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October 22, 2020

**Terri-Lee Oleniuk**

Partner

Dir: 403-260-9635

terri-lee.oleniuk@blakes.com

**VIA ELECTRONIC DDS**

British Columbia Utilities Commission  
Suite 410, 900 Howe Street  
Vancouver, BC V6Z 2N3

180260/1

Attention: Commission Secretary

**RE: CB Powerline Ltd. (“CBP”)  
Application for a Certificate of Public Convenience and Necessity (“Application”)  
Revision to the Application**

Please find enclosed revised documents filed on behalf of CBP. CBP redacted certain information in the Application but has determined several of those redactions were applied in error. CBP therefore submits the enclosed documents as a revision to its Application, as follows:

- Revised Exhibit 3.3.2 of the Application: East Kalamalka Lake Landowner SRW Agreement. The name and signature of the counterparty to this agreement was redacted in two places in the document in the Application<sup>1</sup> and those redactions have been removed in the revised document attached hereto as Attachment A; and
- Revised Exhibit 7.3 of the Application: Amended and Restated Shareholders’ Agreement (form of) and Power Purchase Agreement (form of). The address for notice for CBP was redacted in two locations in the document in the Application<sup>2</sup> and those redactions have been removed in the revised document attached hereto as Attachment B. CBP seeks to have some redaction remain in this document and will separately file a confidentiality request for these redactions.

Should you have any questions or require any additional information, please do not hesitate to contact the undersigned.

Sincerely,

Terri-Lee Oleniuk

<sup>1</sup> Located at PDF 228 and 230 in the Application.

<sup>2</sup> Located at PDF 298 and 317 in the Application.

31485397.4

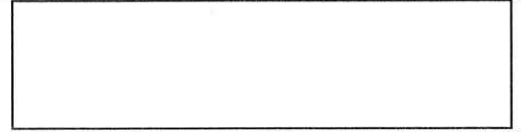


**Attachment A**

**Revised Exhibit 3.3.2: East Kalamalka Lake Landowner SRW Agreement**

**LAND TITLE ACT  
FORM C (Section 233) CHARGE  
GENERAL INSTRUMENT - PART 1 Province of British Columbia**

Your electronic signature is a representation that you are a designate authorized to certify this document under section 168.4 of the *Land Title Act*, RSBC 1996 c.250, that you certify this document under section 168.41(4) of the act, and that an execution copy, or a true copy of that execution copy, is in your possession.



1. APPLICATION: (Name, address, phone number of applicant, applicant's solicitor or agent)

**NIXON WENGER LLP**  
Barristers and Solicitors  
#301, 2706-30th Avenue  
Vernon

BC V1T 2B6

Tel: (250) 542-5353  
LTO #10560  
File Ref: 50550-001  
Kal Park/CB Powerline - SRW

Deduct LTSA Fees? Yes

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID] [LEGAL DESCRIPTION]

**002-078-775 THAT PART OF DISTRICT LOT 4679 OSOYOOS DIVISION YALE DISTRICT  
LYING NORTH OF THE PRODUCTION WESTERLY OF THE SOUTH  
BOUNDARY OF DISTRICT LOT 4678 OSOYOOS DIVISION YALE DISTRICT**

STC? YES

3. NATURE OF INTEREST CHARGE NO. ADDITIONAL INFORMATION

**Statutory Right of Way**

4. TERMS: Part 2 of this instrument consists of (select one only)

(a)  Filed Standard Charge Terms D.F. No.

(b)  Express Charge Terms Annexed as Part 2

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument.

5. TRANSFEROR(S):

**KALAMALKA PARK ESTATES LTD. (INC. NO. 0707276)**

6. TRANSFEREE(S): (including postal address(es) and postal code(s))

**CB POWERLINE LTD.**

SUITE 2600, THREE BENTALL, P.O. BOX 49314, 595 BURNARD STREET  
VANCOUVER BRITISH COLUMBIA  
V7X 1L3 CANADA

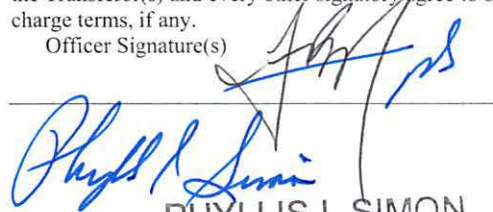
Incorporation No  
BC1130476

7. ADDITIONAL OR MODIFIED TERMS:

NIL

8. EXECUTION(S): This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Officer Signature(s)

  
PHYLLIS I. SIMON

A Notary Public in and for  
The Province of British Columbia  
#101 5145 26th Street  
Vernon, BC V1T 8G4


(as to both signatures)

Execution Date

Y	M	D
20	08	12

Transferor(s) Signature(s)

Kalamalka Park Estates Ltd., by its authorized signatories

  
FRANK BALLAUF

Print name

Print name

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

**LAND TITLE ACT  
FORM D**

**EXECUTIONS CONTINUED**

Officer Signature(s)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Execution Date

Y	M	D
20		

Transferor / Borrower / Party Signature(s)

CB Powerline Ltd., by its authorized signatories:

\_\_\_\_\_  
Print name

\_\_\_\_\_  
Print name

\_\_\_\_\_

\_\_\_\_\_

**OFFICER CERTIFICATION:**

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

Your electronic signature is a representation that you are a designate authorized to certify this document under section 168.4 of the *Land Title Act*, RSBC 1996 c.250, that you certify this document under section 168.41(4) of the act, and that an execution copy, or a true copy of that execution copy, is in your possession.



1. APPLICATION: (Name, address, phone number of applicant, applicant's solicitor or agent)

**NIXON WENGER LLP**

Barristers and Solicitors

#301, 2706-30th Avenue

Vernon

BC V1T 2B6

Tel: (250) 542-5353

LTO #10560

File Ref: 50550-001

Kal Park/CB Powerline - SRW

Deduct LTSA Fees? Yes

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID]

[LEGAL DESCRIPTION]

**002-078-775**

**THAT PART OF DISTRICT LOT 4679 OSOYOOS DIVISION YALE DISTRICT  
LYING NORTH OF THE PRODUCTION WESTERLY OF THE SOUTH  
BOUNDARY OF DISTRICT LOT 4678 OSOYOOS DIVISION YALE DISTRICT**

STC? YES

3. NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

**Statutory Right of Way**

4. TERMS: Part 2 of this instrument consists of (select one only)

(a)  Filed Standard Charge Terms D.F. No.

(b)  Express Charge Terms Annexed as Part 2

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument.

5. TRANSFEROR(S):

**KALAMALKA PARK ESTATES LTD. (INC. NO. 0707276)**

6. TRANSFEREE(S): (including postal address(es) and postal code(s))

**CB POWERLINE LTD.**

SUITE 2600, THREE BENTALL, P.O. BOX 49314, 595 BURRARD STREET

Incorporation No

VANCOUVER

BRITISH COLUMBIA

BC1130476

V7X 1L3

CANADA

7. ADDITIONAL OR MODIFIED TERMS:

NIL

8. EXECUTION(S): This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Officer Signature(s)

\_\_\_\_\_

Execution Date

Y	M	D
20		

Transferor(s) Signature(s)

**Kalamalka Park Estates Ltd., by its  
authorized signatories**

\_\_\_\_\_  
Print name

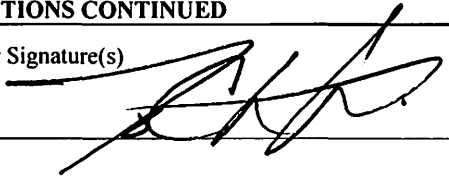
\_\_\_\_\_  
Print name

(as to both signatures)

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

Officer Signature(s)



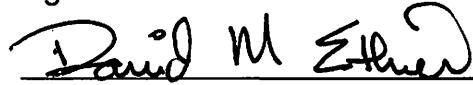
**TOM CHRISTENSEN, Q.C.**  
*Barrister and Solicitor*  
#301 2706-30 Avenue  
Vernon BC V1T 2B6  
(250) 542-5353

Execution Date

Y	M	D
20	07	16.

Transferor / Borrower / Party Signature(s)

CB Powerline Ltd., by its authorized signatories:



Print name

DAVID M ETHIER

Print name

**OFFICER CERTIFICATION:**

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.



**Attachment B**

**Revised Exhibit 7.3: Amended and Restated Shareholders' Agreement (form of) and Power Purchase Agreement (form of)**

**AMENDED & RESTATED SHAREHOLDERS' AGREEMENT**  
**of**  
**CB POWERLINE LTD.**

Effective as of [●], 2020



## AMENDED & RESTATED SHAREHOLDERS' AGREEMENT

THIS AMENDED AND RESTATED AGREEMENT is made effective as of the [●] day of [●], 2020:

AMONG:

**CB POWERLINE LTD.**, a corporation incorporated under the laws of the Province of British Columbia (the "**Corporation**")

- and -

**EACH OF THE PARTIES LISTED IN SCHEDULE "A"**

**WHEREAS** the Corporation and the Initial Shareholders entered into a shareholder agreement made as of June 26, 2019 establishing certain rights among the parties thereto (the "**Original Shareholders' Agreement**");

**AND WHEREAS** pursuant to Power Purchase Agreements dated August 14, 2019, among the Corporation and certain Buyers, such Buyers agreeing, in connection with the execution of the Power Purchase Agreement and the issuance of one common share in the capital of the Corporation, to be bound to the terms of the Original Shareholders' Agreement;

**AND WHEREAS** pursuant to Section 6.12 of the Original Shareholders' Agreement, the parties thereto may amend the Original Shareholders' Agreement by an instrument in writing signed by the Corporation and Shareholders holding, in aggregate, 66 <sup>2</sup>/<sub>3</sub>% of the issued and outstanding Shares;

**AND WHEREAS** the Corporation was formed to undertake the Business (as defined herein) as a community initiative for Cosens Bay, without the expectation of profit;

**AND WHEREAS** the Corporation and the Shareholders wish to enter into this amended and restated Shareholders' Agreement in respect of the governance of the Corporation;

**NOW THEREFORE** in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby amend and restate the Original Shareholders' Agreement as follows:

### ARTICLE 1 INTERPRETATION

#### 1.1 Definitions

For the purpose of this Agreement, the following words and phrases shall have the following meanings, unless the context otherwise requires:

- (a) "**Act**" means the *Business Corporations Act* (British Columbia).
- (b) "**Agreement**" means this amended and restated shareholders' agreement, as same may be amended, supplemented or restated from time to time; "**hereof**", "**herein**", "**hereto**" and "**hereunder**" and similar expressions mean and refer to this Agreement and not to any particular Article or Section.

