Agreement**”) is entered into as of the date of the last signature below (the “**Effective Date**”), by and between Low Impact Hydropower Institute, a California non-profit corporation with an address of 329 Massachusetts Avenue, Suite 2, Lexington, MA 02420 USA (“**LIHI**”), and KEI (USA) Power Management, Inc., a corporation with an office located at 423 Brunswick Avenue, Gardiner, ME 04345 (the “**Licensee**”) together with its affiliates identified in **Exhibit “A”** (“**Licensee Affiliates**”) (the Licensee and Licensee Affiliates shall collectively be referred to as the “**Licensee**”). LIHI, Licensee and Licensee Affiliates may individually be referred to as a “**Party**”, and collectively Licensee, Licensee Affiliates and LIHI shall be referred to as the “**Parties**”.

WHEREAS, LIHI is a non-profit 501(c)(3) organization dedicated to reducing the impacts of hydropower generation through the operation of a program that offers certification of hydroelectric facilities that have avoided or reduced their environmental impacts (the “**Certification Program**”) pursuant to and in accordance with LIHI certification program criteria established by LIHI (the “**LIHI Criteria**”) which encourages a range of benefits associated with healthy rivers and enables low impact projects to market electricity products in renewable energy markets.

WHEREAS, the Certification Program rules are described in the LIHI Certification Handbook (the “**Handbook**”) a current copy of which the Handbook is posted at www.lowimpacthydro.org, and the certification use requirements are provided in the LIHI Marketing Guidelines (the “**Marketing Guidelines**”) which are posted at www.lowimpacthydro.org/marketing-guidelines. Both the Handbook and the Marketing Guidelines are updated periodically by LIHI.

WHEREAS, Licensee applied for certification of Licensee’s hydropower facility(s) pursuant to the Certification Program and LIHI has certified such hydroelectric facilities (the “**Certified Project(s)**”) and has issued a certificate, or certificates associated therewith, a copy of each certificate is identified in the attached schedule in **Exhibit “B”** in numeric order (the “**Certificate(s)**”).

WHEREAS, the LIHI Criteria are revised by LIHI from time to time, notwithstanding anything herein to the contrary and for purposes of clarity each Certified Project will be bound for its full certification term by the version of LIHI Criteria in effect at the time the then current Certificate was issued, as specified in Exhibit B.

WHEREAS, Licensee desires to publicly identify the Certified Project(s) as “**LIHI Certified**”.

WHEREAS, LIHI has created the Certification Mark shown in **Exhibit “C”** that when used in conjunction with a hydropower project symbolizes that the hydropower project has met the qualifications and requirements of, and have been certified through, LIHI’s Certification Program and is “LIHI Certified.”

WHEREAS, LIHI has registered the Certification Mark with the United States Patent and Trademark Office as Serial No. **86698936**

NOW THEREFORE for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the LIHI and Licensee agree as follows:

1. Incorporation of Recitals.

The WHEREAS recitals and definitions set forth above in this Agreement are incorporated herein as terms and conditions to this Agreement.

2. License.

(a) LIHI grants Licensee a limited, non-exclusive, non-transferable, personal license (the “**License**”), with no right to sublicense, to use and display the Certification Mark in connection with the Licensee’s promotional and advertising material relating to the Certified Project(s), including for the marketing of the electricity and other products associated with the electrical generation of the Certified Project(s), during the Term of this Agreement and any renewals thereof.

(b) Each Certified Project(s) is listed separately in the Exhibit B schedules attached hereto. Each schedule shall provide the effective date and expiration date of the certification and any project-specific conditions imposed as a requirement of certification. Should LIHI certification be withdrawn for any specified Certified Project(s) listed in the attached Exhibit B schedules for any reason, including revocation of certification by LIHI according to the terms of the LIHI Certification Program or by the Licensee for any reason, that withdrawal shall not impact other Certified Project(s) in the remaining Exhibit B Schedules.

(c) Licensee’s use of the Certification Mark shall comply with all Certification Program rules as provided for in the Handbook and the Marketing Guidelines, as may be amended, modified or restated from time to time in accordance with this Agreement.

