

**FIELD SERVICES
SERVICE AGREEMENT**

Between

**BRITISH COLUMBIA HYDRO AND POWER AUTHORITY
and**

BRITISH COLUMBIA TRANSMISSION CORPORATION

Dated as of April 1, 2005

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Schedule I	Invoice Supporting Data

FIELD SERVICES SERVICE AGREEMENT

THIS AGREEMENT is dated as of the 1st day of April, 2005.

BETWEEN:

BRITISH COLUMBIA HYDRO AND POWER AUTHORITY,
a Crown corporation organized and existing under the laws of the
Province of British Columbia

(“**BC Hydro**”)

AND:

BRITISH COLUMBIA TRANSMISSION CORPORATION, a
Crown corporation organized and existing under the laws of the
Province of British Columbia

(“**BCTC**”)

WHEREAS:

- A. BC Hydro and BCTC have, pursuant to the *Transmission Corporation Act* (British Columbia), entered into the Support Services Agreement; and
- B. BC Hydro and BCTC propose to enter into this Agreement pursuant to Section 6.4 of the Support Services Agreement to specifically set out certain terms and conditions for the provision of the Services by BC Hydro to BCTC in accordance with Article 6 of the Support Services Agreement.

NOW THEREFORE, in consideration of the premises and mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, the Parties agree as follows:

ARTICLE 1 INTERPRETATION

1.1 Definitions

In this Agreement, the following terms will have the following meanings respectively:

- (a) “**Additional Work**” has the meaning ascribed to it in Section 4.7.
- (b) “**Asset Management and Maintenance Agreement**” means the asset management and maintenance agreement dated as of November 12, 2003 made between BC Hydro and BCTC, as such agreement may be amended from time to time.
- (c) “**Asset Management and Maintenance Services**” has the meaning ascribed to it in the Asset Management and Maintenance Agreement.

- (d) “**Audit**” means any or all of a review, investigation, inspection, audit, confirmation, certification, test, study or determination.
- (e) “**BC Hydro**” means British Columbia Hydro and Power Authority and its successors and permitted assigns.
- (f) “**BCTC**” means British Columbia Transmission Corporation and its successors and permitted assigns.
- (g) “**BCTC Standards**” means any and all BCTC standards, policies and procedures:
 - (i) of general application, including BCTC’s policies regarding procurement and contract management and corporate signing authority; and
 - (ii) specifically applicable to the provision of the Services hereunder, including technical requirements, design standards, maintenance standards and material and equipment specifications, but excluding work methods and procedures.
- (h) “**Business Day**” means a day that is not a Saturday, Sunday or statutory holiday in the Province of British Columbia.
- (i) “**Capital**” has the meaning given thereto by BCTC’s standard accounting definitions, in accordance with generally accepted accounting principles in Canada.
- (j) “**CI Team**” has the meaning ascribed to it in Section 3.1(d).
- (k) “**Commission**” means the British Columbia Utilities Commission or any successor agency having regulatory jurisdiction over transmission services in British Columbia.
- (l) “**Committed Internal Revenue**” means \$42,850,000, as may be adjusted in accordance with Article 6.
- (m) “**Committed Term**” means the six year period commencing on April 1, 2004 and ending on March 31, 2010. [SSA 1.3(l)]
- (n) “**Consequences**” means, in respect of any proposed action to be taken by BC Hydro hereunder:
 - (i) the feasibility of such proposed action;
 - (ii) any costs to be incurred by BC Hydro in taking such proposed action due to:
 - (A) either or both additional time being spent by BC Hydro employees in taking such proposed action or additional costs being incurred directly by BC Hydro to take such proposed action; or

- (B) any stranded assets or personnel resulting from such proposed action;
- (iii) any impact on the timely provision of any other Services hereunder resulting from the reallocation of resources by BC Hydro in order to take such proposed action, including any resulting implications for Performance Standards;
- (iv) any impact on BC Hydro's ability to meet the Key Performance Measures determined pursuant to Section 5.2; and
- (v) any other direct or indirect impact on BC Hydro or BCTC in connection with the taking of such action by BC Hydro, including any impact on the provision of any other service by, or satisfaction of any other obligation of, BC Hydro to BCTC as contemplated by the Key Agreements or any other service level agreement entered into between the Parties, provided that no such impact shall be deemed to amend any Key Agreement or other such service level agreement, or any of the respective roles and responsibilities of BC Hydro or BCTC thereunder.
- (o) **“Construction Business Unit Commitment”** means \$6,000,000, as may be adjusted in accordance with Article 6.
- (p) **“Contract Representative”** means a contract representative of a Party appointed under Article 18.
- (q) **“Contract Year”** means, during the Term, the one year period commencing on April 1 of each calendar year and ending on March 31 of the next following calendar year.
- (r) **“Control Centre Services”** means those services to be provided by Field Services LoB to BCTC as set out and described in Schedule D, as such services may be revised from time to time by the agreement of the Parties.
- (s) **“Distribution Operations Support Services”** means those services to be provided by Field Services LoB to BCTC as set out and described in Schedule E, as such services may be revised from time to time by the agreement of the Parties.
- (t) **“Effective Date”** means November 20, 2003. [MA 1.1(n)]
- (u) **“Eligible Year”** means each Contract Year following the Committed Term. [SSA 1.3(q)]
- (v) **“External Contractor”** has the meaning ascribed to it in Section 8.2(a).
- (w) **“External Managed Costs Reference”** means \$13,600,000, as may be adjusted in accordance with Article 6.

- (x) “**Field Services LoB**” means the Field Services line of business of BC Hydro or any successor line of business of BC Hydro.
- (y) “**Fixed Price Proposal**” has the meaning ascribed to it in Section 13.4(a).
- (z) “**Good Utility Practice**” means any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry in the WECC region 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 Utility 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. [SSA 1.3(w)]
- (aa) “**Intellectual Property Agreement**” means the intellectual property agreement dated as of December 1, 2003 made between BC Hydro and BCTC, as such agreement may be amended from time to time.
- (bb) “**Key Agreements**” has the meaning ascribed to it in the Master Agreement.
- (cc) “**Key Performance Measures**” means the measures to be used to assess whether Performance Incentives or Performance Payments are payable pursuant to Section 9.6 for a Contract Year, including applicable milestones and a method for determining the amount of the incentive or penalty payable within the applicable Payment Limits.
- (dd) “**Laws**” means (i) all statutes, treaties, codes, ordinances, orders in council, decrees, rules, regulations, directions, by-laws, permits, licences and approvals enacted, adopted or issued by a governmental authority, including all rules, regulations, orders, policies, practices and guidelines of the Commission and (ii) all policies, practices and guidelines (including any shareholder’s letter of expectations) of any governmental authority or body that, although not actually having the force of law, are considered by such governmental authority or body as requiring compliance, that apply to either of the Parties. [SSA 1.3(aa)]
- (ee) “**Master Agreement**” means the master agreement dated as of November 12, 2003 made between BC Hydro and BCTC, as such agreement may be amended from time to time.
- (ff) “**OMA**” means operating, maintenance, and administration and, for the purposes of this Agreement, refers to ongoing maintenance work.
- (gg) “**Open Access Transmission Tariff**” or “**OATT**” has the meaning ascribed to it in the Master Agreement.
- (hh) “**Other BCTC Contractors**” has the meaning ascribed to it in Section 8.4(a).

- (ii) “**Parties**” means collectively, BC Hydro and BCTC, and “**Party**” means individually, BC Hydro or BCTC.
- (jj) “**Payment Limit**” has the meaning ascribed to it in Section 9.6.
- (kk) “**Performance Incentive**” has the meaning ascribed to it in Section 9.6.
- (ll) “**Performance Payment**” has the meaning ascribed to it in Section 9.6.
- (mm) “**Performance Standards**” means those performance standards, metrics and targets for each type of Service identified and set forth in each of Schedules A through G, and as may subsequently be revised by the Parties in accordance with this Agreement.
- (nn) “**Person**” means a corporation, an association, a partnership, an organization, a business, a limited liability company, an individual, a government or a political subdivision thereof or a governmental agency. [SSA 1.3(gg)]
- (oo) “**Recurring Capital**” means Capital work carried out continuously or recurrently for capital projects relating to pole renewals and stubbing of existing transmission lines.
- (pp) “**Service Category**” means those service categories set forth in Schedule H, as such service categories may be revised from time to time by the agreement of the Parties.
- (qq) “**Services**” means the services to be provided by Field Services LoB to BCTC pursuant to this Agreement in connection with:
 - (i) the provision of the Asset Management and Maintenance Services by BCTC;
 - (ii) the carrying out of capital expenditure plans relating to the Transmission System by BCTC in accordance with the Master Agreement; and
 - (iii) any other authority or responsibility of BCTC under the *Transmission Corporation Act* (British Columbia) or the Key Agreements,including those Services set out and described in Schedules A through E to this Agreement, and as such services may be revised from time to time by the agreement of the Parties.
- (rr) “**Specific Capital**” means Capital work other than Recurring Capital.
- (ss) “**Specific Capital Costs Reference**” means \$14,700,000, as may be adjusted in accordance with Article 6.

- (tt) “**Standards of Conduct**” means the standards of conduct policies of BCTC or BC Hydro, as the context requires, as approved by the Commission from time to time.
- (uu) “**Subcontractor**” has the meaning ascribed to it in Section 8.1;
- (vv) “**Substation Distribution Assets**” means substation step-down transformers to distribution voltage (from the high side bushing) and all associated distribution voltage equipment to the substation boundary. [MA 1.1(oo)]
- (ww) “**Substation Services**” means those services to be provided by Field Services LoB to BCTC as set out and described in Schedule A, as such services may be revised from time to time by the agreement of the Parties.
- (xx) “**Supplemental Intellectual Property Agreement**” means the supplemental intellectual property agreement to be entered into by the Parties to provide for the rights and restrictions governing New Intellectual Property (as defined therein) made or developed by the Parties after the Effective Date, as such agreement may thereafter be amended from time to time.
- (yy) “**Support Services Agreement**” means the support services agreement dated as of November 12, 2003 made between BC Hydro and BCTC.
- (zz) “**Tariff Commencement Date**” means the effective date of BCTC’s first OATT filed pursuant to Section 4 of the *Transmission Corporation Act* (British Columbia). [SSA 1.3(jj)]
- (aaa) “**Term**” has the meaning ascribed to it in Section 2.1.
- (bbb) “**Third Party**” means a Person other than BC Hydro or BCTC or a successor or permitted assign thereof.
- (ccc) “**TLoB**” means the Transmission line of business of BC Hydro or any successor line of business of BC Hydro.
- (ddd) “**Transmission Services**” means those services to be provided by Field Services LoB to BCTC as set out and described in Schedule B, as such services may be revised from time to time by the agreement of the Parties.
- (eee) “**Transmission System**” means those assets that are owned by, or are held under contract by, BC Hydro from time to time and that are or may be used in connection with or that otherwise relate to the transmission of electrical energy at 60 kV and above, including the following:
 - (i) all lines, including underground and underwater cables, of voltage class 60 kV and above that transmit electrical energy from a generation facility step-up transformer to a substation step-down transformer, together with:

- (A) all towers, poles, transformers, equipment, fixtures and switching station and substation facilities that are or may be used in connection with or that otherwise relate to that transmission; and
- (B) each substation step-down transformer to which the electrical energy is transmitted and all associated equipment to the substation boundary;
- (ii) telecommunication facilities used for the operation, protection or control of switching stations, substation facilities, control centres or other components of the transmission system; and
- (iii) rights-of-way, permits, licences and agreements in respect of any of the assets or rights described above,

For greater certainty, the interface between the Transmission System and the generation facilities of BC Hydro will be as referenced in the document entitled “Separation of Assets between Generation and Transmission Lines of Business” dated April 4, 2002 or as otherwise agreed between the Parties from time to time. [SSA 1.3(nn)]

- (fff) “**Vegetation Maintenance Services**” means those services to be provided by Field Services LoB to BCTC as set out and described in Schedule C, as such services may be revised from time to time by the agreement of the Parties.
- (ggg) “**WECC**” means the Western Electricity Coordinating Council or any successor organization.
- (hhh) “**Work Plan**” means, for each Contract Year, the plan of all Services required by BCTC during such Contract Year from Field Services LoB and from External Contractors to be managed by Field Services LoB, as developed pursuant to Article 5.
- (iii) “**WTS Tariff**” has the meaning ascribed to it in the Master Agreement.

1.2 Interpretation Generally

Unless the context otherwise necessarily requires, the following provisions will govern the interpretation of this Agreement:

- (a) the words “hereof”, “herein” and “hereunder” and similar expressions will refer to this Agreement as a whole and not to any particular provision of this Agreement;
- (b) each reference to a time of day in this Agreement will mean that time in Vancouver, British Columbia, unless otherwise specified. In computation of periods of time in this Agreement from a specified date to a later specified date, the word “from” means “from and including” and the words “to” and “until” each mean “to but excluding”;

- (c) the meanings given to terms defined in this Agreement will apply to both the singular and plural forms of those terms;
- (d) except as otherwise specified in this Agreement, each reference in this Agreement to a statute, requirement of Law or governmental consent will be deemed to refer to such statute, requirement of Law or governmental consent as the same may be amended, supplemented or otherwise modified from time to time;
- (e) each reference in this Agreement to any Party will be deemed to include such Party's successors and permitted assigns unless expressly stated otherwise in this Agreement;
- (f) where in this Agreement a term is defined, a derivative of that term will have a corresponding meaning;
- (g) the words "include", "including" and similar expressions mean "including but not limited to";
- (h) all references to "Articles", "Sections" and "Schedules" are references to Sections of, and Schedules to and forming part of, this Agreement unless otherwise specified;
- (i) in the event of any conflict or inconsistency between this Agreement and any Schedule that is not reconcilable, the provisions of this Agreement will prevail;
- (j) the division of this Agreement into Articles, Sections, Schedules and other subdivisions and the insertion of headings are for convenience of reference only and will not affect the construction or interpretation of this Agreement; and
- (k) except as otherwise defined in this Agreement, terms used in this Agreement that have well-known technical, trade or industry meanings will be interpreted in accordance with those well-known technical, trade or industry meanings.

1.3 Priority and Application of Key Agreements

This Agreement is entered into pursuant to the Support Services Agreement and elaborates on the provisions of the Support Services Agreement and the Master Agreement with respect to the provision of the Services. The Parties believe that this Agreement is consistent with the terms and conditions of the Support Services Agreement and the Master Agreement and agree that if there is any express conflict or inconsistency between the provisions of this Agreement and of the Support Services Agreement or the Master Agreement, the provisions of the Support Services Agreement or the Master Agreement, as applicable, will prevail. Provisions in this Agreement which, for ease of reference, duplicate, with necessary changes, provisions contained in the Support Services Agreement or the Master Agreement are identified in this Agreement by the inclusion following such provisions of the initials "SSA" or "MA", as the case may be, and the section reference therein.

1.4 Schedules

The following Schedules are attached hereto and form part of this Agreement:

Schedule	Description
Schedule A	Substation Services
Schedule B	Transmission Services
Schedule C	Vegetation Maintenance Services
Schedule D	Control Centre Services
Schedule E	Distribution Operations Support Services
Schedule F	Environmental Matters
Schedule G	Safety Matters
Schedule H	Service Categories and Allocated Volumes
Schedule I	Invoice Supporting Data

ARTICLE 2 TERM

2.1 Term

The term of this Agreement (the “**Term**”) will commence on the date hereof and will continue unless and until terminated in accordance with Article 15.

ARTICLE 3 GENERAL PRINCIPLES

3.1 Continuous Improvement

- (a) BCTC acknowledges that, in view of the knowledge, experience and expertise that Field Services LoB has acquired in connection with the Transmission System, the availability to BCTC of services provided by Field Services LoB, on the terms and conditions set out in this Agreement, is of significant importance to BCTC in providing the Asset Management and Maintenance Services. BCTC further acknowledges the importance of orderly planning and timely initiation of work by BCTC in order for BC Hydro to achieve maximum efficiency in providing the Services. BCTC further acknowledges that any change to the utilization by BCTC of Field Services LoB personnel as set out in this Agreement should be properly managed by the Parties during the Term in accordance with this Agreement. [SSA 6.2]
- (b) BC Hydro acknowledges the importance to BCTC of continuous improvement, continuous efforts to reduce costs and increase efficiency and the demonstration of efficiency and value in the provision of the Services. BC Hydro will at all times make commercially reasonable efforts to increase efficiencies and reduce costs associated with the Services. [SSA 6.3]
- (c) BCTC and BC Hydro acknowledge that their common objective of increased cost effectiveness in the provision of Services will require cooperation and

coordination between the Parties during the Term. The Parties will use commercially reasonable efforts to cooperate in coordinating the requirements for the provision of Services in a manner that maximizes the utilization of existing resources of Field Services LoB and meets BCTC's program requirements relating to the Asset Management and Maintenance Services.

- (d) In furtherance of the goal of continuous improvement set out in this Section 3.1 and as part of the Services, BC Hydro and BCTC have jointly established a continuous improvement process. The process will include a review of the planning, assignment, delivery, and billing of the Services. A Continuous Improvement Team (the "**CI Team**") consisting of a designated lead and another representative from each of BC Hydro and BCTC is responsible for the continuous improvement deliverables. The CI Team of four will chose a CI Team lead who will be responsible for administering the continuous improvement process; such team leadership to alternate between BCTC and BC Hydro. The CI Team will meet regularly, but no less than bi-monthly.
- (e) The CI Team will collaborate to identify improvement opportunities ("**Opportunities**") for both BCTC and BC Hydro related to the Services provided hereunder. The CI Team will define the benefits expected from, and the costs of, implementation of the Opportunities and will prioritise the Opportunities after the consideration of scope, costs and schedule for the respective Party. The CI Team will arrange for approval and implementation of the Opportunity as appropriate. The CI Team will provide quarterly status reports to the Contract Representatives including progress, incurred costs and realized benefits of the Opportunities.
- (f) All Opportunities identified and considered by the CI Team pursuant to paragraph (e) above will be treated as Confidential Information under Article 11.

3.2 Quality Management

In furtherance of the goal of continuous improvement and as part of the Services, BC Hydro will develop, in accordance with the schedule to be developed by the CI Team, a quality management system ("**QMS**") for the Services. The system will be consistent with the principles of ISO9001:2000 Quality Management Systems. The CI Team will discuss and agree on which Services the QMS will be applicable to and the recommended BC Hydro costs to be included in the BC Hydro revenue requirement application to the Commission pursuant to Section 13.2(b). Registration of the QMS under the International Organization for Standardization is not a requirement for the QMS. BCTC will have the right to undertake Audits of such QMS pursuant to Section 14.1 and pursuant to the implementation schedule established by the CI Team.

ARTICLE 4 ENGAGEMENT OF BC HYDRO

4.1 Commitment During Committed Term

Subject to the terms and conditions of this Agreement, during the Committed Term:

- (a) BC Hydro will provide to BCTC, and BCTC will retain BC Hydro for, on an annual basis, a minimum total volume of Services at a total cost to BCTC of the Committed Internal Revenue, such Committed Internal Revenue to be allocated (and reallocated) among each of the Service Categories in accordance with Section 6.5 and subject to adjustment pursuant to this Agreement; [SSA 6.5]
- (b) BC Hydro will provide to BCTC, and BCTC will retain BC Hydro for, on an annual basis, additional Services in respect of Specific Capital required by BCTC at a total annual cost to BCTC of up to the Specific Capital Costs Reference, such work to be assigned directly to Field Services LoB by BC Hydro's Engineering service business and not to be included in the Services provided pursuant to paragraph (a) above;
- (c) BC Hydro will provide to BCTC, and BCTC will retain BC Hydro for, on an annual basis, additional Services in respect of OMA and Recurring Capital required by BCTC at a total annual cost to BCTC of up to the Construction Business Unit Commitment, such work to be carried out by the Construction Business Unit of Field Services LoB and not to be included in the Services provided pursuant to paragraph (a) above; and
- (d) to the extent required by BCTC, BC Hydro will manage, and BCTC will retain BC Hydro to manage for and on behalf of BCTC, External Contractors in accordance with Section 8.2, for a total volume of Services provided by External Contractors and Subcontractors at a total cost to BCTC, on an annual basis, of up to the External Managed Costs Reference and subject to adjustment pursuant to this Agreement. [SSA 6.6(a), 6.6(b)]

4.2 Construction Business Unit Commitment

BCTC acknowledges and agrees that the commitment to retain BC Hydro for work to be carried out by the Construction Business Unit of Field Services LoB pursuant to Section 4.1(c) is to be satisfied first, in priority to any retention of BC Hydro to manage External Contractors for and on behalf of BCTC pursuant to Section 4.1(d). The work so carried out by the Construction Business Unit shall be consistent with the work carried out thereby as at the Effective Date.

4.3 Reduction After Committed Term

For each Eligible Year:

- (a) BC Hydro will continue to provide to BCTC, and BCTC will continue to retain BC Hydro for, Services at a total cost to BCTC of the Committed Internal Revenue, up to the Specific Capital Costs Reference and up to the Construction Business Unit Commitment; and
- (b) BC Hydro will continue to manage and BCTC will continue to retain BC Hydro to manage, to the extent required by BCTC, Services provided by External Contractors and Subcontractors for a total cost to BCTC of up to the External Managed Costs Reference,

all on the basis set out in Section 4.1, provided that either Party may elect, pursuant to and in accordance with Section 6.3, to reduce the Committed Internal Revenue, the Specific Capital Costs Reference, the Construction Business Unit Commitment and the External Managed Costs Reference:

- (c) by a maximum of 20% for the first Contract Year following the Committed Term; and
- (d) in addition to any previous reductions of Services, for any other Eligible Year by an amount equal to a maximum of 20% of the Committed Internal Revenue, the Specific Capital Costs Reference, the Construction Business Unit Commitment and the External Managed Costs Reference,

or on such other basis as the Parties may agree, provided that only one such reduction may be made per Contract Year, and provided further that for any Eligible Year in respect of which such a reduction has not been effected pursuant to Section 6.3, the Committed Internal Revenue, the Specific Capital Costs Reference, the Construction Business Unit Commitment and the External Managed Costs Reference applicable to such Contract Year will be the same as those levels applicable to the preceding Contract Year in accordance with this Section 4.3, unless the Parties otherwise agree. **[SSA 6.8(b), 6.8(f)]**

4.4 Volume of Services

- (a) The Parties acknowledge that the actual volume of Services required by BCTC in a particular Contract Year pursuant to Section 4.1(a) may be equal to, less than or greater than the Committed Internal Revenue. In the event that the actual volume of Services so required by BCTC for a particular Contract Year is less than the Committed Internal Revenue, then BCTC will retain BC Hydro exclusively to perform all of the Services required by BCTC during that Contract Year. **[SSA 6.9(b)]**
- (b) In the event that the actual volume of Services in respect of Specific Capital required by BCTC in a particular Contract Year pursuant to Section 4.1(b) is less than the Specific Capital Costs Reference, then BCTC will retain BC Hydro exclusively to perform all of such Services so required by BCTC during that Contract Year.
- (c) In the event that the actual volume of Services in respect of OMA and Recurring Capital required by BCTC in a particular Contract Year pursuant to Section 4.1(c) is less than the Construction Business Unit Commitment, then BCTC will retain BC Hydro exclusively to perform all of such Services so required by BCTC during that Contract Year.
- (d) In the event that the actual volume of Services provided by External Contractors and Subcontractors required by BCTC to be managed by BC Hydro in a particular Contract Year pursuant to Section 4.1(d) is less than the External Managed Costs Reference, then BCTC will retain BC Hydro exclusively to manage all of such Services so required by BCTC during that Contract Year. **[SSA 6.9(c)]**

4.5 Emergency Services

BCTC hereby authorizes BC Hydro to, and BC Hydro will use commercially reasonable efforts to provide Services to BCTC above the Committed Internal Revenue, the Specific Capital Costs Reference, the Construction Business Unit Commitment and the External Managed Costs Reference in an emergency situation, as part of the Services, with a view to providing timely service, provided that BC Hydro has available in its opinion, acting reasonably, sufficient personnel and resources to manage and/or perform such Services. [SSA 6.9(a)]

4.6 Repair Work

Upon the written request of, and authorization by, BCTC, BC Hydro will repair, as part of the Services, any work performed by BC Hydro in the course of performing the Services pursuant to this Agreement.

4.7 Additional Work

In the event that the actual volume of Services required by BCTC in a particular Contract Year is greater than the total of the Committed Internal Revenue, the Specific Capital Costs Reference, the Construction Business Unit Commitment and the External Managed Costs Reference (the “**Additional Work**”), BCTC may elect to:

- (a) retain Third Party service providers to perform the Additional Work, provided that:
 - (i) such engagement does not directly or indirectly result in a permanent and substantially complete transfer or reallocation of work to Third Party service providers during the Committed Term of a category of service which Field Services LoB customarily has provided to TLoB as at the Effective Date and will provide to BCTC under this Agreement; and
 - (ii) if BCTC issues a select or public tender or select or public request for proposal with respect to any such Additional Work, BC Hydro will be permitted to bid on such tender or request for proposal on a fair and equitable basis for all service providers, including BC Hydro, and in accordance with BCTC’s procurement policies; or
- (b) offer to retain BC Hydro to perform and/or manage the Additional Work, in which case BC Hydro will provide such Additional Work in accordance with Article 7 and at such cost as may be agreed upon by the Parties, provided that:
 - (i) BCTC gives BC Hydro a written request specifying in reasonable detail the Additional Work it requires, in which case, BC Hydro, within 30 days of the date of such request, will inform BCTC of whether BC Hydro wishes to perform and/or manage the Additional Work, subject to completion of a satisfactory agreement; and

- (ii) in the event that BC Hydro informs BCTC that it wishes to perform and/or manage the Additional Work pursuant to the foregoing, the Parties will cooperate in good faith in discussing the scope, cost and schedule and nature of BCTC's requirements contemplated in such request, the availability of BC Hydro personnel and resources to perform and/or manage such Additional Work and the time period in which such Additional Work will be implemented.

4.8 Other Agreements for Services

The Parties may from time to time enter into separate agreements detailing specific terms and conditions for the performance of certain Services by Field Services LoB hereunder, provided that, in the event of any conflict between this Agreement and any such other agreement, the provisions of this Agreement shall prevail.

4.9 Other Services

Field Services LoB may from time to time provide services to BCTC which will not be included within the Services provided by BC Hydro hereunder. The terms and conditions, including the price payable by BCTC, for the performance of such other services by Field Services LoB will be as agreed to by the Parties.

4.10 Communications with Interested Parties

As part of the provision of the Services hereunder, the Parties acknowledge and agree that BCTC may, subject in all cases to Article 5 of the Asset Management and Maintenance Agreement, Article 14 of the Master Agreement and any agreements between the Parties entered in furtherance thereof, direct Field Services LoB to act as the first point of contact in the field with other persons directly or indirectly interested in the performance of the Services hereunder, including non-governmental organizations, regulatory agencies, local municipal officials, First Nations, the general public and lines of business of BC Hydro other than Field Services LoB.

4.11 Responsibility for Information

Field Services LoB will, as part of the Services:

- (a) maintain the sufficiency, validity, correctness and reliability of records, drawings, reports and other information relating to any modifications or additions to the Transmission System which Field Services LoB makes in the course of providing the Services;
- (b) at the request of BCTC, verify the correctness and sufficiency of records, drawings, reports and other information to be provided to Other BCTC Contractors or as otherwise requested by BCTC; and
- (c) notify External Contractors and Other BCTC Contractors that such contractors are responsible for the verification of the correctness and sufficiency of any records,

drawings, reports and other information provided to them by Field Services LoB pursuant to this Agreement.

ARTICLE 5 WORK PLANS

5.1 Five Year Forecast

BCTC will provide to BC Hydro a forecast of the Services required by BCTC for the subsequent five year period by no later than 60 days prior to the commencement of each Contract Year.

5.2 Work Plans

- (a) BCTC will, in consultation with BC Hydro, prepare and provide to BC Hydro a preliminary Work Plan for the Services required by BCTC for the upcoming Contract Year by no later than 120 days prior to the commencement of each Contract Year.
- (b) BCTC and BC Hydro will commence the consideration and discussion of the preliminary Work Plan delivered by BCTC to BC Hydro pursuant to paragraph (a) above within 15 days of the receipt thereof, including the consideration of:
 - (i) scope of work;
 - (ii) schedule windows;
 - (iii) estimated costs, including labour, material, subcontract services and vehicles;
 - (iv) the total volume of Services provided by External Contractors and Subcontractors anticipated to be required by BCTC to be managed by BC Hydro;
 - (v) any amended Performance Standards; and
 - (vi) the determination of the Key Performance Measures.
- (c) BCTC will provide to BC Hydro the final Work Plan (other than final Key Performance Measures) by no later than 60 days prior to the commencement of each Contract Year. BCTC will provide a final proposal with respect to the Key Performance Measures to BC Hydro by no later than 20 days following the commencement of the Contract Year. Within 10 days of the receipt thereof, BC Hydro will provide written confirmation of its agreement on the Key Performance Measures or request that the Contract Representatives meet within the next 10 days to discuss the Key Performance Measures. If the Parties fail to agree on the Key Performance Measures by 45 days following the commencement of the Contract Year, either Party may submit the matter to dispute resolution pursuant to Article 17. Until such time as new Key Performance Measures for a Contract

Year are agreed to between the Parties or determined pursuant to any dispute resolution, the Key Performance Measures for the previous Contract Year will remain in effect.

- (d) In addition to the development of the Work Plan in accordance with the foregoing, the Parties will prepare and provide to each other any information regarding the Services in a timely manner as required by either Party for the purposes of any filings or other information requirements with any governmental authority.

5.3 Amendment of Work Plan

The Work Plan established pursuant to Section 5.2, including any of the costs, budgets, schedules or other information included therein, may, at any time before or during the Contract Year be amended:

- (a) subject to Section 4.7, with the agreement of both Parties, each acting reasonably, to the extent such amendment increases the volume of Services required by BCTC for the relevant Contract Year, provided that it shall not be reasonable for BC Hydro to reject any such amendment of the Work Plan where BCTC agrees to accept and be responsible for all of the Consequences resulting from such amendment; or
- (b) by BCTC, to the extent such amendment decreases or does not change the volume of Services required by BCTC for the relevant Contract Year, provided that BCTC agrees to accept and be responsible for all of the Consequences resulting from any such amendment of the Work Plan, pursuant to Section 6.2 or otherwise.

5.4 Work Plan Change Request

- (a) In the course of the performance by BC Hydro of the Work Plan, BC Hydro may provide to BCTC a written request for a change to the scope, cost, budget or schedule of work specified in the Work Plan for any reason arising which is beyond the control of BC Hydro, including due to:
 - (i) changes in the costs or availability of Subcontractors or External Contractors;
 - (ii) changes in the costs or availability of materials or supplies;
 - (iii) delays in obtaining necessary BCTC or Third Party approvals (provided that BC Hydro has sought such approvals in a timely manner);
 - (iv) changes in scheduled outages and the availability of the Transmission System;
 - (v) unforeseen worksite conditions; or
 - (vi) a Force Majeure event under Section 21.2;

- (b) Within 15 days following the receipt of such a request, BCTC will either provide written consent to such change, not to be unreasonably withheld, in which case such amended Work Plan will be the Work Plan on which BC Hydro's performance will be reviewed in accordance with Article 9, or request that the Contract Representatives meet to discuss the change request. If the Parties fail to agree on the change request, either Party may submit the matter to dispute resolution pursuant to Article 17.

5.5 Actions Requiring BCTC Consent

In addition to any other approvals required pursuant to Section 5.3 or otherwise under the BCTC Standards, but subject to any express authorization contained in this Agreement, including pursuant to Sections 4.5 or 4.6, BC Hydro will obtain BCTC's written consent before undertaking any of the following actions in connection with the provision of the Services:

- (a) changes to work completion schedules;
- (b) changes to work in the annual Work Plan that would impact overall total costs;
- (c) any work when an updated cost estimate exceeds the original Work Plan estimate by the greater of 5% or \$5,000;
- (d) deferral of items in annual Work Plan;
- (e) except only in the case of an emergency, any corrective maintenance work (as described in the applicable Schedule) included in any of the Services in excess of \$5,000; or
- (f) changes in work methods that could result in a reduction in the availability of the Transmission System.

5.6 Unauthorized Work

Any work carried out by BC Hydro hereunder:

- (a) which is not included in the then-applicable Work Plan or otherwise specifically authorized pursuant to this Agreement or by BCTC; or
- (b) which is carried out in contravention of Section 5.4,

will not form part of the Services and BCTC will have no obligation under this Agreement to pay BC Hydro for any such unauthorized work.

5.7 Review of Description of Services

The Parties will, within 90 days of the commencement of the Term, and thereafter no less than annually:

- (a) complete a joint review of the description of the Substation Services, the Transmission Services, the Vegetation Maintenance Services, the Control Centre Services and the Distribution Operations Support Services, including the Performance Standards in respect thereof and the movement of any Services related to the Distribution Line of Business from Schedule A to Schedule E, all as set out on Schedules A to E; and
- (b) make any such amendments to Schedules A to E, to be initialled by the Parties' respective Contract Representatives in accordance with Section 18.3(b), as may be agreed to by the Parties.

ARTICLE 6 DETERMINATION AND ADJUSTMENT OF VOLUMES

6.1 Review of Work Commitments

- (a) In connection with the finalization of the Work Plan pursuant to Section 5.2, by no later than 60 days prior to the commencement of each Contract Year during the Committed Term, the Parties will review:
 - (i) the Committed Internal Revenue;
 - (ii) the Specific Capital Costs Reference;
 - (iii) the Construction Business Unit Commitment; and
 - (iv) the External Managed Costs Reference,

for such Contract Year and use commercially reasonable efforts to negotiate and reach agreement on any reduction which the Parties determine to be required, acting reasonably, and will use commercially reasonable efforts to negotiate and reach agreement on the terms of such reduction, including its duration, and the scope, nature and timing of the implementation requirements involved with any such reduction. In the event that the Parties do not reach an agreement on a reduction then, subject to any other applicable adjustments provided for in this Article 6, the Committed Internal Revenue, the Specific Capital Costs Reference, the Construction Business Unit Commitment or the External Managed Costs Reference, as the case may be, for such Contract Year will continue to apply.
[SSA 6.8(a)]

- (b) In the event of any increase or reduction of the costs of contract prices of External Contractors and Subcontractors managed by BC Hydro as part of the External Managed Costs Reference, the External Managed Costs Reference will be adjusted upwards or downwards, such adjustment to apply for any subsequent Contract Year. If the Parties fail to agree on the amount of any such adjustment, either Party may submit the matter to dispute resolution pursuant to Article 17.
[SSA 6.6(d)]

6.2 Stranded Costs Arising from Volume Changes

- (a) Subject to paragraph (b) below, in the event that the actual volume of Services:
- (i) required by BCTC pursuant to Section 4.1(a) for a particular Contract Year is less than the Committed Internal Revenue, then BCTC will pay to BC Hydro during that Contract Year the Committed Internal Revenue notwithstanding the actual volume of Services required by BCTC and provided by BC Hydro during that Contract Year; **[SSA 6.9(b)]**
 - (ii) required by BCTC pursuant to Section 4.1(b) for a particular Contract Year is less than the Specific Capital Costs Reference, then if BC Hydro incurs any material costs and expenses associated with stranded assets or personnel as a result of the actual volume of such Services being less than the Specific Capital Costs Reference, BCTC will be responsible for seeking the Commission's approval of such costs and expenses and upon receipt of such approval will reimburse BC Hydro for such costs and expenses;
 - (iii) required by BCTC pursuant to Section 4.1(c) for a particular Contract Year is less than the Construction Business Unit Commitment, then if BC Hydro incurs any material costs and expenses associated with stranded assets or personnel as a result of the actual volume of such Services being less than the Construction Business Unit Commitment, BCTC will be responsible for seeking the Commission's approval of such costs and expenses and upon receipt of such approval will reimburse BC Hydro for such costs and expenses; and
 - (iv) provided by External Contractors and Subcontractors required by BCTC pursuant to Section 4.1(d) to be managed by BC Hydro in a particular Contract Year is less than the External Managed Costs Reference, then if BC Hydro incurs any material costs and expenses associated with stranded assets or personnel as a result of the actual volume of such Services being less than the External Managed Costs Reference, BCTC will be responsible for seeking the Commission's approval of such costs and expenses and upon receipt of such approval will reimburse BC Hydro for such costs and expenses. **[SSA 6.9(c)]**
- (b) BCTC will not be responsible for payment to BC Hydro pursuant to paragraph (a) above to the extent that any such shortfall in the actual volume of Services is the result of:
- (i) a Force Majeure event under Section 21.2;
 - (ii) BC Hydro not providing to BCTC the Services required in accordance with the Work Plan;
 - (iii) work awarded to an alternate service provider in accordance with Section 9.2(b); or

- (iv) a reduction by BC Hydro, for any reason, during any Contract Year of the planned amount of services required from BCTC by BC Hydro's Distribution Line of Business for Distribution Operations (as defined in the Master Agreement) or the planning, management or maintenance of Substation Distribution Assets.
- (c) In the circumstances described in paragraph (a)(ii) above, BC Hydro will:
 - (i) provide to BCTC a written report describing any changes in services, assignment of personnel and other resources and estimation of costs and expenses which will be incurred by BC Hydro as a result of such circumstances; and
 - (ii) use commercially reasonable efforts to plan for and minimize the costs and expenses associated with any stranded assets or personnel that BC Hydro anticipates will result from such circumstances.

6.3 Reduction of Work Volumes after Committed Term

- (a) For each Eligible Year, either Party may elect to reduce the Committed Internal Revenue, the Specific Capital Costs Reference, the Construction Business Unit Commitment and the External Managed Costs Reference, as the case may be, in accordance with Section 4.3, by giving the other Party, subject to paragraph (b) below, at least 12 months' written notice (a "**Reduction Notice**") in a form agreed to between the Parties, acting reasonably, prior to the commencement of the Contract Year applicable to the proposed reduction (the "**Reduction**") described in such Reduction Notice, provided that in the event that BCTC intends to effect a Reduction that BC Hydro, acting reasonably, determines may result in material costs and expenses associated with any stranded assets or personnel, then BCTC will be required to provide a Reduction Notice at least two years prior to such Reduction taking effect. **[SSA 6.8(b)]**
- (b) Within 30 days after the date of a Reduction Notice, BC Hydro will prepare and deliver to the BCTC Contract Representative a written report (a "**Reduction Report**"), in a form agreed to between the Parties, acting reasonably, describing any changes in Services, assignment of personnel and other resources and estimation of costs and expenses which will be required to implement the Reduction. **[SSA 6.8(c)]**
- (c) The BCTC Contract Representative and the BC Hydro Contract Representative will discuss the implementation requirements contemplated by the Reduction Report and determine the appropriate schedule for a Reduction. Each Party will take commercially reasonable measures to mitigate the costs and expenses incurred in order to effect a Reduction. Both during and after the Committed Term, BC Hydro will use commercially reasonable efforts to plan for and minimize the costs associated with any stranded assets or personnel that BC Hydro anticipates will result from the reduction of the Services contemplated in the Reduction Notice. **[SSA 6.8(d)]**

6.4 Stranded Costs Arising from Reduction

Upon a Reduction, BCTC will be responsible for seeking the Commission's approval of any material costs and expenses set out in a Reduction Report that could not be mitigated by the use of a contingent workforce and resulting from a Reduction to the extent that such costs and expenses were not reasonably anticipated and planned for by BC Hydro and upon receipt of such approval will reimburse BC Hydro for such costs and expenses. [SSA 6.8(e)]

6.5 Allocation of Work Volumes to Service Categories

- (a) During the first two Contract Years of the Committed Term:
 - (i) BC Hydro will, and BCTC will retain BC Hydro to, provide Services to BCTC in the corresponding allocation of the Committed Internal Revenue among each Service Category as set out in Schedule H, subject to adjustment pursuant to this Section 6.5; and
 - (ii) BC Hydro will use commercially reasonable efforts to plan and adjust the provision of Services among the Service Categories to meet BCTC's requirements in the provision of the Asset Management and Maintenance Services. [SSA 6.7(c)]
- (b) At any time during the first two Contract Years of the Committed Term, upon the request by either Party, the Parties will review the allocation of the Committed Internal Revenue among the Service Categories and use commercially reasonable efforts to negotiate and reach agreement on any reallocation of the Committed Internal Revenue among Service Categories which the Parties determine to be required, acting reasonably, and will use commercially reasonable efforts to negotiate and reach agreement on the scope, nature and timing of the implementation requirements involved with any such reallocation. In the event that the Parties do not reach agreement on a reallocation, the allocation of the Committed Internal Revenue among the Service Categories will continue to apply. [SSA 6.7(d)]
- (c) The Service Categories and corresponding allocation of the Committed Internal Revenue among each Service Category set out on Schedule H will no longer apply at the end of the second Contract Year of the Committed Term. BCTC will use commercially reasonable efforts to plan and organize the provision of the Asset Management and Maintenance Services in a manner that minimizes the impact that the expiry of the requirement to allocate the Committed Internal Revenue among the Service Categories would have on Field Services LoB personnel. [SSA 6.7(e)]
- (d) BCTC will provide BC Hydro with 12 months' prior written notice of any planned changes to work allocation volumes pursuant to paragraph (c) above.
- (e) In the event of any adjustment or reallocation of the Committed Internal Revenue under this Agreement during the first two Contract Years of the Committed Term,

any such adjustment or reallocation, as the case may be, will be applied among any or all of the Service Categories on a basis to be determined by the Parties, acting reasonably. [SSA 6.7(f)]

6.6 Cost Adjustment of Work Commitments

- (a) Commencing no later than 120 days prior to the commencement of each Contract Year and concluding by no later than 60 days prior to the commencement of each such Contract Year, and in connection with the finalization of the Work Plan pursuant to Section 5.2, the Parties will review the costs comprising the Committed Internal Revenue, the Specific Capital Costs Reference and the Construction Business Unit Commitment, including capital, operating, maintenance, overhead, vehicle and other expenses, for each such Contract Year and adjust upwards or downwards the Committed Internal Revenue, the Specific Capital Costs Reference and the Construction Business Unit Commitment by an amount of any cost increase or reduction. [SSA 6.11(a)]
- (b) In the event of an upwards or downwards adjustment in costs as contemplated in paragraph (a) above, the adjustment will apply to the Committed Internal Revenue for any subsequent Contract Year. If the Parties fail to agree on the amount of any such adjustment, either Party may submit the matter to dispute resolution in accordance with Article 17. [SSA 6.11(b)]
- (c) The Parties acknowledge that any adjustment to the Committed Internal Revenue, the Specific Capital Costs Reference and the Construction Business Unit Commitment under paragraph (a) above for cost escalations or reductions will be an adjustment to the cost to BCTC of the Committed Internal Revenue, the Specific Capital Costs Reference or the Construction Business Unit Commitment, as applicable, and will not result in any adjustment to the volume of work represented by the Committed Internal Revenue, the Specific Capital Costs Reference or the Construction Business Unit Commitment. [SSA 6.11(c)]

6.7 Adjustment for Fixed Price Proposal

In the event that BC Hydro and BCTC agree on a Fixed Price Proposal pursuant to Section 13.3(c), the Parties will agree to adjust the Committed Internal Revenue, the Specific Capital Costs Reference or the Construction Business Unit Commitment related to that portion of the Services not being performed pursuant to the Fixed Price Proposal for the Contract Year during which BC Hydro performs such work by an amount as agreed to between the Parties, provided that any such adjustment will maintain adequate cost allocations for overhead and other reasonable costs and expenses of BC Hydro relating to such Services and take into account any profit or risk component of the Fixed Price Proposal. If the Parties fail to agree on the amount of any such adjustment, either Party may submit the matter to dispute resolution. [SSA 6.12(a)]

6.8 Adjustment for Agreed Transfer of Work from BCTC to BC Hydro

In the event that BC Hydro and BCTC agree on a transfer from BCTC to BC Hydro of any work previously carried out by BCTC under the Key Agreements, the Parties will

agree to adjust the Committed Internal Revenue, the Specific Capital Costs Reference, the Construction Business Unit Commitment or the External Managed Costs Reference, as applicable, related to that portion of the Services provided by Field Services LoB to BCTC hereunder in connection with such transferred work by an amount as agreed to between the Parties. If the Parties fail to agree on the amount of any such adjustment, either Party may submit the matter to dispute resolution.