- (c) "**Board of Directors**" or "**Board**" means the board of directors of the Corporation.
- (d) "**Budget**" means a budget of the key projected business activities, operations, construction and maintenance of the Power Line, site remediation and the administration of the Corporation, including estimates of proposed and committed expenditures, capital, operating or otherwise, and the subject matter of each expenditure and all sources of revenue, cash and financing of the Corporation for the subject period.
- (e) "**Business Day**" means any calendar day which is not a Saturday, Sunday or other day recognized as a statutory holiday in British Columbia.
- (f) "**Buyer**" means a Person who is defined as a "**Buyer**" pursuant to a Power Purchase Agreement.
- (g) "**Chair**" means the chair of the Board of Directors, from time to time.
- (h) "**Corporation**" means CB Powerline Ltd., a corporation incorporated under the laws of the Province of British Columbia.
- (i) "**Director**" means a Person who is, from time to time, duly elected or appointed as a director of the Corporation in accordance with the provisions of this Agreement.
- (j) "**Funding Cap**" has the meaning ascribed thereto in the applicable Power Purchase Agreement.
- (k) "**Funding Request**" has the meaning ascribed thereto in the applicable Power Purchase Agreement.
- (l) "**Initial Shareholders**" means John D. Keating, Gordon M. Allan, Gordon B. Moug, John A. Williams and David M. Ethier.
- (m) "**Laws**" means all applicable statutes, codes, ordinances, decrees, rules, regulations, judicial or arbitral or administrative or ministerial or departmental or regulatory judgments, orders, decisions, rulings or awards, policies, decisions, public notices, directions, guidelines relating to the Corporation and/or its business, or any provisions of such laws, including general principles of common and civil law and equity as may be in force from time to time; and "**Law**" shall mean any one of the foregoing.
- (n) "**Lien**" means: (i) any mortgage, deed of trust, charge, pledge, hypothec, hypothecation, security interest, assignment by way of security, encumbrance, deemed trust, lien (statutory or otherwise), lease, sublease, right to possession, hire purchase agreement, conditional sale agreement, deposit arrangement, royalty interest, capital lease, title retention agreement or arrangement; (ii) any trust arrangement, (iii) any arrangement which creates a right of set-off out of the ordinary course of business; (iv) any option, purchase-option, call, warrant, right or privilege capable of becoming a Transfer; (v) any netting agreement, defeasance arrangement or reciprocal fee arrangement, and (vi) any agreement to grant or other arrangement having the effect of providing any such rights or interests.
- (o) "**Loan Shareholders**" means the Shareholders who have received a Promissory Note from the Corporation;

- (p) "**Losses and Liabilities**" means, in respect of a Person, any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, costs and expenses, including reasonable legal and court costs and fees.
- (q) "**Management**" means the Persons duly authorized by the Board from time to time (which initially are the Corporation's officers) to manage the day to day business and affairs of the Corporation as delegated by, and subject to the supervision of, the Board in accordance with Section 2.2 and the other provisions of this Agreement.
- (r) "**Non-Resident Director**" has the meaning ascribed to it in Section 2.4(b).
- (s) "**Parties**" means the parties to this Agreement; and "**Party**" means any one of them.
- (t) "**Person**" means any individual, partnership, limited partnership, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, limited liability company, unincorporated association, First Nation, trust (including any beneficiary thereof), trustee, executor, administrator or other legal personal representative, regulatory body or agency, government or governmental agency, authority or entity however designated or constituted.
- (u) "**Power Line**" means the submarine cable, metering, poles and interconnection equipment on the west side of Kalamalka Lake, the submarine cable, across and the community distribution system installed to the edge of a Buyer's property line within the Cosens Bay and Kalamalka Park Estates developments that is to be designed, constructed, owned and operated by the Corporation, as the concept for such Power Line may be modified from time to time.
- (v) "**Power Purchase Agreement**" means any power purchase agreement between the Corporation and a Buyer, as the same may be amended from time to time.
- (w) "**Promissory Notes**" means the grid promissory notes entered into between the Corporation and the Loan Shareholders whereby the Loan Shareholders irrevocably agree to provide funding to the Corporation, as the Directors may determine from time to time, pursuant to the terms and conditions of the grid promissory notes;
- (x) "**Series 1 Buyers**" means those Buyers who signed expressions of interest in 2017 to participate for their pro rata share of the capital costs of the Power Line.
- (y) "**Series 2 Buyers**" means those Buyers who did not previously sign expressions of interest but entered into a Power Purchase Agreement prior to the Commercial Operation Date (as defined therein).
- (z) "**Series 3 Buyers**" means those Buyers who entered into a Power Purchase Agreement subsequent to the Commercial Operation Date (as defined therein).
- (aa) "**Shares**" means the common shares in the capital of the Corporation, and where the context permits, includes any securities into which such common shares may be converted, reclassified, redesignated, subdivided, consolidated or otherwise changed.
- (bb) "**Shareholders**" means any Person that owns Shares, in accordance with the terms and conditions hereof.

- (cc) "**Transfer**" includes any sale, exchange, assignment, gift, bequest, disposition, mortgage, charge, pledge, encumbrance, grant of security interest or any arrangement by which possession, legal title or beneficial ownership passes from one Person to another, or to the same Person in a different capacity, whether or not voluntary and whether or not for value, and any agreement to effect any of the foregoing; and "**Transferred**", and similar variations have corresponding meanings.

## 1.2 Headings

In this Agreement, the headings are for convenience of reference only, do not form a part of this Agreement and are not to be considered in the interpretation of this Agreement.

## 1.3 Expanded Meanings

In this Agreement:

- (a) words importing the masculine gender include the feminine and neuter genders, corporations, partnerships and other Persons, and words in the singular include the plural, and vice versa, wherever the context requires;
- (b) all references to designated Articles, Sections and other subdivisions are to be designated Articles, Sections and other subdivisions of this Agreement;
- (c) any reference to a statute includes and is deemed to be a reference to the regulations made pursuant to it, and to all amendments made to the statute and regulations in force from time to time, and to any statute or regulation that may be passed which has the effect of supplementing or superseding the statute referred to or the relevant regulation;
- (d) any reference to a Person includes and is deemed to be a reference to any Person that is a successor to that Person;
- (e) if any date on which any action is required to be taken hereunder by any of the Parties is not a Business Day in the place where an action is required to be taken, such action is required to be taken on the next succeeding day which is a Business Day in such place;
- (f) the words "**include**" or "**including**", when following any general term or statement, are not to be construed as limiting the general term or statement to the specific items or matters set forth or to similar items or matters, but rather as permitting such general term or statement to refer to all other items or matters that could reasonably fall within its broadest possible scope; and
- (g) "**hereof**", "**hereto**", "**herein**", "**hereby**" and "**hereunder**" mean and refer to this Agreement and not to any particular Article, Section or other subdivision.

## 1.4 Currency

All references to currency herein are references to lawful money of Canada.

## **1.5 Paramountcy**

Subject to the provisions of the Act, in the event of any conflict between the provisions of this Agreement and the articles and by-laws of the Corporation, the provisions of this Agreement shall govern. Each of the Shareholders will take such steps and proceedings as may be required to amend the articles or by-laws to resolve any such conflicts in favour of this Agreement.

## **1.6 Agreement to be Bound**

Each Person who becomes a shareholder of the Corporation must, concurrently with becoming a shareholder, execute and deliver to the Corporation an acknowledgement substantially in the form attached hereto as Schedule 1.6. The Corporation shall carry out and be bound by this Agreement to the full extent that it has the capacity and power at Law to do so.

## **1.7 Continuing Obligations**

If a Shareholder Transfers all of its Shares, the obligations and entitlements of the Shareholder under this Agreement shall cease.

## **1.8 Deemed Consent Under Articles**

Each of the Parties: (i) consents to a Transfer of Shares made in accordance with this Agreement; and (ii) agrees that this consent satisfies any restriction on the transfer of the Shares contained in the articles or by-laws of the Corporation and that no further consent is required under the articles or by-laws of the Corporation for any such Transfer.

## **1.9 Actions in Accordance with Agreement**

Each Shareholder will vote its Shares to give full force and effect to this Agreement whether at a meeting of the Shareholders or by written resolution of the Shareholders. Each Director will vote to give full force and effect to this Agreement whether at a meeting of the Directors or by written resolution of the Directors.

## **1.10 Schedules**

Schedules annexed to and incorporated in this Agreement by reference are deemed to be a part hereof.

## **1.11 Share Certificates**

In addition to any legends required by applicable securities Laws, all certificates representing Shares held by a Shareholder that is a Party or is deemed to be a Party to this Agreement issued from and after the date hereof must bear the following legend:

"The shares represented by this certificate are subject to an amended and restated shareholders' agreement dated effective [●], 2020 among the Corporation and certain of its shareholders, as may be amended from time to time, and such shares may not be pledged, sold or otherwise transferred except in accordance with the terms of that agreement. Any transfer made in contravention of such restrictions is null and void. A copy of the agreement is on file at the registered office of the Corporation and available for inspection on request and without charge."