(d) Licensee’s public use of the Certification Mark is limited to advertising, promotion and informational materials for the Certified Project(s) and for the marketing of the electricity and other products associated with the electrical generation of the Certified Project(s) (collectively, the “**Materials**”). For all Materials on which the Licensee intends to make use of the Certification Mark, Licensee will provide LIHI a representative example of the Certification Mark’s use (e.g. a screen shot, photograph, or other image displaying the Certification Mark, any packaging, advertising or other material or item that may be publically distributed) for LIHI’s prior written approval, provided that such approval may not be arbitrarily conditioned or withheld. If Licensee subsequently changes the approved Materials in any manner, said modified Materials must obtain LIHI’s prior approval. LIHI shall approve of submitted Materials in the following manner: Should LIHI fail to respond to the Licensee within 15 days from the date the Licensee submits such example Material to LIHI, LIHI shall be deemed to have approved of such Material and Licensee may use such Material; provided, however, that if changes are made to the Materials, or if LIHI makes changes to the Certification Program or Certification Mark, LIHI reserves the right to subsequently require the discontinuation of use of Materials, and mandate that modifications be made to the Materials to bring them into compliance. Licensee shall promptly provide Materials for inspection upon LIHI’s request at no cost to LIHI. Licensee shall display and distribute such Materials in accordance with all applicable laws, rules and regulations, and Licensee shall be solely responsible for any and all compliance with said applicable laws.

(e) LIHI may not use the Licensee’s Materials, including but not limited to any photos, artwork, images or other materials bearing Licensee’s name, trademarks, other designations, or copyrighted works without the prior written consent of the Licensee.

3. Compliance.

Licensee shall maintain the quality of the Certified Project(s) throughout the Term and fulfill Licensee’s compliance obligations set forth in the Handbook and Marketing Guidelines, both of which are posted at www.lowimpacthydro.org, incorporated as a part of this Agreement by reference, and are periodically updated from time to time by LIHI. Compliance includes without limitation, the timely submission of Materials for approval, the payment of fees (see Section 5), filing of the required annual statement (see

Section 5.2.3 of the Handbook), adherence to any project-specific conditions and self-reporting of potential non-compliance. LIHI shall have the right to make any necessary inquiries, request information from Licensee, and inspect the Certified Project(s) in the event of an alleged violation or change in conditions relevant to the certification of the Certified Project(s) to assess the level of consistency and quality of the Certified Project(s). If LIHI determines that there has been a material violation of Licensee's compliance obligations or a material misrepresentation of fact in any submission by Licensee to LIHI and such violation or material misrepresentation is not corrected within thirty (30) days after Licensee receives written notice, LIHI shall have the right to revoke the certification for the application Certified Project(s), but said revocation applies only to the Certified Project(s) affected and no others, or to take other action in accordance with the Handbook.

4. Ownership of Certification Mark and Intellectual Property.

(a) Licensee acknowledges that LIHI is the sole and exclusive owner of the Certification Mark and all intellectual property rights therein worldwide. Except for the license granted herein, LIHI grants Licensee no other express or implied licenses to the Certification Mark. Licensee acknowledges the validity of the Certification Mark, and shall take no action that may interfere with, challenge or diminish LIHI's intellectual property rights in the Certification Mark. Licensee shall not use the Certification Mark in any manner that disparages or reflects adversely on LIHI or negatively affects LIHI's reputation or goodwill. Licensee acknowledges that its utilization of the Certification Mark shall not establish in Licensee any right, title or interest in the Certification Mark, and to the extent such right, title or interest is implied by law, Licensee agrees to promptly assign such right, title or interest to LIHI at no additional cost to LIHI other than the cost of preparing and recording such assignment. LIHI reserves all rights in the Certification Mark not explicitly granted to Licensee under this Agreement.

(b) Licensee shall not apply for trademark protection or internet domain name registration of the Certification Mark, or any mark confusingly similar thereto, anywhere in the world.

(c) Licensee shall use the Certification Mark in a manner that creates a separate and distinct impression from any other mark or name that may be used by Licensee. Licensee shall not adopt any trade name, trademark, service mark, certification mark, or designation that incorporates the Certification Mark, or that is confusingly similar to the Certification Mark.

(d) Licensee agrees not to breach or infringe upon any intellectual or proprietary right owned by LIHI and agrees to notify LIHI in writing if Licensee becomes aware of any infringement, imitation, or counterfeiting of the Certification Mark, including any of such conduct by Licensee's directors, officers, employees, representatives, subcontractors, Licensee's Affiliates and its directors, officers, employees, representatives, or subcontractors. Such notice shall include all details available regarding such violations.