6.9 Services Relating to Distribution Operations and Substation Distribution Assets

In the event that either of the service level agreements contemplated by Sections 11.3 and 12.2 of the Master Agreement is modified or terminated in a way which reduces the need of BCTC for Services from Field Services LoB in connection with Distribution Operations (as defined in the Master Agreement) or the planning, management or maintenance of Substation Distribution Assets, then:

- (a) the Committed Internal Revenue, the Construction Business Unit Commitment, the Specific Capital Costs Reference or the External Managed Costs Reference, as applicable, will be adjusted downwards by an amount as agreed to between the Parties and, in the event of any such downwards adjustment, the adjustment will apply to the Committed Internal Revenue, the Specific Capital Costs Reference, the Construction Business Unit Commitment or the External Managed Costs Reference, as applicable, for any subsequent Contract Year; [SSA 6.15]
- (b) the Parties will make appropriate amendments to this Agreement to exclude the Substation Distribution Assets from the definition of the Transmission System where appropriate; and
- (c) in the event that the Parties are unable to reach agreement on any matter relating to any such adjustment or amendment, either Party may submit the matter to dispute resolution pursuant to Article 17.

ARTICLE 7 STANDARDS OF SERVICE

7.1 BCTC Standards

- (a) In providing the Services, or any Additional Work, to BCTC under this Agreement, BC Hydro will comply with, and will ensure that each employee, Subcontractor, External Contractor, agent and invitee who performs the Services or any Additional Work, is made aware of and agrees to comply with, subject to Section 7.3, the applicable BCTC Standards provided to BC Hydro in accordance with paragraph (b) below. [SSA 6.13(a)(i)]
- (b) BCTC from time to time will provide BC Hydro with copies (including in electronic form) of the BCTC Standards with which BC Hydro is required by BCTC to comply, and BC Hydro will not be required to comply with such BCTC Standards until it receives copies thereof. BCTC will immediately notify BC Hydro of any changes, updates, modifications or amendments that BCTC may make to any such BCTC Standards, and BC Hydro will comply with such

changed, updated, modified or amended BCTC Standards immediately following any necessary transition period determined by BC Hydro, acting reasonably, and communicated to BCTC, provided that, upon the request of BC Hydro, BCTC will pay for any reasonable costs of complying with such changes. [SSA 6.13(b)]

7.2 Other Standards of Service

In the course of providing the Services, or any Additional Work, under this Agreement, BC Hydro and its employees, Subcontractors, agents and invitees will:

- (a) act in a commercially reasonable, efficient and professional manner and in accordance with Good Utility Practice;
- (b) provide such Services to at least the standard and quality of similar services it provides to its own operations, including, where applicable, to the operations previously carried on by TLoB; and
- (c) provide such Services in compliance with applicable Laws and in material compliance with the terms of all rights, permits and licences held by it in connection with the provision of such Services and not take any action in performing such Services that would invalidate the rights, permits and licences necessary for it to carry out its operations. [SSA 6.14]

7.3 Conflict between BCTC Standards and Other Standards

In the event of any perceived conflict between any BCTC Standard and any of the requirements set out Section 7.2(a) or 7.2(c), BC Hydro will have an opportunity to raise such conflict and request that BCTC modify the applicable BCTC Standard to address such conflict, provided that if the Parties cannot agree on the existence of any such conflict, either Party may submit the matter for dispute resolution pursuant to Article 17.

7.4 Environmental and Safety Compliance

- (a) Subject to paragraph (b) below, in accordance with Section 16.2 of the Master Agreement BCTC will establish and comply with appropriate systems and procedures with respect to environmental matters and occupational health and safety matters, including worker safety and public safety matters, in order to meet all applicable Laws, including Environmental Laws, in the course of performing the Asset Management and Maintenance Services.
- (b) BC Hydro will:
 - (i) establish and comply with appropriate systems and procedures with respect to environmental and occupational health and safety matters (including worker and public safety) in connection with the Services to be provided hereunder, until such time as BCTC establishes and provides replacement systems and procedures to BC Hydro for the Services in accordance with paragraph (a) above; and

- (ii) provide the Services hereunder in compliance with the specific environmental and safety matters set out in Schedules F and G, respectively.

7.5 Standards of Conduct

In providing the Services, or any Additional Work, to BCTC under this Agreement, BC Hydro will comply with the Standards of Conduct.

ARTICLE 8 SUBCONTRACTORS AND EXTERNAL CONTRACTORS

8.1 Subcontractors

To the extent permitted by the BCTC Standards for procurement, BC Hydro may retain, in the name of BC Hydro, and manage such subcontractors (“**Subcontractors**”) required by Field Services LoB in the provision of the Services. BC Hydro’s procurement policies will govern the entering into of such subcontracts. The cost of such Subcontractors shall be paid directly by BC Hydro, with any reimbursement of such costs by BCTC to BC Hydro to be made in accordance with this Agreement.

8.2 External Contractors

- (a) Pursuant to Section 4.1(d), BC Hydro will retain in the name of BCTC and manage on behalf of BCTC the following contractors (“**External Contractors**”):
 - (i) transmission line and/or substation contractors, in order to efficiently balance BCTC requirements with the availability of Services by BC Hydro; and
 - (ii) vegetation contractors,in each case consistent with the practices of Field Services LoB as at the Effective Date, with such External Contractors to be retained by BC Hydro in the name of BCTC. [SSA 6.6(a)]
- (b) The cost of such External Contractors shall be paid directly by BCTC or by BC Hydro on behalf of BCTC, as the Parties may agree from time to time. [SSA 6.6(c)]
- (c) BC Hydro will, subject to compliance with the BCTC Standards, have decision making authority for the selection of any External Contractor included on the list developed in accordance with Section 8.3.

8.3 List of External Contractors

- (a) Any External Contractor retained by BC Hydro pursuant to Section 8.2 will be selected from a list of External Contractors prepared by Field Services LoB and provided to BCTC within 30 days following the commencement of each Contract

Year, and approved by BCTC within 30 days of receipt of such list. External Contractors may be added or deleted from such list at the request of BC Hydro at any time with the consent of BCTC, not to be unreasonably withheld, and BCTC will provide its response to any request by BC Hydro for such consent in a timely manner. [SSA 6.6(c)]

- (b) Either Party may propose at any time, for the consideration of the CI Team pursuant to Section 3.1(e), new or revised procurement strategies for any specific work or type of work to be performed by External Contractors under this Agreement and, upon the recommendation of the CI Team, the Parties may amend the list of External Contractors accordingly.

8.4 Other BCTC Contractors

Field Services LoB:

- (a) may, if requested by BCTC and agreed by Field Services LoB, provide management services to BCTC in respect of contracts entered into by BCTC with Third Parties other than External Contractors (“**Other BCTC Contractors**”), provided that such management services will be provided pursuant to Section 4.9 and will not form part of the Services hereunder.
- (b) will use commercially reasonable efforts to provide to upon request, as part of the Services, to Other BCTC Contractors, whether managed by Field Services LoB pursuant to paragraph (a) above or otherwise, all such cooperation and assistance to provide records, drawings, reports and other information as may be reasonably required by Other BCTC Contractors in order for such Other BCTC Contractors to perform their obligations to BCTC.

ARTICLE 9 PERFORMANCE MEASUREMENT AND REVIEW

9.1 Performance Standards

BC Hydro will meet or exceed the Performance Standards for each type of Service, subject to adjustment of such Performance Standards in accordance with Section 9.4.

9.2 Performance Review

- (a) During the Term, the Parties’ Contract Representatives and their designees will meet as required, and in any event no less frequently than within 30 days following the end of any quarter, to review BC Hydro’s performance, including its attainment of the Performance Standards, in the provision of the Services hereunder.
- (b) Regular performance monitoring of scope, schedule and cost requirements will be conducted by BCTC in between the scheduled performance reviews pursuant to paragraph (a) above and, if BCTC reasonably believes that prompt resolution of

any specific material performance issue is necessary to ensure the safety of workers and the public and reliability of the Transmission System:

- (i) BCTC will immediately provide written notice to BC Hydro of such performance issue and the Parties will meet immediately to develop a remedial action plan to adjust the trends to a favourable level in advance of the next regularly scheduled performance review;
- (ii) if BC Hydro fails to respond to such notice within 30 days of notification (or such shorter period as BCTC reasonably believes is required to ensure the safety of workers and the public and reliability of the Transmission System), the responsible Vice Presidents of each of BC Hydro and BCTC will meet to discuss the performance issue; and
- (iii) if the responsible Vice Presidents cannot agree on the appropriate rectification of such performance issue pursuant to paragraph (ii) above, BCTC may retain an alternate service provider to perform the specific work at issue on a temporary basis until such time as such performance issue is rectified.

9.3 Objective of Performance Review

The Parties acknowledge and agree that an objective in the review of BC Hydro's performance hereunder is to encourage continuous improvement in the performance of the Services, as described in Section 3.1, and that such review must therefore include:

- (a) developing and maintaining a healthy relationship between the Parties, including reviewing BCTC's performance under this Agreement and the impact of such performance on the provision of the Services by BC Hydro to BCTC;
- (b) learning from successes, including identifying innovations and situations where delivered value significantly exceeded expectations, and applying the lessons learned from these successes to other situations;
- (c) developing workable solutions to current ongoing problems, including attempting to solve such problems through cooperation before invoking the formal dispute resolution process pursuant to Article 17; and
- (d) determining the cause of problems resulting in, without limitation, unauthorized work under Section 5.6 or repair work under Section 4.6, and remedying such causes to avoid recurrences of the same problems in the future.

9.4 Review and Amendment of Performance Standards

- (a) The review of BC Hydro's performance in accordance with the foregoing will include a review by the Parties of the Performance Standards on no less than an annual basis during a performance review meeting held pursuant to Section 9.2(a). Except as provided for in paragraph (b) below, changes to the Performance Standards will be by mutual agreement of the Parties after

consideration of costs and schedule for implementation, and such changes to the Performance Standards will be reflected in the Work Plan as appropriate.

- (b) If directed by the Commission, BCTC may amend the Performance Standards and will provide written notice of such amendment to BC Hydro.

9.5 Performance Issues and Improvement Plans

- (a) If a performance review conducted pursuant to Section 9.2(a) establishes that BC Hydro has failed to meet any Performance Standard in a particular quarterly reporting period (the “**Performance Issue**”):
 - (i) by no later than 15 days following the completion of the performance review, the Parties’ Contract Representatives or their designees will meet further to discuss the Performance Issue, including the cause of the Performance Issue and possible solutions to address the Performance Issue;
 - (ii) except to the extent that the Parties agree pursuant to paragraph (i) above that the Performance Issue is not material, or is caused solely by BCTC’s action or inaction, BC Hydro will, at the request of BCTC, develop and submit for BCTC’s approval, within 30 days of the date of such request or such other period as may be determined by the Parties pursuant to paragraph (i), a performance improvement plan (a “**Performance Improvement Plan**”) to address the Performance Issue;
 - (iii) upon the approval of a Performance Improvement Plan by BCTC pursuant to paragraph (ii) above, BC Hydro will proceed to implement such Performance Improvement Plan in accordance with the schedule set out therein.
- (b) In the event that BC Hydro:
 - (i) fails to submit a Performance Improvement Plan acceptable to BCTC in the circumstances and within the time period specified in paragraph (a)(ii) above;
 - (ii) fails to implement an approved Performance Improvement Plan in accordance with the schedule set out therein; or
 - (iii) having implemented an approved Performance Improvement Plan, nevertheless fails to remedy the Performance Issue by failing to meet the particular Performance Standard in the first full quarterly reporting period following implementation of the Performance Improvement Plan, or such other period as may be established by the Performance Improvement Plan,

the matter will be referred to the responsible Vice Presidents of each of BC Hydro and BCTC for consideration pursuant to paragraph (c) below.

- (c) The responsible Vice Presidents of each of BC Hydro and BCTC will meet by no later than 15 days following the date of the referral under paragraph (b) above to discuss any failure thereunder and agree on the appropriate rectification action to be taken.
- (d) In the event of any dispute between the Parties in respect of any matter to be determined pursuant to this Section 9.5, including whether a Performance Issue is material, is continuing or has been resolved, or has been caused solely by the action or inaction of BCTC, either Party may submit the matter for dispute resolution pursuant to Article 17.

9.6 Performance Incentives and Payments

- (a) Within 45 days following the end of each Contract Year, the Parties will determine on the basis of the Key Performance Measures whether an incentive payment (the “**Performance Incentive**”) is payable by BCTC to BC Hydro or whether a performance payment (the “**Performance Payment**”) is payable by BC Hydro to BCTC. If the Parties have not been able to agree on the amount payable within 60 days of the end of a Contract Year, either Party may submit the matter to dispute resolution pursuant to Article 17.
- (b) Subject to paragraph (f) below, the maximum amount of Performance Incentives or Performance Payments payable in total (the “**Payment Limits**”) commencing fiscal 2006 will be equal to \$500,000. For each subsequent Contract Year:
 - (i) if, in the previous Contract Year, a Performance Incentive was payable, the Payment Limit for Performance Incentives for that Contract Year will be \$1,000,000 and the Payment Limit for Performance Payments for that Contract Year will be \$500,000;
 - (ii) if, in the previous Contract Year, a Performance Payment was payable, the Payment Limit for Performance Incentives for that Contract Year will be \$500,000 and the Payment Limit for Performance Payments for that Contract Year will be \$1,000,000;
 - (iii) if, in the previous Contract Year, neither a Performance Incentive nor a Performance Payment was payable, the Payment Limit for Performance Incentives and Performance Payments for that Contract Year will be \$500,000.
- (c) For each Contract Year in which BC Hydro has been required to pay a Performance Payment for the three immediately preceding Contract Years, BCTC may elect to reduce the Committed Internal Revenue by up to 5%, provided that the reduction shall be applied only in the area(s) of underperformance during the three immediately preceding Contract Years. The allocation of such reduction over any areas of underperformance during such period will be at the sole discretion of BCTC. If, for a subsequent Contract Year BC Hydro is not required to pay a Performance Payment for that Contract Year, BC Hydro may elect to increase for the next Contract Year the Committed Internal Revenue by the

amount of any such reduction applied by BCTC in a previous Contract Year, starting with the oldest Contract Year in which BCTC applied such a reduction.

- (d) For each Contract Year in which BC Hydro has been entitled to be paid a Performance Incentive for the three immediately preceding Contract Years, BCTC may elect to increase the Committed Internal Revenue by up to 5% for such period to provide Services in the areas of overperformance for such period, subject to the agreement of BC Hydro in its sole discretion.
- (e) The amount of any Performance Incentive or Performance Payment will be determined in accordance with the method for scaling such amounts within the applicable Payment Limits as agreed to by the Parties in the determination of Key Performance Measures pursuant to Section 5.2.
- (f) In any Contract Year, BCTC and BC Hydro may agree during the course of the Contract Year that certain work should be removed from the Work Plan, in which case the Committed Internal Revenue, the Construction Business Unit Commitment, the External Managed Cost Reference and the Specific Capital Costs Reference, as applicable, will be reduced for that year by the amount of such work.
- (g) For each Eligible Year, where each of the Committed Internal Revenue, the Construction Business Unit Commitment, the External Managed Costs Reference and the Specific Capital Costs Reference is reduced pursuant to Section 4.3, the amount of the Payment Limit for both Performance Payments and Performance Incentives will be reduced by the same percentage up to a maximum of 20% for such Eligible Year.
- (h) No amount of the Performance Payment will be payable by BC Hydro if and to the extent that the failure to meet the Key Performance Measures is due to any increased costs or delays for which BCTC is responsible, including any delays in obtaining BCTC approvals, any failures by BCTC to meet its responsibilities in providing or procuring materials required by BC Hydro on a timely basis, or any failures by BCTC to schedule outages to make the Transmission System available as may be reasonably required by BC Hydro, BC Hydro having given timely notice of such requirements.

9.7 Settlement of Performance Payments and Incentives

The amount of any Performance Payment or Performance Incentive, as the case may be, determined pursuant to Section 9.6(a) will be payable by the applicable Party to the other Party within 30 days of such determination.

9.8 Review of Performance Payments and Incentives

The performance review conducted following the end of any fourth quarter in accordance with Section 9.2 will include a consideration of the Performance Payment and Performance Incentive process set out in this Agreement and the applicable Key Performance Measures and any recommendations to BC Hydro and BCTC to establish an

alternate process or for any necessary amendments to the provisions relating to such performance payments and incentives.

9.9 Cumulative Remedies

The remedies in this Agreement are cumulative and may be exercised concurrently or separately. No remedy is exclusive of any other right or remedy provided or permitted by law.

ARTICLE 10 REPORTING AND INFORMATION

10.1 Reporting and Information

BC Hydro will provide to BCTC, as part of the Services:

- (a) data required by BCTC to track BC Hydro's compliance with the Performance Standards, together with a comparison of the actual delivery of Services against the Work Plan and an identification of any repair work arising under Section 4.6;
- (b) whenever actual incurred costs exceed or are less than the agreed estimated values by the greater of 5% or \$5,000, a written report advising of such costs together with an explanation of the cause thereof;
- (c) the invoice supporting data required pursuant to Section 13.5(b) and Schedule I;
- (d) the data and reports set out on each of Schedules A through G; and
- (e) any data and reports containing information requested by BCTC from BC Hydro:
 - (i) which BCTC is entitled to receive in the course of carrying out an Audit pursuant to Article 14;
 - (ii) required pursuant to the BCTC Standards and which BCTC is otherwise entitled to pursuant to and in accordance with this Agreement; or
 - (iii) relating directly to the performance of the Services and which BCTC is otherwise entitled to pursuant to and in accordance with this Agreement,

provided that in the event of any dispute between the Parties as to the entitlement of BCTC to such information, either Party may submit the matter for dispute resolution pursuant to Article 17,

all to the extent and in the form, frequency and manner which BC Hydro is able to provide to BCTC as at the date of this Agreement.

10.2 Changes to Reporting Requirements

BCTC may change the type, frequency, content or form of any data or reports to be provided pursuant to Section 10.1, on an exception basis or otherwise, at any time during the Term by written notice to BC Hydro, provided that:

- (a) before being required to provide any such modified data or report, BC Hydro will have an opportunity to advise BCTC with respect to the Consequences of providing such modified data or report, and to suggest further or other changes to the type, frequency, content or form of such modified data or report to alleviate or minimize all or any of such Consequences;
- (b) BCTC, if it decides to proceed with the request for such modified data or report, will accept and be responsible for all of the Consequences, whether identified by BC Hydro pursuant to paragraph (a) above or otherwise incurred, and will pay to BC Hydro of any costs, resulting from the modification of such data or report; and
- (c) in the event of any dispute between the Parties as to whether any additional costs resulting from the modification of such data or report should be reimbursable by BCTC to BC Hydro as additional time spent by BC Hydro employees or additional costs incurred directly by BC Hydro, either Party may submit the matter for dispute resolution pursuant to Article 17.

10.3 Maintenance of Records

The Parties will maintain adequate records and systems of internal control for the performance of all of their respective obligations under this Agreement.

10.4 Provision of Information by BCTC

BCTC will provide data, information and records to BC Hydro in a timely manner as reasonably required by BC Hydro to perform the Services.

10.5 Records Retention

- (a) BC Hydro will retain an electronic, microfiche and original hard copy, each if available, of all asset-related and planning documentation, including drawings, reports, calculations and settings, in perpetuity or for such shorter period as may be established by the BCTC Standards.
- (b) The Parties will retain all other records required to be maintained pursuant to this Agreement for such period as may be established by the BCTC Standards from time to time.
- (c) BC Hydro will notify BCTC upon the expiry of the applicable period of retention for any record retained pursuant to paragraphs (a) or (b) above. If BCTC determines that such records should be retained for a longer period, BCTC will be responsible for the cost of retention for such extended period. If BCTC

determines that such records need not be retained for a longer period, BC Hydro will be solely responsible for any cost of further retention.

ARTICLE 11 CONFIDENTIALITY

11.1 Definition

In this Article 11, “**Confidential Information**” means documents, data or other information received by a Party from the other Party or documents, data or other information of a Party to which the other Party has access under this Agreement, whether in written, oral or machine-readable form, relating to the disclosing Party’s business operations, financial condition, customers, products, services or technical knowledge, that (i) the disclosing Party has identified as confidential or proprietary, whether before or after the date of this Agreement, or (ii) reasonably should have been understood by the receiving Party, because of confidentiality or similar legends, the circumstances of disclosure or the nature of the information itself, to be confidential or proprietary to the disclosing Party. [MA 24.1]

11.2 Restriction on Use of Confidential Information

(a) BCTC hereby agrees that it will not, and will cause its auditors and other representatives not to, at any time, whether before or after the termination of this Agreement, use, disclose or make available to any Person any Confidential Information of BC Hydro acquired in connection with the performance of its obligations under this Agreement or otherwise or prior to or after the date hereof, except to the extent that:

- (i) BC Hydro consents to such use, disclosure or making available;
- (ii) such use is expressly permitted in or necessary or advisable for the performance of this Agreement;
- (iii) such disclosure is, in the opinion of counsel, required in order to comply with any applicable Law, including disclosure obligations of BCTC; or
- (iv) such Confidential Information comes into the public domain otherwise than through a breach of this Agreement by BCTC,

and provided further that any such permitted or required use or disclosure is made in accordance with the Standards of Conduct.

(b) BC Hydro hereby agrees that it will not, and will cause its auditors and other representatives not to, at any time, whether before or after the termination of this Agreement, use, disclose, or make available to any Person any Confidential Information of BCTC acquired in connection with the performance of its obligations under this Agreement or otherwise or prior to or after the date hereof, except to the extent that:

- (i) BCTC consents to such use, disclosure or making available;
- (ii) such use is expressly permitted in or necessary or advisable for the performance of this Agreement;
- (iii) such disclosure is, in the opinion of counsel, required in order to comply with any applicable Law, including disclosure obligations of BC Hydro; or
- (iv) such Confidential Information comes into the public domain otherwise than through a breach of this Agreement by BC Hydro,

and provided further that:

- (v) any such permitted or required use or disclosure is made in accordance with the Standards of Conduct.
- (vi) except as otherwise:
 - (A) expressly consented to by BCTC;
 - (B) expressly permitted in this Agreement; or
 - (C) required for the performance of this Agreement by Field Services LoB,

no such Confidential Information shall be disclosed or made available by Field Services LoB to any other line of business, business unit or division of BC Hydro, or shall be used by Field Services LoB for the commercial benefit of any other line of business, business unit or division of BC Hydro.

- (c) BC Hydro will establish and maintain during the Term such systems, protocols and procedures as may be required to ensure compliance with paragraph (b)(vi) above, and BCTC will have the right:
 - (i) to undertake Audits of such systems, protocols and procedures pursuant to Section 14.1, to the extent only that such systems, protocols and procedures relate to Confidential Information acquired by Field Services LoB from Third Parties in the course of performing the Services hereunder; and
 - (ii) if BCTC becomes aware of any material breach by BC Hydro of paragraph (b)(vi) above in respect of any Confidential Information other than that referred to in paragraph (c)(i) above, to raise such breach as a topic for good faith discussions between the Parties' responsible Vice Presidents.

11.3 Required Disclosure

If either Party, or any of its auditors or other representatives, is required by applicable Law, or compelled by order of a court or regulatory agency of competent jurisdiction, to disclose Confidential Information of the other Party, as soon as such Party learns of the disclosure requirement, and before making such disclosure, it will notify the other Party of the requirement and the terms thereof. The other Party may, in its sole discretion and at its sole cost and expense, undertake any challenge to or defence against such disclosure requirement. The disclosing Party will cooperate with the other Party to the maximum extent practicable, at the other Party's sole cost and expense, to minimize or eliminate the disclosure of Confidential Information consistent with applicable Law and to obtain proprietary or confidential treatment of Confidential Information by any Person to whom such information is disclosed pursuant to this Article 11 before any such disclosure. [MA 24.3]

11.4 Specific Remedies

The Parties agree that irreparable damage would occur and that they would not have any adequate remedy at law in the event that any of the provisions of this Article 11 were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the Parties will be entitled to an injunction or injunctions to prevent breaches of this Article 11 (without the requirement of posting a bond or otherwise securing any undertaking as to damages) and to enforce specifically the terms and provisions of this Article 11, this being in addition to any other remedy to which they are entitled at law. [MA 24.4]

ARTICLE 12 INTELLECTUAL PROPERTY

12.1 Intellectual Property

The Parties hereby acknowledge and agree that in performing their obligations under this Agreement, the use of all Intellectual Property owned by BCTC and the ownership and use of any Improvements or any New Intellectual Property made or developed by BC Hydro, all in the course of providing the Services under this Agreement (whether alone, with BCTC or in collaboration with any other Person) shall be governed in accordance with the terms and conditions of the Intellectual Property Agreement or the Supplemental Intellectual Property Agreement, as the case may be, the terms "Intellectual Property", "Improvements" and "New Intellectual Property" having the meanings ascribed to them in those agreements.

ARTICLE 13 PRICING AND PAYMENT

13.1 Cost Recovery Model

Subject to Section 13.4, BCTC will pay for the Services actually performed by BC Hydro pursuant to this Agreement in accordance with a cost recovery model to recover the

capital, operating, maintenance, overhead, vehicle and other expenses incurred by Field Services LoB in the course of providing such Services, and which will be comprised of the following components, without duplication:

- (a) the time spent by Field Services LoB employees (including temporary employees) in the performance of the Services multiplied by the applicable hourly rate determined in accordance with Section 13.2, such hourly rate to include:
 - (i) costs incurred by Field Services LoB in connection with the provision of office space, equipment and utilities to its employees; and
 - (ii) other overhead costs;
- (b) for Contract Years from and after April 1, 2005, a non-current service pension component, to be billed as a separate line item for each project;
- (c) costs incurred by Field Services LoB under any Third Party contracts with Subcontractors entered into by BC Hydro pursuant to and in accordance with Section 8.1; and
- (d) other specific costs incurred directly by Field Services LoB in the performance of the Services, and not otherwise included in the hourly rates determined in accordance with Section 13.2, that are:
 - (i) requested and authorized by BCTC pursuant to a specific request for Services hereunder; or
 - (ii) otherwise specifically requested and authorized by BCTC under this Agreement.

13.2 Determination of Hourly Rates

- (a) From the date of this Agreement to March 31, 2006, the hourly rate for the Services will be determined by dividing:
 - (i) the total dollar amount contemplated to be received in respect of the Services contained in BC Hydro's 2003 revenue requirement application to the Commission (subject to agreed adjustments between the Parties), provided that, in the event that the Commission's decision on such application amends such total amount, as so adjusted, the Parties will amend the applicable Work Plans accordingly pursuant to Section 5.3, and provided further that the Parties will use commercially reasonable efforts to manage the Services to be delivered hereunder to such total dollar amount, by
 - (ii) the forecast work hours in the applicable Work Plan,

which rate will be used to determine the amounts actually paid by BCTC to BC Hydro pursuant to Section 13.1(a) for the Services actually performed by BC Hydro hereunder.

- (b) In respect of all Contract Years commencing from and after April 1, 2006:
- (i) BC Hydro will, in each revenue requirement application to the Commission applicable to such Contract Year, seek an order from the Commission approving the appropriate cost to be recovered by BC Hydro from BCTC for the Services pursuant to this Agreement (the “**Services Cost**”);
 - (ii) BC Hydro will review with BCTC its proposed application to the Commission pursuant to paragraph (i) above, and BCTC will provide BC Hydro with its timely comments and feedback in connection therewith, including the cost allocation in respect of the Services Cost contained therein. The Parties will use commercially reasonable efforts to agree upon such cost allocation prior to the submission of BC Hydro’s application to the Commission;
 - (iii) BCTC:
 - (A) will not intervene in BC Hydro’s proceeding before the Commission in regard to the order sought by BC Hydro for the Services Cost pursuant to paragraph (i) above; and
 - (B) may be required to defend the Work Plan during BC Hydro’s proceeding before the Commission in order to defend the Services Cost to be allocated to BCTC; and
 - (iv) The Services Cost determined for a Contract Year pursuant to the foregoing and attributable to work to be performed by Field Services LoB employees (including temporary employees) will be divided by the forecast work hours in the applicable Work Plan to produce an hourly rate for the Services, which rate will be used to determine the amounts payable by BCTC to BC Hydro pursuant to Section 13.1(a) for the Services actually performed by BC Hydro hereunder subject to any variation or amendment of such Work Plan by the Commission.

13.3 Taxes

- (a) Subject to paragraph (b) below, in the event that any taxes, including provincial sales tax and GST, are imposed on BCTC in connection with the provision of the Services by BC Hydro under this Agreement, BCTC will be responsible for the payment of any such taxes and will indemnify BC Hydro if BC Hydro pays any such taxes, notwithstanding that BC Hydro was obliged to collect any such taxes in connection with the provision of the Services by BC Hydro under this Agreement. [MA 31.6]

- (b) BC Hydro will comply with all applicable Laws in respect of the billing and invoicing for the Services, and BCTC will not be responsible for any interest or penalties relating to the non-payment of any taxes in connection with the provision of the Services to the extent that the failure to pay such taxes is attributable to the failure of BC Hydro to comply with such Laws.
- (c) BC Hydro will be responsible for ensuring that invoices and supporting documentation for the Services properly identify and separate those Services that may be taxable from those Services that are not taxable so that BCTC is liable for the payment of tax only on Services which are taxable.
- (d) The Parties will administer this Agreement in a manner that is tax efficient. If either Party identifies a way of increasing the tax efficiency of this Agreement by administering it in a different manner, the Parties will work together in an effort to achieve such efficiency, in full compliance with applicable Laws.

13.4 Fixed Price Proposals

- (a) During the Term, either Party may submit a proposal for the provision of any portion or all of the Services included in the Committed Internal Revenue, the Specific Capital Costs Reference or the Construction Business Unit Commitment at a fixed price or based on a schedule of costs for a defined scope of Services (a “**Fixed Price Proposal**”). [SSA 6.10(a)]
- (b) Within 30 days of the receipt of a Fixed Price Proposal, the other Party will provide a written response to the Fixed Price Proposal and thereafter the Parties will use commercially reasonable efforts to negotiate and reach agreement on such Fixed Price Proposal. [SSA 6.10(b)]
- (c) Subject to paragraph (d) below, if BC Hydro and BCTC are not able to agree upon any Fixed Price Proposal, such Services will continue to be provided by BC Hydro to BCTC and paid for by BCTC in accordance with Section 13.1. [SSA 6.10(c)]
- (d) After the Committed Term, if the Parties are unable to agree upon any Fixed Price Proposal, either Party may submit the matter to dispute resolution pursuant to Article 17. [SSA 6.10(d)]
- (e) The benefit and responsibility of any cost savings or overrun, as applicable, in connection with work performed pursuant to an agreed Fixed Price Proposal will be allocated as may be agreed upon by the Parties, including in the following manner:
 - (i) BC Hydro to have the benefit of and responsibility for, as applicable, all cost savings and overruns in connection with work performed pursuant to the Fixed Price Proposal; or

- (ii) BC Hydro and BCTC to share equally the benefit of and responsibility for, as applicable, all cost savings and overruns in connection with work performed pursuant to the Fixed Price Proposal. [SSA 6.12(b)]

13.5 Payment Process

- (a) Until such time as the invoicing and payment mechanics described in paragraphs (b) and (c) below have been implemented, BC Hydro and BCTC will continue to, respectively, charge and effect payment for the Services in accordance with the policies and procedures in place as of the date of this Agreement.
- (b) BC Hydro will commence, on or before the Tariff Commencement Date, charging BCTC for the Services by means of the delivery of a monthly electronic consolidated and itemized invoice, to be delivered to BCTC on or about the fourth Business Day of the following month. Such invoices shall include an electronic file containing supporting data required by BCTC in a format suitable for BCTC reporting and cost management systems, with such supporting data containing at least the information set out on Schedule I.
- (c) From and after the Tariff Commencement Date, BCTC will effect payment of all invoices received from BC Hydro pursuant to paragraph (b) above on or before the thirtieth day following receipt thereof by BCTC or pursuant to the monthly settlement between the Parties of all amounts payable between the Parties under this Agreement and any other service level agreement contemplated by the Key Agreements.

13.6 Disputed Amounts

In the event of a dispute by BCTC in respect of any amount included on any invoice received from BC Hydro, BCTC may submit such dispute to dispute resolution pursuant to Article 17 and withhold payment of the disputed amount but, pending the resolution of such dispute, will effect full payment to BC Hydro of the undisputed amount in accordance with Section 13.5.

13.7 Interest on Unpaid Amounts

Any amounts payable under Section 13.5 will, if not paid by the due date specified, accrue interest at the annual rate of 2% above the then effective interest rate payable by BC Hydro on 30 day commercial paper or equivalent instrument, from the date payment is due until the date payment is made. [MA 21.4]

ARTICLE 14 AUDIT

14.1 Right to Audit

BCTC, its auditors and other representatives will have the right to conduct an Audit of any information and records in BC Hydro's possession directly relating to the Services provided to BCTC which are required to verify:

- (a) the accuracy of all amounts invoiced or otherwise claimed by BC Hydro under this Agreement;
- (b) compliance by BC Hydro with its obligations under this Agreement, including without limitation:
 - (i) the adequacy of the performance of the Services by BC Hydro hereunder, including the accuracy of the information relating to the performance of the Services contained in all reports provided by BC Hydro to BCTC under this Agreement; and
 - (ii) BC Hydro's establishment, maintenance and compliance with:
 - (A) the quality management system required pursuant to Section 3.2;
 - (B) the systems, protocols and procedures required to protect confidential information pursuant to Section 11.2(c)(i); and
 - (C) the environmental, safety and occupational health systems and procedures required pursuant to Section 7.4 and Schedules F and G, respectively.

14.2 Conduct of Audit

- (a) Any Audit performed for or on behalf of BCTC pursuant to Section 14.1 will be conducted in accordance with industry or professionally accepted practices or requirements, if any, applicable Laws, this Agreement, and all other agreements between the Parties.
- (b) Any Audit performed for or on behalf of BCTC pursuant to Section 14.1 will be conducted on no less than 30 days' notice in writing to BC Hydro.
- (c) BC Hydro will provide access to its systems, facilities and records to such auditors and other representatives as BCTC may reasonably require for the purposes of the Audits contemplated in Section 14.1, provided that any such access to facilities and records will be during normal business hours unless otherwise agreed to by BC Hydro, will be conducted in a manner that does not unreasonably interfere with BC Hydro's business operations, and will, where applicable, be subject to any building and office security that is ordinarily in place at such facilities.
- (d) If BC Hydro's Standards of Conduct prevent or restrict the disclosure of relevant systems, facilities and records to BCTC, BC Hydro will provide access to such systems, facilities and records to BCTC's auditors or other representatives provided that BCTC's auditors or other representatives agree not to provide such systems, facilities and records to BCTC in a form or manner that would breach BC Hydro's Standards of Conduct.
- (e) The cost of any Audit performed pursuant to Section 14.1 will be borne by BCTC.

- (f) The audit findings and any Confidential Information of BC Hydro which is reviewed in the course of the Audit or contained in the audit findings will only be used for assessing BC Hydro's performance and compliance with its obligations under this Agreement.

14.3 Audit Findings

BC Hydro will be entitled to receive and respond to any questions arising during the course of any Audit and to receive and comment upon, prior to finalization, the draft report of the audit findings. A copy of the final report on the audit findings will be provided to BC Hydro upon its completion.

14.4 Resolution of Audit Findings

- (a) If any Audit performed pursuant to Section 14.1 establishes any inaccuracy in an invoice or other amount payable under this Agreement, the Parties will forthwith agree on the amount and make such adjusting payments as may be necessary to rectify such inaccuracy within 15 days of such agreement. Failing such agreement being reached within 30 days, either Party may submit the matter to dispute resolution pursuant to Article 17.
- (b) Any claim of an inaccurate amount under Section 14.4(a) must be made within six months after the date of the invoice covering any amount payable under this Agreement which gives rise to such claim.

14.5 No Waiver

Failure by BCTC to perform any Audit shall not constitute a waiver of any of the rights of BCTC, or any of the obligations or liabilities of BC Hydro, under this Agreement.

ARTICLE 15 TERMINATION

15.1 Termination of Agreement

This Agreement may be terminated in whole or in part:

- (a) by BC Hydro in accordance with Section 26 of the Master Agreement;
- (b) by either Party at any time after the Committed Internal Revenue, the Specific Capital Costs Reference, the Construction Business Unit Commitment and the External Managed Costs Reference have each been reduced to zero in accordance with Section 6.3; or
- (c) at any time by the agreement of the Parties.

15.2 Responsibility for Termination Costs

- (a) If either Party terminates this Agreement in accordance with Section 15.1(b), BCTC will not be responsible for any material costs and expenses associated with any stranded assets or personnel of BC Hydro, except only to the extent that such costs and expenses may be payable by BCTC pursuant to Section 6.4 in respect of the reduction of the Committed Internal Revenue, the Specific Capital Costs Reference, the Construction Business Unit Commitment or the External Managed Costs Reference to zero.
- (b) If BC Hydro terminates this Agreement in accordance with Section 15.1(a), or the Parties terminate this Agreement by mutual agreement in accordance with Section 15.1(c), BCTC's responsibility, if any, for costs and expenses associated with any stranded assets or personnel of BC Hydro will be as determined and agreed by the Parties in connection with such termination. Failing such agreement, either Party may submit the matter to dispute resolution pursuant to Article 17.

15.3 Orderly Transition

If this Agreement is terminated pursuant to Section 15.1:

- (a) by no later than 90 days following notice of termination or the Parties mutual decision to terminate, as the case may be, the Parties will negotiate and reach agreement on a reasonable transition process and period to facilitate the orderly transfer of the Services to BCTC and failing such agreement, either Party may submit the matter to dispute resolution pursuant to Article 17; and
- (b) BC Hydro will provide to BCTC such reasonable cooperation, assistance and services to allow the operation, management and maintenance of the Transmission System to continue without interruption or adverse effect and to facilitate the orderly transition to BCTC.

15.4 Survival on Termination

Notwithstanding any other provision of this Agreement, if this Agreement is terminated, the provisions of this Agreement setting out rights and obligations relating to confidentiality, indemnification, limitation of liability, audit rights and dispute resolution will survive such termination or expiry and remain in full force and effect with respect to any matter arising prior to such termination or expiry. [MA 3.2]

ARTICLE 16 LIABILITIES AND INDEMNITIES

16.1 Definitions

For the purposes of this Article 16, the following terms shall have the following meanings:

- (a) “**BC Hydro Contractor**” means any Third Party engaged directly or indirectly by BC Hydro to provide services to or on behalf of BC Hydro in connection with the Services; for further certainty, “BC Hydro Contractor” specifically excludes any External Contractor or any Other BCTC Contractor;
- (b) “**BCTC Indemnitees**” means BCTC and its partners, shareholders, agents, directors, officers, employees, affiliates, successors and assigns, but does not include BC Hydro or its partners, shareholders, agents, directors, officers, employees, affiliates, successors and assigns.
- (c) “**Claim**” means any claim, action, suit, litigation, investigation, arbitration, proceeding or other matter, whether in contract or tort (including in negligence or in any tort imposing strict liability) or otherwise, that is threatened, made, commenced or brought by a Third Party against any of the BCTC Indemnitees and in respect of which BCTC intends to seek indemnification from BC Hydro pursuant to Section 16.2.
- (d) “**Losses**” means any and all losses, liabilities, damages, actions, claims, costs and expenses of any nature or kind (including reasonable legal fees and disbursements).

16.2 BC Hydro Indemnity

In addition to the indemnity provided by BC Hydro to BCTC pursuant to Section 23.7 of the Master Agreement, BC Hydro will, subject to Section 16.3, indemnify and save the BCTC Indemnitees harmless from and against any Losses suffered or incurred by the BCTC Indemnitees arising out of or in connection with either of the following:

- (a) any Claim arising out of or in connection with any act or omission of BC Hydro or any BC Hydro Contractor in the course of providing the Services to BCTC pursuant to this Agreement; and
- (b) any damage to BCTC’s assets caused by or arising out of or related to any negligence or wilful misconduct by BC Hydro or any BC Hydro Contractor in the course of providing the Services to BCTC pursuant to this Agreement,

provided that BC Hydro will not be required to indemnify any of the BCTC Indemnitees in respect of the Losses specified in this Section 16.2 to the extent BCTC receives insurance proceeds relating to such Losses.

16.3 No Consequential Damages

Neither Party nor any of its affiliates, officers, directors or employees will be liable in contract or tort (including in negligence or in any tort imposing strict liability) or otherwise for indirect, special, incidental, consequential, exemplary or punitive damages or damages for loss of use, loss of work in process, down time or loss of profits of the other Party, and such limitation on damages will survive failure of any exclusive remedy and will survive termination of this Agreement, including by reason of a fundamental breach; provided, however, that the foregoing provisions will not limit compensation for

goods sold, services rendered or other compensation specifically provided for under this Agreement. The foregoing limitation on liability of a Party, its affiliates, officers, directors or employees, is not intended to apply to the extent that the Losses for which BCTC seeks indemnification hereunder are indirect, special, incidental, consequential, exemplary or punitive damages or damages for loss of use, loss of work in process, down time or loss of profits claimed against any of the BCTC Indemnitees by a Third Party resulting from an action or failure to act by BC Hydro that is indemnified under Section 16.2. [MA 23.6]

16.4 Indemnification Process

The process set out in Section 23.8 of the Master Agreement will apply to any Claims for which BCTC seeks indemnification from BC Hydro under Section 16.2.