## ARTICLE 2 DIRECTORS AND SHAREHOLDERS

### 2.1 Business and Affairs of the Corporation

- (a) **Compliance with Agreement.** Each Shareholder and Director, as the case may be and to the extent that they have the legal ability to cause the same, shall cause such meetings to be held, votes to be cast, resolutions to be passed, by-laws to be made and confirmed, documents to be executed and other things and acts to be done to ensure that, at all times, the provisions of this Agreement are in effect or are complied with; provided, however, that nothing herein shall obligate any Shareholder or cause any Director to violate or act in contravention of any duty or obligation that such Shareholder or Director may have under the Act or under Law. For greater certainty, the Shareholders agree to vote their Shares (to the extent applicable) and exercise all rights attached to their Shares (to the extent applicable) to approve and ratify decisions approved in accordance with this Agreement and waive any right they may have to exercise any of the recourses and remedies available pursuant to the Act in connection with the approval of such decisions.
  
- (b) **Business of the Corporation.** The business of the Corporation shall be limited to: (i) the ownership, development, financing, operation, maintenance, permitting of the Power Line; (ii) the sale and delivery of electricity to Buyers pursuant to the Power Purchase Agreements; and (iii) all activities ancillary to any of the foregoing (collectively, the "**Business**").

### 2.2 Powers of Directors

Subject to this Agreement (including Section 2.10), the Directors will supervise the management of the Business in accordance with this Agreement, the Act, the articles and the by-laws of the Corporation. For greater certainty, where any reference is made in this Agreement to an act to be performed by the Corporation, such reference shall be construed and applied for all purposes as if it referred to an act to be performed by Management on behalf of the Corporation or by some other person duly authorized to do so by the Board. For clarity and notwithstanding anything else contemplated by this Agreement, and without limiting the other powers of the Directors set forth in this Section 2.2, the Directors may: (i) take any action consistent with the then current Budget; (ii) approve any single development, capital expenditure or other expenditure which was not included in the Budget, to a maximum of \$15,000 per event; (iii) enter into, amend, modify, terminate, or approve the assignment or transfer of, any material contract with the Corporation (including any Power Purchase Agreement); (iv) approve and implement the development and construction plan for the Power Line and any other ancillary actions undertaken by the Corporation; and (v) make any payments contemplated by Section 2.11.

### 2.3 Budget

Management of the Corporation shall prepare and submit to the Board for approval not later than 30 days prior to the commencement of each fiscal year of the Corporation, the annual Budget, which will be subject to the approval of the Shareholders in accordance with Section 2.9(b). To the extent any proposed Budget is not approved as required by this Agreement, the last approved Budget (escalated by an inflation factor of 5%) will continue to apply until such time as the proposed Budget is approved.

## 2.4 Board of Directors

- (a) **Composition of the Board.** The Corporation shall at all times have a minimum of three Directors and a maximum of five Directors. As at the date hereof, the Board of Directors is comprised of John D. Keating, Gordon M. Allan, Gordon B. Moug, John A. Williams and David M. Ethier. The Directors shall, from time to time, appoint the Chair. As at the date hereof, John D. Keating is the Chair. In the case of an equality of votes, the Chair shall not have a second or casting vote.
- (b) **Non-Resident Director.** The Board of Directors may include one or more Directors who are not full or part-time residents of Cosens Bay (each, a "**Non-Resident Director**"), should such Director bring needed expertise not otherwise found among the full or part-time resident pool of talent within Cosens Bay. The need for such a Director will be determined by the then existing Board of Directors, acting reasonably, and recommend to the Shareholders for election.
- (c) **Filling Vacancy.** Notwithstanding the foregoing, if a Director ceases to be a Director for any reason, the Directors may appoint a person to fill such vacancy.
- (d) **Resignation.** If a Director (other than a Non-Resident Director) ceases to be a full or part-time resident of Cosens Bay, such Director agrees to resign with effect immediately upon ceasing to be a full or part-time resident of Cosens Bay and will execute any documents reasonably requested by the Corporation in connection with the same.
- (e) **Board Approval.** Board decisions shall be required to be approved ("**Board Approval**") by way of: (i) a resolution passed by a majority of the Directors present (in person or by proxy) at a duly constituted meeting of the Board at which a quorum is present; or (ii) a resolution or consent signed by all of the Directors then in office (which instrument may be signed in counterparts).
- (f) **Board Quorum.** A majority of the Directors then in office shall constitute a quorum for the transaction of business at a meeting of the Board. If, however, within an hour after the time fixed for the holding of such meeting, a quorum for the meeting is not present, the meeting is to be held at the same time and place on the day which is two days later (or if that date is not a Business Day, the first Business Day after that date). At such meeting the quorum will consist of the Directors then present.

## 2.5 Remuneration of Directors

No amount shall be payable by way of salary, bonus or other remuneration to any Director or officer of the Corporation in such capacity, except for in the case of the Non-Resident Director who shall be entitled to the remuneration, if any, as the Board of Directors may from time to time determine. Each Director will be reimbursed by the Corporation for all reasonable expenses incurred with respect to such Director acting in such capacity, in accordance with the Corporation's expense reimbursement policies.

## 2.6 Meetings of Shareholders

Unless the Shareholders agree, by Extraordinary Approval (as defined below), to a written consent or resolution in lieu of a meeting, meetings of Shareholders (other than the annual general meeting) shall be held at the registered office of the Corporation, or at such other place within or outside British Columbia as the Board may determine, and may be called by any Director or Shareholder upon not less than 21 days'

notice to the Shareholders and the Corporation, which notice shall contain a statement as to the business proposed to be transacted at such meeting. The annual general meeting of Shareholders shall be held in Cosens Bay, and Shareholders shall be given at least 30 days' prior notice of such annual general meeting.

## **2.7 Shareholder Quorum**

Shareholders representing 25% of the outstanding Shares present or represented by proxy shall constitute a quorum for the transaction of business at a meeting of the Shareholders. If, within an hour after the time fixed for the holding of such meeting, a quorum for the meeting is not present, the meeting is to be held at the same time and place on the day which is two days later (or if that date is not a Business Day, the first Business Day after that date). At such meeting the quorum will consist of the Shareholders then present.

## **2.8 Shareholder Approvals**

Unless a matter requires Extraordinary Approval, Shareholder decisions shall be required to be approved by way of: (i) a resolution passed at a duly constituted meeting of Shareholders at which a quorum is present, by Shareholders (or their proxies) holding a majority of the Shares then outstanding; or (ii) an instrument signed by Shareholders holding a majority of the Shares then outstanding (which instrument may be signed in counterparts). Shareholder decisions requiring "**Extraordinary Approval**" means approval by way of: (i) a resolution passed at a duly constituted meeting of Shareholders at which a quorum is present, by Shareholders (or their proxies) holding at least 66<sup>2/3</sup>% of the Shares then outstanding; or (ii) an instrument signed by Shareholders holding at least 66<sup>2/3</sup>% of the Shares then outstanding (which instrument may be signed in counterparts).

## **2.9 Certain Matters Requiring Ordinary Shareholder Approval**

No action, decision, resolution or by-law with respect to the following matters regarding the Corporation shall be made without approval of the Shareholders:

- (a) the making or approving of any single development, capital expenditure or other expenditure in excess of \$15,000, unless included in the Budget;
- (b) the approval of the Budget; and
- (c) the commencement or settlement of, or the election not to defend, any legal action or dispute.

## **2.10 Certain Matters Requiring Extraordinary Approval**

No action, decision, resolution or by-law with respect to the following matters regarding the Corporation shall be made without Extraordinary Approval:

- (a) any amendment to or revocation of the articles, by-laws or constituting documents of the Corporation;
- (b) any material change in, or any termination or suspension of any material part of, the Business;
- (c) the sale, lease, license, exchange or disposition of any of its material assets or the granting of any encumbrance on its assets;



- (d) the taking or institution of any proceedings for their winding-up, reorganization or dissolution, or the filing of an assignment in bankruptcy, the disposition of its property in favour of its creditors or the filing of a proposal pursuant to the *Bankruptcy and Insolvency Act* (Canada) or any other Laws relating to insolvency or the filing of a compromise or an arrangement or a proposal of a compromise or an arrangement pursuant to the *Companies' Creditors Arrangement Act* (Canada);
- (e) any deviation from the Commitment Levels;
- (f) the incurrence of any indebtedness by the Corporation; and
- (g) the issuance of any Share from treasury other than to a Buyer in connection with the execution of a Power Purchase Agreement.

## **2.11 Commitments under Power Purchase Agreements**

Unless otherwise approved by the Shareholders pursuant to Section 2.10(e), any Power Purchase Agreement entered into with:

- (a) a Series 1 Buyer will have a Funding Cap of \$47,500;
- (b) a Series 2 Buyer will have a Funding Cap equal to:  
 $(\$2,500 + \text{the final average all-in capital cost of the Power Line per Shareholder}) \times 1.4$   
to a maximum of \$90,000; and
- (c) a Series 3 Buyer will have a Funding Cap equal to:  
 $(\$2,500 + \text{the final average all-in capital cost of the Power Line per Shareholder}) \times 1.5$   
to a maximum of \$100,000, with such maximum amount to be adjusted upwards on an annual basis of 2%, commencing on January 1, 2023,

collectively, the "**Commitment Levels**".

## **2.12 Potential Repayments of Commitment Levels and other Indebtedness**

Following the commercial operation date of the Power Line, the Directors may, from time to time and in their discretion, pay to the Loan Shareholders any amounts owed under the Promissory Notes, including accrued interest, from the amounts received from Series 1 Buyers, Series 2 Buyers and/or Series 3 Buyers, or such other sources of funds as the Directors may determine. Following the full repayment of the Loan Shareholders, the Directors may, from time to time and in their discretion, pay to the Series 1, Series 2 and Series 3 Buyers (on a pro rata basis) an amount up to the Funding Requests actually paid by the Series 1, Series 2 and Series 3 Buyers, from amounts received from Series 2 Buyers and Series 3 Buyers in respect of their Commitment Levels.

