

ZooShare Trust Agreement

TRUST AGREEMENT

THIS AGREEMENT made this 30th day of September, 2015,

BETWEEN:

ZooShare Biogas Co-operative Inc.

a co-operative incorporated under the laws of the Province of Ontario
(the Co-operative)

and

Brian Iler
(the Trustee)

IN CONSIDERATION OF the mutual agreements set out below, the sufficiency of which is acknowledged by the parties, the parties agree as follows:

1. DEFINITIONS

In this Agreement:

- 1.1 **Biogas Project** means the biogas installation of the Co-operative for the generation of electricity at the Toronto Zoo, and includes all equipment related to the biogas installation and all agreements and contracts entered into for the purposes of the biogas installation and generation of electricity by the Co-operative.
- 1.2 **Charge** means floating charge over the Biogas Project of the Co-operative, given by the Co-operative to the Trustee.
- 1.3 **Events of Default** are as set out in Schedule A
- 1.4 **Prime Rate** means the commercial lending rate of interest expressed as an annual rate quoted or published by Bank of Montreal as the reference rate of interest from time to time (commonly known as prime) for the purpose of determining the rate of interest that it charges to its commercial customers for loans in Canadian Funds.
- 1.5 **Series 3 Bond** means a bond substantially in the form as set out in Schedule B.
- 1.6 **Series 3 Bondholder** means a holder of a Series 3 Bond.

2. RIGHTS AND DUTIES OF TRUSTEE

- 2.1 The Trustee accepts the trusts in this Agreement, and agrees to perform the same upon the terms and conditions set forth in this Agreement as Trustee for the Series 3 Bondholders.
- 2.2 The Trustee, in exercising his power and discharging his duties under this Agreement, shall act honestly and in good faith with a view to the best

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interests of the Series 3 Bondholders, and exercise the care, diligence and skill of a reasonably prudent trustee.

- 2.3 The Trustee shall have the power to institute and to maintain such actions and proceedings as he may consider necessary or expedient to preserve, protect or enforce his interests and the interests of the Series 3 Bondholders.
- 2.4 The Trustee represents that at the time of the execution of this Agreement, no material conflict of interest exists in the his role as fiduciary to the Series 3 Bondholders, and agrees that in the event of a new material conflict of interest arising, he will, within ninety days either eliminate such conflicts or resign from his position as trustee.

3. CERTIFICATION BY TRUSTEE

- 3.1 No Series 3 Bond shall be issued, or if issued, shall be effective until it has been certified by or on behalf of the Trustee substantially in the form of the certificate set out in Schedule B as the case may be, and such certification by the Trustee upon any Series 3 Bond shall be conclusive evidence as against the Co-operative that the Series 3 Bond has been duly issued under this Agreement, and is a valid obligation of the Co-operative.
- 3.2 The certificate of the Trustee on Series 3 Bonds issued in accordance with this Agreement shall not be construed as a representation or warranty by the Trustee as to the validity of this Agreement or of the Series 3 Bond (except for certification as a Series 3 Bond referred to in this Agreement) and the Trustee shall in no respect be liable or answerable for the use made of the Series 3 Bond or any of them or the proceeds thereof.

4. COVENANT TO PAY

The Co-operative agrees with the Trustee that so long as any Series 3 Bonds remain outstanding, the Co-operative shall pay or cause to be paid to every holder of every Series 3 Bond issued under this Agreement, the principal and interest accrued from every Series 3 Bond, including, in case of default, interest on all amounts overdue at the specified rate, at the dates and places and in the manner mentioned in the Series 3 Bonds.

5. RANKING

Series 3 Bonds issued under this Agreement shall rank rateably without discrimination, preference or priority, whatever may be the actual date or terms of the issue of the Series 3 Bond. Series 3 Bonds shall rank behind any commercial financing for construction or long-term debt and behind all securities issued under the Trust Agreement between the Co-operative and the Trustee dated July 11, 2013 and attached as Schedule C.