ARTICLE 17 DISPUTE RESOLUTION

17.1 Dispute Resolution

Except as and to the extent otherwise expressly provided for in this Agreement, all disputes between the Parties which may arise under, out of, in connection with or in relation to this Agreement (a “**Dispute**”) will be resolved strictly and exclusively in accordance with this Article 17, including Disputes arising in connection with any provisions of this Agreement which provide (regardless of the actual words used) that:

- (a) the Parties will reach agreement on a particular matter and the time specified for reaching agreement has passed or, if no time is specified, the Parties have failed to reach agreement on the matter; and
- (b) either Party may submit a failure to reach agreement on the particular matter to dispute resolution pursuant to this Article 17. [MA 25.1]

17.2 Notice of Internal Escalation

- (a) In the event of a Dispute that cannot be resolved by the respective responsible managers of the Parties, either Party may at any time provide the other Party with written notice of its intention to formally invoke the internal escalation provisions of Section 17.3 (a “**Notice of Internal Escalation**”).
- (b) The Party issuing a Notice of Internal Escalation pursuant to paragraph (a) above will also deliver a copy thereof to each Party’s Contract Representative.

17.3 Internal Escalation of Dispute

- (a) Following the delivery of a Notice of Internal Escalation pursuant to Section 17.2, the Parties will use commercially reasonable efforts to resolve the Dispute by good faith discussions between the respective Contract Representatives of the Parties within 15 days of the delivery of the Notice of Internal Escalation.

- (b) If the discussions between the Parties' Contract Representatives pursuant to paragraph (a) above are not successful in resolving the Dispute, the Parties will use commercially reasonable efforts to resolve the Dispute by good faith discussions between the Parties' responsible Vice Presidents within a further 15 day period.
- (c) Each of the Parties will provide full, candid and timely disclosure of all relevant facts, information and documents to facilitate any such discussions.

17.4 Notice of Dispute

In the event of a Dispute that has not been resolved to the satisfaction of the Parties under Section 17.3, either Party may at any time following the expiration of the time periods set out in Section 17.3 provide the other Party with written notice of its intention to formally invoke the external dispute resolution provisions of Sections 17.5, 17.6 and 17.7 (a "Notice of Dispute").

17.5 Recommendation by Independent Expert

Following the issuance of a Notice of Dispute pursuant to Section 17.4, the Parties may, by mutual agreement, elect to have an independent expert review and submit written recommendations as to the resolution of the Dispute on a non-binding basis. The costs of such an expert will be shared equally between the Parties. [MA 25.4]

17.6 Mediation

Following the issuance of a Notice of Dispute pursuant to Section 17.4, either Party may, at any time after 14 days following the date that a Notice of Dispute is given in respect of the Dispute, refer the Dispute, including a Dispute which is under review or subject to a recommendation under Section 17.5, to mediation which, unless otherwise agreed between the Parties, will be commenced and carried out in accordance with the mediation rules of procedure of the British Columbia International Commercial Arbitration Centre in effect at the time of the mediation. [MA 25.5]

17.7 External Arbitration

- (a) If a Dispute is not resolved by mediation within 14 days of a mediator being appointed or agreed to by the Parties or at any time after written notice to the Parties by the mediator that the Dispute is not likely to be resolved through mediation, then either Party may, by notice to the other Party, require the Dispute to be settled by arbitration under this Section 17.7. In the event that a dispute is not referred to mediation under Section 17.6, then either Party may, at any time after 14 days following the date that a Notice of Dispute is given in respect of the Dispute, require the Dispute to be settled by arbitration under this Section 17.7.
- (b) The following provisions will apply to any arbitration initiated pursuant to this Section 17.7:

- (i) The arbitration will be conducted in British Columbia in accordance with the *Commercial Arbitration Act* (British Columbia).
- (ii) The Parties will use commercially reasonable efforts to agree on and appoint a single arbitrator.
- (iii) If the Parties fail to agree upon a single arbitrator within 10 days of the referral of the dispute to arbitration, each Party will choose one arbitrator who will sit on a three-member arbitration panel. The two arbitrators so chosen will within 20 days of their selection, select a third arbitrator to chair the arbitration panel.
- (iv) The arbitrator(s) appointed under paragraphs (ii) or (iii) above will be knowledgeable in electric utility matters, including electric transmission and bulk power issues, and, unless the Parties otherwise agree, will be neutral and not have any current or past substantial business or financial relationships with either Party (except through prior arbitrations).
- (v) Where the Parties have failed to agree on a matter referred to in Section 17.1(a), each Party expressly authorizes and directs the arbitrator(s) to establish the terms of the agreement between the Parties addressing the matter on which the Parties were unable to reach agreement and such agreement will be binding on the Parties.
- (vi) Unless otherwise agreed, the arbitrator(s) will render a decision within 90 days of appointment and will notify the Parties in writing of the decision and the reasons for the decision.
- (vii) Any decision of the arbitrator(s) must comply with any order or other requirement of the Workers' Compensation Board or other regulatory agency having jurisdiction over occupational health and safety.
- (viii) If the decision of the arbitrator(s) will affect the rates, terms and conditions of service or facilities of BCTC or BC Hydro or any other matter under the WTS Tariff or the OATT, as the case may be, such decision must also be filed with the Commission.
- (ix) Subject to any award of costs by the arbitrator(s), each Party will be responsible for its own costs incurred during the arbitration process and for the following costs, if applicable:
 - (A) the cost of the arbitrator chosen by the Party to sit on the three member panel and one half of the cost of the third arbitrator chosen; or
 - (B) one half of the cost of the single arbitrator jointly chosen by the Parties. **[MA 25.6]**

17.8 Confidentiality in Respect of Disputes

Unless otherwise agreed by the Parties, all hearings, meetings and communications in connection with Disputes under this Article 17 and, subject to Section 17.7(b)(viii), all decisions of the arbitrator(s) will be treated as strictly private and confidential, and will not be disclosed except as may be required by applicable Laws. [MA 25.7]

ARTICLE 18 CONTRACT REPRESENTATIVES

18.1 Appointment of Contract Representatives

Each of the Parties will, by notice in writing to the other Party, appoint a person as its Contract Representative under this Agreement to be responsible for the relationship between the Parties under this Agreement. Either Party may replace such Contract Representative by notice in writing to the other Party from time to time.

18.2 Contract Representative Designates

Each Contract Representative may designate in writing a reasonable number of additional employees of such Party to be points of contact for the other Party in respect to particular subject matters under this Agreement.

18.3 Scope of Authority

- (a) Each Contract Representative and its designates will have the authority to make decisions with respect to actions to be taken by its Party in the ordinary course of day-to-day management of the obligations of such Party under this Agreement.
- (b) The Contract Representatives and their respective designates will have no authority, expressly or by course of conduct, to agree to amend this Agreement, other than the Schedules hereto.

18.4 Meetings of Contract Representatives

The Contract Representatives and their designates will meet quarterly (or more or less frequently as determined by the Parties) to review the effectiveness of this Agreement and the relationship between the Parties under this Agreement.

ARTICLE 19 NOTICES

19.1 Notices

All notices to be given pursuant to this Agreement will be in writing and will be given by delivery or facsimile of the same to the address or facsimile number designated hereunder or to such other address or facsimile number as may be substituted therefor from time to time for the proper notice to a Party hereunder. Where a notice is sent by facsimile, if it is received by a Party prior to 4:00 p.m. local time on a Business Day, it will be deemed

to have been received on that Business Day, and otherwise such notice will be deemed to be received on the Business Day next following its actual receipt. A Party may change its address or facsimile number from time to time by giving written notice of such change to the other Party in accordance with this Section 19.1. The respective addresses and facsimile numbers of the Parties are as follows:

To BC Hydro: British Columbia Hydro and Power Authority
333 Dunsmuir Street
Vancouver, B.C.
V6B 5R3

Attention: Vice President, Field Services
Facsimile: (604) 528-2858

Attention: Vice President & General Counsel
Facsimile: (604) 623-4323

Attention: Director, Business Partnerships
Facsimile: (604) 623-4545

To BCTC: British Columbia Transmission Corporation
Suite 1100, Four Bentall Centre
1055 Dunsmuir Street
P.O. Box 49260
Vancouver, B.C.
V7X 1V5

Attention: Vice President Legal & General Counsel
Facsimile: (604) 699-7471

19.2 Routine Communication

Notwithstanding Section 19.1, any notices or other communications between the Parties that relate to operating procedures are not required to be in writing and will be made as set out in this Agreement, by industry practice or as otherwise agreed by the Parties.

ARTICLE 20 ASSIGNMENT

20.1 Successors and Assigns

All covenants and provisions of this Agreement by and for the benefit of the Parties will bind and enure to the benefit of their respective successors and permitted assigns, but no permitted assignment or transfer will relieve the assignor or transferor of its obligations except to the extent specifically provided in this Agreement or any of the Key Agreements.

20.2 Assignment of Rights and Obligations

Subject only to Section 8.1, neither Party will assign, pledge or transfer all or any part of, or any right or obligation under, this Agreement except in accordance with Article 28 of Master Agreement, as if this Agreement was one of the Key Agreements.

ARTICLE 21 FORCE MAJEURE

21.1 Definition

In this Article 21, “**Force Majeure**” means acts of God; acts of the public enemy; wars; sabotage; terrorism; riots; strikes; lockouts; vandalism; blockages; labour disputes; fires; explosions; natural disasters; floods; perils of the sea; lightning; wind; actions of a court or public authority (including the denial, revocation or non-renewal of a permit or licence); accidents or failure of equipment or machinery; inability to obtain or maintain any transmission property right; or allocation or failure of normal sources of supply of materials, transportation, energy or utilities or other causes of a similar nature which are beyond the reasonable control of the Party affected and could not have been avoided by the exercise of due diligence and that wholly or partly prevent, alter or delay the performance by such Party of its obligations or responsibilities under this Agreement. Economic hardship will not constitute a Force Majeure under this Agreement. **[MA 27.1]**

21.2 Excuse from Performance

Neither Party will be considered in default as to any of its obligations under this Agreement to the extent it is prevented from fulfilling the obligation due to an event of Force Majeure. However, a Party whose performance under this Agreement is hindered by an event of Force Majeure will use commercially reasonable efforts to perform its obligations under this Agreement and use commercially reasonable efforts to remedy the Force Majeure with reasonable dispatch and it will have the right to suspend performance of such obligations only to the extent and for the duration that the Force Majeure actually and reasonably prevents the performance of such obligations. Both Parties will use commercially reasonable efforts to mitigate or overcome the effects of any event of Force Majeure; provided that settlement of strikes, lockouts and other labour disturbances will be wholly within the discretion of the Party involved. **[MA 27.2]**

21.3 Notification

If there is a Force Majeure event affecting a Party’s ability to perform its obligations under this Agreement, the affected Party will promptly notify the other Party of the occurrence of the Force Majeure event, identifying the nature of the event, its expected duration and the particular obligations affected. The affected Party will furnish to the other Party reports with respect to the Force Majeure event at such intervals as the other Party may reasonably request during the continuance of the Force Majeure event. **[MA 27.3]**

ARTICLE 22 GENERAL PROVISIONS

22.1 Entire Agreement

This Agreement, together with the Support Services Agreement, the other Key Agreements, and all other agreements referenced therein or entered into, directly or indirectly, pursuant thereto, together constitute the entire agreement between the Parties, supersede all previous agreements and understandings, whether oral or written, relating to the subject matter of this Agreement. Section 15.2(i) of the Master Agreement applies to this Agreement as if incorporated herein.

22.2 Amendment of Agreement

- (a) This Agreement may not be changed or modified orally and neither Party will be liable or bound to the other Party in any manner by any warranties, representations, covenants or agreements except as specifically set forth in the this Agreement or expressly required to be made or delivered pursuant hereto. **[MA 31.1]**
- (b) In the event that a Party wishes to raise and discuss with the other Party any matter relating to this Agreement due to the fact that, in the Party's opinion, there has been a change in circumstances or a particular provision of this Agreement is giving rise to unintended consequences, both Parties will enter into good faith negotiations to attempt to resolve the matter and amend or modify this Agreement accordingly. **[MA 31.4]**
- (c) The unintended consequences referred to in paragraph (b) above shall include consequences under this Agreement arising as a result of the entering into by BCTC with BC Hydro's Distribution Line of Business of agreements for the provision of Distribution Operations (as defined in the Master Agreement) or for the planning, management or maintenance of Substation Distribution Assets, on terms and conditions which are inconsistent with, or materially different than and impacting upon, the terms and conditions set out in this Agreement for the provision of the Services by Field Services LoB to BCTC.
- (d) If the Parties are unable to resolve any matter raised by a Party pursuant to paragraph (b) above, either Party may submit the matter to dispute resolution in accordance with Article 17.

22.3 Construction

Ambiguities or uncertainties in the wording of this Agreement or any of the other Key Agreements will not be construed for or against either Party, but will be construed in a manner that most accurately reflects the purpose of such agreement and the nature of the rights and obligations of the Parties with respect to the matter being construed. **[MA 31.2]**

22.4 Governing Law and Attornment

This Agreement will be interpreted in accordance with and governed by the laws of the Province of British Columbia and the laws of Canada applicable therein. Each Party irrevocably attorns to the jurisdiction of the Courts of British Columbia.

22.5 Severability

In the event that any one or more of the provisions of this Agreement is held invalid, illegal or unenforceable under any applicable law, the remainder of this Agreement or the application of the provisions of this Agreement to Persons or circumstances other than those as to which it is held invalid or unenforceable, will not be affected thereby. If a court of competent jurisdiction determines that any part of this Agreement is invalid, illegal or unenforceable, and, as a result of such determination and this Section 22.5, the basic intentions of the Parties in this Agreement are frustrated, the Parties will use commercially reasonable efforts to amend, supplement or otherwise vary this Agreement to give effect to their intentions in entering into this Agreement. [MA 31.7]

22.6 Waiver

The waiver by either Party of any intended or unintended breach, default or misrepresentation under this Agreement will not be deemed to extend to any prior or subsequent breach, default or misrepresentation under this Agreement, whether of a like or different character and will not affect in any way any rights arising by virtue of any such prior or subsequent occurrence, and any such waiver will only be valid if provided in writing, signed by the Party providing such waiver. [MA 31.8]

22.7 Preparation

The drafting and negotiation of this Agreement have been participated in by both Parties, and not by either Party to the exclusion of the other, and for all purposes this Agreement will be deemed to have been drafted jointly by the Parties. [MA 31.9]

22.8 Counterparts

This Agreement may be executed in counterparts and by electronic facsimile transmission, each of which will be deemed to be originals and all of which counterparts will constitute one and the same document.

22.9 Relationship of the Parties

Except as expressly provided in this Agreement, nothing contained in this Agreement will be construed to create an association, joint venture, trust, partnership, leasehold or other property interest or to impose a trust or partnership covenant, obligation or liability on or with regard to either of the Parties. [MA 31.11]

22.10 Further Assurances

Each Party will execute and deliver such further documents and do such further and other things as may be necessary to carry out and give effect to the intent of this Agreement and the transactions contemplated hereby.

22.11 Time of Essence

Time will be of the essence of this Agreement.

IN WITNESS WHEREOF the Parties have caused this Agreement to be executed as of the date first written above.

**BRITISH COLUMBIA HYDRO AND
POWER AUTHORITY**

By: _____

Title: _____

**BRITISH COLUMBIA TRANSMISSION
CORPORATION**

By: _____

Title: _____

By: _____

Title: _____

SCHEDULE A SUBSTATION SERVICES

A. Definitions

In this Schedule A, the following terms shall have the following meanings:

- (a) “**CAP**” means corrective action plan.
- (b) “**CART**” means Computer Aided Relay Test equipment, the computerized test equipment used on protection and control systems.
- (c) “**CCOR/CROW**” means the Control Center Operating Report/Control Room Operating Window, the system used to record real time operations events and system disturbance investigation results.
- (d) “**Critical systems call-out**” for telecommunication systems means a loss of a T1 circuit or greater traffic equivalent or a repeater site is on a single contingency failure event.
- (e) “**Downstream Distribution System**” means those assets operated at distribution voltage of less than 60 kV that are owned by, or are held under contract by, BC Hydro from time to time that are downstream from the Substation Boundary to the point of connection to customers, including feeder cables, risers and poles within the substation fence but downstream from the Substation Boundary.
- (f) “**EES**” means Engineering Environmental Services.
- (g) “**EMS**” means Environmental Management System.
- (h) “**I-MAX**” means the hand held data gathering tool and its related software used by Field Services LoB.
- (i) “**NGO**” means non governmental organization.
- (j) “**PA**” means Plant Alteration and is required for all work on the Downstream Distribution System that impacts any of the operating drawings.
- (k) “**Protection and Control Equipment**” designates equipment as inventoried in BCTC asset and work management systems associated with fault recorders, fault locators, metering kits and analog and digital protective relays and remedial action schemes.
- (l) “**PSSP**” means Power System Safety Protection, system operating order stating safety policies used on the Transmission System not directly associated with generating switchyards where lock out procedures are utilized.
- (m) “**Response Time**” means the time from the time of call by BCTC to the time a person is available at the site.

- (n) “**SPR**” means Safety Practice Regulations, BC Hydro’s safety regulations applicable to all employees working on the Transmission System.
- (o) “**Substation Boundary**” means the point of connection of the feeder cable or overhead conductor, as the case may be, to the feeder disconnect.
- (p) “**Substation Equipment**” means equipment contained within the confines of the substation fence (including the fence), including Substation Distribution Assets with the exception of distribution feeder potheads. When BC Hydro owned equipment is installed in substations at a generation facility, the interface between the Transmission System and the Generation System will be as referenced in the document entitled “Separation of Assets between Generation and Transmission Lines of Business dated April 4, 2002 or as otherwise agreed between the parties from time to time.
- (q) “**Switching**” means opening, closing and operating control devices to control and transfer power flows.
- (r) “**Telecom components**” means components on the microwave and fibre optic systems consisting of modules, cards, panels, sub-assemblies, discrete parts card or cage shelves and assembly wiring.
- (s) “**Telecontrol and telecommunications Equipment**” means equipment as inventoried in BCTC asset and work management systems associated with, supervisory control, microwave radio, fibre optic systems, orderwire, multiplex, power line carrier, batteries, chargers, diesel controls, and teleprotection operations and miscellaneous minor components.
- (t) “**Telecom Network Organisation Operations (TNO)**” means telecommunications system alarms are centrally monitored by Telecom Network Operations who coordinates the response to telecommunications system faults.
- (u) “**WPP**” means Work Protection Practices, safety procedures describing lock out practices associated with generating station switchyards where lock out procedures are utilized.

B. Services

1. Field Services LoB will perform the following Substation Services:

- (a) Emergency Response and Restoration – Dispatch of appropriate resources (individuals, equipment or crew) to inspect, make safe and/or repair in the case of an unplanned outage due to equipment failure or accidental damage;
- (b) Troubleshooting and root cause analysis;
- (c) Inspections and condition assessments/Planned Maintenance – including inspections, tests, adjustments and assessments of equipment condition as well as station inspections;
- (d) Corrective Maintenance – urgent, unplanned repairs/ adjustments/ replacements of defective or damaged equipment rendering it unable to perform its intended purpose (equipment can not go back in service);
- (e) Condition Based Maintenance – non-urgent repairs/adjustments determined from a condition assessment or inspection. Equipment can go back in service and problems fixed later such as but not limited to bulletins, modifications or tests;
- (f) Facilities Maintenance – work on station building, fence, lights, HVAC, fire protection, security systems, eye wash stations or similar items;
- (g) Local construction – minor improvements under \$5,000;
- (h) Capital construction, including site coordination;
- (i) Records and data management;
- (j) Telecom Components evaluation of serviceability; Meant to refer to modules, cards etc.;
- (k) Telecom component level failure tracking and record keeping of failed part/s and failure modes for each telecom component;
- (l) Telecom standards preparation;
- (m) Maintaining and developing public and stakeholder relationships;
- (n) Support and consultative services, or activities that support the operation, sustainability and maintenance of the system including, but not limited to, advising on weakness of the equipment, public and employee safety issues and permitting requirements;
- (o) Switching on BCTC’s direction, including switching on Downstream Distribution System;

- (p) Non-scheduled load readings and real time information at BCTC's request including on Downstream Distribution System; and
 - (q) Field checks for operational drawings at BCTC's request including Downstream Distribution System.
- 2. Financial authority as delegated by BCTC pursuant to the BCTC Standards is assigned to Field Services LoB for subsequent delegation within Field Services LoB in accordance with Field Services LOB internal policies for the commitment and procurement of materials and services. In the event of system emergencies this limitation is waived until the emergent situation is stabilized.
- 3. The Substation Services shall be provided in respect of the BCTC owned Control Center and Telecom Network Operations assets, managed transmission and distribution assets in substations, and generation switchyards as assigned in detail within the BCTC Asset and Work Management systems, (including but not limited to property, access roads/trams, helipads, buildings, fences, drainage, electrical equipment, auxiliary equipment, protection and control systems, power line carrier, teleprotection systems, capacitor stations, cable pumping stations, HVDC terminal stations, microwave radio stations, orderwire, and fibre optic systems).
- 4. BCTC is not responsible for, and the Substation Services provided hereunder shall not include services in respect of the following assets:
 - (a) Any BC Hydro facilities which are determined by BC Hydro and BCTC to not be within BCTC's management responsibilities under the Key Agreements.
 - (b) Generation Facility switchyards where BCTC managed assets are installed, the land and major improvements such as buildings in which the substations reside, are the responsibility of the BC Hydro Generation Line of Business. This may be subject to change in the future and BCTC will provide immediate notification of any changes implemented to Field Services LoB.

C. Performance Standards

1. Field Services LoB will meet or exceed the following Performance Standards with respect to the Substation Services:
 - (a) 100% of planned and approved and assigned, aggregated Condition Based Maintenance, Facilities Maintenance and Local Construction work types, shall be completed as detailed in the approved Work Plan within the planned year. Baseline targets may be adjusted by pre approved mutual agreement (goal is to cap this work at planned level).
 - (b) 100% of Planned Maintenance work type assigned as detailed in the approved Work Plan is to be completed within planned year. Baseline targets may be adjusted by pre approved mutual agreement.
 - (c) Financial – Work is to be completed within work plan target costs (-10%/+0%) measured at the aggregate work type category and at the total annual work plan cost. Variances to be negotiated and baseline targets may be adjusted for pre-approved changes authorized by BCTC.
 - (d) Incidents of preventable outages attributable to Field Services LoB are reported, investigated, shared and corrective action plans implemented to continually improve Corrective action plans will be implemented within one year. Incidents of preventable outages attributed to Field Services LoB actions shall be reduced by 10% per year, based on the reported incidents for 2003/4, for 2 years after which the targets will be reviewed and re-established by mutual agreement.
 - (e) System disturbances and preventable incident reporting are to be completed by Field Services LoB within five Business Days of the incident/disturbance occurrence. Where ongoing analysis is required a comment to that effect will be placed in the SDR.
 - (f) Equipment failures shall not remain out of service for greater than 30 days provided Field Services LoB have control over the scheduling of repairs. Exception for parts delivery times and delays caused by BCTC or BCTC's engineering service provider assessments of alternatives shall be noted in the CROW reporting system to log these delays.
 - (g) Substation system availability and reliability – call out Response Times to be met are as follows:
 - (i) Metro Vancouver and Fraser Valley communities to Chilliwack, Victoria, Nanaimo, Kamloops, Vernon, Prince George, all 500kV substations excluding series capacitor stations – 1 hour 90% of the time.
 - (ii) Other urban communities with population > 10,000 – 2 hours 90% of the time
 - (iii) Other urban communities with population < 10,000 – 3 hours 90% of the time

- (iv) Rural areas and remote communities such as Stewart, Aiyansh – 5 hours 90% of the time
 - (v) All Telecommunications Microwave/Fibre sites
 - (A) routine trouble responses as defined in SOO 7T-20C – 24 hours 90% of the time. (site access restriction or lack of spares is only acceptable reason for not meeting time requirements).
 - (B) critical systems call-outs within 24 hours 100% of the time in all weather conditions (safety considerations are the only acceptable reason for not meeting time requirements)
 - (h) Customer care – Field Services LoB will advise BCTC of issues that they are aware of before they are escalated to BC Hydro, media, stakeholders attention 90% of the time.
 - (i) Emergency response plans available and up to date. Mutual aid agreements in place as required for distribution operations.
 - (j) Work and Project documentation – an accuracy rate of greater than 95% shall be achieved in work order and failure/defect coding in the BCTC work management system. All project documentation, including but not limited to work order history briefs, as built drawings, operation and maintenance manuals, equipment inventory updates, shall be completed and forwarded to BCTC or BCTC's engineering service provider within 30 working days of task completion.
 - (k) All PAs completed on downstream distribution system shall be reported to appropriate Area Control Centre in the time frame listed in Distribution Operating Order 1D-01.
2. The Parties will use commercially reasonable efforts to finalize a balanced KPI scorecard and address mechanisms to provide incentives to meet the Performance Standards by the Tariff Commencement Date.
3. The initial Performance Standards set forth above are summarized in the attached table, as may be revised by mutual agreement from time to time and which, as so revised, shall form the official listing of performance measures for the Performance Standards:

Service Area	Metric	Target	Reporting or Measurement Method
Condition Based, Facilities Maintenance and Local Construction Work	% of planned Condition Based, Facilities Maintenance and Local Construction work completed	100%	Passport KPI Reporting Cube
Planned Maintenance work	% of Planned Maintenance work completed	100%	Passport KPI Reporting Cube
Financial performance	% cost variance to approved overall work plan estimate	-10%/+0%	Passport KPI Reporting Cube BCTC Financial Reporting System
Preventable outages	% per year improvement for 2 years based on F2003/04 baseline	10%	CROW /SDR ZIPO Reports
System disturbance and preventable outage reporting	Reports completed	within 5 working days of the system disturbance	SDR reports
Equipment failure response	Equipment failures repaired and returned to service	within 22 working days of equipment failure	CROW
Substation System Availability and Reliability – call out Response Times	Within 1 hour in the Metro Vancouver and Fraser Valley communities to Chilliwack, Victoria, Nanaimo, Kamloops, Vernon, Prince George, all 500kV substations excluding series capacitor stations	90% of the time.	CROW
	Within 2 hours in the Other urban communities with population > 10,000	90% of the time	CROW
	Within 3 hours Other urban communities with population < 10,000	90% of the time	CROW
	Within 5 hours Rural areas and remote communities such as Stewart, Aiyansh	90% of the time	CROW
	<ul style="list-style-type: none"> Within 24 hours all Telecommunications Microwave/Fibre sites routine trouble responses as defined in SOO 7T-20C. (site access restriction or lack of spares is only acceptable reason for not meeting time requirements). Within 24 hours all critical systems call- in all weather conditions (safety considerations are the only acceptable reason for not meeting time requirements) 	<ul style="list-style-type: none"> 90% of the time 100% of the time 	CROW
Emergency response plans	Updated plans available and mutual aid agreement in place for Distribution operations	Annual	Field Services LoB annual declaration and plan posted on web
Work and project documentation	Documentation completed	within 30 days of task completion and with an accuracy rate of 95%	Passport quarterly audits and capital project closing reports
Complete PA are promptly reported to Area Control Centres	% of completed PA reported to ACC within time frame listed in DOO 1D-01	100%	Annual Report

Metrics where targets cannot yet be set and data cannot yet be captured and reported

Service Area	Metric	Target	Reporting or Measurement Method
Customer Care	% of issues escalated without prior BCTC notification	TBD	TBD
Preventable Outages (in support of Distribution Operations)	Annual number of switching errors resulting in customer outages	TBD	TBD
Substation System Availability and Reliability – call out Response Times (in support of SDA and Distribution Operations)	Within 36 hours mobile backup for (n-1) stations to be energized	TBD	TBD
All data requested by BCTC is posted (in support of SDA)	% of data requested by BCTC that is posted within 8 business days of project/plan completion	TBD	TBD

SCHEDULE B TRANSMISSION SERVICES

A. Definitions

In this Schedule B, the following terms shall have the following meanings:

- (a) **“EGIS”** means Enterprise Geographical Information System. The BC Hydro Smallworld GIS system that will ultimately capture and provide all transmission records and data information.
- (b) **“Inventory Records”** means records of transmission facilities including structure and material information, road and access data/plans, as well as cable and underground system data.
- (c) **“Maintenance Records”** means records of maintenance history, including work done, materials, and inspection data.
- (d) **“Make Safe”** means actions taken at the site of plant failure, or damage, to assure safety of the public and workers.
- (e) **“OMA”** means operating, maintenance, and administration and, for the purposes of this Agreement, refers to ongoing maintenance work.
- (f) **“On-call Manager”** means Field Manager or managers who are designated to arrange emergency response to trouble calls from the System Operator.
- (g) **“Recurring Capital”** means, for transmission line purposes, woodpole replacements and the installation of woodpole ground line “stubs”.
- (h) **“Rights-of-Way”** means the legally defined areas where BC Hydro has acquired the rights for transmission line occupation, including both federal and provincial Crown land and private land.
- (i) **“Specific Capital”** means additions or improvements that meet the accounting definitions of BCTC.
- (j) **“Standby”** means resources kept available in case of need.
- (k) **“STARR”** means System for Transmission Asset Recording and Reporting. This is a database application in which scheduled inspections are recorded and tracked; condition assessment data is recorded and prioritized; corrective and condition based action is recorded.

B. Services

1. Field Services LoB will provide services for the Transmission System meeting standards set by BCTC. The primary categories of these services and work include, but are not limited to:

(a) ***Emergency Response***

Field Services LoB will provide Emergency Response services as and when required. This includes all the necessary resources to respond to unplanned outages on, or damage to, the Transmission System. This would include:

- (i) providing an on-call staff to respond to notification of emergency/trouble calls from the System Operator;
- (ii) responses underway within 1 hour of notification 80% of the time. The actual time it will take to be on site, to make the situation safe, and to initiate repair action will be influenced by location, weather conditions, time of day and the nature of the outage;
- (iii) unplanned inspections of transmission lines, or line elements, to locate, identify, investigate, assess, and report damage to plant or cause of outage;
- (iv) action to make safe damaged or at-risk plant; and
- (v) immediate repair and return to service of damaged plant (if possible, or required).

(b) ***Inspection and Condition Assessment***

These services include inspections and condition assessment activities as defined in the Transmission Maintenance Manual. The purpose is to:

- (i) ensure public and worker safety;
- (ii) ensure the transmission plant is free from encroachments by others;
- (iii) ensure full operating capability of the facility;
- (iv) assess the condition of the Transmission System for the purpose of identifying and prioritizing the necessary Condition Based and Capital work programs based on BCTC Standards; and
- (v) establish, in consultation with BCTC, the remedial action to maintain plant condition suitable for long term continuing operation.

In addition to defined and scheduled inspections, some ad hoc inspections, or condition assessment activities such as component samplings, and material testing will be necessary.

(c) ***Preventive Maintenance***

For Transmission System purposes, Preventive Maintenance consists of any scheduled work other than inspections. This includes such activities as:

- (i) Insulator washing;
- (ii) Switch maintenance; and
- (iii) Cable facilities maintenance.

(d) ***Condition Based Maintenance***

The Condition Based Maintenance Services are the planned repairs/replacements of defective or damaged Transmission System facilities. The cost, and resource estimate and schedule for this work is contained in the annual Work Plan. This work is primarily driven by the prioritization of the damage, or defects, identified in the inspection and condition assessment program.

(e) ***Corrective Maintenance***

The Corrective Maintenance Services are the unplanned repairs/replacements of defective or damaged Transmission System facilities. As this work is unplanned, it is work not specifically identified in the Work Plan. However, provision for this work may be budgeted for and included as part of the agreed committed volumes.

(f) ***Recurring Capital***

For Transmission Purposes, Recurring Capital consists of woodpole replacements or the installation of woodpole groundline “stubs”. This work will be identified as Recurring Capital in the annual Work Plan and costs incurred will be accurately charged to a separate Recurring Capital Work Order.

(g) ***Right-of-Way Management***

Right-of-Way management Services include;

- (i) Rights-of-Way surveillance to ensure only acceptable activities occur on the Rights-of-Way to ensure public and worker safety and the continuing right to operate;
- (ii) public and landowner contact to ensure the continuing right to access and maintain the transmission line facilities;
- (iii) management of property related issues on the Rights-of-Way as requested by BCTC, including environmental or electric induction related matters;
- (iv) ensuring safe compatible and complementary use of the Rights-of-Way; and

- (v) participating in the established Right-of-Way referral process as necessary.

(h) ***Access Management and Maintenance***

Access Management and Maintenance services include roads, culverts, ditches, bridges, helipads, gates, etc both on and off the Rights-of-Way. The management of these facilities includes:

- (i) establishment and maintenance of access facilities to allow appropriate access for vegetation management and line maintenance activities;
- (ii) inspections;
- (iii) access facility inventory data collection;
- (iv) execution of the annual access maintenance work program,
- (v) access repair, or refurbishment;
- (vi) coordination as required with appropriate resource agencies (including Forest Services, Fish and Wildlife, Department of Fisheries and Oceans); and
- (vii) compliance with the Transmission Access Policy.

(i) ***Records and Data Management***

Field Services LoB will update and store all documents and records, either paper or electronic, as required by BCTC pertaining to asset management and work performed. These records and data are to be made available to BCTC as requested, or required, in the appropriate format. Field Services LoB is responsible for the accuracy, completeness, adherence to process standards, and timeliness of this information.

Records and data pertaining to the Transmission System assets, the inventory and the maintenance of these assets are to be managed, in part, by Field Services LoB. This includes the initial compilation of existing or historical information as well as the ongoing updating of it at the time of either inspections or maintenance work. This data will be in many forms, both paper and electronic.

(j) ***Equipment Management***

Field Services LoB will be responsible for the inventory, storage, inspection, and general maintenance and management of spare cable and STER equipment and parts. The equipment and parts are to be available and in good working condition.

(k) ***Specific Capital***

This work is separate from the Specific Capital work referred to in Section 4.1(b) and typically includes work such as:

- (i) Bridges;
- (ii) Structure site protection;
- (iii) Modifications to plant for the purposes of reliability improvements;
- (iv) Class replacement programs; and
- (v) Unique end of life replacements.

(l) ***Contract Management***

Field Services LoB will administer contracts, not only for sub-contracting of Work Plan activities, but also for a variety of contracts on behalf of BCTC. This will include all aspects of contract management including preparation of specifications, advertising, tendering, tender review, award, and quality control, at all times subject to and in accordance with the BCTC Standards.

(m) ***STER***

STER is an acronym for System for Transmission Emergency Repair. Field Services LoB will participate in, and contribute to, STER activities. This will include;

- (i) STER working group;
- (ii) Preparation of Contingency Resource Plans;
- (iii) Establishment and Maintenance of STER tools equipment; and
- (iv) Establishing material requirements.

(n) ***Support Services***

These services are miscellaneous activities that support the nature and purpose of BCTC's goals and objectives. These will include, but not limited to:

- (i) Field Services LoB may be required to respond, or reply to requests for information pertaining to various aspects of the transmission facilities. These requests can be related to matters such as; inventory, access, work methods, operational, or historical information. These services are provided on behalf of BCTC to both BC Hydro and external groups. Examples include Field Services LoB, or government agencies such as Ministry or Highways, as well as developers, and field services consultants. Field Services LoB may be required to provide

“representation” of BCTC as well as face to face contacts for transmission customers and the public at large;

- (ii) Field Services LoB may be required to provide a “Field Coordinator” for projects undertaken by others. These duties may range from arranging outages, or operating permits, to accepting completed projects on behalf of BCTC;
- (iii) switching for others, including bulk customers, as requested or required;
- (iv) providing PSSP local component;
- (v) managing locks and keys for Right-of-Way gates;
- (vi) obtaining licenses and permits as necessary, required, or requested by BCTC;
- (vii) prepare and/or review of Local Operating Orders and Circuit One Line diagrams;
- (viii) contribute to the preparation of Emergency Preparedness and Response Services;
- (ix) contribute to the preparation and maintenance of Emergency Response Plans;
- (x) contribute to Mutual Aid Agreements;
- (xi) Field Services LoB may be required to undertake facilities management and maintenance activities on facilities managed by Field Services LoB. For the purposes of Transmission Services, this would include vegetation control at Cable termination sites;
- (xii) Field Services LoB is responsible for scheduling and obtaining the Safety Protection Guarantee permits necessary to undertake the work program; and
- (xiii) when work on transmission facilities is initiated by third parties, including DLoB, Field Services LoB may be requested to carry out any of the following:
 - (A) prepare cost estimates;
 - (B) manage the work, including scheduling, QA and cost control;
 - (C) undertake the work under the management and direction of BCTC, BCTC’s engineering service provider or others;
 - (D) collect all costs, prepare and forward data and applicable forms for invoicing purposes to BCTC; and

- (E) in the event of damage to transmission facilities, participate in any claims process or investigations.

C. Performance Standards

Field Services LoB will meet or exceed the following Performance Standards with respect to the Transmission Services:

Service Area	Metric	Target	Reporting or Measurement Method
Emergency Response	Response underway within 1 hour of notification	80% of the time	Audit of Control Centre records
Inspection and Condition Assessment	% of scheduled work to be completed within budget.	100%	STARR & financial records
Preventive Maintenance	% of scheduled work to be completed within budget.	100%	STARR & financial records (module to be added)
Condition Based Maintenance	% of scheduled work to be completed within budget.	100%	STARR & financial records
Corrective Maintenance	Cost trend.	Decreasing	Financial Records
Recurring Capital	% of scheduled work to be completed within budget.	100%	STARR & financial records
Right-of-Way Management	Client satisfaction.	100%	Exception reporting, and decreasing trend
Access Management and Maintenance	% of work to be completed within budget.	100%	Maintenance management system to be developed
Records and Data Management	Update and maintenance of records per BCTC Standards	<ul style="list-style-type: none"> • Inspection & defect records: within one week • Condition based work: within one month • Corrective work: within one week 	Audits by BCTC
Equipment Management	% of scheduled maintenance completed within budget	100%	STARR, to be developed & financial records
Specific Capital	% of scheduled work to be completed within budget.	100%	STARR & financial records
Contract Management	Client satisfaction	100%	Audits by BCTC and cost and work performed
STER	Client satisfaction	100%	Exception reporting and trend analysis
Support Services	Client satisfaction	100%	Exception reporting and trend analysis

SCHEDULE C
VEGETATION MAINTENANCE SERVICES

A. Definitions

In this Schedule C, the following terms shall have the following meanings:

- (a) **“EGIS”** means Enterprise Geographical Information System. The BC Hydro Smallworld GIS system that will ultimately capture and provide all transmission records and data information.
- (b) **“Danger Tree”** means any tree that has the potential to either contact a conductor or pass through limits of approach if it failed.
- (c) **“Fall-into violation”** means any danger or hazard tree that falls and causes a Line Outage when the line is operating within its maximum designed rating.
- (d) **“Grow-into violation”** means any Line Outage caused by vegetation growing from underneath or beside a conductor when the line is operating within its maximum designed rating.
- (e) **“Hazard Tree”** means any tree that has a target of concern (conductor, house, etc.) and also has a visible flaw or known environmental condition (for example shallow soils) that predisposes it to a higher probability of failure.
- (f) **“Integrated Vegetation Management (IVM)”** means BCTC’s four-step decision-making process that uses a combination of techniques on a site-specific basis to manage vegetation in a way that is cost-effective and socially and environmentally responsible. The main steps in an IVM plan are inventory, development of management cycles, planning and prescription, implementation and evaluation. The Vegetation Standards are driven by the principles of IVM.
- (g) **“Inventory Records”** means records of transmission facilities including vegetation, structure and material information, road and access data/plans, as well as cable and underground system data.
- (h) **“Line Outage”** means any line operation caused by relay action.
- (i) **“Maintenance Records”** means records of maintenance history, including work done, materials, and inspection data.
- (j) **“Make Safe”** means actions taken at the site of plant failure, or damage, to assure safety of the public and workers.
- (k) **“Maximum Designed Rating”** means operation of the line within its normal maximum current carrying capacity or its temporary emergency rating.
- (l) **“Other vegetation violation”** means any Line Outage where vegetation was involved but not the primary fault cause (for example the primary cause was an

animal, motor vehicle accident or unequal ice loading) that caused the conductor to come into contact with vegetation.

- (m) “**Rights-of-Way**” means the legally defined area where BC Hydro has acquired the rights for transmission line occupation, including both federal and provincial Crown land and private land.
- (n) “**Standby**” means resources kept available in case of need.
- (o) “**Weekend logger violation**” means any vegetation that causes a Line Outage when a Third Party fells a tree toward a line.

B. Services

1. Field Services LoB will provide vegetation maintenance services for the Transmission System meeting standards set by BCTC. The primary categories of these services and work include, but are not limited to:

- (a) ***Emergency Response Support***

Field Services LoB will provide emergency response services as, and when required. This includes all necessary resources to respond to unplanned outages on, or damage to, the Transmission System caused by vegetation. This would include:

- (i) providing resources at agreed to locations to remove vegetation to make safe damaged or at-risk plant; and
 - (ii) unplanned inspections of transmission lines, or sections, to locate, identify, investigate, assess and report damage caused by vegetation including the preparation of Tree Failure Reports.

- (b) ***Patrols and Condition Assessment***

These services include patrols and condition assessment activities as defined in the Vegetation Maintenance Standards. The purpose is to:

- (i) ensure public and worker safety;
 - (ii) ensure Transmission System reliability so that the transmission plant operates to full capability according to maximum design rating;
 - (iii) assess the condition of vegetation both on and off Rights-of-Way to form the basis for annual and long-term work plans by identifying and prioritizing necessary Condition-based and Corrective maintenance work; and
 - (iv) establish, in consultation with BCTC, actions necessary to maintain the Transmission System condition suitable for cost effective long term operation.

In addition to defined and scheduled inspections, some ad hoc inspections, or condition assessment activities may be necessary.

- (b) ***Condition Based Maintenance***

For Transmission System purposes, Condition-based Maintenance consists of any scheduled work other than inspections as included in the work plan. Activities will be conducted according to Vegetation Standards and include:

- (i) Rights-of-Way vegetation clearing;

- (ii) re-widening of vegetation along easement edges to ensure full Rights-of-Way width; and
- (iii) removal of Hazard Trees or Danger Trees off the Rights-of-Way.

(c) ***Corrective Maintenance***

Corrective maintenance services are unplanned vegetation work necessary to avoid damage or outage, or to repair damage to the Transmission System facilities. As this work is unplanned, it is not work specifically identified in the annual work plan. However, provision for this work will be budgeted for and may be included as part of the agreed committed work volumes.