5. Fees.

As consideration for the license granted herein, and renewal of this Agreement, as well as to maintain certification of all Certified Projects and/or to apply for certification of additional hydroelectric projects, Licensee shall pay fees in accordance with the LIHI Program Fee Schedule, set forth in Exhibit D. LIHI, in its sole and reasonable discretion, reserves the right to alter the LIHI Program Fee Schedule upon notice to Licensee at least ninety (90) days before the effective date of the altered LIHI Program Fee Schedule which shall always be on the upcoming anniversary date of the execution of this Agreement. After receipt of said notice, Licensee shall have ten (10) days to accept said altered LIHI Program Fee Schedule, and payment by Licensee of the altered fees in the LIHI Program Fee Schedule shall also be deemed acceptance of said alteration. If Licensee refuses to accept or pay the altered fees in the LIHI Program Fee Schedule, LIHI shall have the right to terminate this Agreement.

6. Nature of Relationship.

This Agreement shall not be construed or interpreted to create a partnership or joint venture between the parties and no party will have the authority to bind the others. Nothing contained in this Agreement will be construed as creating a third-party beneficiary relationship amongst the parties. Licensee shall not use the Certification Mark in a manner that may be construed as creating an agency, partnership, or other form of joint enterprise between the Parties.

7. Representations and Warranties.

(a) **Mutual Representations and Warranties:** Each Party represents and warrants to the other, as of the Effective Date, that (i) such Party is duly organized and validly existing, and in good standing under the laws of the jurisdiction of its organization or formation; (ii) such Party has, and at all times during the Term will have, all necessary power and authority execute, deliver and perform its obligations under this Agreement; (iii) the execution, delivery, and performance of this Agreement by it has been duly authorized by all necessary action and does not violate any of the terms or conditions of its governing documents, or any contract to which it is a party, or any law, rule, regulation, order, judgment or other legal or regulatory determination applicable to it; and (iv) the individual(s) affixing a signature to this Agreement on its behalf has been duly authorized to execute this Agreement on behalf of the Party he or she represents, and that by signing this Agreement, a legally valid and binding obligation of each Party has been created, enforceable against it in accordance with its terms; subject to any bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain the same may be pending.

(b) **LIHI Representations and Warranties:** LIHI represents and warrants that it (i) has or will have all trademark, copyright, and other intellectual property rights to the Certification Mark necessary to authorize the Licensee to use the Certification Mark as provided in this Agreement; and (ii) to the best of LIHI's knowledge, LIHI's use of the Certification Mark has not and will not interfere with, infringe upon, misappropriate or otherwise contravene any intellectual property rights of third parties, and LIHI has not received any notice or other communication (whether written or oral) regarding any actual, alleged or potential such interference, infringement, misappropriation or contravention.

EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, LIHI EXPRESSLY DISCLAIMS ANY OTHER REPRESENTATIONS OR WARRANTIES, WHETHER WRITTEN OR ORAL, AND WHETHER EXPRESS OR IMPLIED. LIHI MAKES NO REPRESENTATIONS OR WARRANTIES REGARDING THE DIRECT OR INDIRECT FINANCIAL OR OTHER BENEFITS TO THE LICENSEE OR LICENSEE'S AFFILIATES, RESULTING FROM LICENSEE'S OR LICENSEE'S AFFILIATES USE OF THE CERTIFICATION MARK.

8. Confidentiality.

(a) "Confidential Information" means all oral and written information exchanged between the Parties with respect to the terms of this Agreement. Subject to 8(c), the following information does not constitute Confidential Information for purposes of this Agreement: (a) information that is or becomes generally available to the public other than as a result of a disclosure by either Party in violation of this Agreement; (b) information that was already known by either Party on a non-confidential basis prior to this Agreement; (c) information that becomes available to either Party on a non-confidential basis from a source other than the other Party if such source was not subject to any prohibition against disclosing the information to such Party; and (d) provided that the Party notifies the other Parties prior to any disclosure, and maintains the confidential nature of the Confidential Information and requires that the recipient of any Confidential Information agree to keep confidential the Confidential Information as provided herein, information a Party is required to disclose in connection with any administrative or regulatory approval or filing process in connection with the conduct of its business.