### ARTICLE 3 TRANSFERS

#### 3.1 Ownership of Shares and Restrictions on Transfer by Shareholders

- (a) **Buyers Only.** Each Shareholder must also be a Buyer, and may only hold one Share for each Power Purchase Agreement to which it is a party. Upon the execution by a Buyer of a Power Purchase Agreement, such Buyer will be issued one Share for no consideration. In the event such Buyer's Power Purchase Agreement is terminated, such Buyer's Share will, without the requirement of any additional action on the part of the Corporation or such Buyer, be returned to the Corporation immediately for cancellation for no consideration. In the event such Buyer's Power Purchase Agreement is assigned to a successor Buyer, the original Buyer's Share will be concurrently transferred to the successor owner for no consideration.
- (b) **No Transfer.** No Shareholder may Transfer any Shares without the prior written approval of the Board, in its sole discretion.
- (c) **Transfer Void.** Any purported Transfer of Shares in violation of this Agreement is void to the maximum extent permitted by Laws. To the maximum extent permitted by Laws, the Corporation will not permit such a purported Transfer to be recorded on the share register of the Corporation maintained for the Shares.
- (d) **Suspension of Rights.** To the maximum extent permitted by applicable Laws, from the date of any purported Transfer of Shares in violation of this Agreement, all rights attaching to such Shares are suspended and are inoperative until the purported Transfer is rescinded. During such time such Shares may not be voted and no dividends or other distributions may be paid or made on such Shares. These rights are in addition to and not in lieu of any other remedies.
- (e) **Power of Attorney.** Each Shareholder hereby appoints the Corporation as its attorney, with full power of substitution, in the name of such Shareholder to execute and deliver all documents and instruments and take all steps in each case to give effect to any cancellation or transfer contemplated by Section 3.1(a). Such appointment, being coupled with an interest, is irrevocable by such Shareholder and will not be revoked by the insolvency, bankruptcy, death, incapacity, dissolution, liquidation or other termination of the existence of such Shareholder. The power of attorney granted in this Section 3.1(e) is not intended to be a continuing power of attorney. The execution of this Agreement shall not be terminated by the execution by that Shareholder in the future of a continuing power of attorney, and each Shareholder hereby agrees not to take any action in the future which would result in the termination of this power of attorney.

#### 3.2 Encumbering of Shares

No Shareholder may grant a Lien on any of its Shares.

**ARTICLE 4**  
**LIABILITY AND INDEMNITY**

**4.1 Liability and Indemnity**

- (a) Each Shareholder acknowledges and agrees that the directors, officers and employees (if any) of the Corporation (collectively, "**Indemnified Persons**") are, with the exception of any Non-Resident Directors, volunteers from the Cosens Bay community who may or may not have experience in the power distribution industry and the Indemnified Persons will not be held to the same standard of care that would be applicable to either industry professionals or entities providing services for profit. The spirit and intent of this Article 4 is that, in the absence of fraud or wilful misconduct, claims for Losses and Liabilities are not to be brought against the Indemnified Persons.
- (b) To the fullest extent permitted by Laws, each Indemnified Person is indemnified and held harmless by the Corporation from and against any and all Losses and Liabilities arising from any and all claims, demands, actions, suits or proceedings, whether civil, criminal, administrative or investigative, in which any Indemnified Person may be involved, or is threatened to be involved, as a party or otherwise, by reason of them acting in their capacities as directors, officers or employees; provided that, in each case the Indemnified Person acted in good faith and had no reasonable cause to believe its conduct was unlawful. To the fullest extent permitted by Laws, expenses (including legal fees and expenses) incurred by an Indemnified Person in defending any claim, demand, action, suit or proceeding are to be, from time to time, advanced by the Corporation prior to the final disposition of such claim, demand, action, suit or proceeding upon receipt by the Corporation of an undertaking by or on behalf of the Indemnified Person to repay such amount if it is determined that the Indemnified Person is not entitled to be indemnified as authorized in this Section 4.1(b).
- (c) Notwithstanding anything else in this Agreement, no Party shall be liable for any indirect, special, incidental, exemplary, consequential or punitive damages, or any loss of business opportunity, loss of throughput, loss of tax benefits, loss of anticipated profits or revenue, or loss of use claims incurred or suffered by the other Party or any other Person and arising in connection with this Agreement, whether such liability is claimed in contract, tort (including negligence and strict liability, warranty or any other legal or equitable theory), or otherwise, and even if the Parties have been advised of the possibility of such damage or loss.

**ARTICLE 5**  
**NOTICES**

**5.1 Address for Notice**

Any notice or other written communication which must be given or sent under this Agreement shall be given by first-class or registered mail or personal delivery to the addresses of the Corporation and the

Shareholders, by facsimile to the facsimile number of the Corporation and the Shareholders, or by email to the email address of the Corporation and the Shareholders as follows:

- (a) In the case of the Corporation, to:

CB Powerline Ltd.  
c/o 806 – 24 Varsity Estates Circle NW  
Calgary, AB T3A 2X8  
Attention: Chairman  
Email: [jkeating403@gmail.com](mailto:jkeating403@gmail.com)

- (b) In the case of any other Shareholder, to:

The address for notice set forth in such Shareholder's acknowledgement substantially in the form attached hereto as Schedule 1.6 or otherwise recorded in the records of the Corporation.

## **5.2 Change of Address**

A Shareholder may, at any time, change his address for the purpose of service by written notice to the Corporation. The Corporation may change its address for the purpose of service by written notice to all the Shareholders.

## **5.3 Disruption in Mail**

In the event of any disruption, strike or interruption in the Canadian postal service after mailing and before receipt or deemed receipt of a document, it will be deemed to have been received on the sixth Business Day following full resumption of the Canadian postal service.

## **5.4 Receipt of Notice**

Subject to Section 5.3, notices given by first-class or registered mail are deemed to have been received on the fifth Business Day following the deposit of such notice in the mail and notices given by hand delivery shall be deemed to have been received on the date of their delivery. Notices given by facsimile or email shall be deemed to have been received on the Business Day of their transmission or sending, unless transmitted or sent subsequent to 4:00 p.m. at the place of receipt, in which case they shall be deemed to have been received on the following Business Day.

# **ARTICLE 6 GENERAL PROVISIONS**

## **6.1 Transfer Agreement**

The Parties acknowledge that that the powers of the Directors to manage or supervise the management of the business and affairs of the Corporation may be restricted and transferred in accordance with section 137 of the Act and that this Agreement is a "Transfer Agreement" under the Corporation's articles to give effect to such restrictions and transfers. The provisions of this Agreement are incorporated by reference into the Corporation's articles to the extent that this Agreement transfers to a Person a right, power, duty or liability that is, under the Act, given to or imposed on a Director or Directors to manage or supervise the management of the business and affairs of the Corporation.

## **6.2 Termination of Agreement**

This Agreement shall terminate upon the occurrence of any of the following events:

- (a) upon the bankruptcy or dissolution of the Corporation;
- (b) upon the agreement in writing of all of the Parties; or
- (c) upon one Party acquiring 100% of the outstanding Shares.

## **6.3 Time**

Time is of the essence hereof. Notwithstanding anything else contained herein, any notice or other time period contemplated by this Agreement can be waived in writing by the Party for whose benefit such notice or other time period was intended. All references to time shall refer to the prevailing time in Vancouver, British Columbia.

## **6.4 Counterparts**

This Agreement and any amendment to it, may be executed in counterparts, including by facsimile or PDF, each of which is deemed an original agreement. All counterparts and adopting instruments shall be construed together and shall constitute one and the same agreement.

## **6.5 Governing Law**

This Agreement is governed by and shall be construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein without reference to the conflict of law rules and shall be treated in all respects as a British Columbia contract. The Parties irrevocably attorn to the non-exclusive jurisdiction of the courts of the Province of British Columbia.

## **6.6 Severability**

Any Article, Section or other subdivision of this Agreement, or any other provision of this Agreement, which is or becomes illegal, invalid or unenforceable in any jurisdiction shall be severed herefrom and shall be ineffective, as to that jurisdiction, to the extent of such illegality, invalidity or unenforceability and shall not affect or impair the remaining provisions hereof, which shall remain in full force and effect, and shall not affect or impair the validity or enforceability of such provision in any other jurisdiction.

## **6.7 Waiver**

Except as otherwise provided in this Agreement, no waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any of the other provisions of this Agreement (whether or not similar), nor shall such waiver constitute a continuing waiver, unless otherwise expressly provided in an instrument in writing duly executed by the Party to be bound thereby.

## **6.8 Remedies Cumulative**

The rights, remedies, powers and privileges herein provided to a Party are cumulative and in addition to and not exclusive of or in substitution for any rights, remedies, powers and privileges otherwise available to that Party.

## **6.9 Further Acts**

The Parties will perform and cause to be performed such further and other acts and things and execute and deliver or cause to be executed and delivered such further and other documents necessary or desirable to carry out the terms and intent of this Agreement.

## **6.10 Binding Effect**

This Agreement becomes effective only when executed by all of the Parties. After that time, it is binding on and enures to the benefit of the Parties and their respective heirs, administrators, executors, legal personal representatives, successors and permitted assigns. Except as otherwise provided in this Agreement, neither this Agreement nor any of the rights or obligations under this Agreement are assignable or transferable by any Party without the prior written consent of the other Parties.

## **6.11 Entire Agreement**

Other than as set forth in Section 1.5, this Agreement constitutes the entire agreement among the Parties with respect to the subject matter hereof and supersedes and replaces the Original Shareholders' Agreement.

## **6.12 Amendments**

This Agreement may only be amended, supplemented or otherwise modified by written agreement signed by the Corporation and Shareholders holding, in aggregate, 66 <sup>2</sup>/<sub>3</sub>% of the issued and outstanding Shares.