(d) ***Records and Data Management***

Field Services LoB will update and store all documents and records, either paper or electronic, as required by BCTC pertaining to asset management and work performed per the Vegetation Management Standards. These records and data are to be made available to BCTC as requested, or required, in the appropriate format. The Service Field Services LoB is responsible for the accuracy, completeness, adherence to BCTC's business rules and timeliness, of this information.

Records and data pertaining to the Transmission System assets and the maintenance of these assets are to be managed, in part, by Field Services LoB. This includes the initial compilation of existing or historical information as well as the ongoing updating of it either at the time of inspections or maintenance work. This data will be in many forms, both paper and electronic, including EGIS.

(e) ***Contract Management***

Field Services LoB will administer contracts, not only for sub-contracting of Work Plan activities, but also for a variety of contracts on behalf of BCTC. This will include all aspects of contract management including but not limited to assembling of specifications, advertising, tendering, tender review, award, and quality control, at all times subject to and in accordance with the BCTC Standards.

(f) ***Support Services***

Support services includes Field Services LoB acting as first responder on behalf of BCTC to maintain and develop relationships necessary to the operation of the transmission vegetation program such as:

- (i) public and landowner contact to discuss vegetation maintenance activities necessary to assure the safe and reliable operation of the Transmission System;
- (ii) management of property related issues as they pertain to Vegetation Management on, or along, the Rights-of-Way as requested by BCTC;

- (iii) monitor for compliance to standard the safe, compatible, and complementary use of the Rights-of-Way;
- (iv) coordination as required, or requested by BCTC, with resource agencies (for example MOF, MWLAP, DFO, municipalities) as applicable to Vegetation Management. This could include environmentally related matters; and
- (v) support and consultative services, or activities that support the operation, sustainability, or maintenance of the system including, but not limited to, advising on the condition of assets; public, employee and contractor safety; or permitting, research, etc.

C. Performance Standards

Field Services LoB will meet or exceed the following Performance Standards with respect to the Vegetative Maintenance Services:

Service Area	Metric	Target	Reporting or Measurement Method
Emergency Response Support	Response underway within 1 hour of notification	80% of the time	Audit of Control Centre records
Inspection and Condition Assessment	<ul style="list-style-type: none"> % of scheduled inspections to be completed within budget. System performance and reliability 	<ul style="list-style-type: none"> 100% Decreasing trend in number of vegetation-caused outages and duration of outages 	Outage statistics Audit of patrol and inspection records Financial records
Condition Based Maintenance	<ul style="list-style-type: none"> % of planned work completed within budget. Number of vegetation-related Line Outages as a result of Grow-into violations and “dead, dying and leaning edge trees” Number of safety and environment incidents 	<ul style="list-style-type: none"> 100% Decreasing trend Decreasing trend 	Outage statistics Outage statistics from CROW web Financial records Safety and Environment Incident Reports
Corrective Maintenance	3 year average \$ spend	To maintain or reduce the \$ spent	Financial Records
Records and Data Management	% of maintenance records updated and kept per BCTC Standards	100%	Audits by BCTC
Contract Management	Client satisfaction based on the scope, cost, schedule and quality of services delivered measured against the approved contract	100%	Audits by BCTC and cost and work performed
Support and Consultative Services	Client & public satisfaction	Less than 5 substantial exceptions per annum	Exception reporting

SCHEDULE D
CONTROL CENTRE SERVICES

A. Definitions

1. In this Schedule D, the following terms shall have the following meanings:
 - (a) “**CROW**” means Control Room Operating Window for Outage Scheduling and Reporting.
 - (b) “**DACS**” means Digital Access Cross-Connect system.
 - (c) “**EMS**” means Energy Management System.
 - (d) “**EMST**” means the Energy Management System Technologies department of RTOPS.
 - (e) “**Inventory Records**” means records of transmission facilities including structure and material information, road and access data/plans, as well as cable and underground system data.
 - (f) “**LMC**” means the Lower Mainland Control Centre department of RTOPS.
 - (g) “**LOO**” means Local Operating Orders published by RTOPS.
 - (h) “**Maintenance Records**” means records of maintenance history, including work done, materials, and inspection data.
 - (i) “**Make Safe**” means actions taken at the site of plant failure, or damage, to assure safety of the public and workers.
 - (j) “**MCC**” means the Microwave Control Centre at the Simon Fraser University Water Tower.
 - (k) “**MSMDA**” means Microwave/Fibre System Monitoring and Troubleshooting Data Acquisition system.
 - (l) “**NCC**” means the Northern Control Centre department of RTOPS.
 - (m) “**OMA**” means operating, maintenance, and administration and, for the purposes of this Agreement, refers to ongoing maintenance work.
 - (n) “**On-call Manager**” means Field Manager or managers who are designated to arrange emergency response to trouble calls from the System Operator.
 - (o) “**RTOPS**” means the Real-Time Operations department of BCTC.
 - (p) “**RTU**” means Remote Terminal Unit communications device located at a Substation or Control Centre.
 - (q) “**SCADA**” means Supervisory Control and Data Acquisition system.

- (r) “**SCC**” means the System Control Centre department of RTOPS.
- (s) “**SIC**” means the South Interior Control Centre department of RTOPS.
- (t) “**SOO**” means System Operating Orders published by RTOPS.
- (u) “**Specific Capital**” means additions or improvements that meet the accounting definitions of BCTC.
- (v) “**Standby**” means resources kept available in case of need.
- (w) “**STARR**” means System for Transmission Asset Recording and Reporting. This is a database application in which scheduled inspections are recorded and tracked; condition assessment data is recorded and prioritized; corrective and condition based action is recorded.
- (x) “**TNO**” means the Telecommunication Network Operations department of RTOPS.
- (y) “**UPS**” means Uninterruptible Power Supply.
- (z) “**VIC**” means the Vancouver Island Control Centre department of RTOPS.

B. Services

1. Field Services LoB will provide the Control Centre Services meeting standards set by BCTC. The primary categories of the Control Centre Services include, but are not limited to:

Telecommunications Systems Administration and Maintenance
▪ Dispatch Intercom Hotlines and equipment
▪ Voice recorder for designated and dispatcher phones
▪ Satellite emergency phones and equipment
Communication Systems Administration and Maintenance
▪ Communication medium, including, Newbridge (DACs), sonet and fibre optics systems
▪ System Orderwire for microwave/ fibre network
▪ Norstar phone switch at MCC and Norstar at EDM
▪ Telus lease line communication
▪ VHF and UHF radio base stations
▪ VHF and UHF radio trunking systems: various communications methods into microwave system, fibre or lease line systems
▪ Communication Tone modules and modem maintenance
▪ Battery and charger maintenance for Control Centre systems.
SCADA Systems Hardware Administration and Maintenance
▪ EMS and SCADA maintenance and repair:
▪ EMS workstation configuration
▪ EMS Equipment
▪ EMS workstations
▪ Alpha, FEP, Stic computers
▪ Packetizers
▪ Mapboard, videoboard, charts
▪ Preparation of EMS screens
▪ EMS Printers
▪ LAN switch
▪ EMS backups
▪ RAS (Remedial Action Schemes) maintenance
▪ Database modification, testing w/ field staff, commissioning w/ control room
▪ Load Shedding RTU's
▪ Local Control Centre RTU maintenance
▪ Preparation of EMS Screens (i.e. use of IPE)
▪ Administer [assigned] contracts for EMS computers
▪ UPS (Uninterrupted Power Supply) system maintenance
▪ UPS distribution
▪ Remote Sites: Includes only Control Centre work required to coordinate with work at remote sites on controlled devices and metering (on installed telemetry, alarm devices). Includes all database management (alarms) for the stations reporting to Control Centre.

MSMDA Systems Hardware Administration and Maintenance
<ul style="list-style-type: none">▪ 5620 Work Station▪ Instrument Controller and Work Station▪ 51RS Loop Controller▪ System Synchronization Equipment▪ Routers, Bridges, hubs and modems used to carry system monitoring data
<ul style="list-style-type: none">▪ Remote Sites: Includes only work at MCC required to support remote sites suspected in MSMDA outage/ issue. Refer to description on pg. 17, Availability/Response Time Target Metrics.
Building Services Administration and Maintenance
<ul style="list-style-type: none">▪ Emergency support, troubleshooting for building systems
<ul style="list-style-type: none">▪ Battery maintenance for Emergency Diesel generator
<ul style="list-style-type: none">▪ Fire security system, Security system maintenance, ie; video, recorder, entry alarms, motion detector alarms
<ul style="list-style-type: none">• Liaison with building maintenance contractors, such as: lighting, HVAC, elevator, landscaping, waste disposal, etc.
Other
<ul style="list-style-type: none">▪ Advice and Input to Operating Orders Re: VHF & UHF Radio System, Local Instructions (i.e. database implementations) Confirm w/ ea. Control Centre
<ul style="list-style-type: none">▪ Training (support) to Control Centre staff (operation of communication systems, phones, etc.)

C. Performance Standards

Field Services LoB will meet or exceed the following Performance Standards with respect to the Control Centre Services:

Metric	Description	Target	Data Source												
1. Telecommunications Systems Maintenance and Availability															
Telecommunications equipment availability	Respond to Problems and repair telecommunications devices within time frame to ensure that devices remain stable and available at all times, provided that BCTC provides written notice in a timely manner, as appropriate.	<p>There are no planned maintenance outages for Telecommunications equipment.</p> <p>Performance will be measured in terms of:</p> <ul style="list-style-type: none"> Percentage of availability: Maximum downtime will be ± 3 hours "on site" annually at the Control Centre. Time to Respond and Repair, 95% of time: <table border="1" data-bbox="771 1066 1195 1287"> <thead> <tr> <th><u>Hours</u></th> <th><u>Respond</u></th> <th><u>Repair</u></th> </tr> </thead> <tbody> <tr> <td>Core</td> <td>< 1 hour **</td> <td>1 hour</td> </tr> <tr> <td>Callout</td> <td>< 2 hours</td> <td>1 hour</td> </tr> <tr> <td>Wkend/Hdy</td> <td>< 2 hours</td> <td>1 hour</td> </tr> </tbody> </table>	<u>Hours</u>	<u>Respond</u>	<u>Repair</u>	Core	< 1 hour **	1 hour	Callout	< 2 hours	1 hour	Wkend/Hdy	< 2 hours	1 hour	<p>TNO Event Log OAD Trouble Report</p> <p>FS will be formally notified when failures occur.</p>
<u>Hours</u>	<u>Respond</u>	<u>Repair</u>													
Core	< 1 hour **	1 hour													
Callout	< 2 hours	1 hour													
Wkend/Hdy	< 2 hours	1 hour													
2. Communication Systems Maintenance and Availability															
Communications equipment availability, includes microwave, Newbridge, sonet and fibre optics systems	Respond to problems and repair communications devices within time frame to ensure that system communications remain stable and available at all times.	<p>There are no planned maintenance outages for Communications equipment that will impact the Control Centre.</p> <p>Performance will be measured in terms of:</p> <ul style="list-style-type: none"> Percentage annual availability = 99.58%. Downtime should be ≤ 3 hours at the Control Centre. Time to Respond and Repair, 95% of time: <table border="1" data-bbox="771 1850 1195 1881"> <thead> <tr> <th><u>Hours</u></th> <th><u>Respond</u></th> <th><u>Repair</u></th> </tr> </thead> <tbody> </tbody> </table>	<u>Hours</u>	<u>Respond</u>	<u>Repair</u>	<p>Dispatcher Event Log indicates failure but no follow-up.</p> <p>TNO Log</p> <p>FS has informal log book, needs formal tracking tool</p>									
<u>Hours</u>	<u>Respond</u>	<u>Repair</u>													

Metric	Description	Target	Data Source												
		Core < 1 hour* 1 hour Callout < 2 hours 1 hour Wkend/Hdy < 2 hours 1 hour	FS will be formally notified when failures occur.												
3. SCADA System Maintenance and Availability															
EMS and SCADA maintenance and repair: <ul style="list-style-type: none"> • EMS workstation configuration • EMS Equipment • EMS workstations • Alpha, FEP, Stic computers • Packetizers • Mapboard, videoboard, charts • Preparation of EMS screens • EMS Printers • LAN switch • EMS backups Elevation of maintenance issues to Compaq as per service agreement. Elevation of software issues to EMST.	Respond to problems and repair SCADA devices within time frame to ensure that SCADA system remain stable and available at all times. <i>Note: Field Service repair of hardware is dependent on EMS Technologies' (EMST) software availability.</i>	Maximum annual Planned Fail-over Outage < 4 hours:20 minutes. Maintain 99.98% availability except fail-overs. Time to Respond and Repair, 95 % of time: <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Hours</th> <th style="text-align: left;">Respond</th> <th style="text-align: left;">Repair</th> </tr> </thead> <tbody> <tr> <td>Core</td> <td>< 1 hour**</td> <td>1 hour</td> </tr> <tr> <td>Callout</td> <td>< 2 hours</td> <td>1 hour</td> </tr> <tr> <td>Wkend/Hd</td> <td>< 2 hours</td> <td>1 hour</td> </tr> </tbody> </table> Special Events (ie; storms) = Stand-by based on customer request Failover limit = 5 - minute planned outage per failover @ 1 per week. Total possible hours availability /year = (8760- 4.3 hr planned outage = 8755) Hours for availability: 8755-1hr (unplanned outage) / 8755 * 100% = 99.98%	Hours	Respond	Repair	Core	< 1 hour**	1 hour	Callout	< 2 hours	1 hour	Wkend/Hd	< 2 hours	1 hour	CROW FS will be formally notified when failures occur.
Hours	Respond	Repair													
Core	< 1 hour**	1 hour													
Callout	< 2 hours	1 hour													
Wkend/Hd	< 2 hours	1 hour													
Database modification & testing accuracy w/ field staff, commissioning accuracy w/ control room staff.	Number of personnel incidents that result in inadvertent load dumping, safety issues or customer outages	There will be zero personnel incidents that result in inadvertent load dumping, safety issues or customer outages caused by ACC TC staff.	CROW Incident Report												
4. SCADA System Maintenance and Availability (cont'd)															
Response time to investigate and dispatch resource to <i>remote sites</i> for calibration and changes to controlled devices and metering (on installed telemetry, alarm devices).	Amount of time it takes for FS to respond to and dispatch to the field a corrective maintenance issue. Refer to Schedule A for	Each maintenance request for failed or erroneous devices, shall be responded to and investigated according to the failed device response instructions, and dispatched to the field where the repair is covered under the Maintain agreement. For changes and additions to field	CROW Unusual Condition Report (need consistency in logging requests) Trouble Report												

Metric	Description	Target	Data Source												
Includes all database management (alarms) for the stations reporting to Control Centre.	details.	plant reported on via EMS/SCADA, see LOO for response time. Listing of all station alarms reporting to EMS is through the applicable station alarm LOO. <i>Currently there are no feedback mechanisms from the field to confirm repair is completed in a certain number of days.</i>	FS will be formally notified when failures occur.												
5. Building Services Maintenance and Availability															
Administration and maintenance of fire and security systems, ie; video systems, entry alarms, motion detector alarms. Escalate issues to contractors if required.	Number of days downtime for maintenance	If FS is maintaining a piece of this equipment, it should be back in service within 5 days of an outage and should not exceed 10 days/ per system annually. Note that many of these services are performed by contracts at the various Control Centres. Response: <ul style="list-style-type: none"> • Time to Respond and Repair , 95% of time: <table border="1" data-bbox="776 1094 1192 1247"> <thead> <tr> <th>Hours</th> <th>Respond</th> <th>Repair</th> </tr> </thead> <tbody> <tr> <td>Core</td> <td>< 1 hour*</td> <td>1 hour</td> </tr> <tr> <td>Callout</td> <td>< 2 hours**</td> <td>NBD</td> </tr> <tr> <td>Wknd/Hdy</td> <td>< 2 hours</td> <td>NBD</td> </tr> </tbody> </table> <p>*Core hours: Response depends on criticality of the system.</p> <p>**Non-Core hours: Callout response = 1 hour to respond, resolve by end of Next Business Day (NBD), depending on criticality of system and severity of the problem.</p> <p>Criticality to be determined by the Control Room.</p>	Hours	Respond	Repair	Core	< 1 hour*	1 hour	Callout	< 2 hours**	NBD	Wknd/Hdy	< 2 hours	NBD	No performance metric
Hours	Respond	Repair													
Core	< 1 hour*	1 hour													
Callout	< 2 hours**	NBD													
Wknd/Hdy	< 2 hours	NBD													
6. MSMDA System Maintenance and Availability															
MSMDA maintenance and repair: - 5620 Work Station <ul style="list-style-type: none"> • Instrument Controller and Work Station • 51RS Loop Controller 	Respond to problems and repair MSMDA devices within time frame to ensure that MSMDA remain stable and available at all times.	Performance will be measured in terms of: Percentage of availability: Maximum downtime will be ≤ 3 hours "on site" annually at the Control Centre. Time to Respond and Repair, 95% of time:	TNO Control Room Desk Log Eventually moving to CROW FS will be formally notified when												

Metric	Description	Target	Data Source												
<ul style="list-style-type: none"> System Synchronization Equipment Routers, Bridges, hubs, and modems used to carry system monitoring data Elevation and support of maintenance issues 		<table border="0"> <thead> <tr> <th><u>Hours</u></th> <th><u>Respond</u></th> <th><u>Repair</u></th> </tr> </thead> <tbody> <tr> <td>Core</td> <td>< 1 hour**</td> <td>1 hour</td> </tr> <tr> <td>Callout</td> <td>< 2 hours</td> <td>1 hour</td> </tr> <tr> <td>Wknd/Hdy</td> <td>< 2 hours</td> <td>1 hour</td> </tr> </tbody> </table> <p>Total possible hours availability /year = (8760- 4.3 hr planned outage =8755)</p> <p>Hours for availability: 8755 -1hr (unplanned outage) / 8755 * 100% = 99.98%</p>	<u>Hours</u>	<u>Respond</u>	<u>Repair</u>	Core	< 1 hour**	1 hour	Callout	< 2 hours	1 hour	Wknd/Hdy	< 2 hours	1 hour	failures occur.
<u>Hours</u>	<u>Respond</u>	<u>Repair</u>													
Core	< 1 hour**	1 hour													
Callout	< 2 hours	1 hour													
Wknd/Hdy	< 2 hours	1 hour													
Outages of MSMDA system	Number of personnel incidents that result in any or partial MSMDA outage	<i>There will be zero personnel incidents that result in loss of MSMDA system</i>	TNO Control Room Desk Log Eventually moving to CROW												
Response time to dispatch resource to MCC to investigate and support remote sites suspected in MSMDA outage/issue.	Amount of time it takes for FS to respond to and dispatch/support the field in a corrective maintenance issue	<p>Each maintenance request for failed or erroneous device shall be responded to and investigated. TNO to co-ordinate support to the remote site</p> <p><i>Performance will be measured in terms of:</i></p> <p>Percentage of availability: Maximum downtime will be ≤ 3 hours “on site” annually at the Control Centre.</p> <p>Time to Respond and Repair, 95% of time:</p> <table border="0"> <thead> <tr> <th><u>Hours</u></th> <th><u>Respond</u></th> <th><u>Repair</u></th> </tr> </thead> <tbody> <tr> <td>Core</td> <td>< 1 hour**</td> <td>1 hour</td> </tr> <tr> <td>Callout</td> <td>< 2 hours</td> <td>1 hour</td> </tr> <tr> <td>Wknd/Hdy</td> <td>< 2 hours</td> <td>1 hour</td> </tr> </tbody> </table> <p>(Unless remote site is a bottleneck in response time). Refer to Schedule A when a remote site is involved.</p>	<u>Hours</u>	<u>Respond</u>	<u>Repair</u>	Core	< 1 hour**	1 hour	Callout	< 2 hours	1 hour	Wknd/Hdy	< 2 hours	1 hour	TNO Control Room Desk Log
<u>Hours</u>	<u>Respond</u>	<u>Repair</u>													
Core	< 1 hour**	1 hour													
Callout	< 2 hours	1 hour													
Wknd/Hdy	< 2 hours	1 hour													
7. Service Outage Management															
Outage Consultation	Amount of time prior to a planned outage that the relevant Control Centre will be consulted.	For any planned maintenance outage of 1 hour or more in duration, Field Services will provide 1 business day’s notice via Outage Request to consult with the relevant Control Centre as per the Outage Request system business rules. Outage Request to include summary of impact of planned outage.	CROW Outage Scheduling System												
Outage notification	Time prior to confirmed outage by which Control Centre will be notified.	Control centre will be notified 1 day prior to confirmed outage.													
8. Business Recovery Support															
Business Recovery planning	Participate in creating and updating formal Business Recovery	Participate/provide input into plan required to recover EMS/SCADA applications in case of unplanned	Business Recovery Plan to be												

Metric	Description	Target	Data Source
	(technical) plan	outage or failure. This will be developed in consultation with RTOPS and be updated on an annual basis.	developed
Business Recovery testing	Provide Field Services resources required in Business Recovery plan for test sessions.	Participate in annual RTOPS Business Recovery plan review	Business Recovery Review to be developed
Business Recovery execution	Respond within time frames set out for Field Services resources in Business Recovery plan.	Respond to invocation call within time frames set out in the recovery plan and execute assigned tasks within times specified by the plan.	Business Recovery Execution Report to be developed
9. Operations, Policies and Procedures Support			
Advice and Input to Operating Orders Re: VHF & UHF Radio System, Local Instructions (ie; database implementations) Confirm with each Control Centre	Number of days it takes FS to respond to requirements for operating documentation. Provide input for Complete Revisions every 2 years.	Completion of requests for additions, modifications is performed in a timely manner appropriate to the situation. As requested by RT Ops.	
10. OLA Reporting Support			
OLA Reporting	Reporting on service delivery achievement levels.	Field Services develops processes as part of this OLA to contribute to the monitoring of service delivery targets such that RTOPS has the ability to report against service level targets.	To be developed.
11. Enhance Operating Levels			
Provide performance measures	Deliver all measurements required by this OLA for review	FS Manager and Department to deliver all performance measures set out in this OLA no more than two weeks after the end of each reporting period for review with RTOPS.	OLA performance reports.
Review OLAs	Pro-actively contribute to the review of OLA achievements	Participate in semi-annual reviews with RTOPS with background information to OLA achievements and mutual issues for discussion. Must occur on a semi-annual basis or as requested.	Review meeting minutes.
Contribute to enhancement	Pro-actively work to enhance Operating Levels over time	Suggest enhancements of operating levels and how to ensure future achievement of levels missed in previous assessment periods. Must occur on a semi-annual basis or as requested.	OLA review meeting minutes.

SCHEDULE E
DISTRIBUTION OPERATIONS SUPPORT SERVICES

[To be developed pursuant to Section 5.7, description of Distribution Operations Support Services, including the Performance Standards in respect thereof, such Services to include: SDA Emergency Restoration; Person in Charge Duties; Real Time Monitoring and Response; Distribution Records Creation and Maintenance; Outage Scheduling (Level 4); Operating Orders; and Operational Planning]

SCHEDULE F
ENVIRONMENTAL MATTERS

A. Services

The Services provided by Field Services LoB hereunder shall include the following environmental matters:

(a) ***Environmental Management***

BC Hydro will maintain, and Field Services LoB will comply with, appropriate, ISO 14001 (or other industry-accepted standard from time to time) consistent, environmental systems and procedures with respect to all such matters in connection with carrying out the Services. In the course of providing the Services, Field Services LoB's environmental roles and responsibilities will be as set out in the following environmental management systems, as applicable:

- (i) BCTC Environmental Management System Framework and applicable EMS modules (for example BCTC Stations Environmental Management System.); and
- (ii) Field Services LoB Environmental Management System.

(b) ***IT Applications***

- (i) The shared BC Hydro/BCTC web based Environmental Incident Reporting System shall be used for recording environmental incidents.
- (ii) The BCTC Operational Environmental Review tracking system shall be used to record progress on corrective action plans resulting from regular audits and reviews.
- (iii) The shared BC Hydro/BCTC web based Environmental Management System Communications Reporting System shall be used.

(c) ***Reporting***

- (i) Field Services LoB will provide to BCTC in a timely manner, on an exception basis, a written report of any violations or nonconformance issues related to BC Hydro's environmental systems and procedures for work carried out by Field Services LoB under this Agreement.
- (ii) The Vice President of Field Services LoB to attend the BCTC Environmental Management System Annual Senior Management Review.

B. Performance Standards

Field Services LoB will meet or exceed the following Performance Standards for environmental matters:

- (a) Field Services LoB will annually provide to BCTC Field Service LoB’s environmental performance objectives relating to the Transmission System, for BCTC’s acceptance, acting reasonably. Upon acceptance, such performance objectives will become Performance Standards for the purposes of this Agreement.
- (b) Field Services LoB will meet or exceed the following additional environmental Performance Standards with respect to the Services:

Service Provided	Performance Metric	Reporting or Measurement Method
Environmental performance	0 “major nonconformance” ^{**} violations of EMS requirements	BCTC EMS Audit Plan.
Environmental performance	Number of preventable environmental incidents F05 - 8; F06 - 6; F07 – 4	Field Services LoB quarterly report
Environmental performance	0 – number of incidents (that are within control of Field Services LoB) that have not been closed on the EIR System within 3 months	Field Services LoB quarterly report
Environmental performance	Environmental compliance measure (ECM) F05 – 0; F06 – 0; F07 - 0	Field Services LoB quarterly report
Environmental Management System audit and OER Corrective Action Plans	Corrective Action Plans completed on schedule	Field Services LoB quarterly report

Note: For the purposes of the foregoing, a “major nonconformance violation” means, in general, a serious system deficiency that would have a significant impact on the environment or adversely affect the implementation of the Environmental Management System. Specifically, a “major nonconformance violation” is documented when:

- there is a complete absence or breakdown of a required element of the ISO 14001 Standard;
- a number of minor lapses related to a significant aspect, or procedure required by ISO 14001, when added together, collectively suggest a total or important breakdown in the procedure or element of the ISO 14001 Standard;
- a nonconformance is likely to cause regulatory investigation and/or legal action against BC Hydro and/or BCTC; or
- an environmental aspect that is obviously of high significance has not been identified and as a result is not managed.

SCHEDULE G SAFETY MATTERS

A. Services

The Services provided by Field Services LoB hereunder shall include the following safety matters:

(a) ***Safety Management***

Field Services LoB will comply with appropriate, OHSAS 18001 (or other industry-accepted standard from time to time) consistent, safety and occupational health systems and procedures with respect to all such matters in connection with carrying out the Services. In the course of providing services to BCTC, Field Services LoB's safety roles and responsibilities will be as set out in the following:

- (i) BC Hydro Safety Management System; and
- (ii) any applicable agreements between the Parties entered into pursuant to Section 16.4 of the Master Agreement, including the following as each may be amended, supplemented or replaced from time to time:
 - (A) Co-ordination of Multi-Employer Workplaces BCTC and BC Hydro; and
 - (B) Cross-jurisdictional Incident Investigation.

In accordance with the agreement referred to in paragraph (ii)(A) above and the BCTC Standards, in any circumstance where Field Services LoB manages BC Hydro personnel, Subcontractors or External Contractors under this Agreement at a workplace that is a "multiple-employer workplace" with more than one "prime contractor" (each as defined in the *Workers Compensation Act* (British Columbia)), unless the Parties otherwise expressly agree, Field Services LoB will be responsible for determining which entity at the workplace (including any contractors retained by BCTC and not managed by Field Services LoB under this Agreement) will retain prime contractor responsibilities for such multiple-employer workplace.

(b) ***Reporting***

- (i) Field Services LoB will provide to BCTC in a timely manner, on an exception basis, a written report of any violations or nonconformance issues related to BC Hydro's safety systems and procedures for work carried out by Field Services LoB under this Agreement.
- (ii) BCTC and Field Safety Services (with BC Hydro Corporate Safety) to agree on scope and format for reporting on non-cross-jurisdictional incidents (involving only BC Hydro staff, contractors or the public).

B. Performance

Field Services LoB will meet or exceed the following Performance Standards for safety matters:

- (a) Field Services LoB will annually provide to BCTC Field Service LoB’s safety performance objectives for BCTC’s acceptance, acting reasonably. Upon acceptance, such performance objectives will become Performance Standards for the purposes of this Agreement.
- (b) Field Services LoB will meet or exceed the following additional safety Performance Standards with respect to the Services:

Service Provided	Performance Metric	Reporting or Measurement Method
Safety Performance	Field Services LoB’s annually declared target	Field Services LoB quarterly report
Safety Incident Reporting	Incidents reported within 24 hours and contractor incidents communicated quarterly	Scope and format for non cross-jurisdictional incidents to be determined by BCTC and Field Services LoB (with BC Hydro Corporate Safety)
Safety Management System audits	Corrective Action Plans completed on schedule	Field Services LoB quarterly report
Safety performance	0 “major non-conformance”* violations of SMS requirements	BC Hydro SMS Audit Plan or BCTC PSSP Audit Plan
Incident Investigations and Corrective Action Plans	Investigations and Corrective Action Plans completed on schedule	Field Services LoB quarterly report

Note: For the purposes of the foregoing, a “major nonconformance violation” means, in general, a serious system deficiency that would have a significant impact on safety or adversely affect the implementation of the Safety Management System. Specifically, a “major nonconformance violation” is documented when:

- there is a complete absence or breakdown of a required element of the OHSAS 18001 Standard;
- a number of minor lapses related to a significant aspect, or procedure required by OHSAS 18001, when added together, collectively suggest a total or important breakdown in the procedure or element of the OHSAS 18001 Standard;
- a nonconformance is likely to cause regulatory investigation and/or legal action against BC Hydro and/or BCTC; or
- a safety aspect that is obviously of high significance has not been identified and as a result is not managed.

**SCHEDULE H
SERVICE CATEGORIES AND ALLOCATED VOLUMES**

Allocation of Committed Internal Revenue

Service Category	Committed Internal Revenue Allocation
Electricians	\$15,500,000
CPC Technologist	7,650,000
General Tradespersons	2,100,000
Total Substation Services	\$25,250,000
Powerline Technicians	\$11,200,000
Cable Splicers	1,600,000
Multifunctional Technologists	1,900,000
Total Transmission Services	\$14,700,000
Vegetation Specialists	\$2,900,000
Total Vegetation Maintenance Services	\$2,900,000
Total	\$42,850,000

Note: These Committed Internal Revenue allocation amounts are based on a weighted average labour rate, comprising both regular labour resources and resources of BC Hydro's Construction Business Unit. These amounts do not include non-current service pension charges.

**SCHEDULE I
INVOICE SUPPORTING DATA**

1. work order and task number
2. work order or project title
3. labour job code
4. incurred dates of expenses
5. total labour cost and hours
6. resource codes
7. applicable taxes
8. material description, and MMBU stock number if applicable
9. any overhead loadings applied
10. material costs and supplier costs, including the costs of Subcontractors retained pursuant to Section 8.1
11. description of incidental expenses

The Parties acknowledge and agree that the feasibility of the provision of the following items, together with the level of detail needed for continuous improvement, will be subject to review by the CI Team:

12. hours worked at site
13. travel hours

**ENGINEERING
SERVICE AGREEMENT**

Between

**BRITISH COLUMBIA HYDRO AND POWER AUTHORITY
and**

BRITISH COLUMBIA TRANSMISSION CORPORATION

Dated as of April 1, 2005

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ENGINEERING SERVICES AGREEMENT

THIS AGREEMENT is dated as of the 1st day of April, 2005.

BETWEEN:

BRITISH COLUMBIA HYDRO AND POWER AUTHORITY, a Crown corporation organized and existing under the laws of the Province of British Columbia

("BC Hydro")

AND:

BRITISH COLUMBIA TRANSMISSION CORPORATION, a Crown corporation organized and existing under the laws of the Province of British Columbia

("BCTC")

WHEREAS:

- A. BC Hydro and BCTC have, pursuant to the *Transmission Corporation Act* (British Columbia), entered into the Support Services Agreement; and
- B. BC Hydro and BCTC propose to enter into this Agreement pursuant to Section 5.4 of the Support Services Agreement to specifically set out certain terms and conditions for the provision of the Services by BC Hydro to BCTC in accordance with Article 5 of the Support Services Agreement.

NOW THEREFORE, in consideration of the premises and mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, the Parties agree as follows:

ARTICLE 1 INTERPRETATION

1.1 Definitions

In this Agreement, the following terms will have the following meanings respectively:

- (a) "**Additional Work**" has the meaning ascribed to it in Section 4.6.
- (b) "**Agreed Volume**" has the meaning ascribed to it in Section 6.1(c).
- (c) "**Approved Amount**" means the total approved engineering, materials and equipment and installation costs, expenses and fees for a Project, as agreed between the Parties in the Statement of Objectives for such Project.

- (d) “**Asset Management and Maintenance Agreement**” means the asset management and maintenance agreement dated as of November 12, 2003 made between BC Hydro and BCTC, as such agreement may be amended from time to time.
- (e) “**Asset Management and Maintenance Services**” has the meaning ascribed to it in the Asset Management and Maintenance Agreement.
- (f) “**Audit**” means any or all of a review, investigation, inspection, audit, confirmation, certification, test, study or determination.
- (g) “**BC Hydro**” means British Columbia Hydro and Power Authority and its successors and permitted assigns.
- (h) “**BCTC**” means British Columbia Transmission Corporation and its successors and permitted assigns.
- (i) “**BCTC Standards**” means any and all BCTC standards, policies and procedures:
 - (i) of general application, including BCTC’s policies regarding procurement and contract management and corporate signing authority; and
 - (ii) specifically applicable to the provision of the Services hereunder, including technical requirements, design standards, maintenance standards and material and equipment specifications, but excluding work methods and procedures.
- (j) “**Business Day**” means a day that is not a Saturday, Sunday or statutory holiday in the Province of British Columbia.
- (k) “**CI Team**” has the meaning ascribed to it in Section 3.1(d).
- (l) “**Commission**” means the British Columbia Utilities Commission or any successor agency having regulatory jurisdiction over transmission services in British Columbia.
- (m) “**Committed Term**” means the six year period commencing on April 1, 2004 and ending on March 31, 2010. [SSA 1.3(l)]
- (n) “**Consequences**” means, in respect of any proposed action to be taken by BC Hydro hereunder:
 - (i) the feasibility of such proposed action;
 - (ii) any costs to be incurred by BC Hydro in taking such proposed action due to:
 - (A) either or both additional time being spent by BC Hydro employees in taking such proposed action or additional costs being incurred directly by BC Hydro to take such proposed action; or

- (B) any stranded assets or personnel resulting from such proposed action;
 - (iii) any impact on the timely provision of any other Services hereunder resulting from the reallocation of resources by BC Hydro in order to take such proposed action, including any resulting implications for Performance Standards;
 - (iv) any impact on BC Hydro's ability to meet the Key Performance Measures determined pursuant to Section 5.2; and
 - (v) any other direct or indirect impact on BC Hydro or BCTC in connection with the taking of such action by BC Hydro, including any impact on the provision of any other service by, or satisfaction of any other obligation of, BC Hydro to BCTC as contemplated by the Key Agreements or any other service level agreement entered into between the Parties, provided that no such impact shall be deemed to amend any Key Agreement or other such service level agreement, or any of the respective roles and responsibilities of BC Hydro or BCTC thereunder.
- (o) **“Contract Representative”** means a contract representative of a Party appointed under Article 18.
 - (p) **“Contract Year”** means, during the Term, the one year period commencing on April 1 of each calendar year and ending on March 31 of the next following calendar year.
 - (q) **“Effective Date”** means November 20, 2003. [MA 1.1(n)]
 - (r) **“Eligible Year”** means each Contract Year following the Committed Term. [SSA 1.3(p)]
 - (s) **“Engineering”** means the Engineering service business of BC Hydro or any successor business of BC Hydro.
 - (t) **“External Contractor”** has the meaning ascribed to it in Section 8.2(a).
 - (u) **“Field Services LoB”** means the Field Services line of business of BC Hydro or any successor line of business of BC Hydro.
 - (v) **“Field Services Service Agreement”** means the service agreement of even date herewith between BC Hydro and BCTC in connection with the provision of services by the Field Services LoB to BCTC, as such agreement may be amended from time to time.
 - (w) **“Fixed Price Proposal”** has the meaning ascribed to it in Section 13.4(a).
 - (x) **“Good Utility Practice”** means any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry in the WECC region 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 Utility 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. [SSA 1.3(w)]

- (y) **“Intellectual Property Agreement”** means the intellectual property agreement dated as of December 1, 2003 made between BC Hydro and BCTC, as such agreement may be amended from time to time.
- (z) **“Key Agreements”** has the meaning ascribed to it in the Master Agreement.
- (aa) **“Key Performance Measures”** means the measures to be used to assess whether Performance Incentives or Performance Payments are payable pursuant to Section 9.6 for a Contract Year, including applicable milestones and a method for determining the amount of the incentive or penalty payable within the applicable Payment Limits.
- (bb) **“Laws”** means (i) all statutes, treaties, codes, ordinances, orders in council, decrees, rules, regulations, directions, by-laws, permits, licences and approvals enacted, adopted or issued by a governmental authority, including all rules, regulations, orders, policies, practices and guidelines of the Commission and (ii) all policies, practices and guidelines (including any shareholder’s letter of expectations) of any governmental authority or body that, although not actually having the force of law, are considered by such governmental authority or body as requiring compliance, that apply to either of the Parties. [SSA 1.3(aa)]
- (cc) **“Master Agreement”** means the master agreement dated as of November 12, 2003 made between BC Hydro and BCTC, as such agreement may be amended from time to time.
- (dd) **“Open Access Transmission Tariff”** or **“OATT”** has the meaning ascribed to it in the Master Agreement.
- (ee) **“Other BCTC Contractors”** has the meaning ascribed to it in Section 8.3(a).
- (ff) **“Parties”** means collectively, BC Hydro and BCTC, and **“Party”** means individually, BC Hydro or BCTC.
- (gg) **“Payment Limit”** has the meaning ascribed to it in Section 9.6.
- (hh) **“Performance Incentive”** has the meaning ascribed to it in Section 9.6.
- (ii) **“Performance Payment”** has the meaning ascribed to it in Section 9.6.
- (jj) **“Performance Standards”** has the meaning ascribed to it in Section 9.1.

- (kk) **“Person”** means a corporation, an association, a partnership, an organization, a business, a limited liability company, an individual, a government or a political subdivision thereof or a governmental agency. [SSA 1.3(gg)]
- (ll) **“Project”** means a project or program forming part of the Services, which has a defined scope, cost and schedule.
- (mm) **“Reference Volume”** means \$46,200,000, as may be adjusted in accordance with Article 6.
- (nn) **“Services”** means the services to be provided by Engineering to BCTC pursuant to this Agreement in connection with:
- (i) the provision of the Asset Management and Maintenance Services by BCTC;
 - (ii) the carrying out of capital expenditure plans relating to the Transmission System by BCTC in accordance with the Master Agreement; and
 - (iii) any other authority or responsibility of BCTC under the *Transmission Corporation Act* (British Columbia) or the Key Agreements,
- including those services set out and described in Schedule A to this Agreement, and as such services may be revised from time to time by the agreement of the Parties.
- (oo) **“Standards of Conduct”** means the standards of conduct policies of BCTC or BC Hydro, as the context requires, as approved by the Commission from time to time.
- (pp) **“Statement of Objectives”** means, with respect to any Project, the comprehensive statement of requirements of such Project as agreed between the Parties, including for such Project the scope, schedule, milestones, reporting requirements, Approved Amount, baseline performance standards regarding the success and quality, the identification of the project manager and any restrictions on the ability of BC Hydro to change such project manager without BCTC consent, any specific project manager authorizations, the applicability of Key Performance Measures and applicable milestones, such cost estimates required by BCTC, and as such statement may thereafter be amended from time to time by agreement between the Parties to reflect agreed changes to such Project.
- (qq) **“Subcontractor”** has the meaning ascribed to it in Section 8.1(d).
- (rr) **“Substation Distribution Assets”** means substation step-down transformers to distribution voltage (from the high side bushing) and all associated distribution voltage equipment to the substation boundary. [MA 1.1(oo)]
- (ss) **“Supplemental Intellectual Property Agreement”** means the supplemental intellectual property agreement to be entered into by the Parties to provide for the rights and restrictions governing New Intellectual Property (as defined therein)

made or developed by the Parties after the Effective Date, as such agreement may be amended from time to time.

- (tt) **“Support Services Agreement”** means the support services agreement dated as of November 12, 2003 made between BC Hydro and BCTC.
- (uu) **“Tariff Commencement Date”** means the effective date of BCTC’s first OATT filed pursuant to Section 4 of the *Transmission Corporation Act* (British Columbia). [SSA 1.3(jj)]
- (vv) **“Term”** has the meaning ascribed to it in Section 2.1.
- (ww) **“Third Party”** means a Person other than BC Hydro or BCTC or a successor or permitted assign thereof.
- (xx) **“TLoB”** means the Transmission line of business of BC Hydro or any successor line of business of BC Hydro.
- (yy) **“Transmission System”** means those assets that are owned by, or are held under contract by, BC Hydro from time to time and that are or may be used in connection with or that otherwise relate to the transmission of electrical energy at 60 kV and above, including the following:
 - (i) all lines, including underground and underwater cables, of voltage class 60 kV and above that transmit electrical energy from a generation facility step-up transformer to a substation step-down transformer, together with:
 - (A) all towers, poles, transformers, equipment, fixtures and switching station and substation facilities that are or may be used in connection with or that otherwise relate to that transmission; and
 - (B) each substation step-down transformer to which the electrical energy is transmitted and all associated equipment to the substation boundary;
 - (ii) telecommunication facilities used for the operation, protection or control of switching stations, substation facilities, control centres or other components of the transmission system; and
 - (iii) rights-of-way, permits, licences and agreements in respect of any of the assets or rights described above;

For greater certainty, the interface between the Transmission System and the generation facilities of BC Hydro will be as referenced in the document entitled “Separation of Assets between Generation and Transmission Lines of Business” dated April 4, 2002 or as otherwise agreed between the Parties from time to time. [SSA 1.3(nn)]

- (zz) **“WECC”** means the Western Electricity Coordinating Council or any successor organization.

- (aaa) “**Work Plan**” means, for each Contract Year, the plan of all Services required by BCTC during such Contract Year from Engineering, as developed pursuant to Article 5 and as may be amended pursuant to Section 5.4.
- (bbb) “**WTS Tariff**” has the meaning ascribed to it in the Master Agreement.