6. VARIATION OF RIGHTS

Any of the rights conferred on the Series 3 Bondholders may at any time be varied or abrogated (whether with the consent in writing or at a meeting) by the holders of seventy five percent in value of the issued and outstanding Series 3 Bonds, plus seventy-five percent of the total number of Series 3 Bondholders, and any variation

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so made shall be binding on all the Series 3 Bondholders, each of whom shall, on the request of the Co-operative, surrender his/her Series 3 Bond to the Co-operative in order that a memorandum of such variation may be endorsed on it.

7. MEETINGS OF SECURITY HOLDERS

The procedures for meetings of Security Holders are set out in Schedule D.

8. POWERS EXERCISABLE BY MEETING

In addition to the powers under paragraph 6, each Series 3 Bondholder, upon the consent in writing, or at a meeting, of the holders of seventy five percent in value of the same type of issued and outstanding Series 3 Bonds, plus seventy-five percent of the total number of Series 3 Bondholders of the same kind, shall have the following powers:

- a. power to direct or authorize the Trustee to exercise any power, right, remedy or authority given to it by this Agreement or the Series 3 Bonds in any manner specified or to refrain from exercising any such power, right, remedy or authority; and
- b. power to waive, and direct the Trustee to waive, any default on the part of the Co-operative in complying with the provisions of this Agreement or the Series 3 Bonds, including an Event of Default.

9. MINUTES

Minutes of all resolutions and proceedings at every such meeting of Series 3 Bondholders shall be made and duly entered in books to be from time to time provided for that purpose by the Trustee at the expense of the Co-operative.

10. BINDING EFFECTS OF RESOLUTIONS

Every resolution shall be binding upon all of the Series 3 Bondholders, whether present at or absent from such meeting, and each and every Series 3 Bondholder and the Trustee (subject to the provisions for its indemnity, below) shall be bound to give effect accordingly to every such resolution.

11. CHARGE

As security for the due payment of all money payable pursuant to the Series 3 Bondholders, the Co-operative shall deliver the Charge in favour of the Trustee on the Biogas Project.

12. PROCEEDINGS BY THE TRUSTEE

- 12.1 The Trustee shall give each Series 3 Bondholder notice within 15 days of the Trustee becoming aware of the occurrence of an Event of Default.
- 12.2 Whenever any Event of Default has occurred, the Trustee, in the exercise of his discretion, or upon the decision of the Series 3 Bondholders in a meeting called pursuant to Schedule F may proceed to enforce the rights of the Trustee under the Charge and the rights of the Series 3 Bondholders by any

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remedy or proceeding authorized or permitted by law or equity and may file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee and of the Series 3 Bondholders lodged in any bankruptcy, winding up or other judicial proceedings relative to the Co-operative and/or the Biogas Project.

- 12.3 No such remedy or proceeding for the enforcement of the rights of the Trustee or of the Series 3 Bondholders shall be exclusive of or dependent on any other such remedy but any one or more of such remedies may from time to time be exercised independently or in combination.
- 12.4 Upon the exercising or taking by the Trustee of any such remedies or proceedings, the principal and interest outstanding on all Series 3 Bonds then outstanding shall forthwith become due and payable to the Trustee.
- 12.5 All rights of action hereunder may be enforced by the Trustee without the possession of any of the Series 3 Bonds or the production thereof on the trial or other proceedings relative thereto.
- 12.6 No delay or omission of the Trustee or of the Series 3 Bondholders to exercise any remedy referred to in this paragraph shall impair any such remedy or shall be construed to be a waiver or acquiescence of any default.

13. APPOINTMENT OF A RECEIVER

At any time after an event of default has occurred, the Trustee may appoint by writing a receiver of the Biogas Project upon such terms regarding remuneration and otherwise as the Trustee shall think fit, and remove any receiver so appointed and appoint another in his/her place. The receiver so appointed shall be the agent of the Co-operative, and the Co-operative shall be responsible for such receiver's acts and defaults and for his/her remuneration, costs, charges and expenses to the exclusion of liability on the part of the Trustee or the Series 3 Bondholders.