## **6.13 Independent Legal Advice**

**Each Shareholder acknowledges that it has been encouraged to receive independent legal advice with respect to this Agreement prior to signing, and if such Shareholder has executed this Agreement without the benefit of independent legal advice, it hereby waives its right to receive such independent legal advice.**

*[Signature page follows.]*

**IN WITNESS WHEREOF, THE PARTIES** have executed this Agreement on the date first hereinabove mentioned.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
[SHAREHOLDER]

**CB POWERLINE LTD.**

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

Name: Gordon B. Moug

Title: President

**SCHEDULE 1.6**

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**FORM OF COUNTERPART AND ACKNOWLEDGMENT**

**To: CB Powerline Ltd. and the Shareholders thereof**

**Re: Amended & Restated Shareholders' Agreement (the "Agreement") made among CB Powerline Ltd. and each of the parties listed in Schedule "A" of the Agreement**

The undersigned acknowledges that it has received a copy of the Agreement and has had an opportunity to review the Agreement. The undersigned agrees to be bound by the terms (including all covenants, agreements and obligations) of the Agreement as a party to the Agreement and shall be entitled to all benefits of a party pursuant to the Agreement, as fully and effectively as though the undersigned had executed the Agreement together with the other Parties to the Agreement.

Dated \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
[NEW SHAREHOLDER]

Address for Notice:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Email: \_\_\_\_\_







[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

## AMENDED & RESTATED POWER PURCHASE AGREEMENT – SERIES 1 BUYERS

THIS AMENDED & RESTATED POWER PURCHASE AGREEMENT ("**Agreement**") is made as of \_\_\_\_\_, 2020

### BETWEEN:

**CB POWERLINE LTD.**, a corporation duly incorporated under the laws of the Province of British Columbia ("**Seller**")

### AND:

**[COSENS BAY BUYER PURCHASING POWER]**, an individual<sup>1</sup> residing at **[address]**, with an email address of **[email address]** ("**Buyer**")

This agreement pertains to Delivery Point #**[1/2]** at Cosens Bay address #● (the "**Address**").

**WHEREAS** Buyer and Seller entered into a Power Purchase Agreement dated August 14, 2019 (the "**Original PPA**") involving, among other things, the sale and purchase of Electricity transported on the Power Line to Buyer;

**AND WHEREAS** pursuant to Section 16(d) of the Original PPA, the Original PPA may be amended provided that it is in writing and signed by both Parties;

**NOW THEREFORE**, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby amend and restate the Original PPA as follows:

### RECITALS:

- A. Seller intends to design, construct, own and operate the Power Line, and wishes to sell Electricity transported on the Power Line and delivered to the Delivery Point to Buyer during the Term;
- B. Buyer is an owner of real property in Cosens Bay and wishes to purchase the Electricity delivered to the Delivery Point by the Seller using the Power Line;
- C. Throughout the Term, Buyer is encouraged to: (i) continuously work to reduce their energy demand; and (ii) continue to and, where possible, expand use of solar power generation to help, collectively among all Buyers, offset the purchase of electricity from BC Hydro; and
- D. It is the intention of Seller to avoid rate shock by limiting or capping the rate charged to Buyer in any given billing period, this being the portion of the Contract Price defined in Section 6(c) and described as the Procurement Price, to the residential rate charged by B.C. Hydro to its customers in British Columbia.

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<sup>1</sup> To be updated for non-individuals.

**NOW THEREFORE THIS AGREEMENT WITNESSES** that in consideration of the premises and of the mutual covenants and agreements set forth in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the Parties, the Parties agree as follows:

**1. Definitions and Interpretation**

For the purposes of this Agreement, capitalized terms set forth in Schedule "D" will have the meanings set forth therein and the rules of interpretation set forth therein will apply to this Agreement.

**2. Term and Termination**

- (a) The sale and purchase of Electricity under this Agreement will commence as of the Commercial Operation Date and continue until December 31, 2060 (the "**Term**"), unless terminated earlier in accordance with this Agreement.
- (b) Either Party will have the right to terminate this Agreement by giving written notice to the other Party, such notice of termination to be effective no less than ninety (90) days after its delivery.
- (c) Upon the termination of this Agreement and upon reasonable notice provided to Buyer, Seller shall have the right to access Buyer's property to disconnect the Power Line from Buyer's property and remove its Metering Equipment. All costs associated with such disconnection and removal shall be borne solely by Buyer and invoiced in accordance with this Agreement.
- (d) Sections 2(c), 4(c)(ii), 5, 6, 8, 12, 13, 14 and 16 shall survive the termination of this Agreement. The representations and warranties given by the Parties shall survive the execution of the Agreement indefinitely.

**3. Construction, Ownership and Operation of Powerline**

- (a) Seller shall design, construct and own the Power Line. This Agreement does not provide Buyer with any ownership rights (including following any Funding Requests) over the Power Line, and Buyer shall not encumber Seller's title to the Power Line in any way.
- (b) Seller shall maintain and operate the Power Line materially in compliance with Good Operating Practice and Applicable Law and shall hold, maintain and comply with all Approvals required by Applicable Law in order to fulfill its obligations hereunder. Nothing in this Agreement shall require Seller to operate the Power Line in violation of Good Operating Practice or Applicable Law.
- (c) Upon reasonable notice to Buyer, Seller shall have the right to access Buyer's property to maintain and repair the Power Line as required.
- (d) Buyer shall ensure that the portion of the Power Line on Buyer's property is fully accessible to Seller at all times, including undertaking any necessary vegetation control at Buyer's sole cost.

#### 4. Sale and Purchase of Electricity

- (a) Electricity to be sold and purchased under this Agreement will be delivered by Seller at the Delivery Point and Buyer will withdraw Electricity from the Power Line at the Delivery Point.
- (b) Seller agrees to sell to Buyer and Buyer agrees to purchase from Seller the Electricity delivered to the Delivery Point along the Power Line. Title to and risk of loss of the Electricity will pass from Seller to Buyer at the Delivery Point.
- (c) Except as expressly set forth in this Agreement:
  - (i) Seller shall be responsible for any costs or charges imposed on or associated with the Electricity or the delivery of Electricity hereunder up to and at the Delivery Point and also for its Metering Equipment located on Buyer's property; and
  - (ii) Buyer shall be responsible for any costs or charges imposed on or associated with the Electricity or the receipt of Electricity hereunder after the Delivery Point, with the exception of the Metering Equipment, which at all times remains the property of Seller.
- (d) Seller shall use commercially reasonable efforts to ensure Electricity is available for withdrawal and purchase by Buyer throughout the Term. However, Seller shall have no liability to Buyer for a failure to deliver any quantity of Electricity. Buyer acknowledges that Seller does not guarantee the supply of Electricity to the Delivery Point or the quality of the Electricity as related to voltage or frequency.
- (e) Seller may, from time to time by providing ten (10) days' notice, limit the maximum amount of Electricity that can be delivered to the Delivery Point and withdrawn by Buyer from the Power Line in any hour (the "**Maximum Hourly Load**"). Following such notice, Seller may in its absolute and sole discretion, and without further notice to Buyer, take any actions necessary to prevent Buyer from withdrawing more than the Maximum Hourly Load from the Power Line at any time.
- (f) Seller may, from time to time by providing ten (10) days' notice, limit the maximum amount of Electricity that can be delivered to the Delivery Point and withdrawn by Buyer from the Power Line at any instant in time (the "**Maximum Instantaneous Load**"). Following such notice, Seller may in its absolute and sole discretion, and without further notice to Buyer, take any actions necessary to prevent Buyer from withdrawing more than the Maximum Instantaneous Load from the Power Line at any time.
- (g) Buyer and Seller agree that this Agreement relates solely to the specified Delivery Point at Buyer's Address and Buyer agrees to connect only this property which shall not consist of more than one home together with up to one garage and up to one associated "bunkhouse" structure that may exist on this property location. For clarity, Buyer covenants that no Electricity that is delivered to the specified Delivery Point will be resold or otherwise delivered beyond the Buyer's property which is the subject of this Agreement.

## 5. Contract Price and Audit

- (a) Buyer will pay Seller the Contract Price for each kWh of Electricity delivered by Seller to the Delivery Point.
- (b) Seller shall collect and remit or cause to be collected and remitted to Governmental Bodies all Taxes due under or by virtue of this Agreement or the sale and delivery of Electricity sold hereunder, including GST and other *ad valorem*, franchise or income taxes related to the sale of Electricity.
- (c) The Contract Price is meant to primarily be a cost-recovery mechanism for Seller, and is defined as the sum of: (i) the Procurement Price; plus (ii) the O&M Fee; plus (iii) the Recovery Amount, and each of these components shall be allocated in the sole and reasonable discretion of Seller as to either a variable or fixed cost item. Variable cost components such as the Procurement Price shall be divided by the kWh volume of electricity purchased in the billing period from BC Hydro, such that the portion of the Contract Price is expressed on a cents per kWh basis and the fixed cost components, being most of the O&M Fee and the Recovery Amount, shall be allocated to all buyers under power purchase agreements on a Proportionate Share basis. For clarity, the obligation to pay the non-variable or fixed portion of the Contract Price from and after the Commercial Operation Date shall rest with Buyer at all times, including the period prior to when the Buyer is connected to the Power Line. The Procurement Price is the actual cost paid by Seller to procure the Electricity sold to Buyer from BC Hydro. The O&M Fee is defined as the amount, determined by Seller, acting reasonably, required to: (i) cover the operations and maintenance costs, engineering and other advisory fees and disbursements (including those previously incurred to establish Seller and advance the Power Line) paid by Seller during the applicable billing period in order to maintain and operate the Power Line pursuant to Good Operating Practice and Applicable Law; (ii) establish and maintain a reserve fund for the purposes of funding minor capital projects of \$15,000 (subject to escalation as described below) or less to expand, repair or replace the components of the Power Line in accordance with Good Operating Practice and Applicable Law (unless there is sufficient working capital allowance remaining after construction of the Power Line that would allow, in the judgement of Seller, acting reasonably, for a reduction or deferral of this additional provision for a reserve fund); (iii) cover the costs of any borrowings by Seller to construct and/or maintain the Power Line (including, but not limited to, principal, interest and other ancillary costs and charges, including lender or legal fees or disbursements); and (iv) cover administrative costs as determined by Seller such as billing, collections, legal, accounting, and matters ancillary to the administration of this Agreement, including any amounts required under Section 12(d). Capital projects in excess of \$15,000, may, in the sole discretion of Seller, be addressed pursuant to a Funding Request. The amount of the reserve fund may, in the discretion of Seller, from time to time, be escalated at an annual compounded rate of 5% to account for such matters as cost inflation and increasing wear and tear over the life of the Power Line.
- (d) Annually, Seller may adjust the O&M Fee based on its good faith estimate of funds required to address the purposes listed in Section 5(c). The results of this determination shall be communicated by Seller to Buyer annually.