1.2 Interpretation Generally

Unless the context otherwise necessarily requires, the following provisions will govern the interpretation of this Agreement:

- (a) the words “hereof”, “herein” and “hereunder” and similar expressions will refer to this Agreement as a whole and not to any particular provision of this Agreement;
- (b) each reference to a time of day in this Agreement will mean that time in Vancouver, British Columbia, unless otherwise specified. In computation of periods of time in this Agreement from a specified date to a later specified date, the word “from” means “from and including” and the words “to” and “until” each mean “to but excluding”;
- (c) the meanings given to terms defined in this Agreement will apply to both the singular and plural forms of those terms;
- (d) except as otherwise specified in this Agreement, each reference in this Agreement to a statute, requirement of Law or governmental consent will be deemed to refer to such statute, requirement of Law or governmental consent as the same may be amended, supplemented or otherwise modified from time to time;
- (e) each reference in this Agreement to any Party will be deemed to include such Party’s successors and permitted assigns unless expressly stated otherwise in this Agreement;
- (f) where in this Agreement a term is defined, a derivative of that term will have a corresponding meaning;
- (g) the words “include”, “including” and similar expressions mean “including but not limited to”;
- (h) all references to “Articles”, “Sections” and “Schedules” are references to Sections of, and Schedules to and forming part of, this Agreement unless otherwise specified;
- (i) in the event of any conflict or inconsistency between this Agreement and any Schedule that is not reconcilable, the provisions of this Agreement will prevail;
- (j) the division of this Agreement into Articles, Sections, Schedules and other subdivisions and the insertion of headings are for convenience of reference only and will not affect the construction or interpretation of this Agreement; and

- (k) except as otherwise defined in this Agreement, terms used in this Agreement that have well-known technical, trade or industry meanings will be interpreted in accordance with those well-known technical, trade or industry meanings.

1.3 Priority and Application of Key Agreements

This Agreement is entered into pursuant to the Support Services Agreement and elaborates on the provisions of the Support Services Agreement and the Master Agreement with respect to the provision of the Services. The Parties believe that this Agreement is consistent with the terms and conditions of the Support Services Agreement and the Master Agreement and agree that if there is any express conflict or inconsistency between the provisions of this Agreement and of the Support Services Agreement or the Master Agreement, the provisions of the Support Services Agreement or the Master Agreement, as applicable, will prevail. Provisions in this Agreement which, for ease of reference, duplicate, with necessary changes, provisions contained in the Support Services Agreement or the Master Agreement are identified in this Agreement by the inclusion following such provisions of the initials “SSA” or “MA”, as the case may be, and the section reference therein.

1.4 Schedules

The following Schedules are attached hereto and form part of this Agreement:

Schedule	Description
Schedule A	Scope of Services and Performance Standards
Schedule B	Environmental Matters
Schedule C	Safety Matters

ARTICLE 2 TERM

2.1 Term

The term of this Agreement (the “**Term**”) will commence on the date hereof and will continue unless and until terminated in accordance with Article 15.

ARTICLE 3 GENERAL PRINCIPLES

3.1 Continuous Improvement

- (a) BCTC acknowledges that, in view of the knowledge, experience and expertise that Engineering has acquired, the availability to BCTC of services provided by Engineering, on the terms and conditions set out in this Agreement, is of significant importance to BCTC in providing the Asset Management and Maintenance Services and carrying out capital expenditure plans relating to the Transmission System. BCTC further acknowledges the importance of orderly

planning and timely initiation of work by BCTC in order for BC Hydro to achieve maximum efficiency in providing the Services. BCTC further acknowledges that any change to the utilization by BCTC of Engineering personnel for Services as set out in Section 6.4 should be properly managed by the Parties during the Term in accordance with this Agreement. [SSA 5.2]

- (b) BC Hydro acknowledges the importance to BCTC of continuous improvement, continuous efforts to reduce costs and increase efficiency and the demonstration of efficiency and value in the provision of the Services. BC Hydro will at all times make commercially reasonable efforts to increase efficiencies and reduce costs associated with the Services. [SSA 5.3]
- (c) BCTC and BC Hydro acknowledge that their common objective of increased cost effectiveness in the provision of the Services will require cooperation and coordination between the Parties during the Term. The Parties will at all times during and after the Committed Term use commercially reasonable efforts to cooperate in coordinating the requirements for the provision of Services in a manner that optimizes the utilization of existing Engineering resources, minimizes stranded costs to Engineering and meets BCTC's program requirements relating to the Asset Management and Maintenance Services and capital expenditure plans relating to the Transmission System. BCTC will use commercially reasonable efforts to schedule capital work requiring Services to minimize stranded costs as a result of variations in the capital plan from year to year. [SSA 5.5]
- (d) In furtherance of the goal of continuous improvement set out in this Section 3.1 and as part of the Services, BC Hydro and BCTC have jointly established a continuous improvement process. The process will include a review of the planning, assignment, delivery, and billing of the Services. A Continuous Improvement Team (the "**CI Team**") consisting of a designated lead and another representative from each of BC Hydro and BCTC is responsible for the continuous improvement deliverables. The CI Team of four will choose a CI Team lead who will be responsible for administering the continuous improvement process; such team leadership to alternate between BCTC and BC Hydro. The CI Team will meet regularly, but no less than bi-monthly.
- (e) The CI Team will collaborate to identify improvement opportunities ("**Opportunities**") for both BCTC and BC Hydro related to the Services provided hereunder. The CI Team will define the benefits expected from, and the costs of, implementation of the Opportunities and will prioritise the Opportunities after the consideration of scope, costs and schedule for the respective Party. The CI Team will arrange for approval and implementation of the Opportunity as appropriate. The CI Team will provide quarterly status reports to the Contract Representatives including progress, incurred costs and realized benefits of the Opportunities.
- (f) All Opportunities identified and considered by the CI Team pursuant to paragraph (e) above will be treated as Confidential Information under Article 11.

3.2 Quality Management

In furtherance of the goal of continuous improvement and as part of the Services, BC Hydro will develop, in accordance with the schedule to be developed by the CI Team, a quality management system (“QMS”) for the Services. The system will be consistent with the principles of ISO9001:2000 Quality Management Systems. Registration of the QMS under the International Organization for Standardization is not a requirement for the QMS. BCTC will have the right to undertake Audits of such QMS pursuant to Section 14.1 and pursuant to the implementation schedule established by the CI Team.

ARTICLE 4 ENGAGEMENT OF BC HYDRO

4.1 Exclusivity During Committed Term

Subject to the terms and conditions of this Agreement, during the Committed Term, BCTC hereby retains BC Hydro exclusively to provide, and BC Hydro hereby agrees to provide to BCTC, on an annual basis, all Services required by BCTC up to the Reference Volume. [SSA 5.6(a)]

4.2 Reduction After Committed Term

For each Eligible Year, BCTC will continue to retain BC Hydro exclusively to provide, and BC Hydro will continue to provide to BCTC, on an annual basis, all Services required by BCTC up to the Reference Volume, provided that either Party may elect, pursuant to and in accordance with Section 6.4, to reduce:

- (a) the Reference Volume by a maximum of 20% for the first Contract Year following the Committed Term; and
- (b) the Reference Volume applicable to any other Eligible Year by an amount equal to a maximum of 20% of the Reference Volume in addition to any such previous reductions,

or on such other basis as the Parties may agree, provided that only one such reduction may be made per Contract Year and provided further that for any Eligible Year in respect of which such a reduction has not been effected pursuant to Section 6.4, the Reference Volume for such Contract Year will be the same as that applicable to the preceding Contract Year in accordance with this Article 4, unless the Parties otherwise agree. [SSA 5.7(a), 5.7(e)]

4.3 Volume of Services

The Parties acknowledge that the actual volume of Services required by BCTC for any year during or after the Committed Term may be equal to, less than or greater than the Reference Volume for that year. In the event that:

- (a) the actual volume of Services required by BCTC for any year during or after the Committed Term is equal to or less than the Reference Volume for that year, then

BCTC will retain BC Hydro exclusively to provide all of the Services required by BCTC during that year; and

- (b) the actual volume of Services required by BCTC for any year during or after the Committed Term is greater than the Reference Volume for that year, BCTC may elect to retain either BC Hydro or Third Party service providers to provide any such additional work, subject to and in accordance with Section 4.6. [SSA 5.9(a)]

4.4 Emergency Services

BCTC hereby authorizes BC Hydro to, and BC Hydro will use commercially reasonable efforts to provide Services to BCTC above the Agreed Volume in an emergency situation, as part of the Services, with a view to providing timely service, provided that BC Hydro has available in its opinion acting reasonably, sufficient personnel and resources to provide such Services. [SSA 5.9(b)].

4.5 Repair Work

Upon the written request of, and authorization by, BCTC, BC Hydro will repair, as part of the Services, any work performed by BC Hydro in the course of performing the Services pursuant to this Agreement.

4.6 Additional Work

In the event that the actual volume of Services required by BCTC in a particular year during or after the Committed Term is greater than the Reference Volume (the “**Additional Work**”), BCTC may elect to:

- (a) retain Third Party service providers to perform the Additional Work, provided that:
 - (i) such engagement does not establish precedent by directly or indirectly resulting in a permanent and substantially complete transfer or reallocation to Third Party service providers during the Committed Term of the type of work which Engineering customarily has provided to TLoB as at the Effective Date and will provide to BCTC under this Agreement; and
 - (ii) if BCTC issues a public tender or public request for proposal with respect to any such Additional Work, BC Hydro will be permitted to bid on such tender or request for proposal on a fair and equitable basis for all service providers, including BC Hydro, and in accordance with BCTC’s procurement policies; or
- (b) offer to retain BC Hydro to perform the Additional Work, provided that BC Hydro has available in its opinion acting reasonably, sufficient personnel and resources to provide the Additional Work, in which event the Parties will cooperate in good faith in discussing the scope and nature of BCTC’s requirements in respect of the Additional Work, the availability of BC Hydro

personnel and resources to provide such Additional Work and the time period in which such Additional Work will be implemented.

4.7 Communications with Interested Parties

As part of the provision of the Services hereunder, the Parties acknowledge and agree that BCTC may, subject in all cases to Article 5 of the Asset Management and Maintenance Agreement, Article 14 of the Master Agreement and any agreements between the Parties entered in furtherance thereof, direct Engineering to act as the first point of contact in the field with other persons directly or indirectly interested in the performance of the Services hereunder, including non-governmental organizations, regulatory agencies, local municipal officials, First Nations, the general public and lines of business of BC Hydro other than Engineering.

4.8 Responsibility for Information

Engineering will as part of the Services:

- (a) maintain the sufficiency, validity, correctness and reliability of records, drawings, reports and other information relating to any modifications or additions to the Transmission System which Engineering makes in the course of providing the Services;
- (b) at the request of BCTC, verify the correctness and sufficiency of records, drawings, reports and other information to be provided to Other BCTC Contractors or as otherwise requested by BCTC; and
- (c) notify External Contractors and Other BCTC Contractors that such contractors are responsible for the verification of the correctness and sufficiency of any records, drawings, reports and other information provided to them by Engineering pursuant to this Agreement.

ARTICLE 5 WORK PLANS

5.1 Five Year Forecast

BCTC has provided to BC Hydro a forecast of the Services required by BCTC for the five year period commencing April 1, 2004. BCTC will provide to BC Hydro an updated five year forecast by no later than 60 days prior to the commencement of each following Contract Year.

5.2 Work Plans

- (a) BCTC will provide to BC Hydro a preliminary Work Plan for the next Contract Year by no later than 120 days prior to the commencement date of such Contract Year.

- (b) BCTC and BC Hydro will commence the consideration and discussion of the preliminary Work Plan delivered by BCTC to BC Hydro pursuant to paragraph (a) above within 15 days of the receipt thereof, including the consideration of:
 - (i) the likelihood of Projects being approved by the Commission or BCTC, as the case may be, to proceed, and the anticipated timing of such approvals;
 - (ii) the scheduling of Projects during such Contract Year;
 - (iii) resource requirements and allocation;
 - (iv) the breakdown of the anticipated Project costs for each Project included in the preliminary Work Plan;
 - (v) any Additional Work to be performed by BC Hydro;
 - (vi) the ability of BCTC to meet its annual work volume commitment to the Field Services LoB pursuant to the Field Services Service Agreement for work on capital projects in the amount of up to \$14,700,000 as of the date of this Agreement, and as such amount may subsequently be adjusted in accordance with the Field Services Service Agreement;
 - (vii) the determination of the Key Performance Measures.
- (c) By no later than 60 days prior to the commencement of each Contract Year, BCTC and BC Hydro will determine and agree on the final Work Plan (other than final Key Performance Measures) for such upcoming Contract Year. BCTC will provide a final proposal with respect to the Key Performance Measures to BC Hydro no later than 20 days following the commencement of the Contract Year. Within 10 days of the receipt thereof, BC Hydro will provide written confirmation of its agreement on the Key Performance Measures or request that the Contract Representatives meet within the next 10 days to discuss the Key Performance Measures. If the Parties fail to agree on the Key Performance Measures by 45 days following the commencement of the Contract Year, either Party may submit the matter to dispute resolution pursuant to Article 17. Until such time as new Key Performance Measures for a Contract Year are agreed to between the Parties or determined pursuant to any dispute resolution, the Key Performance Measures for the previous Contract Year will remain in effect.
- (d) BCTC and BC Hydro acknowledge the commitment of BCTC described in paragraph (b)(vi) above and agree that Work Plans will provide for Engineering to assign work on capital projects to Field Services LoB in priority to Third Parties to fulfil such commitment.
- (e) In addition to the development of the Work Plan in accordance with the foregoing, the Parties will prepare and provide to each other any information regarding the Services in a timely manner as required by either Party for the purposes of any filings or other information requirements with any governmental authority.

5.3 Project Approvals

BCTC will use commercially reasonable efforts to seek, prior to the commencement of a Contract Year, any approvals required to commence the Projects identified in the final Work Plan for such Contract Year determined in accordance with Section 5.2 above.

5.4 Amendment of Work Plan

The Work Plan established pursuant to Section 5.2, including any of the costs, budgets, schedules or other information included therein, may, at any time before or during the Contract Year be amended:

- (a) subject to Section 4.6, with the agreement of both Parties, each acting reasonably, to the extent such amendment increases the Agreed Volume for the relevant Contract Year, provided that it shall not be reasonable for BC Hydro to reject any such amendment of the Work Plan where BCTC agrees to accept and be responsible for all of the Consequences resulting from such amendment; or
- (b) by BCTC, to the extent such amendment decreases or does not change the Agreed Volume for the relevant Contract Year, provided that BCTC agrees to accept and be responsible for all of the Consequences resulting from any such amendment of the Work Plan, pursuant to Section 6.3 or otherwise.

5.5 Statement of Objectives Change Request

- (a) In the course of the performance by BC Hydro of the Work Plan, BC Hydro may provide to BCTC a written request for a change to the scope, cost, budget or schedule of a Project specified in the applicable Statement of Objectives, including the applicable Key Performance Measures, for any reason arising which is beyond the control of BC Hydro, including due to:
 - (i) changes in the costs or availability of Subcontractors or External Contractors;
 - (ii) changes in the costs or availability of materials or supplies;
 - (iii) delays in obtaining necessary BCTC or Third Party approvals (provided that BC Hydro has sought such approvals in a timely manner);
 - (iv) changes in scheduled outages and the availability of the Transmission System;
 - (v) unforeseen worksite conditions; or
 - (vi) a Force Majeure event under Section 21.2;
- (b) Within 15 days following the receipt of such a request, BCTC will either provide written consent to such change, not to be unreasonably withheld, in which case such amended Statement of Objectives will be the Statement of Objectives on which BC Hydro's performance will be reviewed in accordance with Article 9, or

request that the Contract Representatives meet to discuss the change request. If the Parties fail to agree on the change request, either Party may submit the matter to dispute resolution pursuant to Article 17.

5.6 Actions Requiring BCTC Consent

In addition to any other approvals required pursuant to Section 5.4 or otherwise under the BCTC Standards, but subject to any express authorization contained in this Agreement, including pursuant to Sections 4.4 or 4.5, BC Hydro will obtain BCTC's written consent before undertaking any of the following actions in connection with the provision of the Services:

- (a) changes to work completion schedules that would result in schedule milestones not being met;
- (b) changes to work in the annual Work Plan that would impact overall total costs or which would impact the ability of BCTC to meet the commitment to Field Services LoB described in Section 5.2(b)(vi);
- (c) any work when an updated cost estimate exceeds the original Work Plan estimate for such work, or the Approved Amount in the case of a Project, by \$5,000;
- (d) deferral of items in annual Work Plan; or
- (e) changes in work methods that could result in a reduction in the availability of the Transmission System.

5.7 Unauthorized Work

Any work carried out by BC Hydro hereunder:

- (a) which is not included in the then-applicable Work Plan or otherwise specifically authorized pursuant to this Agreement or by BCTC; or
- (b) which is carried out in contravention of Section 5.6,

will not form part of the Services and BCTC will have no obligation under this Agreement to pay BC Hydro for any such unauthorized work.

5.8 Review of Description of Services

The Parties will, within 90 days of the commencement of the Term, and thereafter no less than annually:

- (a) complete a joint review of the description of the Services, including the Performance Standards in respect thereof, all as set out on Schedule A hereto; and
- (b) make any such amendments to Schedule A, to be initialled by the Parties' respective Contract Representatives in accordance with Section 18.3(b), as may be agreed to by the Parties.

ARTICLE 6 DETERMINATION AND ADJUSTMENT OF VOLUMES

6.1 Agreed Volume

In connection with the finalization of the Work Plan pursuant to Section 5.2, by no later than 60 days prior to the commencement of each Contract Year:

- (a) during the Committed Term, the Parties will agree upon the total volume of Services anticipated to be required by BCTC for that Contract Year in accordance with Section 4.1, in a manner consistent with Section 3.1(c) and provided that such agreed volume will apply only to that Contract Year; **[SSA 5.6(b)]**
- (b) after the Committed Term, the Parties will agree upon the total volume of Services anticipated to be required by BCTC for that Contract Year in accordance with Section 4.2, in a manner consistent with Section 3.1(c) and provided that such agreed volume will apply only to that Contract Year; and **[SSA 5.8(a)]**
- (c) the volume determined in accordance with paragraph (a) or (b) above, as the case may be, for a particular Contract Year will be the “**Agreed Volume**” for such Contract Year.

6.2 Exclusions from Agreed Volume

The Work Plan for a Contract Year developed pursuant to Section 5.2(c) may include Projects not yet approved by the Commission and that will therefore, at BCTC’s election, not form part of the Agreed Volume for such Contract Year but, if any such Project is so approved, BC Hydro will use commercially reasonable efforts to provide Services in respect of such Projects in accordance with the Work Plan.

6.3 Stranded Costs Arising from Volume Changes

- (a) In the event that BC Hydro incurs any material costs and expenses associated with any stranded assets or personnel as a result of:
 - (i) the Agreed Volume being less than the Reference Volume, BCTC will be responsible for seeking the Commission’s approval of such costs and expenses and upon receipt of such approval will reimburse BC Hydro for such costs and expenses; or **[SSA 5.6(c), 5.8(b)]**
 - (ii) subject to paragraph (b) below:
 - (A) BCTC failing to retain BC Hydro to provide the Agreed Volume for that Contract Year; or
 - (B) BCTC amending the Work Plan for such Contract Year pursuant to Section 5.4(b) to reduce the previously-determined Agreed Volume,

BCTC will be responsible for and will reimburse BC Hydro for such costs and expenses. [SSA 5.6(d), 5.8(c)]

- (b) BCTC will not be responsible for payment to BC Hydro pursuant to paragraph (a)(ii) above to the extent that any shortfall in the actual amount of Services is the result of:
 - (i) a Force Majeure event under Section 21.2;
 - (ii) BC Hydro not providing to BCTC the Services required in accordance with the Work Plan; or
 - (iii) a reduction by BC Hydro, for any reason, during any Contract Year of the planned amount of services required from BCTC by BC Hydro's Distribution Line of Business for Distribution Operations (as defined in the Master Agreement) or the planning, management or maintenance of Substation Distribution Assets.
- (c) In the circumstances described in paragraph (a) above, BC Hydro will:
 - (i) provide to BCTC a written report describing any changes in services, assignment of personnel and other resources and estimation of costs and expenses which will be incurred by BC Hydro as a result of such circumstances; and
 - (ii) use commercially reasonable efforts to plan for and minimize the costs and expenses associated with any stranded assets or personnel that BC Hydro anticipates will result from such circumstances.

6.4 Reduction of Reference Volume

- (a) For each Eligible Year, either Party may elect to reduce the Reference Volume in accordance with Section 4.2, by giving the other Party, subject to paragraph (b) below, at least 12 months' written notice (a "**Reference Reduction Notice**") prior to the commencement of the Contract Year applicable to the proposed reduction (the "**Reference Reduction**") described in such Reference Reduction Notice. [SSA 5.7(a)]
- (b) Within 30 days after the date of a Reference Reduction Notice delivered pursuant to paragraph (a) above, BC Hydro will prepare and deliver to the BCTC Contract Representative a written report (a "**Reference Reduction Report**") in a form agreed to between the Parties, acting reasonably, which Report will:
 - (i) describe any changes in services, assignment of personnel and other resources and estimation of costs and expenses which will be required to implement the Reference Reduction, which will be based on BCTC retaining BC Hydro for the total volume of Services comprising the Reference Volume; and

- (ii) if applicable, notify BCTC that BC Hydro has, acting reasonably, determined that the Reference Reduction referred to in the Reference Reduction Notice may result in material costs and expenses associated with any stranded assets or personnel, in which case BCTC will not be entitled to effect the Reference Reduction referred to in the Reference Reduction Notice until two years following the date of such Reference Reduction Notice. **[SSA 5.7(b)]**
- (c) The BCTC Contract Representative and the BC Hydro Contract Representative will discuss the implementation requirements contemplated by the Reference Reduction Report and determine the appropriate schedule for a Reference Reduction. Each Party will take commercially reasonable measures to mitigate the costs and expenses incurred in order to effect a Reference Reduction. Both during and after the Committed Term, BC Hydro will use commercially reasonable efforts to plan for and minimize the costs associated with any stranded assets or personnel that BC Hydro anticipates will result from the reduction of the Services contemplated in the Reference Reduction Notice. **[SSA 5.7(c)]**

6.5 Stranded Costs Arising from Reference Reduction

Upon a Reference Reduction, BCTC will be responsible for seeking the Commission's approval of any material costs and expenses set out in a Reference Reduction Report that could not be mitigated by the use of a contingent workforce and resulting from a Reference Reduction to the extent that such costs and expenses were not reasonably anticipated and planned for by BC Hydro and upon receipt of such approval will reimburse BC Hydro for such costs and expenses. **[SSA 5.7(d)]**

6.6 Cost Adjustment of Reference Volume

- (a) By no later than 60 days prior to the commencement of each Contract Year, representatives of BCTC and BC Hydro will review the costs comprising the Reference Volume, including capital, operating, maintenance, overhead, vehicle and other expenses, for that Contract Year and adjust upwards or downwards the Reference Volume by an amount of any cost increase or reduction. **[SSA 5.14]**
- (b) In the event of an upwards or downwards adjustment in costs as contemplated in paragraph (a) above, the adjustment will apply to the costs associated with the Services included in the Reference Volume for any subsequent Contract Year. If the Parties fail to agree on the amount of any such adjustment, either Party may submit the matter to dispute resolution in accordance with Article 17. **[SSA 5.14]**
- (c) The Parties acknowledge that any adjustment to the Reference Volume under paragraph (a) above for cost increases or reductions will be an adjustment to the cost to BCTC of the Reference Volume and will not result in any adjustment to the volume of work represented by the Reference Volume. **[SSA 5.16]**

6.7 Adjustment for Fixed Price Proposal

In the event that BC Hydro and BCTC agree on a Fixed Price Proposal pursuant to Section 13.4, the Parties will agree to adjust the Reference Volume related to that portion of the Services not being performed pursuant to the Fixed Price Proposal for the Contract Year during which BC Hydro performs such work by an amount as agreed to between the Parties, provided that any such adjustment will maintain adequate cost allocations for overhead and other reasonable costs and expenses of BC Hydro relating to such Services and take into account any profit or risk component of the Fixed Price Proposal. If the Parties fail to agree on the amount of any such adjustment, either Party may submit the matter to dispute resolution. [SSA 5.15(a)]

6.8 Adjustment for Agreed Transfer of Work from BCTC to BC Hydro

In the event that BC Hydro and BCTC agree on a transfer from BCTC to BC Hydro of any work previously carried out by BCTC under the Key Agreements, the Parties will agree to adjust the Reference Volume related to that portion of the Services provided by Engineering to BCTC hereunder in connection with such transferred work by an amount as agreed to between the Parties. If the Parties fail to agree on the amount of any such adjustment, either Party may submit the matter to dispute resolution.

6.9 Services Relating to Distribution Operations and Substation Distribution Assets

In the event that either of the service level agreements contemplated by Sections 11.3 and 12.2 of the Master Agreement is modified or terminated in a way which reduces the need of BCTC for Services from Engineering in connection with Distribution Operations (as defined in the Master Agreement) or the planning, management or maintenance of Substation Distribution Assets, then:

- (a) the Reference Volume will be adjusted downwards by an amount as agreed to between the Parties and, in the event of any such downwards adjustment, the adjustment will apply to the Reference Volume for any subsequent Contract Year; [SSA 5.19]
- (b) the Parties will make appropriate amendments to this Agreement to exclude the Substation Distribution Assets from the definition of the Transmission System where appropriate; and
- (c) in the event that the Parties are unable to reach agreement on any matter relating to any such adjustment or amendment, either Party may submit the matter to dispute resolution pursuant to Article 17.

ARTICLE 7 STANDARDS OF SERVICE

7.1 BCTC Standards

- (a) In providing the Services, or any Additional Work, to BCTC under this Agreement, BC Hydro will comply with, and will ensure that each employee,

Subcontractor, External Contractor, agent and invitee who performs the Services or any Additional Work, is made aware of and agrees to comply with, subject to Section 7.3, the applicable BCTC Standards provided to BC Hydro in accordance with paragraph (b) below. [SSA 5.17(a)(i).]

- (b) BCTC from time to time will provide BC Hydro with copies (including in electronic form) of the BCTC Standards with which BC Hydro is required by BCTC to comply, and BC Hydro will not be required to comply with such BCTC Standards until it receives copies thereof. BCTC will immediately notify BC Hydro of any changes, updates, modifications or amendments that BCTC may make to any such BCTC Standards, and BC Hydro will comply with such changed, updated, modified or amended BCTC Standards immediately following any necessary transition period determined by BC Hydro, acting reasonably, and communicated to BCTC, provided that, upon the request of BC Hydro, BCTC will pay for any reasonable costs of complying with such changes. [SSA 5.17(b)]

7.2 Other Standards of Service

In the course of providing the Services, or any Additional Work, under this Agreement, BC Hydro and its employees, Subcontractors, agents and invitees will:

- (a) act in a commercially reasonable, efficient and professional manner and in accordance with Good Utility Practice;
- (b) provide such Services to at least the standard and quality of similar services it provides to its own operations, including, where applicable, to the operations previously carried on by TLoB; and
- (c) provide such Services in compliance with applicable Laws and in material compliance with the terms of all rights, permits and licences held by it in connection with the provision of such Services and not take any action in performing such Services that would invalidate the rights, permits and licences necessary for it to carry out its operations. [SSA 5.18]

7.3 Conflict between BCTC Standards and Other Standards

In the event of any perceived conflict between any BCTC Standard and any of the requirements set out Section 7.2(a) or 7.2(c), BC Hydro will have an opportunity to raise such conflict and request that BCTC modify the applicable BCTC Standard to address such conflict, provided that if the Parties cannot agree on the existence of any such conflict, either Party may submit the matter for dispute resolution pursuant to Article 17.

7.4 Environmental and Safety Compliance

- (a) Subject to paragraph (b) below, in accordance with Section 16.2 of the Master Agreement BCTC will establish and comply with appropriate systems and procedures with respect to environmental matters and occupational health and safety matters, including worker safety and public safety matters, in order to meet

all applicable Laws, including Environmental Laws, in the course of performing the Asset Management and Maintenance Services.

- (b) BC Hydro will:
 - (i) establish and comply with appropriate systems and procedures with respect to environmental and occupational health and safety matters (including worker and public safety) in connection with the Services to be provided hereunder, until such time as BCTC establishes and provides replacement systems and procedures to BC Hydro for the Services in accordance with paragraph (a) above; and
 - (ii) provide the Services hereunder in compliance with the specific environmental and safety matters set out in Schedules B and C, respectively.

7.5 Standards of Conduct

In providing the Services, or any Additional Work, to BCTC under this Agreement, BC Hydro will comply with the Standards of Conduct.

ARTICLE 8 SUBCONTRACTORS, EXTERNAL CONTRACTORS AND OTHER BCTC CONTRACTORS

8.1 Subcontractors

- (a) As part of the Agreed Volume, BC Hydro will retain and take responsibility for managing, and BCTC authorizes BC Hydro to retain, in BC Hydro's name, consultants and contractors for engineering work on a contingent basis consistent with the practices of Engineering as at the Effective Date. The costs of such subcontractors will be paid directly by BC Hydro, without any mark-up, except for mark-ups for any costs incurred by BC Hydro in connection with the provision of office space, equipment and utilities to any such subcontractors on a basis consistent with the practices of Engineering as at the Effective Date plus an equitable allocation of fixed overhead costs. **[SSA 5.12]**
- (b) For the purposes of paragraph (a) above, "contingent basis" means the hiring of subcontractors by BC Hydro to perform, under the direction and supervision of Engineering, engineering work which would otherwise be provided by employees of Engineering hereunder in order to provide temporary staff augmentation assistance to enable Engineering to manage resources and meet workload requirements.
- (c) To the extent permitted by the BCTC Standards for procurement, BC Hydro may retain, in the name of BC Hydro, and manage other subcontractors required by Engineering in the provision of the Services. BC Hydro's procurement policies will govern the entering into of such subcontracts. The cost of such

subcontractors shall be paid directly by BC Hydro, with any reimbursement of such costs by BCTC to BC Hydro to be made in accordance with this Agreement.

- (d) All subcontractors retained by BC Hydro in the name of BC Hydro pursuant to paragraphs (a) and (c) above shall be referred to as “**Subcontractors**” for the purposes of this Agreement.

8.2 External Contractors

- (a) Subject to Section 8.1, BCTC will have decision making authority with respect to all Third Party contracts to be managed by BC Hydro in the course of performing the Services or any Additional Work. The costs of such Third Party contractors to be retained in the name of BCTC (“**External Contractors**”) will be paid directly by BCTC or by BC Hydro on behalf of BCTC, as the Parties may agree from time to time. [SSA 5.13]
- (b) BC Hydro’s management of External Contractors in accordance with the foregoing shall include, together with BCTC as part of the planning process described in Article 5, assisting BCTC to meet its annual work volume commitment to the Field Services LoB for work on capital projects as described in Section 5.2(b)(vi).

8.3 Other BCTC Contractors

Engineering:

- (a) may, if requested by BCTC and agreed by Engineering, provide management services to BCTC in respect of contracts entered into by BCTC with Third Parties other than External Contractors (“**Other BCTC Contractors**”), provided that such management services will not form part of the Services hereunder and the terms and conditions, including the price payable by BCTC, for the performance of such management services by Engineering will be as agreed to by the Parties; and
- (b) will use commercially reasonable efforts to provide upon request, as part of the Services, to Other BCTC Contractors, whether managed by Engineering pursuant to paragraph (a) above or otherwise, all such cooperation and assistance to provide records, drawings, reports and other information as may be reasonably required by Other BCTC Contractors in order for such Other BCTC Contractors to perform their obligations to BCTC.

ARTICLE 9 PERFORMANCE MEASUREMENT AND REVIEW

9.1 Performance Standards

BC Hydro will meet or exceed the following performance standards in the performance of the Services pursuant to this Agreement (collectively, the “**Performance Standards**”), subject to adjustment of such Performance Standards in accordance with Section 9.4:

- (a) for all Projects, meet any specific measurable performance standards set out in the Statement of Objectives for such Project and specifically identified by the Parties as a Performance Standard for the purposes of this Section 9.1; and
- (b) for all other Services, meet any specific performance metrics and targets for such Services as set out on Schedule A, Schedule B or Schedule C.

9.2 Performance Review

During the Term, the Parties' Contract Representatives and their designees will meet as required, and in any event no less frequently than within 30 days following the end of any quarter, to review BC Hydro's performance, including its attainment of the Performance Standards, in the provision of the Services hereunder.

9.3 Objective of Performance Review

The Parties acknowledge and agree that an objective in the review of BC Hydro's performance hereunder is to encourage continuous improvement in the performance of the Services, as described in Section 3.1, and that such review must therefore include:

- (a) developing and maintaining a healthy relationship between the Parties, including reviewing BCTC's performance under this Agreement and the impact of such performance on the provision of the Services by BC Hydro to BCTC;
- (b) learning from successes, including identifying innovations and situations where delivered value significantly exceeded expectations, and applying the lessons learned from these successes to other situations;
- (c) developing workable solutions to current ongoing problems, including attempting to solve such problems through cooperation before invoking the formal dispute resolution process pursuant to Article 17;
- (d) determining the cause of problems resulting in, without limitation, unauthorized work under Section 5.7 or repair work under Section 4.5, and remedying such causes to avoid recurrences of the same problems in the future.

9.4 Review of Performance Standards

The review of BC Hydro's performance in accordance with the foregoing will include a review by the Parties of the Performance Standards on no less than an annual basis during a performance review meeting held pursuant to Section 9.2. Changes to the Performance Standards will be by mutual agreement of the Parties after consideration of costs and schedule for implementation, and such changes to the Performance Standards will be reflected in the Work Plan as appropriate.

9.5 Performance Issues and Improvement Plans

- (a) If a performance review conducted pursuant to Section 9.2 establishes that BC Hydro has failed to meet any Performance Standard in a particular quarterly reporting period (the "**Performance Issue**"):

- (i) by no later than 15 days following the completion of the performance review, the Parties' Contract Representatives or their designees will meet further to discuss the Performance Issue, including the cause of the Performance Issue and possible solutions to address the Performance Issue;
 - (ii) except to the extent that the Parties agree pursuant to paragraph (i) above that the Performance Issue is not material, or is caused solely by BCTC's action or inaction, BC Hydro will, at the request of BCTC, develop and submit for BCTC's approval, within 30 days of the date of such request or such other period as may be determined by the Parties pursuant to paragraph (i), a performance improvement plan (a "**Performance Improvement Plan**") to address the Performance Issue; and
 - (iii) upon the approval of a Performance Improvement Plan by BCTC pursuant to paragraph (ii) above, BC Hydro will proceed to implement such Performance Improvement Plan in accordance with the schedule set out therein.
- (b) In the event that BC Hydro:
- (i) fails to submit a Performance Improvement Plan acceptable to BCTC in the circumstances and within the time period specified in paragraph (a)(ii) above;
 - (ii) fails to implement an approved Performance Improvement Plan in accordance with the schedule set out therein; or
 - (iii) having implemented an approved Performance Improvement Plan, nevertheless fails to remedy the Performance Issue by failing to meet the particular Performance Standard in the first full quarterly reporting period following implementation of the Performance Improvement Plan, or such other period as may be established by the Performance Improvement Plan,
- the matter will be referred to the responsible Vice Presidents of each of BC Hydro and BCTC for consideration pursuant to paragraph (c) below.
- (c) The responsible Vice Presidents of each of BC Hydro and BCTC will meet by no later than 15 days following the date of the referral under paragraph (b) above to discuss any failure thereunder and agree on the appropriate rectification action to be taken.
 - (d) In the event of any dispute between the Parties in respect of any matter to be determined pursuant to this Section 9.5, including whether a Performance Issue is material, is continuing or has been resolved, or has been caused solely by the action or inaction of BCTC, either Party may submit the matter for dispute resolution pursuant to Article 17.

9.6 Performance Incentives and Penalties

- (a) Within 45 days following the end of each Contract Year, the Parties will determine on the basis of the Key Performance Measures whether an incentive payment (the “**Performance Incentive**”) is payable by BCTC to BC Hydro or whether a performance payment (the “**Performance Payment**”) is payable by BC Hydro to BCTC. If the Parties have not been able to agree on the amount payable within 60 days of the end of a Contract Year, either Party may submit the matter to dispute resolution pursuant to Article 17.
- (b) Subject to paragraph (e) below, the maximum amount of Performance Incentives or Performance Payments payable in total (the “**Payment Limits**”) commencing fiscal 2006 will be equal to \$500,000. For each subsequent Contract Year:
 - (i) if, in the previous Contract Year, a Performance Incentive was payable, the Payment Limit for Performance Incentives for that Contract Year will be \$1,000,000 and the Payment Limit for Performance Payments for that Contract Year will be \$500,000;
 - (ii) if, in the previous Contract Year, a Performance Payment was payable, the Payment Limit for Performance Incentives for that Contract Year will be \$500,000 and the Payment Limit for Performance Payments for that Contract Year will be \$1,000,000;
 - (iii) if, in the previous Contract Year, neither a Performance Incentive nor a Performance Payment was payable, the Payment Limit for Performance Incentives and Performance Payments for that Contract Year will be \$500,000.
- (c) For each Contract Year in which BC Hydro has been required to pay a Performance Payment for the three immediately preceding Contract Years, BCTC may elect to reduce the Reference Volume by up to 5%. If, for a subsequent Contract Year, BC Hydro is not required to pay a Performance Payment for that Contract Year, BC Hydro may elect to increase for the next Contract Year the Reference Volume by the amount of any such reduction applied by BCTC in a previous Contract Year, starting with the oldest Contract Year in which BCTC applied such a reduction.
- (d) For each Contract Year in which BC Hydro has been entitled to be paid a Performance Incentive for the three immediately preceding Contract Years, BCTC may elect to increase the Reference Volume by up to 5% and such increase in the Reference Volume will be subject to the agreement of BC Hydro in its sole discretion.
- (e) The amount of any Performance Incentive or Performance Payment will be determined in accordance with the method for scaling such amounts within the applicable Payment Limits as agreed to by the Parties in the determination of Key Performance Measures pursuant to Section 5.2.

- (f) In any Contract Year, BCTC and BC Hydro may agree during the course of the Contract Year that certain work should be removed from the Work Plan, in which case the Agreed Volume and the Reference Volume will be reduced for that year by the amount of such work.
- (g) For each Eligible Year, where the Reference Volume is reduced pursuant to Section 4.2, the amount of the Payment Limit for both Performance Payments and Performance Incentives will be reduced by the same percentage up to a maximum of 20% for such Eligible Year.
- (h) No amount of the Performance Payment will be payable by BC Hydro if and to the extent that the failure to meet the Key Performance Measures is due to any increased costs or delays for which BCTC is responsible, including any delays in obtaining BCTC approvals, any failures by BCTC to meet its responsibilities in providing or procuring materials required by BC Hydro on a timely basis, or any failures by BCTC to schedule outages to make the Transmission System available as may be reasonably required by BC Hydro, BC Hydro having given timely notice of such requirements.

9.7 Settlement of Performance Payments and Incentives

The amount of any Performance Payment or Performance Incentive, as the case may be, determined pursuant to Section 9.6(a) will be payable by the applicable Party to the other Party within 30 days of such determination.

9.8 Review of Performance Payments and Incentives

The performance review conducted following the end of any fourth quarter in accordance with Section 9.2 will include a consideration of the Performance Payment and Performance Incentive process set out in this Agreement and the applicable Key Performance Measures and any recommendations to BC Hydro and BCTC to establish an alternate process or for any necessary amendments to the provisions relating to such performance payments and incentives.

9.9 Cumulative Remedies

The remedies in this Agreement are cumulative and may be exercised concurrently or separately. No remedy is exclusive of any other right or remedy provided or permitted by law.

ARTICLE 10 REPORTING AND INFORMATION

10.1 Reporting Requirements

BC Hydro will provide to BCTC, as part of the Services:

- (a) data required by BCTC to track BC Hydro's compliance with the Performance Standards, together with a comparison of the actual delivery of Services against the Work Plan and an identification of any repair work arising under Section 4.5;

- (b) the invoice supporting data required pursuant to Section 13.5(b);
 - (c) the data and reports set out on Schedules A, B and C;
 - (d) any data and reports containing information requested by BCTC from BC Hydro:
 - (i) which BCTC is entitled to receive in the course of carrying out an Audit pursuant to Article 14;
 - (ii) required pursuant to the BCTC Standards and which BCTC is otherwise entitled to pursuant to and in accordance with this Agreement; or
 - (iii) relating directly to the performance of the Services and which BCTC is otherwise entitled to pursuant to and in accordance with this Agreement,
- provided that in the event of any dispute between the Parties as to the entitlement of BCTC to such information, either Party may submit the matter for dispute resolution pursuant to Article 17; and
- (e) any data and reports required pursuant to the Statement of Objectives for any Project,

all to the extent and in the form, frequency and manner in which BC Hydro is able to provide to BCTC as at the date of this Agreement.

10.2 Changes to Reporting Requirements

BCTC may change the type, frequency, content or form of any data or reports to be provided pursuant to Section 10.1, on an exception basis or otherwise, at any time during the Term by written notice to BC Hydro, provided that:

- (a) before being required to provide any such modified data or report, BC Hydro will have an opportunity to advise BCTC with respect to the Consequences of providing such modified data or report, and to suggest further or other changes to the type, frequency, content or form of such modified data or report to alleviate or minimize all or any of such Consequences;
- (b) BCTC, if it decides to proceed with the request for such modified data or report, will accept and be responsible for all of the Consequences, whether identified by BC Hydro pursuant to paragraph (a) above or otherwise incurred, and will pay to BC Hydro any costs, resulting from the modification of such data or report; and
- (c) in the event of any dispute between the Parties as to whether any additional costs resulting from the modification of such data or report should be reimbursable by BCTC to BC Hydro as additional time spent by BC Hydro employees or additional costs incurred directly by BC Hydro, either Party may submit the matter for dispute resolution pursuant to Article 17.

10.3 Maintenance of Records

The Parties will maintain adequate records and systems of internal control for the performance of all of their respective obligations under this Agreement.

10.4 Provision of Information by BCTC

BCTC will provide data, information and records to BC Hydro in a timely manner as reasonably required by BC Hydro to perform the Services.

10.5 Records Retention

- (a) BC Hydro will retain an electronic, microfiche and original hard copy, each if available, of all asset-related and planning documentation, including drawings, reports, calculations and settings, in perpetuity or for such shorter period as may be established by the BCTC Standards.
- (b) The Parties will retain all other records required to be maintained pursuant to this Agreement for such period as may be established by the BCTC Standards from time to time.
- (c) BC Hydro will notify BCTC upon the expiry of the applicable period of retention for any record retained pursuant to paragraphs (a) or (b) above. If BCTC determines that such records should be retained for a longer period, BCTC will be responsible for the cost of retention for such extended period. If BCTC determines that such records need not be retained for a longer period, BC Hydro will be solely responsible for any cost of further retention.