(b) Materials provided to LIHI as part of a pre-application consultation or during the Intake Review (as defined in the Handbook) phase will be kept confidential, unless and until such information is included in a complete certification application that is submitted to LIHI and public notice is made. Except in rare circumstances when the Parties expressly agree in writing otherwise, all information submitted to LIHI and pertaining to Licensee's certification application provided to LIHI or its Executive Director will be available for public review and public access, and shall not be deemed Confidential Information.

(c) Except as provided in this Section 8(c), neither Party shall publish, disclose, or otherwise divulge Confidential Information to any person at any time during or after the Term, without the other Party's prior express written consent. Each Party shall permit knowledge of and access to Confidential Information only to those of its directors, officers, affiliates, attorneys, accountants, representatives, agents and employees who have a need to know related to the implementation of this Agreement.

(d) **Required Disclosure.** If required by any law, statute, ordinance, decision, order or regulation passed, adopted, issued or promulgated by a court, governmental agency or authority having jurisdiction over a Party, that Party may release Confidential Information, or a portion thereof, to the court, governmental agency or authority, as required by the applicable law, statute, ordinance, decision, order or regulation, and a Party may disclose Confidential Information to accountants in connection with audits, provided that such Party has notified the other Party of the required disclosure and requested such court, governmental agency, authority or accountant to treat such information in a confidential manner and to prevent such information from being disclosed or otherwise becoming part of the public domain.

(e) **Survival.** This Section 8 shall survive for a period of two (2) years following the expiration of the Term or termination of this Agreement.

9. Indemnification.

(a) Subject to Section 10, Licensee shall indemnify, defend and hold LIHI and its officers, agents, and employees, harmless from and against any and all claims, causes of action, damages, obligations, liabilities, expenses (including reasonable attorney's fees) or costs, to the extent incurred by LIHI, which arise directly or indirectly out of Licensee's use of the Certification Mark other than as permitted under this Agreement or from Licensee's breach or failure to comply with the terms of this Agreement.

(b) Subject to Section 10, LIHI shall indemnify, defend and hold harmless Licensee and its officers, directors, agents, and employees from and against any and all claims, causes of action, damages, obligations, liabilities, expenses (including reasonable attorney's fees) or costs that arise out of or are attributable to any actual or alleged infringement of any third party intellectual property rights, in connection with the Licensee's use of the Certification Mark in accordance with this Agreement.

10. Limitation of Liability.

EXCEPT AS EXPRESSLY PROVIDED FOR HEREIN, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, INDIRECT OR CONSEQUENTIAL DAMAGES, WHETHER BY STATUTE, IN TORT, CONTRACT OR OTHERWISE, RESULTING OR ARISING UNDER THIS AGREEMENT, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

11. Term and Termination.

(a) The Agreement and the licenses granted herein shall commence on the Effective Date and will continue for as long as Licensee maintains any Certified Project(s) in compliance with the obligations set forth in this Agreement, unless terminated earlier as provided in this Section 11.

(b) The Licensee may, at its option, terminate this Agreement or any part thereof upon thirty (30) days written notice to LIHI.

(c) LIHI may, by written notice to the Licensee, terminate this Agreement, in whole or in part, if Licensee (i) uses any unapproved Materials in violation of this Agreement and such violation is not corrected within thirty (30) days after Licensee receives written notice, (ii) misuses the Certification Mark on any Materials, including in a manner that has not been approved by LIHI and such misuse is not corrected within thirty (30) days after Licensee receives written notice, or (iii) displays or distributes Materials bearing the Certification Mark in violation of any applicable law, rule or regulation and such violation is not corrected within thirty (30) days after Licensee receives written notice. For purposes of clarity, any circumstance listed in (i) through (iii) that arises out of or is attributable to any misuse or violation by Licensee's Affiliate, LIHI may terminate this Agreement as it applies to said Licensee Affiliate, but shall not terminate this Agreement as it related to Licensee or any remaining Licensee Affiliates.

(d) Either Party may terminate this Agreement for any of the following reasons (each an "**Event of Default**") upon written notice to the other Party, (i) if a Party materially breaches any or all of its obligations as described in this Agreement and such breach is not cured within thirty (30) days of written notice of such breach from the other Party; (ii) if any representation or warranty made by that Party in this Agreement proves to have been misleading or false in any material respect when made; or (iii) if a Party, (a) makes an assignment or any general arrangement for the benefit of its creditors, (b) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause under any bankruptcy or similar law for the protection of creditors, or has such a petition filed against it, (c) otherwise becomes bankrupt or insolvent (however evidenced), or (d) becomes unable to pay its debts as they fall due (any circumstance described in (a) through (d) will be defined as "Bankrupt").