- (e) Seller will maintain all books, records, logs and metering and other information necessary to verify compliance with this Agreement, the quantity of Electricity delivered under this Agreement and the accuracy of invoices, for at least six (6) years after their documentation or issuance. Upon reasonable notice, Buyer may audit the books, records, logs and metering and other information of Seller for the limited purposes of such verification for any year within the twenty-four (24) month period next following the end of such year. Each audit shall be conducted so as to cause a minimum of inconvenience to Seller, and Buyer shall make every reasonable effort to conduct its audit at the same time as an audit conducted by other buyers of Electricity delivered by the Power Line.

## **6. Invoices**

- (a) The Contract Price will be calculated, invoiced and payable in Canadian dollars.
- (b) Seller will calculate the amount of Electricity delivered to Buyer at the Delivery Point each billing period as measured by the Metering Equipment. Initially, the billing period will be semi-annually ending on September 30 and March 31; provided that, Seller, in its sole discretion, may change the number and timing of billing periods in a year at any time.
- (c) Invoices will be submitted to Buyer by Seller approximately sixty (60) Business Days after the end of each billing period together with metering data and any other information necessary to confirm the amount payable. Payment will be due forty five (45) days after receipt of the invoice or the next Business Day if the due date is not a Business Day. Unless otherwise specifically arranged, invoices and payments will be made as specified in Schedule "C".
- (d) Invoices that are not paid by the due date will accrue interest charges, prorated by days from the due date, at an annual interest rate of twelve percent (12%) per annum, calculated and compounded monthly from the due date until paid in full.
- (e) In the event that an error is found in any invoice, the necessary adjustment shall be made in the next billing statement. In the event a Party disputes in good faith any part of an invoice, such dispute shall be resolved in accordance with Section 13. Any payments that result from the resolution of such disputes shall be provided for in the next invoice following the date of such resolution. Absent manifest error in an invoice, Buyer shall nevertheless pay to Seller the amount due as set forth in the billing statement within the time limit specified in Section 6(c).
- (f) Either Party may give written notice to the other Party of an error, omission or disputed amount on a statement within twenty-four (24) months after the statement was first issued together with reasonable detail to support its claim. Except in the case of willful misstatement or concealment, a previously issued statement shall be deemed accurate twenty-four (24) months after it has been issued, unless a Party has issued a written notice of dispute to the other Party in respect of such statement.
- (g) All payments and other amounts owing from Buyer to Seller under this Agreement (other than pursuant to Section 8) will be made by automatic withdrawal from Buyer's bank account unless otherwise agreed by Seller.



## 7. Metering

- (a) Seller will ensure that the Metering Equipment is installed and tested prior to Buyer arranging for connection to the Delivery Point. Seller will ensure that its Metering Equipment complies with, and is operated and maintained in accordance with, Applicable Law and Good Operating Practice and is able to accurately measure the quantity of Electricity delivered and sold under this Agreement throughout the Term.
- (b) Once during each calendar year, Buyer may request that the Metering Equipment be inspected and tested upon reasonable notice, at Seller's cost. If inspection or testing shows any meter inaccuracy, Seller will forthwith repair (or, in its discretion, replace) the Metering Equipment at its cost.
- (c) If either Party becomes aware of any deficiency in the proper operation of any Metering Equipment, it shall promptly notify the other Party. Seller shall be obligated to attend to such remedial measures regarding the Metering Equipment, including the repair and replacement thereof, as may be required to rectify the deficiency. In the event that the deficiency is of such a nature that the amount of Electricity delivered and sold to Buyer is found to have been inaccurately measured or recorded, the Parties shall endeavor to reach an agreement as to the amount of Electricity delivered and sold to Buyer during such period. In the event that the Parties cannot reach an agreement, either Party may request that the matter be resolved pursuant to the *Electricity and Gas Inspection Act (Canada)*, which resolution shall be final and binding on the Parties.

## 8. Funding Commitment

- (a) Buyer agrees that Seller may make, and Buyer shall honour, requests for additional cash funds ("**Funding Requests**") from time to time to fund the design, construction, maintenance, repair, permitting, administration, operation and decommissioning of the Power Line, and all activities ancillary thereto, and for reasons as otherwise determined by Seller in good faith. Funding Requests shall be made by Seller providing a minimum of thirty (30) days' written notice (the "**Funding Notice**") to Buyer for the payment of the amount of the funds required to be provided by Buyer, which will be Buyer's Proportionate Share of the aggregate of the funds requested from all buyers under power purchase agreements with Seller. Buyer shall not be obliged to contribute to any Funding Request in excess of the Funding Cap. For clarity, Funding Requests are not loans and Buyer will have no entitlement to repayment of any such amounts, including on the termination of this Agreement.
- (b) Upon a Funding Request, Buyer shall be responsible to pay to Seller the entire amount set out in the Funding Notice by way of wire transfer, cheque or bank draft on the date specified in the Funding Notice.

## 9. Force Majeure and Outages

- (a) An event of "**Force Majeure**" is an event beyond the reasonable control of Seller that prevents Seller from performing its obligations under this Agreement, which includes: an act of God, war, terrorism, rebellion, sabotage, flood, fire, strikes,

differences with workers or like causes, any change in Applicable Law, any restraint imposed by a Governmental Body, the order, direction or ruling of any Governmental Body, the inability to obtain, delay in obtaining, revocation or amendment of any required Approval, theft, vandalism or accidents, an outage on the Power Line or upstream of the Power Line that prevents Seller from delivering Electricity to the Delivery Point, or any other cause of any kind whatsoever beyond the reasonable control of Seller.

- (b) Seller will be excused from its obligations to perform under this Agreement if and to the extent and for so long as it is prevented from performing such obligations due to an event of Force Majeure.
- (c) Seller will be excused from its obligation to deliver Electricity to Buyer at the Delivery Point if and to the extent there is a forced outage of the Power Line or an outage of the Power Line for unplanned or planned maintenance. Seller will, to the extent reasonable and in the absence of emergency conditions, notify Buyer of:
  - (i) any planned outage of the Power Line within five (5) Business Days of the date the outage is planned; and
  - (ii) any unplanned outage of the Power Line as soon as practicable after the outage occurs.

#### **10. Representations and Warranties**

- (a) Seller represents and warrants to Buyer that:
  - (i) it is a corporation, duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation and qualified to conduct the business contemplated hereunder in British Columbia;
  - (ii) this Agreement is a valid, legal and binding obligation of Seller, enforceable in accordance with its terms;
  - (iii) the execution, delivery and performance of this Agreement is within its powers, has been duly authorized by all necessary action and does not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or Applicable Law; and
  - (iv) there are no actions, suits, proceedings or investigations pending or, to the knowledge of Seller, threatened in writing against Seller, at law or in equity before any Governmental Body, which individually or in the aggregate are reasonably likely to impair Seller's ability to perform its obligations under this Agreement.
- (b) Buyer represents and warrants to Seller that:
  - (i) if Buyer is an individual, he/she has attained the age of majority and is legally competent to execute this Agreement and to take all actions required pursuant thereto;

- (ii) if Buyer is not an individual, it is duly incorporated or formed and validly existing under the laws of its jurisdiction of incorporation or formation, as applicable;
- (iii) this Agreement is a valid, legal and binding obligation of Buyer, enforceable in accordance with its terms;
- (iv) the execution, delivery and performance of this Agreement is within his/her/its powers, has been duly authorized by all necessary action and does not violate any contracts, to which he/she/it is a party or Applicable Law;
- (v) there are no actions, suits, proceedings or investigations pending or, to the knowledge of Buyer, threatened in writing against Buyer, at law or in equity before any Governmental Body, which individually or in the aggregate are reasonably likely to impair Buyer's ability to perform its obligations under this Agreement;
- (vi) Buyer is a Person that is the registered owner, or has an interest in land, whether as a joint tenant or tenant in common, of the parcel of land identified by the Address or owns a shareholder certificate, to which a building permit may be issued by the approving authority, within property registered at the Kamloops Land Title Office as Kalamalka Park Estates Ltd.; and
- (vii) Buyer considers the opportunity to enter into this Agreement and thereby access Electricity as a material benefit to Buyer, and Buyer has entered into this Agreement willingly and of Buyer's own volition.

## 11. Events of Default and Termination

- (a) An "**Event of Default**" means with respect to a Party (the "**Defaulting Party**"):
  - (i) the failure by the Defaulting Party to make, when due, any payment required pursuant to this Agreement (including a Funding Request) where such failure is not remedied within twenty (20) days after written notice of such failure is given to the Defaulting Party by the other Party (the "**Non-Defaulting Party**");
  - (ii) a breach of any covenant, representation, warranty or other obligation of this Agreement where such breach is not remedied within forty five (45) days after written notice of such breach is given to the Defaulting Party by the Non-Defaulting Party, or, if not reasonably remediable within such forty five (45) day period, the Defaulting Party fails within such forty five (45) day period to take steps to remedy such default diligently and expeditiously; or
  - (iii) Buyer makes an assignment for the benefit of creditors or a proposal under the *Bankruptcy and Insolvency Act* (Canada) or a similar filing or proposal under any other bankruptcy, creditor protection or insolvency legislation or is declared bankrupt or become insolvent, or any trustee, receiver, receiver and manager, liquidator or other officer with similar powers is appointed for Buyer or for all or any material part of Buyer's property.