ARTICLE 11 CONFIDENTIALITY

11.1 Definition

In this Article 11, “**Confidential Information**” means documents, data or other information received by a Party from the other Party or documents, data or other information of a Party to which the other Party has access under this Agreement, whether in written, oral or machine-readable form, relating to the disclosing Party’s business operations, financial condition, customers, products, services or technical knowledge, that (i) the disclosing Party has identified as confidential or proprietary, whether before or after the date of this Agreement, or (ii) reasonably should have been understood by the receiving Party, because of confidentiality or similar legends, the circumstances of disclosure or the nature of the information itself, to be confidential or proprietary to the disclosing Party. [MA 24.1]

11.2 Restriction on Use of Confidential Information

- (a) BCTC hereby agrees that it will not, and will cause its auditors and other representatives not to, at any time, whether before or after the termination of this Agreement, use, disclose or make available to any Person any Confidential Information of BC Hydro acquired in connection with the performance of its

obligations under this Agreement or otherwise or prior to or after the date hereof, except to the extent that:

- (i) BC Hydro consents to such use, disclosure or making available;
- (ii) such use is expressly permitted in or necessary or advisable for the performance of this Agreement;
- (iii) such disclosure is, in the opinion of counsel, required in order to comply with any applicable Law, including disclosure obligations of BCTC; or
- (iv) such Confidential Information comes into the public domain otherwise than through a breach of this Agreement by BCTC,

and provided further that any such permitted or required use or disclosure is permitted by and made in accordance with the Standards of Conduct.

- (b) BC Hydro hereby agrees that it will not, and will cause its auditors and other representatives not to, at any time, whether before or after the termination of this Agreement, use, disclose, or make available to any Person any Confidential Information of BCTC acquired in connection with the performance of its obligations under this Agreement or otherwise or prior to or after the date hereof, except to the extent that:

- (i) BCTC consents to such use, disclosure or making available;
- (ii) such use is expressly permitted in or necessary or advisable for the performance of this Agreement;
- (iii) such disclosure is, in the opinion of counsel, required in order to comply with any applicable Law, including disclosure obligations of BC Hydro; or
- (iv) such Confidential Information comes into the public domain otherwise than through a breach of this Agreement by BC Hydro,

and provided further that:

- (v) any such permitted or required use or disclosure is permitted by and made in accordance with the Standards of Conduct.
- (vi) except as otherwise:
 - (A) expressly consented to by BCTC;
 - (B) expressly permitted in this Agreement; or
 - (C) required for the performance of this Agreement by Engineering,

no such Confidential Information shall be disclosed or made available by Engineering to any other line of business, business unit or division of BC

Hydro, or shall be used by Engineering for the commercial benefit of any other line of business, business unit or division of BC Hydro.

- (c) BC Hydro will establish and maintain during the Term such systems, protocols and procedures as may be required to ensure compliance with paragraph (b)(vi) above, and BCTC will have the right:
 - (i) to undertake Audits of such systems, protocols and procedures pursuant to Section 14.1, to the extent only that such systems, protocols and procedures relate to Confidential Information acquired by Engineering from Third Parties in the course of performing the Services hereunder; and
 - (ii) if BCTC becomes aware of any material breach by BC Hydro of paragraph (b)(vi) above in respect of any Confidential Information other than that referred to in paragraph (c)(i) above, to raise such breach as a topic for good faith discussions between the Parties' responsible Vice Presidents.

11.3 Required Disclosure

If either Party, or any of its auditors or other representatives, is required by applicable Law, or compelled by order of a court or regulatory agency of competent jurisdiction, to disclose Confidential Information of the other Party, as soon as such Party learns of the disclosure requirement, and before making such disclosure, it will notify the other Party of the requirement and the terms thereof. The other Party may, in its sole discretion and at its sole cost and expense, undertake any challenge to or defence against such disclosure requirement. The disclosing Party will cooperate with the other Party to the maximum extent practicable, at the other Party's sole cost and expense, to minimize or eliminate the disclosure of Confidential Information consistent with applicable Law and to obtain proprietary or confidential treatment of Confidential Information by any Person to whom such information is disclosed pursuant to this Article 11 before any such disclosure. [MA 24.3]

11.4 Specific Remedies

The Parties agree that irreparable damage would occur and that they would not have any adequate remedy at law in the event that any of the provisions of this Article 11 were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the Parties will be entitled to an injunction or injunctions to prevent breaches of this Article 11 (without the requirement of posting a bond or otherwise securing any undertaking as to damages) and to enforce specifically the terms and provisions of this Article 11, this being in addition to any other remedy to which they are entitled at law. [MA 24.4]

ARTICLE 12 INTELLECTUAL PROPERTY

12.1 Intellectual Property

The Parties hereby acknowledge and agree that in performing their obligations under this Agreement, the use of all Intellectual Property owned by BCTC and the ownership and use of any Improvements or any New Intellectual Property made or developed by BC Hydro, all in the course of providing the Services under this Agreement (whether alone, with BCTC or in collaboration with any other Person) shall be governed in accordance with the terms and conditions of the Intellectual Property Agreement or the Supplemental Intellectual Property Agreement, as the case may be, the terms “Intellectual Property”, “Improvements” and “New Intellectual Property” having the meanings ascribed to them in those agreements.

ARTICLE 13 PRICING AND PAYMENT

13.1 Cost Recovery Model

Subject to Section 13.4, BCTC will pay for the Services actually performed by BC Hydro pursuant to this Agreement in accordance with a cost recovery model to recover the capital, operating, maintenance, overhead, vehicle and other expenses incurred by Engineering in the course of providing such Services, and which will be comprised of the following components, without duplication:

- (a) the time spent by Engineering employees (including temporary employees) in the performance of the Services multiplied by the applicable hourly rates for such employees, the weighted average of which is consistent with the target hourly rate determined in accordance with Section 13.2, such hourly rates to include:
 - (i) costs incurred by Engineering in connection with the provision of office space, equipment and utilities to its employees; and
 - (ii) other overhead costs;
- (b) for Contract Years from and after April 1, 2005, a non-current service pension component, to be billed as a separate line item for each Project;
- (c) costs incurred by Engineering under any Third Party contracts with Subcontractors entered into by BC Hydro pursuant to and in accordance with Section 8.1; and
- (d) other specific costs incurred directly by Engineering in the performance of the Services, and not otherwise included in the hourly rates determined in accordance with Section 13.2, that are:
 - (i) authorized by BCTC as part of the Approved Amount for a Project;

- (ii) requested and authorized by BCTC pursuant to a specific request for Services hereunder; or
- (iii) otherwise specifically requested and authorized by BCTC under this Agreement.

13.2 Determination of Hourly Rates

- (a) From the date of this Agreement to March 31, 2006, the hourly rate for the Services will be determined by dividing:
 - (i) the total dollar amount contemplated to be received in respect of the Services contained in BC Hydro's 2003 revenue requirement application to the Commission (subject to agreed adjustments between the Parties), provided that, in the event that the Commission's decision on such application amends such total amount, as so adjusted, the Parties will amend the applicable Work Plans accordingly pursuant to Section 5.4, and provided further that the Parties will use commercially reasonable efforts to manage the Services to be delivered hereunder to such total dollar amount; by
 - (ii) the forecast work hours in the applicable Work Plan,

which rate will be used to determine the amounts actually paid by BCTC to BC Hydro pursuant to Section 13.1(a) for the Services actually performed by BC Hydro hereunder.

- (b) In respect of all Contract Years commencing from and after April 1, 2006:
 - (i) BC Hydro will, in each revenue requirement application to the Commission applicable to such Contract Year, seek an order from the Commission approving the appropriate cost to be recovered by BC Hydro from BCTC for the Services pursuant to this Agreement (the "**Services Cost**");
 - (ii) BC Hydro will review with BCTC its proposed application to the Commission pursuant to paragraph (i) above, and BCTC will provide BC Hydro with its timely comments and feedback in connection therewith, including the cost allocation in respect of the Services Cost contained therein. The Parties will use commercially reasonable efforts to agree upon such cost allocation prior to the submission of BC Hydro's application to the Commission;
 - (iii) BCTC:
 - (A) will not intervene in BC Hydro's proceeding before the Commission in regard to the order sought by BC Hydro for the Services Cost pursuant to paragraph (i) above; and

- (B) may be required to defend the Work Plan during BC Hydro's proceeding before the Commission in order to defend the Services Cost to be allocated to BCTC; and
- (iv) The Services Cost determined for a Contract Year pursuant to the foregoing and attributable to work to be performed by Engineering employees (including temporary employees) will be divided by the forecast work hours in the applicable Work Plan to produce a target hourly rate for the Services, which rate will be used to determine the rates for the different Services actually performed by BC Hydro hereunder subject to any variation or amendment of such Work Plan by the Commission.

13.3 Taxes

- (a) Subject to paragraph (b) below, in the event that any taxes, including provincial sales tax and GST, are imposed on BCTC in connection with the provision of the Services by BC Hydro under this Agreement, BCTC will be responsible for the payment of any such taxes and will indemnify BC Hydro if BC Hydro pays any such taxes, notwithstanding that BC Hydro was obliged to collect any such taxes in connection with any such transaction. [MA 31.6]
- (b) BC Hydro will comply with all applicable Laws in respect of the billing and invoicing for the Services, and BCTC will not be responsible for any interest or penalties relating to the non-payment of any taxes in connection with the provision of the Services to the extent that the failure to pay such taxes is attributable to the failure of BC Hydro to comply with such Laws.
- (c) BC Hydro will be responsible for ensuring that invoices and supporting documentation for the Services properly identify and separate those Services that may be taxable from those Services that are not taxable so that BCTC is liable for the payment of tax only on Services which are taxable.
- (d) The Parties will administer this Agreement in a manner that is tax efficient. If either Party identifies a way of increasing the tax efficiency of this Agreement by administering it in a different manner, the Parties will work together in an effort to achieve such efficiency, in full compliance with applicable Laws.

13.4 Fixed Price Proposals

- (a) During the Term, either Party may submit a proposal for the provision of any portion or all of the Services included in the Agreed Volume at a fixed price or based on a schedule of costs for a defined scope of Services (a "**Fixed Price Proposal**"). [SSA 5.11(a)]
- (b) Within 30 days of the receipt of a Fixed Price Proposal, the other Party will provide a written response to the Fixed Price Proposal and thereafter the Parties will use commercially reasonable efforts to negotiate and reach agreement on such a Fixed Price Proposal. [SSA 5.11(b)]

- (c) Subject to paragraph (d) below, if BC Hydro and BCTC are not able to agree upon any Fixed Price Proposal, such Services will continue to be provided by BC Hydro to BCTC and paid for by BCTC in accordance with Section 13.1. [SSA 5.11(c)]
- (d) If the Parties are unable to agree upon any Fixed Price Proposal, both Parties may agree to submit the matter to dispute resolution pursuant to Article 17. [SSA 5.11(d)]
- (e) The benefit and responsibility of any cost savings or overrun, as applicable, in connection with work performed pursuant to an agreed Fixed Price Proposal will be allocated as may be agreed upon by the Parties, including in the following manner:
 - (i) BC Hydro to have the benefit of and responsibility for, as applicable, all cost savings and overruns in connection with work performed pursuant to the Fixed Price Proposal; or
 - (ii) BC Hydro and BCTC to share equally the benefit of and responsibility for, as applicable, all cost savings and overruns in connection with work performed pursuant to the Fixed Price Proposal. [SSA 5.15(b)]

13.5 Payment Process

- (a) Until such time as the invoicing and payment mechanics described in paragraphs (b) and (c) below have been implemented, BC Hydro and BCTC will continue to, respectively, charge and effect payment for the Services in accordance with the policies and procedures in place as of the date of this Agreement.
- (b) BC Hydro will commence, on or before the Tariff Commencement Date, charging BCTC for the Services by means of the delivery of a monthly electronic consolidated and itemized invoice, to be delivered to BCTC on or about the fourth Business Day of the following month. Such invoices shall include an electronic file containing supporting data required by BCTC in a format suitable for BCTC reporting and cost management systems, with such supporting data containing at least the information provided by BC Hydro to BCTC as of the date hereof.
- (c) From and after the Tariff Commencement Date, BCTC will effect payment of all invoices received from BC Hydro pursuant to paragraph (b) above on or before the thirtieth day following receipt thereof by BCTC or pursuant to the monthly settlement between the Parties of all amounts payable between the Parties under this Agreement and any other service level agreement contemplated by the Key Agreements.

13.6 Disputed Amounts

In the event of a dispute by BCTC in respect of any amount included on any invoice received from BC Hydro, BCTC may submit such dispute to dispute resolution pursuant to Article 17 and withhold payment of the disputed amount but, pending the resolution of

such dispute, will effect full payment to BC Hydro of the undisputed amount in accordance with Section 13.5.

13.7 Interest on Unpaid Amounts

Any amounts payable under Section 13.5 will, if not paid by the due date specified, accrue interest at the annual rate of 2% above the then effective interest rate payable by BC Hydro on 30 day commercial paper or equivalent instrument, from the date payment is due until the date payment is made. [MA 21.4]

ARTICLE 14 AUDIT

14.1 Right to Audit

BCTC, its auditors and other representatives will have the right to conduct an Audit of any information and records in BC Hydro's possession directly relating to the Services provided to BCTC which are required to verify:

- (a) the accuracy of all amounts invoiced or otherwise claimed by BC Hydro under this Agreement;
- (b) compliance by BC Hydro with its obligations under this Agreement, including without limitation:
 - (i) the adequacy of the performance of the Services by BC Hydro hereunder, including the accuracy of the information relating to the performance of the Services contained in all reports provided by BC Hydro to BCTC under this Agreement; and
 - (ii) BC Hydro's establishment, maintenance and compliance with:
 - (A) the quality management system required pursuant to Section 3.2;
 - (B) the systems, protocols and procedures required to protect confidential information pursuant to Section 11.2(c)(i); and
 - (C) the environmental, safety and occupational health systems and procedures required pursuant to Section 7.4 and Schedules B and C, respectively,

provided that, in the event that BCTC proposes to hire an engineering firm to conduct any Audit permitted pursuant to this Section 14.1, BCTC will provide to BC Hydro a list of one or more potential engineering firm auditors, and will not proceed with the hiring of any such engineering firm unless and until BC Hydro has consented to such firm, which consent may only be withheld if BC Hydro, acting reasonably, is of the view that such firm competes directly with Engineering.

14.2 Conduct of Audit

- (a) Any Audit performed for or on behalf of BCTC pursuant to Section 14.1 will be conducted in accordance with industry or professionally accepted practices or requirements, if any, applicable Laws, this Agreement, and all other agreements between the Parties.
- (b) Any Audit performed for or on behalf of BCTC pursuant to Section 14.1 will be conducted on no less than 30 days' notice in writing to BC Hydro.
- (c) BC Hydro will provide access to its systems, facilities and records to such auditors and other representatives as BCTC may reasonably require for the purposes of the Audits contemplated in Section 14.1, provided that any such access to facilities and records will be during normal business hours unless otherwise agreed to by BC Hydro, will be conducted in a manner that does not unreasonably interfere with BC Hydro's business operations, and will, where applicable, be subject to any building and office security that is ordinarily in place at such facilities.
- (d) If BC Hydro's Standards of Conduct prevent or restrict the disclosure of relevant systems, facilities and records to BCTC, BC Hydro will provide access to such systems, facilities and records to BCTC's auditors or other representatives provided that BCTC's auditors or other representatives agree not to provide such systems, facilities and records to BCTC in a form or manner that would breach BC Hydro's Standards of Conduct.
- (e) The cost of any Audit performed pursuant to Section 14.1 will be borne by BCTC.
- (f) The audit findings and any Confidential Information of BC Hydro which is reviewed in the course of the Audit or contained in the audit findings will only be used for assessing BC Hydro's performance and compliance with its obligations under this Agreement.

14.3 Audit Findings

BC Hydro will be entitled to receive and respond to any questions arising during the course of any Audit and to receive and comment upon, prior to finalization, the draft report of the audit findings. A copy of the final report on the audit findings will be provided to BC Hydro upon its completion.

14.4 Resolution of Audit Findings

- (a) If any Audit performed pursuant to Section 14.1 establishes any inaccuracy in an invoice or other amount payable under this Agreement, the Parties will forthwith agree on the amount and make such adjusting payments as may be necessary to rectify such inaccuracy within 15 days of such agreement. Failing such agreement being reached within 30 days, either Party may submit the matter to dispute resolution pursuant to Article 17.

- (b) Any claim of an inaccurate amount under Section 14.4(a) must be made within six months after the date of the invoice covering any amount payable under this Agreement which gives rise to such claim.

14.5 No Waiver

Failure by BCTC to perform any Audit shall not constitute a waiver of any of the rights of BCTC, or any of the obligations or liabilities of BC Hydro, under this Agreement.

ARTICLE 15 TERMINATION

15.1 Termination of Agreement

This Agreement may be terminated in whole or in part:

- (a) by BC Hydro in accordance with Section 26 of the Master Agreement;
- (b) by either Party at any time after the Reference Volume has been reduced to zero in accordance with Section 6.4; or
- (c) at any time by the agreement of the Parties.

15.2 Responsibility for Termination Costs

- (a) If either Party terminates this Agreement in accordance with Section 15.1(b), BCTC will not be responsible for any material costs and expenses associated with any stranded assets or personnel of BC Hydro, except only to the extent that such costs and expenses may be payable by BCTC pursuant to Section 6.5 in respect of the reduction of the Reference Volume to zero.
- (b) If BC Hydro terminates this Agreement in accordance with Section 15.1(a), or the Parties terminate this Agreement by mutual agreement in accordance with Section 15.1(c), BCTC's responsibility, if any, for costs and expenses associated with any stranded assets or personnel of BC Hydro will be as determined by the Parties in connection with such termination.

15.3 Orderly Transition

If this Agreement is terminated pursuant to Section 15.1:

- (a) by no later than 90 days following notice of termination or the Parties' mutual decision to terminate, as the case may be, the Parties will negotiate and reach agreement on a reasonable transition process and period to facilitate the orderly transfer of the Services to BCTC and failing such agreement, either Party may submit the matter to dispute resolution pursuant to Article 17; and
- (b) BC Hydro will provide to BCTC such reasonable cooperation, assistance and services to allow the operation, management and maintenance of the

Transmission System to continue without interruption or adverse effect and to facilitate the orderly transition to BCTC.

15.4 Survival on Termination

Notwithstanding any other provision of this Agreement, if this Agreement is terminated, the provisions of this Agreement setting out rights and obligations relating to confidentiality, indemnification, limitation of liability, audit rights and dispute resolution will survive such termination or expiry and remain in full force and effect with respect to any matter arising prior to such termination or expiry. [MA 3.2]

ARTICLE 16 LIABILITIES AND INDEMNITIES

16.1 Definitions

For the purposes of this Article 16, the following terms shall have the following meanings:

- (a) **“BC Hydro Contractor”** means any Third Party engaged directly or indirectly by BC Hydro to provide services to or on behalf of BC Hydro in connection with the Services; for further certainty, “BC Hydro Contractor” specifically excludes any External Contractor or any Other BCTC Contractor;
- (b) **“BCTC Indemnitees”** means BCTC and its partners, shareholders, agents, directors, officers, employees, affiliates, successors and assigns, but does not include BC Hydro or its partners, shareholders, agents, directors, officers, employees, affiliates, successors and assigns.
- (c) **“Claim”** means any claim, action, suit, litigation, investigation, arbitration, proceeding or other matter, whether in contract or tort (including in negligence or in any tort imposing strict liability) or otherwise, that is threatened, made, commenced or brought by a Third Party against any of the BCTC Indemnitees and in respect of which BCTC intends to seek indemnification from BC Hydro pursuant to Section 16.2.
- (d) **“Losses”** means any and all losses, liabilities, damages, actions, claims, costs and expenses of any nature or kind (including reasonable legal fees and disbursements).

16.2 BC Hydro Indemnity

In addition to the indemnity provided by BC Hydro to BCTC pursuant to Section 23.7 of the Master Agreement, BC Hydro will, subject to Section 16.3, indemnify and save the BCTC Indemnitees harmless from and against any Losses suffered or incurred by the BCTC Indemnitees arising out of or in connection with either of the following:

- (a) any Claim arising out of or in connection with any act or omission of BC Hydro or any BC Hydro Contractor in the course of providing the Services to BCTC pursuant to this Agreement; and

- (b) any damage to BCTC's assets caused by or arising out of or related to any negligence or wilful misconduct by BC Hydro or any BC Hydro Contractor in the course of providing the Services to BCTC pursuant to this Agreement,

provided that BC Hydro will not be required to indemnify any of the BCTC Indemnitees in respect of the Losses specified in this Section 16.2 to the extent BCTC receives insurance proceeds relating to such Losses.

16.3 No Consequential Damages

Neither Party nor any of its affiliates, officers, directors or employees will be liable in contract or tort (including in negligence or in any tort imposing strict liability) or otherwise for indirect, special, incidental, consequential, exemplary or punitive damages or damages for loss of use, loss of work in process, down time or loss of profits of the other Party, and such limitation on damages will survive failure of any exclusive remedy and will survive termination of this Agreement, including by reason of a fundamental breach; provided, however, that the foregoing provisions will not limit compensation for goods sold, services rendered or other compensation specifically provided for under this Agreement. The foregoing limitation on liability of a Party, its affiliates, officers, directors or employees, is not intended to apply to the extent that the Losses for which BCTC seeks indemnification hereunder are indirect, special, incidental, consequential, exemplary or punitive damages or damages for loss of use, loss of work in process, down time or loss of profits claimed against any of the BCTC Indemnitees by a Third Party resulting from an action or failure to act by BC Hydro that is indemnified under Section 16.2. [MA 23.6]

16.4 Indemnification Process

The process set out in Section 23.8 of the Master Agreement will apply to any Claims for which BCTC seeks indemnification from BC Hydro under Section 16.2.

ARTICLE 17 DISPUTE RESOLUTION

17.1 Dispute Resolution

Except as and to the extent otherwise expressly provided for in this Agreement, all disputes between the Parties which may arise under, out of, in connection with or in relation to this Agreement (a "**Dispute**") will be resolved strictly and exclusively in accordance with this Article 17, including Disputes arising in connection with any provisions of this Agreement which provide (regardless of the actual words used) that:

- (a) the Parties will reach agreement on a particular matter and the time specified for reaching agreement has passed or, if no time is specified, the Parties have failed to reach agreement on the matter; and
- (b) either Party may submit a failure to reach agreement on the particular matter to dispute resolution pursuant to this Article 17. [MA 25.1]

17.2 Notice of Internal Escalation

- (a) In the event of a Dispute that cannot be resolved by the respective responsible managers of the Parties, either Party may at any time provide the other Party with written notice of its intention to formally invoke the internal escalation provisions of Section 17.3 (a “**Notice of Internal Escalation**”).
- (b) The Party issuing a Notice of Internal Escalation pursuant to paragraph (a) above will also deliver a copy thereof to each Party’s Contract Representative.

17.3 Internal Escalation of Dispute

- (a) Following the delivery of a Notice of Internal Escalation pursuant to Section 17.2, the Parties will use commercially reasonable efforts to resolve the Dispute by good faith discussions between the respective Contract Representatives of the Parties within 15 days of the delivery of the Notice of Internal Escalation.
- (b) If the discussions between the Parties’ Contract Representatives pursuant to paragraph (a) above are not successful in resolving the Dispute, the Parties will use commercially reasonable efforts to resolve the Dispute by good faith discussions between the Parties’ responsible Vice Presidents within a further 15 day period.
- (c) Each of the Parties will provide full, candid and timely disclosure of all relevant facts, information and documents to facilitate any such discussions.

17.4 Notice of Dispute

In the event of a Dispute that has not been resolved to the satisfaction of the Parties under Section 17.3, either Party may at any time following the expiration of the time periods set out in Section 17.3 provide the other Party with written notice of its intention to formally invoke the external dispute resolution provisions of Sections 17.5, 17.6 and 17.7 (a “**Notice of Dispute**”).

17.5 Recommendation by Independent Expert

Following the issuance of a Notice of Dispute pursuant to Section 17.4, the Parties may, by mutual agreement, elect to have an independent expert review and submit written recommendations as to the resolution of the Dispute on a non-binding basis. The costs of such an expert will be shared equally between the Parties. [MA 25.4]

17.6 Mediation

Following the issuance of a Notice of Dispute pursuant to Section 17.4, either Party may, at any time after 14 days following the date that a Notice of Dispute is given in respect of the Dispute, refer the Dispute, including a Dispute which is under review or subject to a recommendation under Section 17.5, to mediation which, unless otherwise agreed between the Parties, will be commenced and carried out in accordance with the mediation rules of procedure of the British Columbia International Commercial Arbitration Centre in effect at the time of the mediation. [MA 25.5]

17.7 External Arbitration

- (a) If a Dispute is not resolved by mediation within 14 days of a mediator being appointed or agreed to by the Parties or at any time after written notice to the Parties by the mediator that the Dispute is not likely to be resolved through mediation, then either Party may, by notice to the other Party, require the Dispute to be settled by arbitration under this Section 17.7. In the event that a dispute is not referred to mediation under Section 17.6, then either Party may, at any time after 14 days following the date that a Notice of Dispute is given in respect of the Dispute, require the Dispute to be settled by arbitration under this Section 17.7.
- (b) The following provisions will apply to any arbitration initiated pursuant to this Section 17.7:
 - (i) The arbitration will be conducted in British Columbia in accordance with the *Commercial Arbitration Act* (British Columbia).
 - (ii) The Parties will use commercially reasonable efforts to agree on and appoint a single arbitrator.
 - (iii) If the Parties fail to agree upon a single arbitrator within 10 days of the referral of the dispute to arbitration, each Party will choose one arbitrator who will sit on a three-member arbitration panel. The two arbitrators so chosen will within 20 days of their selection, select a third arbitrator to chair the arbitration panel.
 - (iv) The arbitrator(s) appointed under paragraphs (ii) or (iii) above will be knowledgeable in electric utility matters, including electric transmission and bulk power issues, and, unless the Parties otherwise agree, will be neutral and not have any current or past substantial business or financial relationships with either Party (except through prior arbitrations).
 - (v) Where the Parties have failed to agree on a matter referred to in Section 17.1(a), each Party expressly authorizes and directs the arbitrator(s) to establish the terms of the agreement between the Parties addressing the matter on which the Parties were unable to reach agreement and such agreement will be binding on the Parties.
 - (vi) Unless otherwise agreed, the arbitrator(s) will render a decision within 90 days of appointment and will notify the Parties in writing of the decision and the reasons for the decision.
 - (vii) Any decision of the arbitrator(s) must comply with any order or other requirement of the Workers' Compensation Board or other regulatory agency having jurisdiction over occupational health and safety.
 - (viii) If the decision of the arbitrator(s) will affect the rates, terms and conditions of service or facilities of BCTC or BC Hydro or any other

matter under the WTS Tariff or the OATT, as the case may be, such decision must also be filed with the Commission.

- (ix) Subject to any award of costs by the arbitrator(s), each Party will be responsible for its own costs incurred during the arbitration process and for the following costs, if applicable:
 - (A) the cost of the arbitrator chosen by the Party to sit on the three member panel and one half of the cost of the third arbitrator chosen; or
 - (B) one half of the cost of the single arbitrator jointly chosen by the Parties. [MA 25.6]

17.8 Confidentiality in Respect of Disputes

Unless otherwise agreed by the Parties, all hearings, meetings and communications in connection with Disputes under this Article 17 and, subject to Section 17.7(b)(viii), all decisions of the arbitrator(s) will be treated as strictly private and confidential, and will not be disclosed except as may be required by applicable Laws. [MA 25.7]

ARTICLE 18 CONTRACT REPRESENTATIVES

18.1 Appointment of Contract Representatives

Each of the Parties will, by notice in writing to the other Party, appoint a person as its Contract Representative under this Agreement to be responsible for the relationship between the Parties under this Agreement. Either Party may replace such Contract Representative by notice in writing to the other Party from time to time.

18.2 Contract Representative Designates

Each Contract Representative may designate in writing a reasonable number of additional employees of such Party to be points of contact for the other Party in respect to particular subject matters under this Agreement.

18.3 Scope of Authority

- (a) Each Contract Representative and its designates will have the authority to make decisions with respect to actions to be taken by its Party in the ordinary course of day-to-day management of the obligations of such Party under this Agreement.
- (b) The Contract Representatives and their respective designates will have no authority, expressly or by course of conduct, to agree to amend this Agreement, other than the Schedules hereto.

18.4 Meetings of Contract Representatives

The Contract Representatives and their designates will meet quarterly (or more or less frequently as determined by the Parties) to review the effectiveness of this Agreement and the relationship between the Parties under this Agreement.

ARTICLE 19 NOTICES

19.1 Notices

All notices to be given pursuant to this Agreement will be in writing and will be given by delivery or facsimile of the same to the address or facsimile number designated hereunder or to such other address or facsimile number as may be substituted therefor from time to time for the proper notice to a Party hereunder. Where a notice is sent by facsimile, if it is received by a Party prior to 4:00 p.m. local time on a Business Day, it will be deemed to have been received on that Business Day, and otherwise such notice will be deemed to be received on the Business Day next following its actual receipt. A Party may change its address or facsimile number from time to time by giving written notice of such change to the other Party in accordance with this Section 19.1. The respective addresses and facsimile numbers of the Parties are as follows:

To BC Hydro:	British Columbia Hydro and Power Authority 333 Dunsmuir Street Vancouver, B.C. V6B 5R3
	Attention: Vice President, Engineering Facsimile: (604) 528-1404
	Attention: Vice President & General Counsel Facsimile: (604) 623-4323
	Attention: Director, Business Partnerships Facsimile: (604) 623-4545
To BCTC:	British Columbia Transmission Corporation Suite 1100, Four Bentall Centre 1055 Dunsmuir Street P.O. Box 49260 Vancouver, B.C. V7X 1V5
	Attention: Vice President Legal & General Counsel Facsimile: (604) 699-7471

19.2 Routine Communication

Notwithstanding Section 19.1, any notices or other communications between the Parties that relate to operating procedures are not required to be in writing and will be made as set out in this Agreement, by industry practice or as otherwise agreed by the Parties.

ARTICLE 20 ASSIGNMENT

20.1 Successors and Assigns

All covenants and provisions of this Agreement by and for the benefit of the Parties will bind and enure to the benefit of their respective successors and permitted assigns, but no permitted assignment or transfer will relieve the assignor or transferor of its obligations except to the extent specifically provided in this Agreement or any of the Key Agreements.

20.2 Assignment of Rights and Obligations

Subject only to Section 8.1, neither Party will assign, pledge or transfer all or any part of, or any right or obligation under, this Agreement except in accordance with Article 28 of Master Agreement, as if this Agreement was one of the Key Agreements.

ARTICLE 21 FORCE MAJEURE

21.1 Definition

In this Article 21, “**Force Majeure**” means acts of God; acts of the public enemy; wars; sabotage; terrorism; riots; strikes; lockouts; vandalism; blockages; labour disputes; fires; explosions; natural disasters; floods; perils of the sea; lightning; wind; actions of a court or public authority (including the denial, revocation or non-renewal of a permit or licence); accidents or failure of equipment or machinery; inability to obtain or maintain any transmission property right; or allocation or failure of normal sources of supply of materials, transportation, energy or utilities or other causes of a similar nature which are beyond the reasonable control of the Party affected and could not have been avoided by the exercise of due diligence and that wholly or partly prevent, alter or delay the performance by such Party of its obligations or responsibilities under this Agreement. Economic hardship will not constitute a Force Majeure under this Agreement. [MA 27.1]

21.2 Excuse from Performance

Neither Party will be considered in default as to any of its obligations under this Agreement to the extent it is prevented from fulfilling the obligation due to an event of Force Majeure. However, a Party whose performance under this Agreement is hindered by an event of Force Majeure will use commercially reasonable efforts to perform its obligations under this Agreement and use commercially reasonable efforts to remedy the Force Majeure with reasonable dispatch and it will have the right to suspend performance

of such obligations only to the extent and for the duration that the Force Majeure actually and reasonably prevents the performance of such obligations. Both Parties will use commercially reasonable efforts to mitigate or overcome the effects of any event of Force Majeure; provided that settlement of strikes, lockouts and other labour disturbances will be wholly within the discretion of the Party involved. [MA 27.2]

21.3 Notification

If there is a Force Majeure event affecting a Party's ability to perform its obligations under this Agreement, the affected Party will promptly notify the other Party of the occurrence of the Force Majeure event, identifying the nature of the event, its expected duration and the particular obligations affected. The affected Party will furnish to the other Party reports with respect to the Force Majeure event at such intervals as the other Party may reasonably request during the continuance of the Force Majeure event. [MA 27.1]

ARTICLE 22 GENERAL PROVISIONS

22.1 Entire Agreement

This Agreement, together with the Support Services Agreement, the other Key Agreements, and all other agreements referenced therein or entered into, directly or indirectly, pursuant thereto, together constitute the entire agreement between the Parties, supersede all previous agreements and understandings, whether oral or written, relating to the subject matter of this Agreement. Section 15.2(i) of the Master Agreement applies to this Agreement as if incorporated herein.

22.2 Amendment of Agreement

- (a) This Agreement may not be changed or modified orally and neither Party will be liable or bound to the other Party in any manner by any warranties, representations, covenants or agreements except as specifically set forth in the this Agreement or expressly required to be made or delivered pursuant hereto. [MA 31.1]
- (b) In the event that a Party wishes to raise and discuss with the other Party any matter relating to this Agreement due to the fact that, in the Party's opinion, there has been a change in circumstances or a particular provision of this Agreement is giving rise to unintended consequences, both Parties will enter into good faith negotiations to attempt to resolve the matter and amend or modify this Agreement accordingly. [MA 31.4]
- (c) The unintended consequences referred to in paragraph (b) above shall include consequences under this Agreement arising as a result of the entering into by BCTC with BC Hydro's Distribution Line of Business of agreements for the provision of Distribution Operations (as defined in the Master Agreement) or for the planning, management or maintenance of Substation Distribution Assets, on terms and conditions which are inconsistent with, or materially different than and

impacting upon, the terms and conditions set out in this Agreement for the provision of the Services by Engineering to BCTC.

- (d) In addition, the Parties acknowledge that BC Hydro is currently conducting a strategy review of Engineering with the Commission. BC Hydro will consult with BCTC with respect to such strategy review. The Parties agree that if, following completion of such review, either Party is of the view that the result of such review would impact upon the terms and conditions set out in this Agreement, both Parties will enter into good faith negotiations to attempt to resolve the matter and amend or modify this Agreement accordingly.
- (e) If the Parties are unable to resolve any matter raised by a Party pursuant to paragraph (b) or (d) above, either Party may submit the matter to dispute resolution in accordance with Article 17.

22.3 Construction

Ambiguities or uncertainties in the wording of this Agreement or any of the other Key Agreements will not be construed for or against either Party, but will be construed in a manner that most accurately reflects the purpose of such agreement and the nature of the rights and obligations of the Parties with respect to the matter being construed. [MA 31.2]

22.4 Governing Law and Attornment

This Agreement will be interpreted in accordance with and governed by the laws of the Province of British Columbia and the laws of Canada applicable therein. Each Party irrevocably attorns to the jurisdiction of the Courts of British Columbia. [MA 31.3]

22.5 Severability

In the event that any one or more of the provisions of this Agreement is held invalid, illegal or unenforceable under any applicable law, the remainder of this Agreement or the application of the provisions of this Agreement to Persons or circumstances other than those as to which it is held invalid or unenforceable, will not be affected thereby. If a court of competent jurisdiction determines that any part of this Agreement is invalid, illegal or unenforceable, and, as a result of such determination and this Section 22.5, the basic intentions of the Parties in this Agreement are frustrated, the Parties will use commercially reasonable efforts to amend, supplement or otherwise vary this Agreement to give effect to their intentions in entering into this Agreement. [MA 31.7]

22.6 Waiver

The waiver by either Party of any intended or unintended breach, default or misrepresentation under this Agreement will not be deemed to extend to any prior or subsequent breach, default or misrepresentation under this Agreement, whether of a like or different character and will not affect in any way any rights arising by virtue of any such prior or subsequent occurrence, and any such waiver will only be valid if provided in writing, signed by the Party providing such waiver. [MA 31.8]

22.7 Preparation

The drafting and negotiation of this Agreement have been participated in by both Parties, and not by either Party to the exclusion of the other, and for all purposes this Agreement will be deemed to have been drafted jointly by the Parties. [MA 31.9]

22.8 Counterparts

This Agreement may be executed in counterparts and by electronic facsimile transmission, each of which will be deemed to be originals and all of which counterparts will constitute one and the same document.

22.9 Relationship of the Parties

Except as expressly provided in this Agreement, nothing contained in this Agreement will be construed to create an association, joint venture, trust, partnership, leasehold or other property interest or to impose a trust or partnership covenant, obligation or liability on or with regard to either of the Parties. [MA 31.11]

22.10 Further Assurances

Each Party will execute and deliver such further documents and do such further and other things as may be necessary to carry out and give effect to the intent of this Agreement and the transactions contemplated hereby.

22.11 Time of Essence

Time will be of the essence of this Agreement.

IN WITNESS WHEREOF the Parties have caused this Agreement to be executed as of the date first written above.

**BRITISH COLUMBIA HYDRO AND
POWER AUTHORITY**

By: _____

Title: _____

**BRITISH COLUMBIA TRANSMISSION
CORPORATION**

By: _____

Title: _____

By: _____

Title: _____

SCHEDULE A
SCOPE OF SERVICES AND PERFORMANCE STANDARDS

		Subcategories	Activities Performed By Engineering	Performance Metric	Performance Target
A	Planning Support, Services, and Studies				
A1		Identification (Options)	Identify route and options alternatives. Produce plans and preliminary designs. Provide information required to evaluate benefits and costs of each alternative. Provide planning cost estimates and project justifications. Identify potential problems, constraints and limitations. Collaborate in the resolution of these issues.	Schedule Quality Budget	Work completed on agreed schedule and on budget. Cost estimates to meet BCTC estimating standard.
A2		Definition (Defining preferred option and preparing approval document)	Timely notification of issues or risks which could affect scope, functionality, schedule, budget, other transmission assets. Set up project in computer systems. Prepare planning scope notes. Prepare project plan. Research and document Stakeholders' requirements. Prepare Statement of Objectives. Participate in Stakeholder consultation. Support regulatory approval process. Provide definition level project design. Prepare station planning one-lines. Prepare design cost estimates and expenditure forecasts.	Schedule Quality Budget	Work completed on agreed schedule and on budget. Cost estimates to meet BCTC estimating standard.
		DELIVERABLES	Actuals vs. Forecast / Plan per month. Project Plan, Scope Notes and Station one-lines. Statement of Objectives. Detailed cost estimate, expenditure forecasts. Expenditure Authorization Requests 24 hr. turn-around.		
B	Capital Project Delivery and Support (Individual approved projects)	Project Management	Assemble Project team and ensure project has adequate resources. Review prepared Statement of Objectives and add project-specific delivery performance objectives (e.g. threshold level, either above or below plan, for change reporting and identification of Designated Projects), project plan and other documents from A2 with Asset Program Management ("APM"). Obtain required licences and permits. Provide data for each project on a monthly basis or as required to enable generation of reports: <ul style="list-style-type: none"> ▪ Project fiscal Year To Date ("YTD") cost; ▪ Project to date cost; ▪ Project YTD forecast cost (project plan forecast adjusted according to prior fiscal year end project actual); ▪ Project forecast cost to year end; ▪ Project forecast cost to completion; ▪ Task percent complete ▪ Inform Asset Program Management of off-track conditions and required changes on a timely basis (within both total project and fiscal year time frames). "Off-track" may include current actual costs either above or below forecast by a specified amount according to project delivery performance objectives; ▪ Revise Statement of Objectives (e.g. scope, schedule, cost), and ▪ Provide change control documentation. ▪ Provide Project Status Reports. Ensure work is executed in accordance with Statement of Objectives. Manage schedule, budget and quality – update forecasts. Provide project due diligence and risk management (e.g. ensure contractor insurance is place and adequate). Provide testing and commissioning services and support for CNE. Provide project records and as-built drawings. Provide all maintenance manuals and other required documents (e.g. Protective Relay Setting Sheets). Close the project. Prepare project completion report.	Schedule Quality Budget Cash flow	100% of performance targets specified in Statement of Objectives met. Data to be updated and delivered on or before seventh working day of each month. Cashflow variance less than 10% on approved projects.

		Subcategories	Activities Performed By Engineering	Performance Metric	Performance Target
		Contract Management	Provide contract management services including: <ul style="list-style-type: none"> ▪ Prepare specifications; ▪ Prepare tender packages; ▪ Issue tenders; ▪ Review proposals and recommend award; ▪ Provide quality assurance; ▪ Provide expediting services ▪ Issue Purchase Requisitions / Purchase Orders, etc. to procure goods and/or services; ▪ Pay suppliers, and ▪ Administer contract equitable adjustments. ▪ Manage contract documentation ▪ Manage equipment and material releases ▪ Manage warranty claims 	Project schedule milestones. Number of defects identified after acceptance of equipment.	100% on schedule. 0% equipment defects.
		Construction Management	Provide construction management services including: <ul style="list-style-type: none"> ▪ Provide site construction officer to ensure work is carried out in accordance with safety and environmental policy and practices, contract requirements, standards and specifications; ▪ Administer construction contracts and ▪ Provide inspection and quality assurance services. 	Project schedule milestones. Number of safety and environmental incidents. WCB infractions. Reportable Environmental infractions. Number of defects identified after equipment commissioned.	100% on schedule Safety and Environmental targets as specified in Schedule B and C 0 equipment defects
		Project Services (not costed to individual projects)	Prepare Profile Identification (formerly Capital Asset Unit, CAU) Analysis.	Accuracy.	100% materially accurate
C	Program Support (Consolidated program services for approved projects e.g. program status report)		Provide data for the total Program updated monthly or as required. Data for current fiscal year provided to enable generation of reports: <ul style="list-style-type: none"> ▪ Program year-to-date (“YTD”) cost; ▪ Program YTD forecast cost (Program plan forecast adjusted according to prior fiscal year end Program actual); ▪ Program forecast cost to fiscal year end; ▪ Task percent complete ▪ Plan cost, and ▪ Inform Asset Program Management of off-track conditions and required changes on a timely basis (within both total project and fiscal year time frames). “Off-track” may include current actual costs either above or below forecast by a specified amount according to project delivery performance objectives. 	Timeliness. Accuracy.	100% of required data updated and delivered by seventh (7 th) working day of each month. 100% of all data materially accurate
D	Maintenance and Engineering Standards		Recommend, prepare and maintain Engineering and Maintenance Standards for Stations, Protection and Control (“P&C”), Telecom and Transmission for BCTC approval. Technical support for preparation of Maintenance standards.	Schedule and Budget. Quality.	95% delivered on-schedule and on-budget. 100% meet applicable industry standards and are fit-for-use.