(e) Upon termination of this Agreement by reason of an Event of Default or otherwise by Licensee or Licensee's Affiliate, the rights granted herein will terminate immediately and Licensee and/or Licensee Affiliates shall immediately cease and desist from any and all use of the Certification Mark. Absolutely no Materials containing the Certification Mark shall be created, distributed or otherwise made available to third parties after the termination of this Agreement.

(f) In the event of any breach of this Agreement by Licensee, Licensee acknowledges and agrees that any unauthorized use of the Certification Mark or other marks confusingly similar to the Certification Mark will result in irreparable harm to LIHI, and LIHI shall be entitled to seek and obtain immediate injunctive relief, without the posting of any bond. In an Event of Default by LIHI, Licensee's remedy shall be limited to immediate termination of the Agreement without any further obligation to pay fees owed to LIHI that accrue after the date of the Event of Default, but Licensee shall cease any and all use of the Certification Mark after said termination.

12. Assignment.

No Party may assign this Agreement without the other Party's prior written consent, which shall not be unreasonably withheld, conditioned or delayed. In the event of a permitted assignment, this Agreement and all of its terms shall be binding upon and inure to the benefit of any assignee, and said assignee shall execute this Agreement and assume any all obligations herein.

13. Notices.

All notices which either Party may give to the other under or in connection with this Agreement shall be in writing and shall be sent by any of the following methods: US postal service; hand delivery; reputable overnight courier; certified mail, return receipt requested, facsimile transmission, or e-mail. The communications shall be sent to the following addresses, and shall be effective on the business day when

received; provided that any communication received after the close of business on a business day shall be deemed to have been received on the next following business day:

If to Licensee:

Name: Lewis C. Loon, General Manager, Operations & Maintenance – USA/QC
Company: KEI (USA) Power Management Inc.
Address: 423 Brunswick Avenue, Gardiner, ME 04345
Telephone: (207) 203-3025
Email: Lewis.Loan@kruger.com

If to LIHI:

Name: Shannon Ames, Executive Director
Address: 329 Massachusetts Ave, Suite 2, Lexington, MA 02420
Telephone: 781-538-4266
Email: sames@lowimpachydro.org

14. Amendment/Binding Effect.

This Agreement may not be amended, changed, modified, or altered unless such amendment, change, modification, or alteration is in writing and signed by both of the Parties to this Agreement. This Agreement shall inure to the benefit of and shall be binding upon the Parties and their respective successors and permitted assigns. LIHI shall notify Licensee, in writing, concerning any modification of the Certification Mark, and said modified Certification Mark shall be deemed the mark licensed herein and said notification shall serve to amend Exhibit “C” effective upon receipt of such notice. Licensee shall have no less than sixty (60) days to take appropriate actions to comply with Exhibit “C” as amended. Amendments to the Handbook and the Marketing Guidelines shall be communicated to the Licensee in writing at least 60 days prior to going into effect, and Licensee shall be required to take appropriate action to comply with such amendments within 60 days of their effective date, however if LIHI amends the Certification Program Criteria, each Certified Project is not required to meet changes in Criteria until such time as the Certified Project is eligible for renewal of certification.

15. Severability.

If any article, section, phrase or portion of this Agreement is, for any reason, held or adjudged to be invalid, illegal or unenforceable by any court of competent jurisdiction, such article, section, phrase, or portion so adjudged will be deemed separate, severable and independent and the remainder of this Agreement shall remain in full force and effect and shall not be invalidated or rendered illegal or unenforceable or otherwise affected by such adjudication, provided that the basic purpose of this Agreement and the benefits to the Parties are not substantially impaired.

16. Entire Agreement.

This Agreement completely and fully supersedes all other understandings or agreements, both written and oral, including any term sheet or confirmation, between the Parties relating to the subject matter hereof.

17. Waiver.

No delay or omission by a Party in the exercise of any right under this Agreement shall be taken, construed or considered as a waiver or relinquishment thereof, and any such right may be exercised from time to time and as often as may be deemed expedient. If any of the terms and conditions hereof are breached and thereafter waived by a Party, such waiver shall be limited to the particular breach so waived and is not deemed to waive any other breach hereunder.