- (b) If an Event of Default occurs, the Non-Defaulting Party will have the right to immediately terminate this Agreement upon written notice to the Defaulting Party and exercise any other remedy it may have at law or equity or under the Agreement.
- (c) Upon the termination of this Agreement, Buyer will immediately pay Seller all amounts due and owing to Seller.

## 12. Liability and Indemnity

- (a) Buyer acknowledges and agrees that the directors and employees (if any) of Seller are volunteers from the Cosens Bay community who may or may not have experience in the power distribution industry and the Indemnified Persons (as defined below) will not be held to the same standard of care that would be applicable to either industry professionals or entities providing services for profit. The spirit and intent of this Section 12 is that, in the absence of fraud or wilful misconduct, claims for Losses and Liabilities are not to be brought against the Indemnified Persons.
- (b) Buyer agrees that neither Seller nor its directors, officers, shareholders, employees, agents, subcontractors and servants ("**Indemnified Persons**"), will be liable to Buyer, and Buyer will not pursue any claim against the Indemnified Persons in any way related to the delivery and sale of Electricity by Seller to Buyer at the Delivery Point or any other matters contemplated by this Agreement, including any claim due to Seller's negligence. Without limiting the generality of the foregoing, the Indemnified Persons will not be liable for Losses and Liabilities that Buyer may suffer or incur because of:
  - (i) any failure of Seller to delivery Electricity to the Delivery Point;
  - (ii) any interruption of the supply of Electricity to the Delivery Point;
  - (iii) any failure or malfunction of the Power Line; or
  - (iv) any failure of Seller to deliver power quality, in terms of voltage, frequency or otherwise.
- (c) Buyer shall indemnify and hold harmless the Indemnified Persons from and against all Losses and Liabilities imposed on, incurred by or asserted against the Indemnified Persons in any way relating to, arising out of or connected with claims relating to:
  - (i) a breach of any representation or warranty of Buyer contained in this Agreement;
  - (ii) any act or omission of Buyer or any of its directors, officers, employees, servants, contractors and agents in connection with the subject matter of this Agreement; or
  - (iii) an Event of Default or other breach of this Agreement by Buyer,

except to the extent that such Losses and Liabilities are the result of the wilful misconduct of the Indemnified Persons or a breach of this Agreement by the Indemnified Persons.

- (d) To the fullest extent permitted by Applicable Law, each Indemnified Person is indemnified and held harmless by Seller from and against any and all Losses and Liabilities arising from any and all claims, demands, actions, suits or proceedings, whether civil, criminal, administrative or investigative, in which any Indemnified Person may be involved, or is threatened to be involved, as a party or otherwise, by reason of the delivery and sale of Electricity by Seller to Buyer or otherwise in connection with this Agreement; provided that, in each case the Indemnified Person acted in good faith and had no reasonable cause to believe its conduct was unlawful. To the fullest extent permitted by Applicable Law, expenses (including legal fees and expenses) incurred by an Indemnified Person in defending any claim, demand, action, suit or proceeding are to be, from time to time, advanced by Seller prior to the final disposition of such claim, demand, action, suit or proceeding upon receipt by Seller of an undertaking by or on behalf of the Indemnified Person to repay such amount if it is determined that the Indemnified Person is not entitled to be indemnified as authorized in this Section 12(d). For the purposes of this Section 12(d), Seller is not an "Indemnified Person".
- (e) Notwithstanding anything else in this Agreement, no Party shall be liable for any indirect, special, incidental, exemplary, consequential or punitive damages, or any loss of business opportunity, loss of throughput, loss of tax benefits, loss of anticipated profits or revenue, or loss of use claims incurred or suffered by the other Party or any other Person and arising in connection with this Agreement, whether such liability is claimed in contract, tort (including negligence and strict liability, warranty or any other legal or equitable theory), or otherwise, and even if the Parties have been advised of the possibility of such damage or loss.

### **13. Dispute Resolution**

- (a) The Parties shall negotiate in good faith and attempt to resolve any dispute, controversy or claim arising out of or relating to this Agreement within sixty (60) days after the date that a Party gives written notice of such dispute to the other Party. Pending final resolution of a dispute, the Parties shall each proceed diligently and faithfully with performance of their respective obligations under the Agreement. If the dispute remains unresolved, either Party may require that a non-binding mediation take place. In such mediation, the Parties shall meet for at least three (3) hours with a mediator whom they choose together. Each of Seller and Buyer agree to share 50% of the cost of any mediation. While such mediation is non-binding, each of Seller and Buyer agree to accept the conclusion of such mediator as long as the conclusion does not materially adversely impact either Seller or Buyer, each in their own reasonable opinion. If the dispute fails to be resolved through mediation, and/or any other means proposed by either Party, then the matter may be brought by either Party to the British Columbia Utilities Commission for resolution; provided that, the British Columbia Utilities Commission has oversight or authority over Seller and the dispute.

- (b) Notwithstanding anything to the contrary, this Section 13 is not intended to limit or restrict the rights of either Party to seek any judicial remedy.

**14. Confidentiality**

Neither Party will disclose the terms of this Agreement to a third party (other than the Party's partners, employees, lenders, counsel, accountants, contractors or service providers who have agreed to keep such terms confidential) without the consent of the other Party, except in order to comply with Applicable Law, in which case the Party will notify the other Party and will seek to limit disclosure of the price or other business sensitive terms, and except that either Party may disclose to BC Hydro the existence of this Agreement and such information as BC Hydro may require.

**15. Common Share in Capital of Seller**

Concurrently with the execution of this Agreement, Buyer will be issued, for no consideration, one common share in the capital of Seller (the "**Common Share**"). The Common Share will be subject to a shareholder agreement in a form determined by Seller (the "**Shareholder Agreement**"), and Buyer agrees to execute and be bound by such Shareholder Agreement concurrently with the execution of this Agreement. Buyer acknowledges that the Common Share is anticipated to only have nominal value. Upon termination of this Agreement, the Common Share will be concurrently cancelled for no consideration.

**16. Miscellaneous**

- (a) Neither Party will transfer or assign this Agreement or any rights hereunder without the prior written consent of the other Party, not to be unreasonably withheld or delayed; provided that, Seller may assign this Agreement without the consent of Buyer to an affiliate or any Person who acquires Seller and/or the Power Line. Buyer agrees that if title to the property represented by the Address is conveyed to any Person, then concurrently with such conveyance: (i) such Person must assume all of the obligations of Buyer under this Agreement pursuant to an assignment agreement substantially in the form attached as Schedule "B"; and (ii) the Common Share must be transferred to such Person pursuant to documentation as determined by Seller, acting reasonably, and any other requirements imposed by the Shareholder Agreement.
- (b) This Agreement will be binding upon and enure to the benefit of the Parties and their respective successors and permitted assigns.
- (c) Notwithstanding anything to the contrary in this Agreement, the Parties expressly deny that it is their intention to create any joint venture, partnership or other relationship under this Agreement. Neither Party is the agent of the other Party in any capacity whatsoever under this Agreement.
- (d) No amendment of this Agreement will be valid unless it is in writing and signed by both Parties; provided that, Seller may, from time to time, make non-material amendments or amendments required to comply with Applicable Law which will be binding on Buyer upon Seller providing Buyer with notice of such amendments.

- (e) This Agreement constitutes the sole and entire agreement of the Parties in relation to the subject matter hereof and supersedes all other previous agreements, documents, writings and verbal understandings, including the Original PPA.
- (f) No waiver by any Party of any breach of any of the covenants, provisions or conditions herein contained shall take effect or be binding upon that Party unless the same is expressed in writing by such Party. Any waiver so given shall extend only to the particular breach so waived and shall not limit or affect any rights with respect to any other or future breach.
- (g) Time is of the essence with respect to the performance by the Parties of their respective obligations under this Agreement.
- (h) This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia and the federal laws of Canada applicable therein. The Parties do hereby irrevocably and unconditionally submit and attorn to the exclusive jurisdiction of the courts in the Province of British Columbia and courts of appeal therefrom in respect of all matters arising out of this Agreement.
- (i) Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.
- (j) All notices, demands, requests or other communications (other than invoices and payments which are governed by Section 6) made in connection with this Agreement will be in writing and may be delivered in person, by email or by registered mail, to the Party at the address specified below (or to any new address or email as may be notified by a Party from time to time):

To Buyer:

[•]

To Seller:

Mr. John Keating, Treasurer  
CB Powerline Ltd.  
c/o 806, 24 Varsity Estates Circle N.W.  
Calgary, Alberta T3A 2X8

Email: jkeating403@gmail.com

Notice delivered in person will be effective upon actual receipt. Notice given by email will be deemed effective upon receipt, if transmitted prior to 5:00 PM PST, or on the next Business Day following the date of transmission, if not transmitted prior to 5:00 PM PST. Notice given by registered mail will be deemed effective upon receipt.

- (k) The Parties shall from time to time do and perform such other and further acts and execute and deliver any and all further agreements and instruments as may be required by Applicable Law or reasonably requested by the other Party to carry out and affect the intent and purposes of this Agreement.
- (l) This Agreement may be executed in any number of counterparts, all of which together shall constitute one and the same instrument and any of the Parties may execute this Agreement by signing any such counterpart. For avoidance of doubt, a signed counterpart provided by way of e-mail shall constitute delivery of the counterpart once received, and will be as binding upon the Parties as an originally signed counterpart.
- (m) ***Buyer acknowledges that it has been encouraged to receive independent legal advice with respect to this Agreement prior to signing, and if Buyer has executed this Agreement without the benefit of independent legal advice, it hereby waives its right to receive such independent legal advice.***

[Signature page follows]



**IN WITNESS WHEREOF** each of the Parties has caused this Agreement to be duly executed as of the date first above written.

**CB POWERLINE LTD.**

Per: \_\_\_\_\_  
Name:  
Title:

\_\_\_\_\_  
[Witness if Buyer is an individual]

\_\_\_\_\_  
[Buyer]<sup>2</sup>

\_\_\_\_\_  
<sup>2</sup> To be updated if Buyer is not an individual.