Any receiver shall have power to:

- (a) Take possession of, collect and get in all or any part of the Biogas Project and, for that purpose, to commence, continue, appeal or discontinue proceedings in the name of the Co-operative or otherwise and to make any arrangement or compromise as the receiver considers necessary;
- (b) Borrow or raise money on all or any part of the Biogas Project for such purposes as may be approved by the Trustee; and
- (c) Sell or concur in selling all or any part of the Biogas Project without notice and in such manner as may seem advisable to the receiver, and to effect such sale by conveying in the name and on behalf of the Co-operative or otherwise.

14. APPLICATIONS OF PROCEEDS

Money from time to time received by the Trustee or the receiver may be applied as follows:

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- a. First, to pay all expenses deemed necessary by the Trustee or the receiver affecting the Biogas Project;
- b. Second, in keeping all charges and liens on the Biogas Project having priority over the Charge in good standing;
- c. Third, in payment of the reasonable fees and disbursements of the receiver and the Trustee;
- d. Fourth, in payment to the Founders' Club Bondholders and Noteholders of the principal and interest payable under the terms of the Founders' Club Bonds and Notes as defined in the Trust Agreement dated July 11, 2013;
- e. Fifth, in payment to the Community Bondholders of the principal and interest payable under the terms of the Community Bonds as defined in the Trust Agreement dated July 11, 2013;
- f. Sixth, in payment to the Series 3 Bondholders of the principal and interest payable under the terms of the Series 3 Bonds;

and the balance, if any, shall be paid to the Co-operative.

15. INSURANCE

The Co-operative will keep the Biogas Project insured to the its full value with a reputable insurance company against loss or damage by fire and such other risks as are in accordance with sound commercial practice normally insured against, and shall produce the last receipts for such insurance to the Trustee for inspection on demand.

16. TRUSTEE REMUNERATION AND EXPENSES

16.1 The Trustee's fees and all reasonable expenses, disbursements and advances incurred or made by the Trustee in the administration or execution of the trusts hereby created (including the reasonable compensation and the disbursements of counsel and other advisors), both before any event of default and after, until all duties of the Trustee under the trusts in this Agreement has been fully performed, shall be paid or reimbursed upon request by the Co-operative, except any such expense, disbursement or advance as may arise from his negligence or wilful default.

16.2 Any amount due under this section and unpaid thirty days after request for such payment shall bear interest at the Prime Rate plus 1% per annum from the expiration of such thirty day period. After default, all amounts so payable and the interest thereon shall be payable out of any funds coming into the possession of the Trustee in priority to any payment of the principal or interest on the Securities to the Co-operative.

17. CHANGE OF TRUSTEE

The Trustee may resign by notice in writing delivered to all Series 3 Bondholders to take effect no earlier than the date of a meeting of Series 3 Bondholders called to

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appoint a replacement. Prior to resigning, the Trustee shall call such a meeting. A meeting of Series 3 Bondholders shall have the power to remove a Trustee, and to appoint one or more replacement trustees.

18. NOTICES

18.1 Every notice to be given to Series 3 Bondholders shall be deemed to have been given if such notice is sent by prepaid mail to such Series 3 Bondholders at their addresses as set out in the records of the Trustee from time to time.

18.2 Any notice to the Trustee under the provisions of this Agreement shall be valid and effective if delivered to the Trustee by prepaid regular mail, addressed to the Trustee at:


150 John Street, 7th Floor
Toronto, Ontario M5V 3E3

Any notice to the Co-operative shall be deemed valid and effective if delivered to an officer of the Co-operative or if sent by prepaid mail to the Co-operative at:


42 Heintzman Street
Toronto, Ontario M6P 2J6
Attention: Executive Director

18.3 Any notices so given by mail pursuant to this paragraph shall be deemed to have been given on the day of mailing.

**ZOOSHARE BIOGAS CO-OPERATIVE
INC.**



NAME: Paul Ungerman
TITLE: Board Chair



NAME: Daniel Bida
TITLE: Executive Director
We have the authority to bind the Co-operative

TRUSTEE



Brian Uler

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SCHEDULE A Events of Default

The following are Events of Default:

1. If the Co-operative makes default in payment of the principal or interest on any Securities when the same becomes due, and such default continues for 10 days;
2. If the Co-operative defaults in the observance of any of the covenants in a Security;
3. If an order shall be made or a resolution passed for the winding up or liquidation of the Co-operative;
4. If the Co-operative shall make a general assignment for the benefit of its creditors or a proposal under the *Bankruptcy and Insolvency Act* (Canada), or shall be declared, or if a custodian or receiver and manager shall be appointed of the Co-operative or of any of the Leased Properties of the Co-operative;
5. If a creditor or encumbrancer of the Co-operative shall take possession of any of the Leased Properties of the Co-operative;
6. If a default shall occur under any obligation of the Co-operative to repay borrowed money and such default shall continue for a period sufficient to permit the acceleration of the maturity of such obligation; and
7. If the Co-operative shall neglect to carry out or observe any covenant or condition in this Agreement, and, after notice in writing has been given by the Trustee to the Co-operative specifying such default and requiring rectification thereof, the Co-operative shall fail to make good such default within a period of 10 days

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SCHEDULE B

ZooShare Biogas Co-operative Inc.

(Incorporated under the Ontario *Co-operative Corporations Act*)

COMMUNITY BOND SERIES 3

Name of Member: _____

Principal Sum: \$ _____

Maturity Date: _____, 201____

For value received, **ZooShare Biogas Co-operative Inc.** acknowledges itself indebted and promises to pay, in Canadian money, to the Member, on the Maturity Date, the Principal Sum above and to pay interest on that amount, upon and subject to the terms and conditions set out on the reverse side.

Date: _____, 201____

ZooShare Biogas Co-operative Inc.

Per: _____

Per: _____

This Bond is one of the Community Bonds referred to in the Trust Agreement.

Brian Iler, Trustee

[back]

1. Interest

Beginning from the date of this bond until the commercial operation date of the Co-operative's biogas installation at the Toronto Zoo for the generation of electricity as determined by the Independent Electricity System Operator, interest shall accrue on the balance from time to time outstanding of the Principal Sum at a nominal rate of 0.5% per year, calculated annually in arrears. Interest will be paid on or before the 1st day of January each year.

Beginning on the commercial operation date of the Co-operative's biogas installation at the Toronto Zoo for the generation of electricity as determined by the Independent Electricity System Operator, interest shall accrue on the balance from time to time outstanding of the

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Principal Sum at the rate of five percent per year, calculated annually in arrears. Interest will be paid on or before the 1st day of January each year.

2. Priority

This Bond is subordinate in priority to any debt financing from credit unions or other commercial lenders, to all Insiders Promissory Notes, Founders' Club Bonds and Series 1 and 2 Community Bonds, issued by the Co-operative, to a maximum principal amount of \$6.8 million.

3. How and to Whom Payments to be Made

The person in whose name this Bond is registered in the records of ZooShare Biogas Co-operative Inc. (**the Co-operative**) will be regarded as the owner of the Bond and any payments made pursuant to this Bond will be made only to or upon the order in writing of such person.

Payments on account of the Principal Sum or interest, at maturity or a redemption date or an interest payment date, will be paid, if instructed by the Member, directly deposited to the account of the Member, or, otherwise, by cheque drawn on the Co-operative and sent by pre-paid mail to the Member at the address of the Member contained in the records of the Co-operative.

If the date for payment of any amount of the Principal Sum or interest is not a business day, then payment will be made on the next business day and the Member will not be entitled to any further interest or other payment in respect of the delay.

4. Prepayment

The Principal Sum may be prepaid by the Co-operative at its option, in whole or in part, at any time, without penalty, but including interest accrued to the date of prepayment.

5. Security

This Bond and all other similar bonds issued by the Co-operative, and the Series 1 and 2 Community Bonds, Promissory Notes and Founders' Club Bonds are secured by a floating charge in favour of the Trustee for the benefit of all members of the Co-operative who are holders of similar bonds to this Bond, Series 1 and 2 Community Bonds, Promissory Notes and Founders' Club Bonds, on the contracts and equipment used for the biogas installation and generation of electricity by the Co-operative at the Toronto Zoo and all related agreements and contracts entered into for these purposes (**the Biogas Project**), on the terms set out in a Trust Agreement dated July 11, 2013. A copy of that agreement has been delivered to the Member.