18. Governing Law.

This Agreement and the rights and duties of the Parties hereunder shall be governed by and shall be construed, enforced and performed in accordance with the laws of the State of New York, without regard to principles of conflicts of law. **THE PARTIES EACH HEREBY IRREVOCABLY WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING HERETO, ANY PRODUCT OR THE TRANSACTIONS CONTEMPLATED HEREBY. EACH PARTY FURTHER WAIVES ANY RIGHT TO CONSOLIDATE ANY ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED.**

19. Further Assurances.

Each of the Parties shall promptly execute and deliver all such deeds, documents, instruments and assurances and do or cause to be done all such acts and things as are necessary or advisable to fully perform and carry out the provisions and intent of this Agreement.

20. Counterparts.

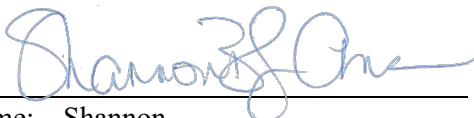
This Agreement may be executed in several counterparts, each of which is an original and all of which constitute one and the same instrument.

21. Headings.


The Section titles in this Agreement are only for purposes of convenience and do not form a part of this Agreement and will not be taken to qualify, explain or affect any provision thereof.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives to be effective as of the Effective Date set forth above.

LICENSOR:

Signed: 
Print Name: Shannon
Title: Executive Director
Company: Low Impact Hydropower
Date: October 9, 2018

LICENSEE:

Signed: 
Print Name: Lewis C. Loon
Title: General Manager, O&M – USA/QC
Company: KEI (USA) Power Management Inc.
Date: October 9, 2018

LICENSEE AFFILIATES (If Applicable):

Signed: _____
Print Name: _____
Title: _____
Company: _____
Date: _____

Signed: _____
Print Name: _____
Title: _____
Company: _____
Date: _____

EXHIBIT A

LICENSEE AFFILIATES

Facility Name: KE Emeryville LLC

Affiliate Company Name: KEI (USA) Power Management Inc.

Relationship to Facility Owner: Managing Company

Authorized Representative Name: Lewis C. Loon

Authorized Representative Title: General Manager, Operations & Maintenance – USA/QC

Authorized Representative Address: 423 Brunswick Avenue, Gardiner, ME 04345

Authorized Representative Email: Lewis.Loan@kruger.com

Authorized Representative Phone: (207) 203-3025

EXHIBIT B

SCHEDULE OF CERTIFIED PROJECT(S)

(in successive numeric order for each Certified Facility)

LIHI HYDROPOWER CERTIFICATION

EXHIBIT B – Schedule of Certificates
Attached to CMLA Effective October 9, 2018

Emeryville Hydroelectric Project
LIHI Certificate No. 144 (FERC No. 2850)



Effective July 10, 2018 and Expiring July 9, 2023

This is to certify that the Emeryville Hydroelectric Project, (FERC No. 2850) located on the Oswegatchie River in New York, satisfies the requirements of the Low Impact Hydropower Institute (LIHI) Certification Program per the LIHI Criteria published in the LIHI Certification Handbook, March 2016 Revision. The Emeryville Certification shall be referenced as LIHI Certificate No. 144.

In rendering this Certification Decision, the LIHI Governing Board certifies the Emeryville Hydroelectric Project for a 5-year term, effective July 10, 2018 and expiring July 9, 2023.

We hereby affirm this LIHI certification of the Emeryville Hydroelectric Project.

Handwritten signature of John Seebach in blue ink.

John Seebach
Chair, LIHI Governing Board

Handwritten signature of Nicholas Niiro in blue ink.

Nicholas Niiro
Secretary, LIHI Governing Board

I hereby declare, under penalty of perjury, that the foregoing is a true and correct certificate issued by the Low Impact Hydropower Institute for the Emeryville Hydroelectric Project.

Signed: Handwritten signature of Shannon Ames in blue ink.
Shannon Ames, Executive Director

Dated: October 9, 2018

EXHIBIT C

CERTIFICATION MARK



EXHIBIT D

LIHI PROGRAM FEE SCHEDULE

LIHI PROGRAM FEE SCHEDULE

The LIHI Program Fees are designed to cover the cost of operating the Low Impact Hydropower Institute, including processing applications and maintaining active certifications. This Schedule explains each component of the LIHI Program Fees in detail. LIHI, in its sole and reasonable discretion, reserves the right to alter the program fee policy as needed with reasonable notice to certificate holders. Adjustments to LIHI Program Fees may be available under certain circumstances. Please contact the Institute for details.