		Subcategories	Activities Performed By Engineering	Performance Metric	Performance Target
E1	Field Revisions – Note: Revisions arising from new investment or maintenance work are completed and funded in connection with that work as part of Project Delivery or Maintenance Work Orders.		Required / recommended revisions logged and prioritized. Revisions completed. Revisions checked / signed off. All appropriate documents filed and backed up.	Timeliness	Turnaround time 1 month from submittal.
E2	Drafting Services for Planning (SPA) & Data Management		Provide drafting Services for Planning and Data management.		
F	Engineering Consultation Support		Execute research, perform failure analysis and write reports. Provide written professional opinions. Respond to minor requests for technical advice or investigations—usually less than or equal to one day in duration (three days, if travel is required). Participate in professional and industry organizations; attend conferences and seminars upon request.		100% of activities are entered into a Logbook or have a corresponding Request for Service document by work day 7
H	Planning Services				
H1		P&C and Telecom Planning	(a) P&C Planning Protection & Control (“P&C”) Planning (independent of projects), including: Review existing and evaluate new P&C schemes; Prepare planning estimates and justifications for P&C replacements; Review protection and control system risks; Prepare Protection coordination studies; Calculate and initiate relay setting changes; Evaluate and update existing under-frequency load shedding schemes; Maintain control and SCADA equipment database, and Identify and advise when field tests and/or equipment outages are required for P&C Planning work (b) Telecom Planning BCTC delegates Telecom Planning to do work and initiate work independent of specific projects to ensure the ongoing dependability and security of the BCH Telecommunications Network. This work includes assessment of the status of the existing network components, preparation of TIJs for BCTC’s approval of telecom replacements, completion of network coordination studies not related to a specific project, initiation of configuration changes in the field needed for network security, evaluation of new technologies to assess suitability for use on the BC Hydro communications network and other similar work. Approval from BCTC will be required for Planning work related to this delegation, where costs exceed or are likely to exceed \$5K, or any work requiring traffic or equipment outages.	Timeliness	Maximize the dependability of protection and control schemes system-wide. Maximize the security of the protection and control schemes system-wide. Work completed within the agreed schedule
H2 a		Protection and Control Planning and Technical Studies	Provide P&C Planning and Technical studies for Transmission, Interutility Connections, Independent Power Producer (“IPP”) Connections and Substations <ul style="list-style-type: none"> ▪ Planning (feasibility) Phase ▪ Definition Phase ▪ Project Phase Telecom/Protection Issues and Coordination. Coordinate all aspects of P&C and Telecom, address WECC and NERC standards, procedures, etc.		

		Subcategories	Activities Performed By Engineering	Performance Metric	Performance Target
H2 b		Telecom Planning & Technical Studies	Review and comment on scope notes, Assess telecom network risk, impacts and solutions.		Telecom elements of asset management, risk management, and business plans that are consistent with BCTC strategic direction and appropriately integrated with other BCTC initiatives.
			Review Telecom operations problems and provide Engineering & Technical Support.		Effective and timely input to studies, technical challenges, scoping of initiatives.
H3		Station Planning Services	Assess station capacity to meet loads forecast by BCTC. Assess alternatives to meet growth requirements as per BCTC area long-range plans. Assess and recommend station configurations, including meeting planning performance standards. One Line Diagrams, other documentation suitable for planning coordination. Documentation and reporting on justification for project. Coordination with P&C and Telecom planning. Review ratings of station major equipment (circuit breakers, switches, bus ratings, surge arrestors, transformers, reactors and capacitors) relative to operating conditions.		1. Station meets performance requirements in operation. 2. Station equipment meets requirements over a long period of time (no change-outs) but is not overbuilt.
H4		Technical Studies (System related studies)	Carry out technical studies and analyses as requested or required to support project planning and maintain databases. Maintain electric system knowledge and expertise in: <ul style="list-style-type: none"> ▪ EMTP; ▪ Insulation coordination; ▪ Equipment applications; ▪ Planning related design studies; ▪ Fault level studies; ▪ Protection coordination studies, and ▪ Update databases. 	System performance. Equipment costs. Project Implementation. Database of system information is maintained.	System performance is improved. Equipment costs reduced. No planning-related implementation issues. Database is up to date.
I	Other Services		Maintain computer systems, databases, software and hardware and provide help-desk support and services for applications such as ASPEN, InfoPM, Photogrammetry applications LIDAR and Field Surveys. Verify the correctness and sufficiency of BC Hydro's filed information that is to be provided to other BCTC Contractors when retained by BCTC to provide such verification.	System availability. Information is current and accurate.	Systems are available 100% of the time. Forecasts updated monthly for current fiscal year, quarterly for rest. Forecasts delivered on or before the seventh working day of the month in which they are due.

		Subcategories	Activities Performed By Engineering	Performance Metric	Performance Target
		Surveying services	Provide mapping products (paper or electronic). Provide spatial data and support for Enterprise Geographical Information System ("EGIS").	Timely response. Schedule, scope and budget.	Services delivered in accordance with agreed schedule and cost. Complete EGIS Task implementation.
		REPORTS	Quarterly/ Annual accruals - Provide a central point of contact to collect list of any Generally Accepted Accounting Principles compliant accruals at quarter and year ends	Timeliness. Accuracy.	Accrual information reported to BCTC on the first working day of each month.
J	Maintenance Support Services		Recommend, prepare and maintain maintenance bulletins, policies and programs. Provide emergency response support. Maintain and store securely equipment and system drawings, and historical plant data records. Manage or coordinate small maintenance projects. Manage spare equipment and material. Manage equipment warranty claims. Provide training on stations, P & C, Telecom and Transmission upon request. Provide Failure, Defect and Disturbance Analysis reports and recommendations. Provide monthly status reports.	Timeliness. Budget.	95% on schedule and on budget. 100% scope compliance with service request
J1	Stations Equipment	Testing Programs	Support testing programs, such as Doble and transformer oil testing. Monitor equipment condition. Analyze and report lab test results.	Turn-around time	< 5 working days for transformer oil test < 10 days for Doble.
		Support of Insulating Oil Reclamation (Fluidex)	Develop annual plan proposal and cost estimates and manage approved plan program.	Program budget and workplan.	Annual Plan and cost estimate prepared on schedule. Workplan completed by end of fiscal year on or under budget
J2	P&C	Manage Programs	Manage Computer Assisted Relay Testing, Digital Fault Recording, Sequence of Events Recording, Power Swing Monitoring and Fault Location and Reporting Programs.		
		Support	Provide station HMI and PLC Support.		
J3	Transmission	Field Hazard Inspections	Provide technical field inspection services for the natural hazard review program and ad hoc condition assessment Provide recommendations and proposals for remedial action as required.	Program budget and workplan.	Workplan completed by end of fiscal year on or under budget
		Engineering Support for Property Management	Provide technical review and analysis for Right of Way and property related issues. Respond to encroachment requests on BCTC's behalf.		Provides consistent process and record for property referral process. 100% of activities are entered into a Logbook or have a corresponding Request for Service document.
		REPORTS	System Disturbance Report Statistics Compilation, Coding Analysis and Routine Reporting and Recommendations, (including the annual report)		

		Subcategories	Activities Performed By Engineering	Performance Metric	Performance Target
K	Environmental Services	Engineering Environmental Services	<p>Participate in the development of annual Environmental Plan (including activity/project identification and definition) for:</p> <ul style="list-style-type: none"> ▪ Individual asset program areas (i.e. Stations, Transmission, Vegetation Management), and ▪ Cross-BCTC programs and initiatives. <p>Implementation of the Annual Environmental Plan.</p> <p>Provide field environmental services including corrective action plan input and monitoring.</p>		<p>Completion of annual review meeting to discuss EMS significant aspects and other environmental priorities; leading to the development of the Annual Plan.</p> <p>Annual Plan carried out on budget and on schedule, or as adjusted by mutual agreement.</p>
		REPORTS	<p>Monthly and Quarterly progress reports for the BCTC Environmental Plan assignments and BCTC environmental task-related work. BCTC and EES to agree on scope and format of monthly and quarterly reports.</p>		<p>Monthly and Quarterly Progress reports submitted as per mutually agreed schedules</p>
M	Drawings & Data Management (Vault)	File Maintenance	<p>Storage of original drawings, maps, microfilm, cable schedules, material lists and Tender Drawings.</p> <p>Maintain the Station and Facility Code Management System. Maintain FILENET system. Allocation and assignment of drawing numbers. Maintain STARR data base</p>		<p>Orderly, timely and accurate filing.</p> <p>The document or record is preserved and maintained securely.</p> <p>100% compliance with BCTC Records and Information Management Policy.</p> <p>Backlog of filing not to exceed 100 items.</p>
		Search and Retrieval	<p>Search, retrieve and copy drawings, microfilm, maps, cable schedules and material lists as requested. Prepare mail-outs for drawings to other parties as per PDR or other requests. Microfilm drawings.</p> <p>Provide records, drawings, reports and other information requested by Other BCTC Contractors engaged by BCTC.</p>	<p>Document retrieval turn-around time. Mail-outs and microfilms are processed in a timely and accurate manner.</p>	<p>90% of document requests are done in one working day.</p> <p>Mail-outs are processed on schedule.</p>
		Emergency Response	<p>Drawing Vault staff available as required.</p>		
		Vault Security	<p>Designing, maintaining and enforcing check in / check out procedures. Access restricted to authorized staff only to view drawings and microfilm.</p>		<p>No security breaches.</p>
		REPORTS	<p>Quarterly Drawing Vault production report</p>		
P	Distribution Engineering Services		<p>Develop standards for, create and update operating drawings & records, complete web filing of drawings and records and provide training to support Downstream Distribution Operations.</p>	<p>Accuracy</p> <p>Timeliness</p>	<p>Drawings turn around time and accuracy to be as detailed in DOO 1D-01</p>
			<p>Develop standards for, create and update operating drawings & records, complete web filing of drawings and records and provide training to Substation Distribution Assets, Substation Transmission Assets and Transmission Line Asset operations.</p>	<p>Accuracy</p> <p>Timeliness</p>	<p>Drawings turn around time and accuracy to be as detailed in SOO 1T-25</p>

		Subcategories	Activities Performed By Engineering	Performance Metric	Performance Target
			Produce First Draft of Local Operating Orders for applicable New Customers, Dual Feed Vaults and Distribution connected IPPs.		Local Operating Orders meets joint needs of customer and real-time operations. New customer and dual feed vault draft LOO to be submitted with PA. IPP LOO ready by DoC First Sync
			Contingency Planning and Technical Support for Real-Time Distribution Operations including Feeder reclose suitability, equipment ratings, feeder offloading plans, identification of feeding loading limitations and restoration considerations, etc.	Accurate and timely information.	Accurate and timely information provided in agreed timeframe.
			Implement Maximum Demand Reading Schedule for Substations and Feeders and supplement scheduled readings as needed, analyze data and initiate remedial action where required.	Schedule provides peak demands for all metered substations.	Monitoring of readings & follow-up action is effect so that intervention by ACC is not necessary.
Q	Emergency Preparedness and Response	BCTC/Corporate High Level Emergency Response and Preparedness	<p>Provide Engineering support for BCTC's emergency response and preparedness.</p> <p>Catalogue equipment, material and personnel required for emergency centre documentation. Provide training to BCTC staff in the operation of the Corporate Emergency Centres as required.</p> <p>Project Management Services and expert technical support for restoration and repair of major system damage caused by emergency events.</p> <p>Post earthquake seismic evaluation.</p>		<p>Adequate training of staff and resources to successfully operate emergency centre. Expert resources deployed to meet emergency requirements.</p> <p>Work to be in accordance with proposed plan and budget. Additional emergency response activities initiated by potential emergency response issues.</p>

**SCHEDULE B
ENVIRONMENTAL MATTERS**

A. Services

The Services provided by Engineering hereunder shall include the following environmental matters:

(a) Environmental Management

BC Hydro will maintain, and Engineering will comply with, appropriate, ISO 14001 (or other industry-accepted standard from time to time) consistent, environmental systems and procedures with respect to all such matters in connection with carrying out the Services. In the course of providing the Services, Engineering's environmental roles and responsibilities will be as per the following environmental management systems, as applicable:

- (i) BCTC Environmental Management System Framework.
- (ii) Engineering Environmental Management System.

(b) IT Applications

- (i) The shared BC Hydro/BCTC web based Environmental Incident Reporting System shall be used for recording environmental incidents.
- (ii) The BCTC Operational Environmental Review tracking system shall be used to record progress on corrective action plans resulting from regular audits and reviews.
- (iii) The shared BC Hydro/BCTC web based Environmental Management System Communications Reporting System shall be used.

(c) Reporting

- (i) Engineering will provide to BCTC in a timely manner, on an exception basis, a written report of any violations or nonconformance issues related to BC Hydro's environmental systems and procedures for work carried out by Engineering under this Agreement.
- (ii) The Vice President of Engineering will attend the BCTC Environmental Management System Annual Senior Management Review.

B. Performance Standards

Engineering will meet or exceed the following Performance Standards for environmental matters:

- (a) Engineering will annually provide to BCTC Engineering's environmental performance objectives relating to the Transmission System for BCTC's acceptance, acting reasonably. Upon acceptance, such performance objectives will become Performance Standards for the purposes of this Agreement.

(b) Engineering will meet or exceed the following additional environmental Performance Standards with respect to the Services:

Service Provided	Performance Metric	Reporting or Measurement Method
Environmental performance	0 “major non-conformance”* violations of EMS requirements	BCTC EMS Audit Plan
Environmental performance	Number of preventable environmental incidents F05 – 4; F06 – 3; F07 – 2	Engineering quarterly report
Environmental performance	0 – number of incidents (that are within control of Engineering) that have not been closed on the EIR System within 3 months	Engineering quarterly report
Environmental performance	Environmental compliance measure (P&R) F05 – 0; F06 – 0; F07 – 0	Engineering quarterly report
Environmental Management System audit and OER Corrective Action Plans	Corrective Action Plans completed on schedule	Engineering quarterly report

Note: For the purposes of the foregoing, a “major nonconformance violation” means, in general, a serious system deficiency that would have a significant impact on the environment or adversely affect the implementation of the Environmental Management System. Specifically, a “major nonconformance violation” is documented when:

- there is a complete absence or breakdown of a required element of the ISO 14001 Standard;
- a number of minor lapses related to a significant aspect, or procedure required by ISO 14001, when added together, collectively suggest a total or important breakdown in the procedure or element of the ISO 14001 Standard;
- a nonconformance is likely to cause regulatory investigation and/or legal action against BC Hydro and/or BCTC; or
- an environmental aspect that is obviously of high significance has not been identified and as a result is not managed.

SCHEDULE C SAFETY MATTERS

A. Services

The Services provided by Engineering hereunder shall include the following safety matters:

(a) Safety Management

Engineering will comply with appropriate, OHSAS 18001 (or other industry-accepted standard from time to time) consistent, safety and occupational health systems and procedures with respect to all such matters in connection with carrying out the Services. In the course of providing Services to BCTC, Engineering's safety roles and responsibilities will be as set out in the following:

- (i) BC Hydro Safety Management System;
- (ii) any applicable agreements between the Parties entered into pursuant to Section 16.4 of the Master Agreement, including the following as each may be amended, supplemented or replaced from time to time:
 - (A) Co-ordination of Multi-Employer Workplaces BCTC and BC Hydro; and
 - (B) Cross-jurisdictional Incident Investigation.

In accordance with the agreement referred to in paragraph (ii)(A) above and the BCTC Standards, in any circumstance where Engineering manages BC Hydro personnel, Subcontractors, External Contractors or other BCTC contractors under this Agreement at a workplace that is a "multiple-employer workplace" with more than one "prime contractor" (each as defined in the *Workers Compensation Act* (British Columbia)), unless the Parties otherwise expressly agree, BC Hydro will be responsible for determining which entity at the workplace (including any contractors retained by BCTC and not managed by Engineering under this Agreement) will retain prime contractor responsibilities for such multiple-employer workplace.

(b) Reporting

- (i) Engineering will provide to BCTC in a timely manner, on an exception basis, a written report of any violations or nonconformance issues related to BC Hydro's safety systems and procedures for work carried out by Engineering under this Agreement.
- (ii) BCTC and Engineering Safety Services (with BC Hydro Corporate Safety) to agree on scope and format of reporting for non-cross jurisdictional incidents (involving BC Hydro staff only, BC Hydro contractors or the public).

B. Performance Standards

Engineering will meet or exceed the following Performance Standards for safety matters:

- (a) Engineering will annually provide to BCTC Engineering’s safety performance objectives for BCTC’s acceptance, acting reasonably. Upon acceptance, such performance objectives will become Performance Standards for the purposes of this Agreement.
- (b) Engineering will meet or exceed the following additional safety Performance Standards with respect to the Services:

Service Provided	Performance Metric	Reporting or Measurement Method
Safety Performance	Engineering’s annually declared target	Engineering quarterly report
Safety Incident Reporting	Incidents reported within 24 hours and contractor incidents communicated quarterly	Scope and format for non cross-jurisdictional incidents to be determined by BCTC and Engineering (with BC Hydro Corporate Safety)
Safety Management System audits	Corrective Action Plans completed on schedule	Engineering quarterly report
Safety performance	0 “major nonconformance”* violations of SMS requirements	BC Hydro SMS Audit Plan or BCTC PSSP Audit Plan
Incident Investigations and Corrective Action Plans	Investigations and Corrective Action Plans completed on schedule	Engineering quarterly report

Note: For the purposes of the foregoing, a “major nonconformance violation” means, in general, a serious system deficiency that would have a significant impact on safety or adversely affect the implementation of the Safety Management System. Specifically, a “major nonconformance violation” is documented when:

- there is a complete absence or breakdown of a required element of the OHSAS 18001 Standard;
- a number of minor lapses related to a significant aspect, or procedure required by OHSAS 18001, when added together, collectively suggest a total or important breakdown in the procedure or element of the OHSAS 18001 Standard;
- a nonconformance is likely to cause regulatory investigation and/or legal action against BC Hydro and/or BCTC; or
- a safety aspect that is obviously of high significance has not been identified and as a result is not managed.

GENERATION CONTROL SERVICES AGREEMENT

Between

BRITISH COLUMBIA HYDRO AND POWER AUTHORITY

and

BRITISH COLUMBIA TRANSMISSION CORPORATION

Dated as of April 1, 2005

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GENERATION CONTROL SERVICES AGREEMENT

THIS AGREEMENT is dated as of the 1st day of April, 2005

BETWEEN:

BRITISH COLUMBIA HYDRO AND POWER AUTHORITY, a Crown corporation organized and existing under the laws of the Province of British Columbia

(“**BC Hydro**”)

AND:

BRITISH COLUMBIA TRANSMISSION CORPORATION, a Crown corporation organized and existing under the laws of the Province of British Columbia

(“**BCTC**”)

WHEREAS:

- A. BC Hydro and BCTC have, pursuant to the *Transmission Corporation Act* (British Columbia), entered into the Master Agreement;
- B. Pursuant to Article 7 of the Master Agreement, the Parties desire to enter into this Agreement to define certain generation control and related services that BCTC will provide to BC Hydro, to set out the terms and conditions on which BCTC will provide such services, and to identify certain standards for specific services to ensure that BCTC’s performance of such services is satisfactory to BC Hydro; and
- C. This Agreement also sets out the terms and conditions on which BC Hydro’s GMS Operators and FNG Operators (both as defined herein) will provide certain services relating to the operation of the switch yards at Gordon M. Shrum, Peace Canyon and Fort Nelson generating stations for BCTC.

NOW THEREFORE, in consideration of the premises and mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, the Parties agree as follows:

ARTICLE 1. INTERPRETATION

1.1. Definitions

In this Agreement, the following terms will have the following meanings respectively:

- (a) “**BC Hydro**” means British Columbia Hydro and Power Authority and its successors and permitted assigns.

- (b) “**BCTC**” means British Columbia Transmission Corporation and its successors and permitted assigns.
- (c) “**Business Day**” means a day that is not a Saturday, Sunday or statutory holiday in the Province of British Columbia.
- (d) “**Commission**” means the British Columbia Utilities Commission or any successor agency having regulatory jurisdiction over transmission services in British Columbia.
- (e) “**Consequences**” means, in respect of any modifications to the Reporting Plan and Performance Agreement proposed by BC Hydro under Section 9.2(c):
 - (i) the feasibility of such proposed modifications;
 - (ii) any costs to be incurred by BCTC in implementing such proposed modifications due to:
 - A. either or both additional time being spent by BCTC employees in implementing such proposed modifications or additional costs being incurred directly by BCTC to implement such proposed modifications; or
 - B. any stranded assets or personnel resulting from such proposed modifications;
 - (iii) any impact on the timely provision of any other Generation Control Services hereunder resulting from the reallocation of resources by BCTC in order to implement such proposed modifications, including any resulting implications for GC Service Standards; and
 - (iv) any other direct or indirect impact on BCTC or BC Hydro in connection with the implementation of such proposed modifications by BCTC, including any impact on the provision of any other service by, or satisfaction of any other obligation of, BCTC to BC Hydro as contemplated by the Key Agreements or any other service level agreement entered into between the Parties, provided that no such impact shall be deemed to amend any Key Agreement or such other service level agreement, or any of the respective roles and responsibilities of BC Hydro or BCTC thereunder.
- (f) “**Consumer Price Index**” means the Consumer Price Index, All Items as published by Statistics Canada on an annual basis, or if it becomes unavailable in its present form, any similar index or replacement thereto as agreed between the Parties.
- (g) “**Contract Representative**” means a contract representative of a Party appointed under ARTICLE 18.

- (h) “**Control Area**” has the meaning ascribed to that term in the GPOO Agreement.
- (i) “**Effective Date**” means November 20, 2003. [MA 1.1(n)]
- (j) “**Electric System**” means the single integrated electric power grid owned by BC Hydro, consisting of electric distribution facilities, transmission facilities or generation facilities, or any combination thereof, and includes transmission lines, distribution lines, substations, switching stations and all associated equipment for transmitting or distributing the flow of power. The term “Electric System” includes any devices or equipment by which information is originated on an electric system, by which such information is transmitted and by which such information is received either for information or for operation of the system. [MA 1.1(o)]
- (k) “**Environmental Laws**” means (i) all statutes, treaties, codes, ordinances, orders in council, decrees, rules, regulations, directions and by-laws enacted or adopted by a governmental authority and (ii) all policies, practices and guidelines of any governmental authority or body that, although not actually having the force of law, are considered by such governmental authority or body as requiring compliance, in each case having jurisdiction over the lands relating to the Transmission System, now or hereafter in force with respect in any way to the environment or preservation of historical sites. [MA 1.1(q)]
- (l) “**FNG Operators**” means BC Hydro’s operators located at the Fort Nelson generating station that perform services for BCTC in the course of following procedures relating to operations between Fort Nelson generating station and BCTC’s Northern Control Centre.
- (m) “**FNG Operator Services**” means the services to be provided by the FNG Operators to BCTC pursuant to and in accordance with this Agreement, as set forth in ARTICLE 6 and Attachment 11.
- (n) “**GC Service Standards**” means the standards for performing the Generation Control Services identified in ARTICLE 5 of this Agreement and the Attachments to this Agreement, or in a Reporting Plan and Performance Agreement pursuant to Section 9.2.
- (o) “**Generation Control Services**” means the generation control and related services to be provided by BCTC to BC Hydro pursuant to and in accordance with this Agreement with respect to generation control dispatch (subject to Transmission System reliability constraints/criteria and/or any other agreements respecting Transmission System reliability between the Parties), water conveyancing, generation data and other related matters in connection with the activities of BC Hydro, as set forth in ARTICLE 4 and the Attachments to this Agreement.
- (p) “**Generation Line of Business**” or “**GLoB**” means the Generation Line of Business of BC Hydro or any successor line of business of BC Hydro.

- (q) **“Generation Operating Orders”** or **“GOOs”** means Operating Orders developed and issued by BC Hydro in accordance with Article 5 of the Master Agreement which establish procedures for operating BC Hydro’s generating facilities.
- (r) **“GMS Operators”** means BC Hydro’s operators located at Gordon M. Shrum generating station that perform services for BCTC similar to an ACC dispatcher role, namely operating switch yards for Gordon M. Shrum and Peace Canyon generating stations.
- (s) **“GMS Operator Services”** means the services to be provided by the GMS Operators to BCTC pursuant to and in accordance with this Agreement, as set forth in ARTICLE 6 and Attachment 11.
- (t) **“Good Utility Practice”** means any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry in the WECC region 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 Utility 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. **[MA 1.1(u)]**
- (u) **“GPOO Agreement”** means the Generating Plant and Operational Obligations Agreement dated as of the date hereof made between BC Hydro and BCTC, as such agreement may be amended from time to time.
- (v) **“Intellectual Property Agreement”** means the Intellectual Property Agreement dated as of December 1, 2003 made between BC Hydro and BCTC, as such agreement may be amended from time to time.
- (w) **“Key Agreements”** has the meaning ascribed to it in the Master Agreement.
- (x) **“Laws”** means (i) all statutes, treaties, codes, ordinances, orders in council, decrees, rules, regulations, directions, by-laws, permits, licences and approvals enacted, adopted or issued by a governmental authority, including all rules, regulations, orders, policies, practices and guidelines of the Commission and (ii) all policies, practices and guidelines (including any shareholder’s letter of expectations) of any governmental authority or body that, although not actually having the force of law, are considered by such governmental authority or body as requiring compliance, that apply to either of the Parties. **[MA 1.1(y)]**
- (y) **“Master Agreement”** means the Master Agreement dated as of November 12, 2003 between BC Hydro and BCTC, as such agreement may be amended from time to time.
- (z) **“Operating Order”** means any operating instruction that governs and defines the responsibilities and procedures for operating the Electric System in effect on the

date of this Agreement or as may be developed, issued, revised or varied from time to time in accordance with Section 5.5 of the Master Agreement.

- (aa) **“Parties”** means collectively, BC Hydro and BCTC, and **“Party”** means individually, BC Hydro or BCTC.
- (bb) **“Person”** means a corporation, an association, a partnership, an organization, a business, a limited liability company, an individual, a government or a political subdivision thereof or a governmental agency. [MA 1.1(ii)]
- (cc) **“PSOSE”** means BC Hydro’s Planning Scheduling & Operations Shift Engineer, responsible for short-term optimization of generation facilities and reservoirs, and designated by BC Hydro to issue water conveyance and generator dispatch instructions to BCTC.
- (dd) **“Reporting Plan and Performance Agreement”** has the meaning set forth in Section 9.2.
- (ee) **“Standards of Conduct”** means the policies of BCTC or BC Hydro, as the context requires, with respect to open access and availability of information, as approved by the Commission from time to time in connection with the WTS Tariff or OATT (as defined in the Master Agreement) and information regarding the Transmission System. [MA 1.1(nn)]
- (ff) **“Supplemental Intellectual Property Agreement”** means the Supplemental Intellectual Property Agreement dated as of April 1, 2005 made between BC Hydro and BCTC, as such agreement may be amended from time to time.
- (gg) **“System Operating Orders”** or **“SOOs”** means the Operating Orders issued by BCTC relating to the management and the operation of the Electric System by the system control centre. [MA 1.1(qq)]
- (hh) **“Tariff Commencement Date”** means the effective date of BCTC’s first OATT (as defined in the Master Agreement) pursuant to section 4 of the *Transmission Corporation Act* (British Columbia).
- (ii) **“Third Party”** means a Person other than BC Hydro or BCTC or a successor or permitted assign thereof.
- (jj) **“Transmission System”** means those assets that are owned by, or are held under contract by, BC Hydro from time to time and that are or may be used in connection with or that otherwise relate to the transmission of electrical energy at 60 kV and above, including the following:
 - (i) all lines, including underground and underwater cables, of voltage class 60 kV and above that transmit electrical energy from a generation facility step-up transformer to a substation step-down transformer, together with:

- A. all towers, poles, transformers, equipment, fixtures and switching station and substation facilities that are or may be used in connection with or that otherwise relate to that transmission; and
 - B. each substation step-down transformer to which the electrical energy is transmitted and all associated equipment to the substation boundary;
- (ii) telecommunication facilities used for the operation, protection or control of switching stations, substation facilities, control centres or other components of the transmission system; and
 - (iii) rights-of-way, permits, licences and agreements in respect of any of the assets or rights described above,

but specifically excluding the Substation Distribution Assets (as defined in the Master Agreement).

For greater certainty, the interface between the Transmission System and the generation facilities of BC Hydro will be as referenced in the document entitled “Separation of Assets between Generation and Transmission Lines of Business” dated April 4, 2002 or as otherwise agreed between the Parties from time to time. [MA 1.1(xx)]

- (kk) “WECC” means the Western Electricity Coordinating Council or any successor organization.

1.2. Interpretation Generally

Unless the context otherwise necessarily requires, the following provisions will govern the interpretation of this Agreement:

- (a) the words “hereof”, “herein” and “hereunder” and similar expressions will refer to this Agreement as a whole and not to any particular provision of this Agreement;
- (b) each reference to a time of day in this Agreement will mean that time in Vancouver, British Columbia, unless otherwise specified. In computation of periods of time in this Agreement from a specified date to a later specified date, the word “from” means “from and including” and the words “to” and “until” both mean “to but excluding”;
- (c) the meanings given to terms defined in this Agreement will apply to both the singular and plural forms of those terms;
- (d) except as otherwise specified in this Agreement, each reference to a statute, requirement of law or governmental consent will be deemed to refer to such statute, requirement of Law or governmental consent as the same may be amended, supplemented or otherwise modified from time to time;

- (e) each reference in this Agreement to any Party will be deemed to include such Party's successors and permitted assigns unless expressly stated otherwise herein;
- (f) where a term is defined in this Agreement, a derivative of that term will have a corresponding meaning;
- (g) the words "include", "including" and similar expressions mean "including but not limited to";
- (h) all references to "Articles", "Sections" and "Attachments" are references to Articles or Sections of, and Attachments to and forming part of, this Agreement unless otherwise specified;
- (i) in the event of any conflict or inconsistency between this Agreement and any Attachment that is not reconcilable, the provisions of this Agreement will prevail;
- (j) the division of this Agreement into Articles, Sections, Attachments and other subdivisions and the insertion of headings are for convenience of reference only and will not affect the construction or interpretation of this Agreement; and
- (k) except as otherwise defined in this Agreement, terms used in this Agreement that have well-known technical, trade or industry meanings will be interpreted in accordance with those well-known technical, trade or industry meanings. [MA 1.2]

1.3. **Priority and Application of Key Agreements and GPOO Agreement**

This Agreement is entered into pursuant to the Master Agreement and elaborates on certain provisions of the Master Agreement with respect to the provision of the Generation Control Services. The Parties believe that this Agreement is consistent with the terms and conditions of the Master Agreement and agree that, if there is any express conflict or inconsistency between the provisions of this Agreement and the provisions of the Master Agreement, the provisions of the Master Agreement will prevail. Provisions in this Agreement which, for ease of reference, duplicate provisions contained in the Master Agreement are identified in this Agreement by the inclusion following such provisions of the initials "MA" and the section reference therein. In the event of any express conflict or inconsistency between the provisions of this Agreement and the provisions of the GPOO Agreement, the provisions of the GPOO Agreement will prevail.

1.4. **Service-Specific Terms**

Terms including abbreviations that are specific to certain Generation Control Services and that are not used in the body of this Agreement may be defined in Attachment 1 to this Agreement or the respective Attachment to this Agreement that provides details of that particular Generation Control Service.

1.5. **Attachments**

The following Attachments are attached hereto and form part of this Agreement:

Attachment 1	Generation Control Service Definitions and Abbreviations
Attachment 2	Generation Control Dispatch Services
Attachment 3	Water Conveyance Services
Attachment 4	Generation Data Services
Attachment 5	Alarm Monitoring Services
Attachment 6	Equipment Unusual Condition Management Service
Attachment 7	Equipment Outage Management Service
Attachment 8	Power Facilities Accident and Emergency Assistance Dispatch
Attachment 9	PSOSE Emergency Transition Operation
Attachment 10	Requests for Site Readings
Attachment 11	GMS Operator Services and FNG Operator Services
Attachment 12	Performance Reporting Summary

ARTICLE 2. TERM

2.1. Term

The term of this Agreement will commence on the date hereof and will continue unless and until terminated in accordance with Section 15.1.

ARTICLE 3. GENERAL PRINCIPLES

3.1. Continuous Improvement

- (a) BC Hydro acknowledges the importance of orderly planning and timely initiation of work by BC Hydro in order for BCTC to achieve maximum efficiency in providing the Generation Control Services.
- (b) BCTC acknowledges the importance to BC Hydro of continuous improvement, continuous efforts to reduce costs and increase efficiency and the demonstration of efficiency and value in the provision of the Generation Control Services. BCTC will use commercially reasonable efforts to continually increase efficiencies and reduce costs associated with the Generation Control Services. **[MA 7.6(c)]**
- (c) BC Hydro and BCTC acknowledge that their common objective of increased cost effectiveness in the provision of the Generation Control Services will require cooperation and coordination between the Parties during the term of this Agreement. The Parties will at all times use commercially reasonable efforts to cooperate in coordinating the requirements for the provision of Generation Control Services in a manner that optimizes the utilization of BCTC resources, minimizes stranded costs to BCTC and meets the GC Service Standards.
- (d) In furtherance of the Parties' commitment to continuous improvement, the Parties' Contract Representatives will review opportunities for continuous

improvement as part of the performance review to be conducted pursuant to Section 9.4.

3.2. **Redevelopment of Facilities**

- (a) In any redevelopment of facilities used by BCTC for Generation Control Services including changes to hardware, software and business processes, BCTC will:
 - (i) consult with BC Hydro; and [MA 7.3]
 - (ii) ensure that the facilities used by BCTC to provide the Generation Control Services are compatible with and as good as or better than those currently in use, unless otherwise expressly agreed by the Parties.
- (b) BCTC will use commercially reasonable efforts to ensure that BC Hydro will not suffer any loss of service performance due to redevelopment of or changes to BCTC's facilities, and that regardless of any such redevelopment or changes BCTC will be able to perform the Generation Control Services to at least the same level and standard as it was performing such services prior to the redevelopment or change, unless otherwise expressly agreed by the Parties.
- (c) Unless otherwise expressly agreed by the Parties, such redevelopment of or changes to BCTC's facilities shall not increase the price payable by BC Hydro to BCTC for performing the Generation Control Services pursuant to Section 13.1.

3.3. **Technology and Business Process Changes**

Either party may propose technology or business process changes related to the means of enabling Generation Control Services. Examples of such changes include updating versions and methods related to the pitopi process, web services interfaces and the CM, CROW and DCM applications (as defined in the Attachments). With respect to such changes that might impact either party, including without limitation with respect either to compatibility with equipment, technology or processes, or the imposition of additional costs on the other party (whether direct or indirect), BCTC or BC Hydro will not implement such changes without the prior discussion and approval of the other party. Neither party shall unreasonably withhold such approval given sufficient advance notice and the absence of significant impacts on the party with respect thereto in terms of costs, compatibility with systems or processes or otherwise. Changes will not be implemented without prior testing (including offline testing, if appropriate) and co-ordination to ensure that there are no interruptions to the Generation Control Services provided by BCTC to BC Hydro.

3.4. **Training of Personnel**

BCTC will maintain a training program for its personnel and permitted contractors or subcontractors providing the Generation Control Services to ensure that all such individuals performing the Generation Control Services are properly trained in the performance thereof.

3.5. Communication Obligations and Errors

- (a) In order to provide the Generation Control Services hereunder, BCTC shall maintain satisfactory operating communications with the applicable representative of BC Hydro as set forth in the Attachments, or such other representative as designated by BC Hydro. Any required maintenance or repair of a Party's communications equipment shall be performed by the Party operating or responsible for the operation of such equipment.
- (b) Each Party will promptly advise the other Party if it detects or otherwise learns of any telemetry or communications equipment errors or malfunctions that require the attention and/or correction by the other Party. The Party operating or responsible for the operation of such equipment shall correct such error or malfunction as soon as reasonably feasible, and the other Party will use reasonable efforts to cooperate fully.

ARTICLE 4. GENERATION CONTROL SERVICES

4.1. Provision of Generation Control Services

- (a) During the term of this Agreement, BCTC will provide to BC Hydro the Generation Control Services identified pursuant to this Agreement, including the Generation Control Services listed in this ARTICLE 4 and detailed in the Attachments to this Agreement as indicated, all in accordance with the terms and conditions of this Agreement, including the GC Service Standards.
- (b) The Attachments to this Agreement provide further details on the Generation Control Services identified in this ARTICLE 4 as indicated herein, including with respect to applicable instruction processes, the roles and responsibilities of the Parties, and any GC Service Standards applicable to the provision of such Generation Control Service by BCTC.
- (c) In connection with providing the Generation Control Services, BCTC will obtain and make available sufficient resources, including without limitation personnel and facilities, in order to provide the Generation Control Services and perform its obligations under this Agreement. For greater clarity, if BCTC fails to perform the Generation Control Services in accordance with the GC Service Standards, BC Hydro may require BCTC to make additional resources available for the performance of the Generation Control Services pursuant to Section 9.6.

4.2. Generation Control Dispatch Services

As directed by BC Hydro but subject to Section 4.7, BCTC will perform the following dispatch, starting, stopping and manual load change services for all generating units under the control of BCTC as at the Effective Date (subject to adjustment in accordance with Section 4.6):

- (a) Automatic Generation Control (AGC) Generation Dispatch – BCTC will operate BC Hydro’s AGC generation as per instructions issued by BC Hydro in accordance with Attachment 2, Section 1.
- (b) Non-AGC Generation Dispatch – BCTC will operate or direct the operation of non-AGC generation as per instructions issued by BC Hydro for BC Hydro’s non-AGC generation and non-BC Hydro plants for which BC Hydro has planning responsibility and BCTC has operational control, all in accordance with Attachment 2, Section 2.
- (c) Small BC Hydro and non-BC Hydro Generation Dispatch – BCTC will forward instructions issued by BC Hydro for implementation for (i) BC Hydro generation over which BCTC does not have operational control; and (ii) non-BC Hydro generation over which BC Hydro has planning responsibility and BCTC does not have operational control, all in accordance with Attachment 2, Section 3.
- (d) Dispatch for Intertie Schedule Ramps – BCTC will dispatch BC Hydro plants in accordance with BC Hydro direction for changes to intertie schedules solely for which BC Hydro is responsible and in accordance with Attachment 2, Section 4.

4.3. **Water Conveyance Services**

As directed by BC Hydro, BCTC will operate non-power water control facilities (subject to adjustment in accordance with Section 4.6) at dams and water diversions, as follows:

- (a) Implementation of Direct Water Conveyance Instructions – BC Hydro will provide to BCTC direct instruction for non-power water conveyance at BC Hydro facilities, and BCTC will operate non-power release facilities (NPRFs), or direct the operation of NPRFs, as per the direct instruction and in accordance with Attachment 3, Section 1.
- (b) Implementation of Standing Water Conveyance Instructions – BC Hydro will provide to BCTC standing instructions for project water conveyance at specific BC Hydro facilities, and BCTC will implement standing instructions by operating or instructing operation of NPRFs in accordance with Attachment 3, Section 2.
- (c) Recording of NPRF Operations – BCTC will provide a data recording service for NPRF operations at BC Hydro facilities in accordance with Attachment 3, Section 3.

4.4. **Other Generation Services**

BCTC will provide the following services respecting operational data, alarm monitoring, personnel monitoring, notification and reporting services to BC Hydro in accordance with the Attachments:

- (a) Provide Operational Data to BC Hydro via SCC PI Server – BCTC will provide BC Hydro with continuously available polling access via the pitopi service to

current operational data on a BCTC plant information server(s) in accordance with Attachment 4, Section 1.

- (b) Maintain and Extend Operational Data to BC Hydro – BCTC will document and apprise BC Hydro of all relevant BC Hydro operational data source details, and will maintain the operational data elements in accordance with Good Utility Practice and in accordance with Attachment 4, Section 2.
- (c) Provide Daily Reports to BC Hydro’s Power Records – BCTC will provide BC Electric System Load Sheets to BC Hydro’s Power Records group in accordance with Attachment 4, Section 3.
- (d) Implement Current Data Tables for EMS Generator Dispatch – BCTC will utilise the latest BC Hydro-authorized static tabular data within BCTC’s Energy Management System for the control and dispatch of BC Hydro generators in accordance with Attachment 4, Section 4.
- (e) Provide and Maintain Business to Business Interfaces to BC Hydro Applications (non PI) – BCTC will make available to BC Hydro, data exchange interfaces using web services technology in accordance with Attachment 4, Section 5.
- (f) Alarm Monitoring Services – BCTC will monitor and immediately respond to all BC Hydro alarms or facility monitoring systems as per direction provided by BC Hydro in accordance with Attachment 5.
- (g) Equipment Unusual Condition Management Service – BCTC will maintain a record of unusual conditions impacting generation equipment and reservoirs in accordance with Attachment 6.
- (h) Equipment Outage Management Service – BCTC will provide outage processing duties for scheduled and forced outages in accordance with Attachment 7.
- (i) Power Facilities Accident and Emergency Dispatch Service – BCTC will provide requests for dispatch of emergency assistance to BC Hydro employees and contractors on site in accordance with Attachment 8.
- (j) PSEO Emergency Transition Operation – BCTC will provide backup to PSEO in cases of loss of data or emergency such as fire at the primary location in accordance with Attachment 9.
- (k) Requests for Site Readings – BCTC will forward site reading requests from PSEO to field staff and return readings to PSEO in accordance with Attachment 10.

4.5. Adjustment of Generation Control Services

- (a) The Parties may agree in writing that certain services be revised, added to, or excluded from the Generation Control Services provided under this Agreement resulting from business process changes desired by either Party or to fulfil the

requirements of WECC, the Commission or other applicable regulatory body.
[MA 7.2]

- (b) Upon request by BC Hydro to exclude any of the Generation Control Services identified in Section 4.3 or 4.4, BCTC shall not unreasonably withhold its consent thereto.

4.6. **Adjustment of Generating Units and Non-Power Water Control Facilities**

- (a) If BC Hydro acquires any additional generating units or non-power water control facilities in BCTC's Control Area after the Effective Date, BC Hydro will notify BCTC of same and BCTC will provide the Generation Control Services in respect of them as if they had been under BCTC's control as of the Effective Date, but the total annual price payable by BC Hydro to BCTC hereunder for the performance of the Generation Control Services will then be adjusted in accordance with Section 13.2(d).
- (b) If BC Hydro decommissions or disposes of any generating units or non-power water control facilities in BCTC's Control Area after the Effective Date in accordance with applicable Laws and any other applicable agreements between the Parties, BC Hydro will notify BCTC of same and BCTC will immediately discontinue providing the Generation Control Services in respect of them. The total annual price payable by BC Hydro to BCTC hereunder for the performance of the Generation Control Services will then be adjusted in accordance with Section 13.2(d).