6. Defaults

The Principal Sum shall become immediately due and payable at the option of the Member without presentment, demand, notice of dishonour, protest or notice of protest in respect of this Bond, upon the occurrence of any one or more of the following events (each a **Default**):

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- (a) A failure of the Co-operative to make any payment required to the Member when due; or
- (b) The Co-operative shall become insolvent or bankrupt or ceases paying its debts as they mature or shall make an assignment for the benefit of creditors; or
- (c) A trustee, receiver or liquidator shall be appointed for the Co-operative for a substantial part of the Biogas Project under the laws of any jurisdiction and the appointee of such proceedings shall not have been discharged within sixty days of the appointment or institution of proceedings.

7. Transfer

No transfer or assignment of this Bond shall be valid without the prior written approval of the Co-operative.

8. Successors

The provisions of this Bond shall enure to the benefit of and be binding on the Member and the Co-operative, and, as applicable, their respective any successors, heirs, administrators and/or legal or personal representatives.

9. Discharge and Satisfaction

Upon payment by the Co-operative to the Member of all monies due and payable hereunder, this Bond shall cease and become null and void and the Member shall upon request and the expense of the Co-operative execute and deliver to the Co-operative a full release and discharge.

10. Notice

Any notice required or permitted to be given to any party to this Bond shall be given in writing and shall be delivered personally or mailed by prepaid regular mail. Any such notice shall be conclusively deemed to have been given and received on the day on which it is delivered, if personally delivered, or if mailed, on the second business day immediately next following the date of mailing, and addressed, in the case of the Co-operative to 42 Heintzman Street, Toronto, Ontario M6P 2J6, Attention: Executive Director, and in the case of the Member to the Member's latest address as shown in the records of Share.

The foregoing information can be changed by giving a notice in accordance with the requirements set out in this Section.

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SCHEDULE C

ZooShare Biogas Co-operative Inc.

Trust Agreement dated July 11, 2013

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SCHEDULE D

Procedures for Meetings of Series 3 Bondholders

1. Right to Convene Meeting -- The Trustee shall, on the request of the Co-operative or a Series 3 Bondholder, or on its own initiative, convene a meeting of Series 3 Bondholders, on ten days notice in the manner provided for in paragraph 7 of the Trust Agreement (the **Request**). In the event the Trustee fails, within five days after receipt of a request, to give notice convening such meeting, the Co-operative or such Series 3 Bondholder, as the case may be, may convene such meeting. Every such meeting shall be held at such place as may be determined by the party calling the meeting.
2. Chair -- A person, who need not be a Series 3 Bondholder, nominated by the party calling the meeting, shall chair the meeting and if no person is so nominated, the Series 3 Bondholder shall choose person present at the meeting to be the chair.
3. Power to Adjourn -- The chair of any meeting may, with the consent of the holders of a majority in principal amount of the Series 3 Bonds represented there, adjourn any such meeting and no notice of such adjournment need be given except such notice, if any, as the meeting may prescribe.
4. Show of Hands -- Every question submitted to a meeting shall be decided in the first place by the votes given on a show of hands, unless a poll is requested by any Series 3 Bondholder. At any such meeting, unless a poll is requested, a declaration by the chair that a resolution has been carried or carried unanimously or by a particular majority or lost or not carried by a particular majority shall be conclusive evidence of the fact.
5. Poll -- When a poll is requested on any question submitted to a meeting, either before or after a vote by show of hands, it shall be taken in such manner as the chair shall direct.
6. Proxies -- The Trustee may make rules for voting by proxy and the form of the instrument appointing a proxy.
7. The Co-operative and Trustee may be Represented -- The Co-operative, by its officer or director, the Trustee, and the legal advisors of the Co-operative and the Trustee, may attend any meeting of the Series 3 Bondholders, but shall have no vote.