1 Application Review Fees

LIHI Application Review Fees (ARFs) include Intake Review fees, Certification Review fees, and Recertification Review fees. LIHI Program Fees are designed to cover LIHI's cost associated with reviewing applications for certification at all stages in the process, and to fund the operations of LIHI.

1.1 Intake Review Fee

The Intake Review Fee (IRF) is a fixed fee charged to all potential projects, regardless of installed capacity or circumstances. Before submitting payment of this fee to LIHI, it is strongly recommended that interested applicants contact LIHI for free pre-application consulting (See 4.2.1 of the Handbook). An invoice for the IRF will be issued by LIHI staff only when a prospective applicant notifies LIHI that they wish to initiate the intake application.

The Intake Review Fee is a fixed fee of \$950.00, which covers the cost to review the draft application submitted in the intake phase. An applicant must pay a separate IRF for each facility even if multiple facilities (with multiple FERC licenses where applicable) located in the same watershed are operationally or hydrologically connected. A full explanation of the intake review process can be found in Section 4.2.2 of the Handbook. The IRF must be received before LIHI can begin to review intake application materials.

1.2 Certification Application Review Fee

All applicants must pay a Certification Application Review Fee to process a certification application. Certification Application Review Fees are individually tailored based on the information gathered in the Intake Review phase. As stated in Sections 4.2.2 and 4.2.3 of the Handbook, all applicants that submit an intake application will be provided with a summary of the intake review findings (via intake review transmittal), which includes a recommendation on how to proceed to the next phase and an estimate for the non-refundable ARF required to process the complete certification application. The fee estimate covers review costs such as the cost of hiring an independent reviewer and LIHI staff time and other overhead costs. LIHI reserves the right to charge additional fees in circumstances where a review is more complex than initially estimated. If, during the course of the application review, LIHI staff determine that unanticipated complexities in the review process impose additional cost to the Institute or the application review takes more than twelve (12) months, a supplementary ARF may be charged prior to the issuance of a certificate at the discretion of the Executive Director and in

consultation with the applicant.

Additional Information to Note:

Fee supplement for consolidated application seeking certification for multiple facilities:

At the request of the applicant and at the discretion of the Executive Director, a consolidated, single application may be submitted by an applicant that owns or operates multiple facilities in a watershed that are operationally or hydrologically connected. The fee supplement for a consolidated application will be determined at the sole discretion of the Executive Director.

Application Fee Premium for a “Pre-Operational” facility:

An application for the certification of a facility that is pre-operational shall include a premium comprised of an additional twenty-five percent (25%) of the ARF charged.

Reduced Fee for Not Applicable/ De Minimis Effect facilities:

For facilities including generation installed in conduits or in other situations where a facility can pass all of the Not Applicable / De Minimis Effect standard for each criterion, a reduced fee applies.

2. Certification Annual Maintenance Fees

LIHI Certification Maintenance Fees include Annual Certificate Fees, Active Condition Fees, and any other supplemental fees LIHI may impose to maintain an active certificate.

The Annual Certificate Fee is based on a \$/MWh rate structure that varies according to regional renewable market averages. There is a tiered minimum Annual Fee, or floor, for projects with low installed capacity (less than or greater than 5MW; see Appendix C of the Handbook). There is also a maximum Annual Fee, or cap, for large facilities. Condition Fees are fees charged on an annual basis to certificate holders with active facility-specific conditions that require LIHI staff time to process (see C.2.2 of the Handbook).

2.1 Annual Certificate Fees

For the full term of the certification, each Certificate Facility shall pay to LIHI on an annual basis an Annual Certificate Fee for each year of certification, subject to the following provisions:

Implementation Schedule: The Annual Certificate Fee term will be defined as beginning on the effective date of the certification for the subsequent twelve (12 months), with the first annual certificate fee due on the first anniversary of the certificate effective date. Each subsequent annual certificate fee will be due on the subsequent anniversaries of the effective date. If the certification decision is issued more than twelve (12) months past the effective date, the annual certificate fee will accrue and will be charged in full at the time the certification decision is issued, to be paid within thirty (30) days of the issuance of the certification documents. Annual certificate fees will be imposed every year, including the year in which a certified project is undergoing an application for re-certification.