## SCHEDULE "A"

### POWER LINE DESCRIPTION

- **Location:** In British Columbia, the Kalamalka Lake east shore developments known locally as Cosens Bay and Kalamalka Park Estates communities which are located along the lakeshore from Cosens Bay Beach southward for approximately 3km.
- **Site:** Submarine cable link across Kalamalka Lake, and the electrical distribution system of both below ground and above ground which will link both the Cosens Bay and Kalamalka Park Estates communities with the B.C. Hydro electrical grid on the west shore.
- **Principal Equipment:** Poles, switch gear, and meter equipment at the point of interconnection with B.C. Hydro on the west shore, submarine cable, distribution system along the east shore of Kalamalka Lake.

**SCHEDULE "B"**  
**FORM OF ASSIGNMENT AGREEMENT**  
**ASSIGNMENT AGREEMENT**

**THIS AGREEMENT** made effective as of the ● day of ●, 20●.

**AMONG:**

**CB POWERLINE LTD. ("CBPL")**

- and -

**[COSENS BAY OWNER UNDER EXISTING PPA] ("Assignor")**

- and -

**[ASSIGNEE] ("Assignee")**

**WHEREAS** CBPL and Assignor are parties to an amended and restated power purchase agreement dated effective ●, 20● (the "**Agreement**");

**AND WHEREAS** Assignor wishes to assign all of its right, title and interest under the Agreement to Assignee;

**AND WHEREAS** CBPL is willing to consent to such assignment and release Assignor from its obligations under the Agreement;

**NOW THEREFORE** in consideration of the covenants and agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties covenant and agree as follows:

**1. Assignment**

Assignor hereby assigns, transfers, sets over and conveys unto Assignee, effective as of the ● day of ●, 20●, (the "**Effective Date**"), all of Assignor's right, title, estate and interest in and to the Agreement, to have and to hold the same for its sole use and benefit absolutely.

**2. Acceptance By Assignee**

Assignee accepts the foregoing assignment and agrees to assume, as of the Effective Date and thereupon and thereafter to be bound by, and agrees to observe, carry out and perform all the covenants, liabilities and obligations of Assignor under the Agreement, to the same extent and with the same force and effect as if it had been a party to the Agreement in the place and stead of the Assignor.

**3. Consents**

CBPL hereby consents to the assignment and accepts Assignee as a party to the Agreement, and hereby covenants and agrees that as of the Effective Date, Assignee shall be entitled to hold and enforce all of the benefits, rights and privileges of Assignor under the Agreement as if

Assignee had been originally named as a party to the Agreement, and from and after the Effective Date, the Agreement shall continue in full force and effect with Assignee substituted as a party thereto in the place and stead of Assignor.

#### **4. Releases**

As of and from the Effective Date:

- (i) CBPL hereby expressly releases, relieves and discharges Assignor from all of its duties, obligations and liabilities arising out of or accruing under the Agreement; provided however, that nothing herein contained shall be construed as a release of Assignor from any duties, obligations or liabilities under the Agreement, which duties, obligations or liabilities accrued prior to the Effective Date; and
- (ii) Assignor hereby expressly releases, relieves and discharges CBPL from all of its duties, obligations and liabilities arising out of or accruing under the Agreement; provided however, that nothing herein contained shall be construed as a release of CBPL from any duties, obligations or liabilities under the Agreement, which duties, obligations or liabilities accrued prior to the Effective Date.

#### **5. Notices**

The address for service of notices to Assignee under the Agreement shall be as follows:

**[Assignee]**  
**[Address]**  
Attention: ●  
Email: ●

#### **6. Further Assurances**

The parties shall do or cause to be done all such further acts and things and shall execute or cause to be executed all such further deeds, documents, and instruments as may be reasonably necessary for the purpose of giving effect to the provisions of this Agreement.

**7. Counterparts**

This Agreement may be executed via facsimile or by email in any number of counterparts and by different parties in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one of the same instrument.

**IN WITNESS WHEREOF** this Agreement has been executed effective the date first above written.

**CB POWERLINE LTD.**

Per: \_\_\_\_\_  
Name:  
Title:

\_\_\_\_\_  
[Witness if Assignor is an individual]

\_\_\_\_\_  
[Assignor]

\_\_\_\_\_  
[Witness if Assignee is an individual]

\_\_\_\_\_  
[Assignee]

**SCHEDULE "C"**  
**PAYMENT PROVISIONS**

Billings and payments will be transmitted to the following addresses:

Payment to Seller:

By automatic withdrawal from Buyer's bank account, updated details of which Buyer will provide to Seller, from time to time.

Billing to Buyer:

The address of Buyer set forth on the face page to this Agreement.

## SCHEDULE "D"

### DEFINITIONS AND INTERPRETATION

#### DEFINITIONS

"**Applicable Law**" means, with respect to any specified Person or matter, any law, rule, regulation, order, Approval, decree of any Governmental Body having jurisdiction over a Party or the subject matter hereof or other requirement having the force of law relating to such Party or matter and, where applicable, any interpretation thereof by any Governmental Body having jurisdiction with respect thereto or charged with the administration or interpretation thereof;

"**Approvals**" means any and all permits, licenses, authorities or approvals to be granted or issued by any Governmental Body and required, or in the opinion of Seller (acting reasonably and in good faith) advisable, to own and operate the Power Line and for the delivery of the Electricity;

"**BC Hydro**" means British Columbia Hydro and Power Authority and its successors and assigns;

"**Business Day**" means any calendar day which is not a Saturday, Sunday or other day recognized as a statutory holiday in British Columbia;

"**Commercial Operation**" means operation of the Power Line after the Seller has made a determination that the Power Line has been constructed in accordance with any required approvals and in accordance with Good Operating Practice and Applicable Law;

"**Commercial Operation Date**" means the date on which Commercial Operation first occurs as confirmed by Seller with written notice to Buyer;

"**Delivery Point**" means the point which is adjacent to Buyer's property at a specific location that is to be mutually agreed between Buyer and Seller during the detailed design phase prior to construction of the Power Line, from which Buyer will be connected (at Buyer's sole cost) through the Metering Equipment to the Power Line. For clarity, Seller's responsibility will be to provide a suitable point along the roadway next to Buyer's property to which Buyer can then connect at a time of the Buyer's choosing following the Commercial Operation Date;

"**Electricity**" means electric energy expressed in kWh;

"**Funding Cap**" means \$47,500;

"**Good Operating Practice**" means any of the practices, methods and acts engaged in, or approved by, a significant portion of the electric industry in the WECC region operating transmission lines similar to the Power Line during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Operating Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be acceptable practices, methods or acts generally accepted in the WECC region;

**"Governmental Body"** means any:

- (i) government, parliament or legislature, any regulatory or administrative authority, agency, commission or board and any other statute, rule or regulation making entity having jurisdiction in the relevant circumstances;
- (ii) Person acting under the authority of any of the foregoing or under statute, rule or regulation thereof; or
- (iii) judicial, administrative or arbitral court, authority, tribunal or commission having jurisdiction in the relevant circumstances,

which includes BC Hydro;

**"kWh"** means a unit of energy equal to one kilowatt hour;

**"Losses and Liabilities"** means, in respect of a Person, any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, costs and expenses, including reasonable legal and court costs and fees;

**"Metering Equipment"** means the metering equipment to be used for metering the quantity of Electricity delivered by Seller to Buyer at the Delivery Point;

**"Party"** means either Buyer or Seller, as applicable, and **"Parties"** means both Buyer and Seller;

**"Person"** means any individual, corporation, partnership, joint venture, trust, unincorporated association or any Governmental Body;

**"Power Line"** means the submarine cable, metering, poles and interconnection equipment on the west side of Kalamalka Lake, the submarine cable, across and the community distribution system installed to the edge of Buyer's property line within the Cosens Bay and Kalamalka Park Estates developments that is to be designed, constructed, owned and operated by Seller pursuant to this Agreement, all as more fully described in Schedules "A" and "B";

**"Procurement Price"** means the price paid by Seller to BC Hydro to purchase the Electricity;

**"Proportionate Share"** means, at any time with respect to Buyer, the number, expressed as a percentage, calculated as 1 divided by the aggregate number of power purchase agreements that have been entered into by Seller.

**"Recovery Amount"** means, at any given time, Buyer's Proportionate Share of: (i) any line losses that may occur as a result of the difference between Seller's purchase volume from B.C. Hydro and the sum of all kWh deliveries to buyers throughout Cosens Bay, multiplied by the price per kWh charged by B.C. Hydro for the billing period; plus (ii) any amounts which remain uncollected for one hundred twenty (120) days from any buyers under power purchase agreements with Seller (including any funding requests under such agreements).

**"Taxes"** means any taxes imposed or levied by any applicable Governmental Body upon the Parties or Electricity delivered and sold hereunder; and

**"WECC"** means the Western Electricity Coordinating Council and any successor thereto.



## **RULES OF INTERPRETATION**

- (a) The headings of Sections and Schedules of this Agreement are inserted for ease of reference only and shall not in any way affect the interpretation of this Agreement.
- (b) Words importing the singular shall include the plural and vice versa, words importing gender shall include the masculine, feminine and neuter genders, all as may be applicable in the context.
- (c) Reference herein to any Applicable Law or any document, instrument or agreement means any such Applicable Law or such document, instrument or agreement as originally implemented or executed, as modified, amended or supplemented from time to time in accordance with its terms.
- (d) References herein to "written" and "in writing" include communications sent by electronic mail.
- (e) Unless otherwise specifically stated, reference herein to any Section or Schedule is a reference to such Section or Schedule to or of this Agreement.
- (f) References to a Party shall include its successors and permitted assigns.
- (g) The word "include(s)" means "include(s) without limitation" and the word "including" means "including, but not limited to".
- (h) No provision in this Agreement shall be interpreted for or against either Party because that Party or its legal counsel drafted such provision, and the *contra preferentum* rule of construction shall have no application to the construction of, interpretation of or adjudication respecting, this Agreement.
- (i) All reference to dollar amounts in this Agreement are to Canadian dollars.