Annual Certificate Fee Amount and Rate: The Annual Certificate Fee amount for each certificate shall be the product of the total average annual generation (AAG) of the certified

facility as provided by the Applicant in their LIHI Certification Application¹ and the applicable Annual Certificate Fee Rate(s), according to the market-participation of the facility generation output as follows:

Verified Market Participant (VMP): The VMP rate applies to LIHI certified generation that is publicly listed as eligible for a state Renewable Portfolio Standard (RPS) program, a Renewable Energy Standard (RES) program, an Alternative Energy Portfolio Standard (AEPS), a voluntary Green Energy program such as Green-e, or any other policy which utilizes the LIHI certification standard as a requirement and/or option for eligibility. If a certified facility has only a portion of their generation certified in a verified market, only that portion will be charged at the VMP rate, and the balance will be charged at the published Base Fee rate (see below). The VMP \$/MWh rate is published at www.lowimpacthydro.org/fees.

Base Rate: All generation that is not VMG, as defined above, shall be assessed at the base rate as published by the Institute in the LIHI Rate Schedule at www.lowimpacthydro.org/fees.

Publication of LIHI Rate Schedule and Changes to Annual Certificate Fee Rate: The LIHI Rate Schedule will be published at www.lowimpacthydro.org/fees. Subject to the Agreement, LIHI reserves the right to alter the definitions and rates for the Verified Market Participant categories with reasonable notice to certificate holders.

Annual Certificate Fee Minimum and Maximum Amounts: Regardless of the calculated Annual Certificate Fee amount using the dollar per MWh rate, no certificate holder shall pay less than \$1,000 per year if the installed generation capacity of the LIHI certified facility is less than 4.99 MW, no less than \$1,500 per year if the installed capacity of the generation facility is between 5 MW and 9.99 MW, and no more than \$30,000 per year for a LIHI certified facility of any size.

2.2 Active Condition Fee

On each anniversary of a certificate effective date, a non-refundable fee may be charged relative to each facility-specific conditions that is required for certification. This fee may range from \$0 to \$1,000.00 per condition item depending on the complexity of the condition, and will be determined at the sole discretion of the Institute. Not all conditions will incur a fee, and the fee amounts may vary from year-to-year during the term of a certificate, as conditions are satisfied, modified or added to certifications. Condition fee amounts are established in proportion to the time required by LIHI staff to monitor compliance.

3. Recertification Application Review Fee

All applicants must pay a Recertification Review Fee (RRF) to process an application to renew a certification. A certified facility may apply for renewal/recertification by completing and

¹ The AAG amount may be adjusted according to actual generation documented by a Certificate Holder in Annual Compliance statements that result from newly added generation capacity, efficiency gains, a reduction in generation capacity from equipment brought offline or any other material change that impacts generation output.

submitting a recertification application package according to the process described in Section 6. **Recertification Review Fee Phases.** The RRF is intended to cover the cost of the review of an Applicant's Recertification Application Package for Phase 1 of the recertification review process. The Phase 1 RRF is a fixed amount of \$2,000. If the result of a Phase 1 recertification review results in an escalation to a Phase 2 review then additional review fees will likely be required. If the Phase 1 recertification review results in the issuance of a new certification term, there will be no additional fee charged. The RRF may also be increased in consultation with the Applicant by an amount determined appropriate by the Executive Director if a period of more than twelve months has passed since the recertification application was first posted for public notice and the review is not yet complete.

4. Reduced Fees for Very-Low Impact Facilities

Some types of hydropower facilities, such as those constructed on water conduits and that do not discharge back into natural river systems, may qualify for the NA/DME standards for all criteria. In those cases, substantially reduced application and annual maintenance fees may apply. Consult with LIHI staff to determine whether your application qualifies.

5. Refund Policy

All LIHI Program Fees, including both Application Review Fees and Certification Maintenance Fees are non-refundable. Should an applicant choose to withdraw or place an application on hold at any point during the review process, LIHI is under no obligation to return or refund fee amounts already collected. Should a certificate holder decide to withdraw a certified facility from the program (see Section 4.5.4 of the Handbook), LIHI will discontinue all annual maintenance billing for the years after the year of withdrawal. Additional fees may apply if and when an applicant chooses to revive a project application that was submitted previously but was not certified and was withdrawn or placed on hold by the applicant.