4.7. **Standards of Conduct and Transmission System Reliability**

- (a) Notwithstanding any other provision of this Agreement or the Attachments, BCTC will not be required to do anything in rendering the Generation Control Services or otherwise in discharging its obligations under this Agreement that is inconsistent with applicable Standards of Conduct, impairs Transmission System reliability, endangers public safety or breaches applicable Laws, including without limitation Environmental Laws.
- (b) BCTC will not unreasonably rely on the provisions of the Standards of Conduct to avoid performing its obligations under or providing information that is required by this Agreement.
- (c) Nothing in this Agreement is intended to prevent, limit or restrict BC Hydro from raising with the Commission any matters relating to BCTC's exercise of discretion relating to reliability, including without limitation with respect to its refusal for reliability reasons to implement BC Hydro's instructions relating to the Generation Control Services. BC Hydro will use Reasonable Efforts to notify BCTC of any such issue arising out of this Agreement which BC Hydro determines to raise with the Commission (failing resolution pursuant to this Section) within 72 hours of making such determination, provided that any failure of BC Hydro to deliver such notice within the specified timeframe will not preclude BC Hydro from raising any such issue. The Parties will negotiate in

good faith to resolve such issue for a period of 30 days following the delivery of such notice, or until BC Hydro determines acting reasonably that the Parties are no longer engaged in good faith negotiations to resolve the dispute or that such negotiations will not result in satisfactory redress to BC Hydro, whichever is earlier. Failing resolution pursuant to this Section, BC Hydro may raise such issue with the Commission if it determines to do so, in which case it will provide written notice to BCTC concurrently.

ARTICLE 5. GC SERVICE STANDARDS

5.1. General GC Service Standards

In providing the Generation Control Services, BCTC and its employees, subcontractors, agents and invitees will:

- (a) act in a commercially reasonable, efficient and professional manner and in accordance with Good Utility Practice;
- (b) provide the Generation Control Services to at least the standard and quality of similar services it provides to its own operations;
- (c) provide the Generation Control Services:
 - (i) to meet all requirements of the Commission with respect to the Generation Control Services, including requirements relating to safety and reliability, if applicable;
 - (ii) to meet all requirements of the WECC and other industry standards with respect to the Generation Control Services, if applicable;
 - (iii) in compliance with applicable Laws, including without limitation Environmental Laws;
 - (iv) in compliance with the terms of all rights, permits and licenses held by BCTC and BC Hydro in connection with the Transmission System and will not take any action in providing such Generation Control Services that would invalidate, violate or otherwise render invalid such rights, permits and licences; **[MA 15.1]**
 - (v) in compliance with BC Hydro policies, practices and procedures that are applicable to the Generation Control Services and of which BC Hydro has given BCTC notice in writing by way of Operating Orders and PSOSE instructions or by BC Hydro instructions provided in accordance with the terms hereof, or such other instructions, or policies, practices and procedures notice of which BC Hydro has given to BCTC in writing and acknowledged by the Contract Representatives,

in each case, in accordance with BC Hydro's interpretation thereof, if any, of which BC Hydro has given BCTC notice in writing.

- (d) ensure proper training of its personnel and any permitted contractors or subcontractors providing the Generation Control Services in accordance with Section 3.4;
- (e) provide the Generation Control Services in compliance with the terms of any other applicable agreements between the Parties; and
- (f) comply with, and ensure that each employee, subcontractor, agent and invitee who performs the Generation Control Services, is made aware of and agrees to comply with, the Standards of Conduct.

5.2. **Specific GC Service Standards**

With respect to any particular Generation Control Service, in providing such Generation Control Service BCTC will comply with any specific service standard set out with respect thereto in any Attachment to this Agreement that is identified therein as a GC Service Standard.

5.3. **Standards of Conduct**

Each Party will comply with the Standards of Conduct applicable to it, and in the event of any conflict between the Standards of Conduct and any GC Service Standard including without limitation the general standards set forth in Section 5.1, the Standards of Conduct shall prevail except with respect to any applicable Laws.

ARTICLE 6. BC HYDRO GMS AND FNG OPERATOR SERVICES

6.1. **GMS Operators and FNG Operators to Provide Services to BCTC**

The GMS Operators will provide the GMS Operator Services described in Attachment 11 to BCTC throughout the term of this Agreement in accordance with the terms and conditions set out in Attachment 11. The FNG Operators will provide the FNG Operator Services described in Attachment 11 and LOO 3J-FNG-01, dated February 18, 2004 as it may be amended or replaced from time to time by the Parties, to BCTC throughout the term of this Agreement in accordance with the terms and conditions set out herein and therein. The Parties acknowledge that the value of such GMS Operator Services and FNG Operator Services is included in the annual price payable by BC Hydro under this Agreement as set forth in Section 13.1, and accordingly there will be no charge payable by BCTC for such GMS Operator Services or FNG Operator Services. Notwithstanding the foregoing, in the event that BCTC no longer requires the GMS Operator Services or FNG Operator Services and the Parties agree to terminate such provisions of this Agreement, there shall be no adjustment to the annual price payable by BC Hydro to BCTC under this Agreement.

6.2. **Compliance with Standards, Operating Orders and Applicable Laws**

In providing the GMS Operator Services and FNG Operator Services pursuant to this ARTICLE 6, BC Hydro will cause the GMS Operators and FNG Operators, its employees, subcontractors, agents and invitees to:

- (a) act in a commercially reasonable, efficient and professional manner and in accordance with Good Utility Practice;
- (b) provide such services to at least the standard and quality of similar services they provide to their own operations, as applicable;
- (c) provide such services:
 - (i) to meet all requirements of the Commission with respect to the services, including requirements relating to safety and reliability, if applicable;
 - (ii) to meet all requirements of the WECC and other industry standards with respect to the services, if applicable;
 - (iii) in compliance with applicable Laws, including without limitation Environmental Laws;
 - (iv) in compliance with Operating Orders and BCTC policies, practices and procedures that are applicable to such services and of which BCTC has given the GMS Operators and FNG Operators notice in writing by way of Operating Orders or written instructions, or such other instructions, or policies, practices and procedures notice of which BCTC has given to BC Hydro in writing and acknowledged by the Contract Representatives,

in each case, in accordance with BCTC's interpretation thereof, if any, of which BCTC has given BC Hydro notice in writing.

- (d) comply with, and ensure that each employee, subcontractor, agent and invitee who performs the GMS Operator Services or FNG Operator Services, is made aware of and agrees to comply with, the Standards of Conduct.

ARTICLE 7. OPERATING ORDERS

7.1. **Operating Orders**

The development, revision and implementation of Operating Orders, by either Party, that impact the operations, responsibilities, duties, or services of the other Party must follow the processes as established in Section 5.5 of the Master Agreement. A list of the Operating Orders that apply to or are referred to in the Attachments to this Agreement as of the date of this Agreement is contained in Attachment 1 hereto.

ARTICLE 8.
WATER LICENSE, ENVIRONMENT AND SAFETY COMPLIANCE, AND
ABORIGINAL MATTERS

8.1. Water License and Environmental Compliance

- (a) BC Hydro will provide Operating Orders containing its environmental management obligations and arrangements relating to the Generation Control Services to BCTC, preferably in electronic form. BC Hydro will also provide specific and time-sensitive operating obligations and constraints in the Plant Instructions document and as comments in Dispatch & Compliance Monitoring energy instructions or Commercial Management for water conveyance (as such terms are defined in Attachment 1).
- (b) In the course of providing the Generation Control Services pursuant to this Agreement, BCTC will comply with BC Hydro's obligations under water licenses, environmental obligations, arrangements, policies, guidelines, practises and applicable Laws (including without limitation Environmental Laws) as set out in such Operating Orders and instructions or in any other applicable agreements between the Parties or otherwise of which BC Hydro notifies BCTC, and, subject to paragraph (c) below, BCTC shall indemnify BC Hydro in accordance with Section 23.3(d) of the Master Agreement or Section 16.2 of this Agreement if BCTC fails to comply therewith.
- (c) BC Hydro will indemnify BCTC pursuant to Section 16.3 in the event that BCTC fails to comply with such water licenses, environmental obligations, arrangements and applicable Laws (including without limitation Environmental Laws) because BC Hydro failed to provide BCTC with the applicable Operating Order, instruction or otherwise failed to notify BCTC of same, provided that BCTC otherwise acted in accordance with BC Hydro's instructions.

8.2. Safety Compliance

The Parties will comply with SOO 1J-18 and local joint PSSP/WPP Operating Orders for each plant, or such equivalent, supplemental or replacement Operating Orders as may be in effect from time to time, and BCTC will otherwise carry out the Generation Control Services safely in accordance with Good Utility Practice.

8.3. Aboriginal Matters

In the course of providing the Generation Control Services pursuant to this Agreement, BCTC will comply with BC Hydro's policies, guidelines and practices relating to aboriginal matters between the Parties as provided for in the Key Agreements and any agreement between the Parties entered into in furtherance thereof.

ARTICLE 9.
PERFORMANCE MEASUREMENT AND REVIEW

9.1. Real-time Performance Management

The ongoing real-time operational nature of Generation Control Services requires the Parties to take immediate action to address any issues of non-compliance that may arise, particularly as they relate to unit operations, Environmental Laws, and fish protection arrangements. PSEO will monitor via PI servers current operational data of all dispatched generators and non-power release facilities for BCTC's compliance with instructions issued. PSEO may discuss any items of concern regarding generating unit operation, discharges from non-power release facilities and other Generation Control Services provided by BCTC directly with the BCTC dispatchers or supervisor at any time. Non-compliance issues that are not immediately resolved to BC Hydro's satisfaction will be reported via e-mail within 24 hours to the designated Contract Representative of each Party for further action. The Contract Representatives will determine appropriate action to be taken and keep track of any unresolved issues to review status on a monthly basis, in each case until the issue is resolved or dealt with in accordance with Section 9.5, 9.6 or ARTICLE 17 of this Agreement.

9.2. Reporting Plan and Performance Agreement

- (a) Following execution of this Agreement, the Parties will meet and negotiate in good faith to establish and finalize by no later than 60 days from the date of this Agreement or such later date as the Parties may agree in writing a reporting plan and performance agreement respecting certain performance issues (the "**Reporting Plan and Performance Agreement**") agreed to by the Contract Representatives, setting out:
- (i) certain Generation Control Services and their applicable GC Service Standards to be reported on from time to time by BCTC pursuant to Section 9.3;
 - (ii) specific GC Service Standards for the accurate and timely implementation of the Generation Control Services set out in Attachments 2 and 3 (i.e. generation dispatch and water conveyance instructions) at the plant, unit and NPRF levels;
 - (iii) the Parties' confirmation or amendment as required of the other GC Service Standards (having regard to the manner in which such Generation Control Services were performed by BC Hydro's Transmission Line of Business prior to the creation of BCTC and provided that no GC Service Standard will be less than such historical baseline performance level), given the Parties' acknowledgement that the initial GC Service Standards set out in the Attachments to this Agreement are based on a "stretch"-level performance of the Generation Control Services by BCTC and may not reflect the historical baseline performance levels; and

- (iv) examples, guidelines or principles for each Generation Control Service with respect to what would constitute a material Performance Issue in relation thereto for the purposes of Section 9.6, which will be for the purposes of example only and without limitation.
- (b) In addition, the Parties may further adjust the GC Service Standards on a one-time basis up to one year from the date of this Agreement as contemplated by Section 9.5.
- (c) BC Hydro may modify the Reporting Plan and Performance Agreement to change the type, frequency, content or form of any data or reports to be provided pursuant to such Reporting Plan and Performance Agreement, or require any additional data or reports pursuant to such Reporting Plan and Performance Agreement, on an exception basis or otherwise, at any time by written notice to BCTC, provided that:
 - (i) before being required to provide any such modified data or report, BCTC will have an opportunity to advise BC Hydro with respect to the Consequences of providing such modified data or report, and to suggest further or other changes to the type, frequency, content or form of such modified data or report to alleviate or minimize all or any of such Consequences; and
 - (ii) BC Hydro, if it decides to proceed with the request for such modification of the Reporting Plan and Performance Agreement, will accept and be responsible for all of the Consequences reasonably incurred by BCTC as a result of and having made commercially reasonable efforts to mitigate same, whether identified by BCTC pursuant to paragraph (i) above or otherwise incurred, and will pay to BCTC any such costs, resulting from such modification of the Reporting Plan and Performance Agreement.
- (d) In the event the Parties are unable to agree on the applicable Reporting Plan and Performance Agreement, any changes required thereto pursuant to this Section 9.2 or whether any additional costs resulting from a modification thereto should be reimbursable by BC Hydro to BCTC, such matter will be subject to the dispute resolution provisions under ARTICLE 17 of this Agreement.

9.3. **Performance Reporting**

This Agreement contains GC Service Standards that are applicable to the Generation Control Services generally as well as to specific Generation Control Services as may be identified in this Agreement or the Attachments to this Agreement. BCTC will report on its performance of such Generation Control Services in relation to their applicable GC Service Standards in accordance with the following:

- (a) The Reporting Plan and Performance Agreement established pursuant to Section 9.2.

- (b) On a monthly basis, BCTC will prepare and deliver to BC Hydro by the 5th day of each month performance reports for the selected Generation Control Services and GC Service Standards in accordance with the Reporting Plan and Performance Agreement and Attachment 12. The monthly performance reports will also include a summary identifying and describing any real-time issues raised during the applicable month pursuant to Section 9.1 and their current status at the time of reporting. The Parties acknowledge that some GC Service Standards that relate to infrequent events will only be reported on in the event of such an occurrence.
- (c) In addition, BCTC will provide an annual report to BC Hydro by April 30 each year reporting on BCTC's performance of the selected Generation Control Services and GC Service Standards for the prior calendar year in accordance with the Reporting Plan and Performance Agreement and Attachment 12. The annual report is intended to compile and summarize the monthly performance report statistics, real-time issues addressed and any adjustments to the GC Service Standards made during the applicable year pursuant to Section 9.5 or any amendments to the Generation Control Services made during the applicable year pursuant to Section 18.3(b).

9.4. **Performance Review**

- (a) During the term of this Agreement, the Parties' Contract Representatives and their designees will meet as required, and in any event no less frequently than quarterly and within 30 days following the end of the applicable quarter, to consider the matters set out in Section 18.4 and to review:
 - (i) BCTC's performance in the provision of the Generation Control Services hereunder, including its attainment of the GC Service Standards;
 - (ii) BC Hydro's calculation of any Losses incurred or Gains realized by BC Hydro as a result of BCTC's performance as contemplated by Section 9.7, and the amount of any compensation payable to either Party pursuant thereto;
 - (iii) opportunities for continuous improvement in accordance with Section 3.1 and Section 9.4(b); and
 - (iv) the GMS Operators' performance in the provision of the GMS Operator Services hereunder and the FNG Operators' performance in the provision of the FNG Operator Services hereunder.
- (b) The Parties acknowledge and agree that an objective in the review of BCTC's performance hereunder is to encourage continuous improvement in the performance of the Generation Control Services, as described in Section 3.1, and that such review must therefore include:
 - (i) developing and maintaining a healthy relationship between the Parties, including reviewing BC Hydro's performance under this Agreement and

the impact of such performance on the provision of the Generation Control Services by BCTC to BC Hydro;

- (ii) learning from successes, including identifying innovations and situations where delivered value significantly exceeded expectations, and applying the lessons learned from these successes to other situations;
- (iii) developing workable solutions to current ongoing problems, including attempting to solve such problems through cooperation before invoking the formal dispute resolution process pursuant to ARTICLE 17;
- (iv) determining the root cause of problems, and remedying such root causes to avoid recurrences of the same problems in the future.

9.5. **Adjustment of GC Service Standards**

If, after the first two monthly reporting periods following the establishment of the Reporting Plan and Performance Agreement pursuant to Section 9.2, BCTC is unable to meet a specific GC Service Standard set out in an Attachment, provided that such inability is not a result of, caused by or related to BCTC's lack of diligence, proper training or supervision of employees or contractors, or failure to employ or make available adequate resources for the performance of such Generation Control Service (having regard to the manner in which such Generation Control Service was performed by BC Hydro's Transmission Line of Business prior to the creation of BCTC), the Parties as represented by their Contract Representatives will, as part of the performance review pursuant to Section 9.4 or otherwise, negotiate in good faith to determine an appropriate GC Service Standard and revise such standard accordingly on a one-time basis up to one year after the date of this Agreement. Otherwise and in all other cases, any such inability to meet a specific GC Service Standard set out in an Attachment will be subject to and addressed in accordance with Section 9.6. In the event that the Parties are unable to agree on an appropriate GC Service Standard, adjustment thereto, or that such GC Service Standard needs to be revised, such matter shall be subject to dispute resolution in accordance with ARTICLE 17 of this Agreement.

9.6. **Performance Issues, Improvement Plans and Remedies**

- (a) If a performance review conducted pursuant to Section 9.4 establishes that BCTC has failed to meet any GC Service Standard in a particular quarterly reporting period (the "**Performance Issue**"):
 - (i) by no later than 15 days following the completion of the performance review, the Parties' Contract Representatives or their designees will meet further to discuss the Performance Issue, including the cause of the Performance Issue and possible solutions to address the Performance Issue;
 - (ii) except to the extent that the Parties agree pursuant to paragraph (i) above that the Performance Issue is not material, or is caused solely by BC Hydro's action or inaction, BCTC will, at the request of BC Hydro,

develop and submit for BC Hydro's approval, within 30 days of the date of such request or such other period as may be determined by the Parties pursuant to paragraph (i), a performance improvement plan (a "**Performance Improvement Plan**") to address the Performance Issue; and

(iii) upon the approval of a Performance Improvement Plan by BC Hydro pursuant to paragraph (ii) above, BCTC will proceed to implement such Performance Improvement Plan in accordance with the schedule set out therein.

(b) In the event that BCTC:

(i) fails to submit a Performance Improvement Plan within the time period requested by BC Hydro or within 30 days of the date of such request, as the case may be;

(ii) fails to implement an approved Performance Improvement Plan in accordance with the schedule set out therein; or

(iii) having implemented an approved Performance Improvement Plan, nevertheless fails to remedy the Performance Issue by failing to meet the particular GC Service Standard in the first full quarterly reporting period following implementation of the Performance Improvement Plan, or such other period as may be established by the Performance Improvement Plan,

then the matter will be referred to the responsible Vice Presidents of each of BC Hydro and BCTC. The Vice Presidents of each of BC Hydro and BCTC will meet by no later than 15 days following the date of the referral to discuss any failure to submit, implement or comply with the Performance Improvement Plan or to resolve the Performance Issue and agree on the appropriate rectification action to be taken.

(c) Failing resolution of the Performance Issue pursuant to Section 9.6(a) and 9.6(b), or if the Vice Presidents are unable to agree on an appropriate rectification action to be taken pursuant to Section 9.6(b), in either case within a further 15 days, BC Hydro may implement its own mitigation plan to address the Performance Issue, which may include none, any or all of the following:

(i) suspending BCTC's performance of the applicable Generation Control Service(s) and, if possible, performing such Generation Control Service(s) itself or having such Generation Control Service(s) performed by a Third Party;

(ii) changing the process for the performance of the applicable Generation Control Services;

- (iii) the hiring or acquisition of additional resources, including personnel or facilities, to perform or monitor the performance of the applicable Generation Control Service(s),

and, regardless of whether BC Hydro has implemented a mitigation plan pursuant to the foregoing, for any such Performance Issue which occurs two years or more after the date of this Agreement, BCTC will pay to BC Hydro as liquidated damages representing BC Hydro's genuine and reasonable pre-estimate of its damages (or a portion thereof) associated therewith, the amount determined as follows:

- (iv) \$300,000 for the first such Performance Issue; or
- (v) for each successive Performance Issue, the amount payable for the previous such Performance Issue plus \$100,000,

provided, however, that in any contract year:

- (vi) only one such payment will be payable by BCTC to BC Hydro; and
 - (vii) the maximum amount of any such payment which BC Hydro is entitled to pursuant to this Section 9.6(c) shall not exceed the then current total annual price payable by BC Hydro for the Generation Control Services as set out in Section 13.1 and adjusted pursuant to Section 13.2.
- (d) If, notwithstanding the development, approval and implementation of a Performance Improvement Plan pursuant to paragraph (a) above, the escalation of the Performance Issue pursuant to paragraph (b) above, or the implementation of a mitigation plan by BC Hydro or any payment by BCTC pursuant to paragraph (c) above, a material Performance Issue continues throughout a further quarterly reporting period, in addition to any other right or remedy it may have, BC Hydro may terminate any of the Generation Control Services or this Agreement pursuant to Section 15.1(a) on no less than reasonable written notice to BCTC as determined pursuant to Section 15.3.
 - (e) In the event of any dispute between the Parties as to whether a Performance Issue is material or is continuing, or if any Performance Issue is not resolved following escalation of the Performance Issue pursuant to paragraph (b) above and the implementation of a mitigation plan by BC Hydro or any payment by BCTC pursuant to paragraph (c) above, either Party may submit the matter for dispute resolution pursuant to ARTICLE 17.

9.7. Performance Consequences

- (a) At any time after the first anniversary date of this Agreement, in the event that BCTC's performance of certain Generation Control Services as compared to a historical baseline performance level established pursuant to paragraph (b) below:

- (i) is worse than the historical baseline and as a result BC Hydro incurs Losses (as defined in Section 16.1 and further described in paragraph 9.7(b) below), then BCTC will pay, be responsible and reimburse BC Hydro for all such Losses in each such quarter; or
- (ii) is better than the historical baseline and as a result BC Hydro does not incur any such Losses but realizes any benefits or gains (“Gains”), then BC Hydro will pay BCTC an amount equal to all such Gains for the performance of the Generation Control Services in that quarter,

provided that in any given quarter the maximum amount of such Losses which BC Hydro is entitled to recover and the maximum amount of such Gains which BCTC is entitled to pursuant to this Section 9.7(a) shall be limited in each case to 2.5% of then current total annual price payable by BC Hydro for the Generation Control Services as set out in Section 13.1 and adjusted pursuant to Section 13.2.

- (b) The Parties will co-operate using commercially reasonable efforts to develop and finalize a mutually agreed process and procedures for the implementation of this Section within one year following execution of this Agreement or such later date as the Parties may agree in writing, including without limitation with respect to the selection of the Generation Control Services to be measured for the purposes of this Section, the determination and calculation of the historical baseline performance levels and the BC Hydro Losses incurred or Gains realized in relation thereto, what will be included in and the methodology for such calculations, who will be responsible for such calculations, when the payments will be due, and reviewing the appropriateness of the amounts of the payments set out in Section 9.7(a), based on the following principles (unless otherwise agreed by the Parties):
 - (i) the purpose of this Section is to encourage BCTC to minimize BC Hydro Losses and maximize BC Hydro Gains attributable to BCTC’s performance of the Generation Control Services by providing for financial consequences relative to the total annual price payable by BC Hydro for the Generation Control Services as set out in Section 13.1 and adjusted pursuant to Section 13.2;
 - (ii) the Generation Control Services to be measured for the purposes of this Section will include the Generation Control Services described in Section 4.2 and Attachment 2 (or certain selected elements thereof, for example large schedule intertie ramps);
 - (iii) the calculation of BC Hydro Losses will reflect the opportunity cost to BC Hydro attributable to BCTC’s performance of the Generation Control Services below the historical baseline performance level for such Generation Control Services (whether or not BCTC has met or failed to meet the applicable GC Service Standards);

- (iv) the calculation of BC Hydro Gains will reflect the benefits or gains such as savings, increased efficiency, optimization of resources, reduced wear and tear on equipment realized by BC Hydro attributable to BCTC's performance of the Generation Control Services above the historical baseline performance level for such Generation Control Services (whether or not BCTC has met or failed to meet the applicable GC Service Standards);
- (v) the calculation of Losses and Gains and procedures relating thereto: (a) must be repeatable and defensible such that they could be verified by an independent party using the same information; (b) must not cost more to implement and maintain than the maximum amount of such Losses or Gains payable under this Section; (c) should minimize the influence from random elements out of the Parties' control; (d) should reflect controllable consequences; (e) should measure outcomes attributable to BCTC's performance of the Generation Control Services; and (f) should minimize subjectivity in their calculation and implementation;
- (vi) historical baseline performance levels for the selected Generation Control Services will represent a normal range of historical performance of the Generation Control Services, and performance within the normal range will not be considered to result in a Loss or Gain for the purposes of this Section or result in compensation to BC Hydro or additional compensation to BCTC under this Section;
- (vii) BC Hydro will calculate its Losses or Gains for the purposes of this Section on a quarterly basis and provide such calculations and supporting information in reasonable detail to BCTC in advance of or at the quarterly meeting of the Contract Representatives pursuant to Section 9.4;
- (viii) BCTC will have an opportunity to review and respond to BC Hydro's determination of such Losses or Gains, which will be considered and reviewed by the Contract Representatives pursuant to Section 9.4;
- (ix) in the event of a dispute between the Parties about the determination of BC Hydro's Losses or Gains for the purposes of this Section, either Party may refer such matter to the dispute resolution provisions under ARTICLE 17 of this Agreement;
- (x) the calculation of BC Hydro Losses for the purposes of this Section will not be subject and will be an exception to the limitation in Section 16.4;
- (xi) the payments contemplated by Section 9.7(a) will be calculated and accrue on a quarterly basis until the end of the contract year for which they apply and the calculation for the final quarter of that year is complete, at which time they will be netted and set off against each other and one adjusting payment will be made between the Parties for the applicable contract year; and

- (xii) the calculation and payment of Losses or Gains as defined in and pursuant to this Section will apply regardless of whether BCTC has met or failed to meet the GC Service Standards for the applicable Generation Control Services or to otherwise perform such Generation Control Services in accordance with this Agreement.
- (c) In the event the Parties are unable to agree on the process and procedures for implementation of this Section within the timeframe set forth in paragraph (b) above, either Party may refer such matter to the dispute resolution provisions under ARTICLE 17 of this Agreement.

9.8. Cumulative Remedies

The remedies in this Agreement are cumulative and may be exercised concurrently or separately. No remedy is exclusive of any other right or remedy provided or permitted by law.

ARTICLE 10. DATA AND INFORMATION

10.1. BCTC Retention of and BC Hydro Access to Data and Information

Subject to its Standards of Conduct and applicable Laws:

- (a) BCTC will maintain complete and accurate data, information, reports, documentation and records respecting the Generation Control Services, including without limitation, log books, instructions, records of phone conversations, email correspondence, other correspondence, notes, outage information, and alarm history.
- (b) In addition to the requirements of the Reporting Plan and Performance Agreement pursuant to Section 9.2, BCTC will provide to BC Hydro such data, information, reports, documentation and records respecting the Generation Control Services, as may be reasonably requested or required from time to time. If compliance with such request would require BCTC to incur material cost, then BCTC will advise BC Hydro of the estimated cost of compliance and the Parties will negotiate and agree upon their responsibilities for such costs, failing which either Party may submit the matter for dispute resolution pursuant to ARTICLE 17.
- (c) BCTC will retain records that are relevant to performance of the Generation Control Services for a period of at least two years and make the retained records available to BC Hydro as and when reasonably requested. BC Hydro may request records relating to specific events be retained for a longer period not exceeding ten years, in which case BCTC will retain such records for such longer period and make them available to BC Hydro as and when requested.

10.2. BC Hydro Retention of and BCTC Access to Data and Information

Subject to its Standards of Conduct and applicable Laws:

- (a) BC Hydro will maintain complete and accurate data, information, reports, documentation and records respecting the GMS Operator Services and FNG Operator Services.
- (b) BC Hydro will provide to BCTC such data, information, reports, documentation and records respecting the GMS Operator Services or FNG Operator Services, as may be reasonably requested or required from time to time. If compliance with such request would require BC Hydro to incur material cost, then BC Hydro will advise BCTC of the estimated cost of compliance and the Parties will negotiate and agree upon their responsibilities for such costs, failing which either Party may submit the matter for dispute resolution pursuant to ARTICLE 17.
- (c) BC Hydro will retain records that are relevant to performance of the GMS Operator Services or FNG Operator Services for a period of at least two years and make the retained records available to BCTC as and when reasonably requested. BCTC may request records relating to specific events be retained for a longer period not exceeding ten years, in which case BC Hydro will retain such records for such longer period and make them available to BCTC as and when requested.

ARTICLE 11. CONFIDENTIALITY

11.1. Definitions

In this Article, “**Confidential Information**” means documents, data or other information received by a Party from the other Party or documents, data or other information of a Party to which the other Party has access under this Agreement, whether in written, oral or machine-readable form, relating to the disclosing Party’s business operations, financial condition, customers, products, services or technical knowledge, that (i) the disclosing Party has identified as confidential or proprietary, whether before or after the date of this Agreement, or (ii) reasonably should have been understood by the receiving Party, because of confidentiality or similar legends, the circumstances of disclosure or the nature of the information itself, to be confidential or proprietary to the disclosing Party. [MA 24.1]

11.2. Restriction on Use of Confidential Information

- (a) BCTC hereby agrees that it will not, and will cause its auditors and other representatives not to, at any time, whether before or after the termination of this Agreement, use, disclose or make available to any Person any Confidential Information of BC Hydro acquired in connection with the performance of its obligations under this Agreement or otherwise or prior to or after the date hereof, except to the extent that:
 - (i) BC Hydro consents to such use, disclosure or making available;
 - (ii) such use is expressly permitted in or necessary or advisable for the performance of this Agreement;

- (iii) such disclosure is, in the opinion of counsel, required in order to comply with any applicable Laws, including disclosure obligations of BCTC; or
- (iv) such Confidential Information comes into the public domain otherwise than through a breach of this Agreement by BCTC,

and provided further that:

- (v) any such permitted or required use or disclosure is permitted by and made in accordance with BCTC's Standards of Conduct;
- (vi) except as otherwise:
 - A. expressly consented to by BC Hydro;
 - B. expressly permitted in this Agreement; or
 - C. required for the performance of this Agreement by BCTC,

no such Confidential Information shall be disclosed or made available by BCTC to any BCTC employee, business unit or division of BCTC, or shall be used by BCTC for the commercial benefit of BCTC.

- (b) BCTC will establish and maintain during the Term such systems, protocols and procedures as may be required to ensure compliance with paragraph (a)(vi) above, and BC Hydro will have the right:
 - (i) to undertake Audits of such systems, protocols and procedures pursuant to Section 14.1, to the extent only that such systems, protocols and procedures relate to Confidential Information acquired by BCTC from Third Parties in the course of performing the Generation Control Services hereunder; and
 - (ii) if BC Hydro becomes aware of any material breach by BCTC of paragraph (a)(vi) above in respect of any Confidential Information other than that referred to in paragraph (b)(i) above, to raise such breach as a topic for good faith discussions between the Parties' responsible Vice Presidents.
- (c) BC Hydro hereby agrees that it will not, and will cause its auditors and other representatives not to, at any time, whether before or after the termination of this Agreement, use, disclose, or make available to any Person any Confidential Information of BCTC acquired in connection with the performance of its obligations under this Agreement or otherwise or prior to or after the date hereof, except to the extent that:
 - (i) BCTC consents to such use, disclosure or making available;

- (ii) such use is expressly permitted in or necessary or advisable for the performance of this Agreement;
- (iii) such disclosure is, in the opinion of counsel, required in order to comply with any applicable Laws, including disclosure obligations of BC Hydro; or
- (iv) such Confidential Information comes into the public domain otherwise than through a breach of this Agreement by BC Hydro,

and provided further that:

- (v) any such permitted or required use or disclosure is permitted by and made in accordance with the Standards of Conduct;
- (vi) except as otherwise:
 - A. expressly consented to by BCTC;
 - B. expressly permitted in this Agreement; or
 - C. required for the performance of this Agreement by BC Hydro,

no such Confidential Information shall be disclosed or made available by BC Hydro to any BC Hydro employee, business unit or division of BC Hydro, or shall be used by BC Hydro for the commercial benefit of BC Hydro.

- (d) BC Hydro will establish and maintain during the Term such systems, protocols and procedures as may be required to ensure compliance with paragraph (c)(vi) above, and BCTC will have the right:
 - (i) to undertake Audits of such systems, protocols and procedures pursuant to Section 14.1, to the extent only that such systems, protocols and procedures relate to Confidential Information acquired by BC Hydro from Third Parties in the course of performing the GMS Operator Services or FNG Operator Services hereunder; and
 - (ii) if BCTC becomes aware of any material breach by BC Hydro of paragraph (c)(vi) above in respect of any Confidential Information other than that referred to in paragraph (d)(i) above, to raise such breach as a topic for good faith discussions between the Parties' responsible Vice Presidents.

11.3. Required Disclosure

If either Party, or any of its auditors or other representatives, is required by applicable Laws, or compelled by order of a court or regulatory agency of competent jurisdiction, to disclose Confidential Information of the other Party, as soon as such Party learns of the

disclosure requirement, and before making such disclosure, it will notify the other Party of the requirement and the terms thereof. The other Party may, in its sole discretion and at its sole cost and expense, undertake any challenge to or defence against such disclosure requirement. The disclosing Party will cooperate with the other Party to the maximum extent practicable, at the other Party's sole cost and expense, to minimize or eliminate the disclosure of Confidential Information consistent with applicable Laws and to obtain proprietary or confidential treatment of Confidential Information by any Person to whom such information is disclosed pursuant to this Section 11.3 before any such disclosure. [MA 24.3]

11.4. **Specific Remedies**

The Parties agree that irreparable damage would occur and that they would not have any adequate remedy at law in the event that any of the provisions of this ARTICLE 11 were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the Parties will be entitled to an injunction or injunctions to prevent breaches of this ARTICLE 11 (without the requirement of posting a bond or otherwise securing any undertaking as to damages) and to enforce specifically the terms and provisions of this ARTICLE 11, this being in addition to any other remedy to which they are entitled at law. [MA 24.4]

ARTICLE 12. INTELLECTUAL PROPERTY

12.1. **Intellectual Property**

The Parties hereby acknowledge and agree that in performing their obligations under this Agreement, the use of all Intellectual Property owned by a Party and the ownership and use of any Improvements or any New Intellectual Property made or developed by a Party, all in the course of providing the Generation Control Services, FNG Operator Services or GMS Operator Services under this Agreement (whether alone, with the other Party or in collaboration with any other Person), shall be governed in accordance with the terms and conditions of the Intellectual Property Agreement or the Supplemental Intellectual Property Agreement, as the case may be, with the terms "Intellectual Property", "Improvements" and "New Intellectual Property" having the meanings ascribed to them in those agreements.

ARTICLE 13. PRICING AND PAYMENT

13.1. **Pricing of Generation Control Services**

From and after the date of this Agreement, BCTC will provide the Generation Control Services to BC Hydro for the total annual price of \$900,000, subject to adjustment in accordance with Section 13.2. [MA 7.5(a), 7.5(b)(ii)]

13.2. Adjustments to Pricing of Generation Control Services

- (a) The total annual price for providing the Generation Control Services referred to in Section 13.1 for any fiscal year is subject to escalation based on increases in the Consumer Price Index from April 1, 2003 through the commencement of that fiscal year. **[MA 7.6(a)]**
- (b) If, pursuant to Section 4.5, additional services are included within Generation Control Services or services are excluded from Generation Control Services, the total annual costs referred to in Section 13.1 will be increased or decreased to include or exclude the agreed upon cost of the additional or excluded services. **[MA 7.6(b)]**
- (c) The total annual costs referred to in Section 13.1 will also be increased or decreased to reflect any revisions to the Generation Control Services agreed to by the Parties pursuant to Section 4.5.
- (d) If, pursuant to Section 4.6, additional generating units or non-power water control facilities are acquired by BC Hydro within the BCTC Control Area and it requires BCTC to provide Generation Control Services in respect of them, or BC Hydro decommissions or disposes of certain generating units or non-power water control facilities within the BCTC Control Area in accordance with applicable Laws and any other applicable agreement between the Parties such that BC Hydro no longer requires Generation Control Services in respect of them, the total annual costs referred to in Section 13.1 will be increased or decreased, as the case may be, to include or exclude BCTC's reasonable actual incremental cost or savings therefor, as agreed between the Parties.
- (e) If, pursuant to Section 9.6(d), certain Generation Control Services are terminated by BC Hydro, the total annual costs referred to in Section 13.1 will be decreased to exclude the agreed upon cost of the terminated Generation Control Services, and if the Parties are unable to agree on such amount either may refer the matter to dispute resolution pursuant to ARTICLE 17.
- (f) Prior to April 1 of each year during the term of the Agreement, the Parties will review the then prevailing total annual price for Generation Control Services referred to in Section 13.1 (as adjusted in accordance with this Section 13.2) and will adjust downwards the total annual price to reflect improvements in efficiencies that have been achieved in providing such Generation Control Services, as determined in accordance with Section 3.1 and this Section 13.2. **[MA 7.6(c)]**
- (g) For greater certainty, the total annual price payable by BC Hydro to BCTC for performing the Generation Control Services pursuant to Section 13.1, as adjusted in accordance with and pursuant to this Section 13.2, shall not be increased as a result of any redevelopment of or changes to BCTC's facilities undertaken pursuant to Section 3.2, unless otherwise expressly agreed to by the Parties.

13.3. Taxes

- (a) Subject to Section 13.3(b) below, in the event that any taxes, including provincial sales tax and GST, are imposed on BC Hydro in connection with the provision of the Generation Control Services by BCTC under this Agreement, BC Hydro will be responsible for the payment of any such taxes and will indemnify BCTC if BCTC pays any such taxes, notwithstanding that BCTC was obliged to collect any such taxes in connection with the provision of the Generation Control Services by BCTC under this Agreement.
- (b) BCTC will comply with all applicable Laws in respect of the billing and invoicing for the Generation Control Services, and BC Hydro will not be responsible for any interest or penalties relating to the non-payment of any taxes in connection with the provision of the Generation Control Services to the extent that the failure to pay such taxes is attributable to the failure of BCTC to comply with such Laws.
- (c) BCTC will be responsible for ensuring that invoices and supporting documentation for the Generation Control Services properly identify and separate those services that may be taxable from those services that are not taxable so that BC Hydro is liable for the payment of tax only on Generation Control Services which are taxable.
- (d) The Parties will administer this Agreement in a manner that is tax efficient. If either Party identifies a way of increasing the tax efficiency of this Agreement by administering it in a different manner, the Parties will work together in an effort to achieve such tax efficiency, in full compliance with applicable Laws.

13.4. Payment Process

- (a) Until such time as the invoicing and payment mechanics described in paragraphs (b) and (c) below have been implemented, BCTC and BC Hydro will continue to, respectively, charge and effect payment for the Generation Control Services in accordance with the policies and procedures in place as of the date of this Agreement.
- (b) From and after the Tariff Commencement Date, BCTC will invoice BC Hydro for one-twelfth of the total annual price for providing the Generation Control Services referred to in Section 13.1 (as adjusted in accordance with Section 13.2) in equal monthly instalments throughout the year, and will deliver such statements to BC Hydro on or before the 15th day of each month.
- (c) From and after the Tariff Commencement Date, BC Hydro will effect payment of all invoices received from BCTC pursuant to paragraph (b) above on or before the 8th day of the following month or pursuant to the monthly settlement between the Parties of all amounts payable between the Parties under this Agreement and any other service level agreement contemplated by the Key Agreements.

13.5. **Disputed Amounts**

In the event of a dispute by BC Hydro in respect of any amount included on any invoice received from BCTC, BC Hydro may submit such dispute to dispute resolution pursuant to ARTICLE 17 and withhold payment of the disputed amount but, pending the resolution of such dispute, will effect full payment to BCTC of the undisputed amount in accordance with Section 13.4.

13.6. **Interest on Unpaid Amounts**

Any amounts payable under Section 13.4 will, if not paid by the due date specified, accrue interest at the annual rate of 2% above the then effective interest rate payable by BC Hydro on 30 day commercial paper or equivalent instrument, from the date payment is due until the date payment is made. [MA 21.4]

ARTICLE 14. AUDIT

14.1. **Right to Audit**

Subject to Section 14.2(d), either Party (an “**Auditing Party**”), its respective auditors and other representatives will have the right to conduct such reviews, investigations, inspections, audits, confirmations, certifications, tests, studies and determinations (collectively, “**Audit**”) of the systems, processes, facilities and records of the other Party (the “**Audited Party**”) as the Auditing Party determines, acting reasonably, are required to verify compliance by the Audited Party with its obligations under this Agreement, including:

- (a) the adequacy of the performance of the Generation Control Services by BCTC hereunder, including the performance of the Generation Control Services in accordance with the GC Service Standards and the accuracy of the information relating to the performance of the Generation Control Services contained in all reports provided by BCTC to BC Hydro under this Agreement; and
- (b) the adequacy of the performance of the GMS Operator Services and the FNG Operator Services by BC Hydro hereunder, including the accuracy of the information relating to the performance of the GMS Operator Services and the FNG Operator Services contained in all reports provided by BC Hydro to BCTC under this Agreement.

14.2. **Conduct of Audit**

- (a) All Audits performed for or on behalf of an Auditing Party pursuant to Section 14.1 will be conducted in accordance with industry or professionally accepted practices or requirements, if any, applicable Laws, this Agreement, and all other agreements between the Parties.

- (b) All Audits performed for or on behalf of an Auditing Party pursuant to Section 14.1 will be conducted on no less than 30 days' notice in writing to the Audited Party.
- (c) Subject to Section 14.2(d), the Audited Party will provide access to its systems, facilities and records to such auditors and other representatives as the Auditing Party may reasonably require for the purposes of the Audits contemplated in Section 14.1, provided that any such access to facilities and records will be during normal business hours unless otherwise agreed to by the Audited Party, will be conducted in a manner that does not unreasonably interfere with the Audited Party's business operations, and will, where applicable, be subject to any building and office security that is ordinarily in place at such facilities.
- (d) If the Audited Party's Standards of Conduct prevent or restrict the disclosure of relevant systems, facilities and records to the Auditing Party, the Audited Party will provide access to such systems, facilities and records to the Auditing Party's auditors or other representatives provided that the Auditing Party's auditors or other representatives agree not to provide such systems, facilities and records to the Auditing Party in a form or manner that would breach the Audited Party's Standards of Conduct.
- (e) The cost of any Audit performed pursuant to Section 14.1 will be borne by the Auditing Party.
- (f) The Audit findings and any Confidential Information of the Audited Party which is reviewed in the course of the Audit or contained in the Audit findings will only be used for assessing the Audited Party's performance and compliance with its obligations under this Agreement.

14.3. **Audit Findings**

The Audited Party will be entitled to receive and respond to any questions arising during the course of any Audit and to receive and comment upon, prior to finalization, the draft report of the Audit findings. A copy of the final report on the Audit findings will be provided to the Audited Party upon its completion.

14.4. **Resolution of Audit Findings**

- (a) If any Audit performed pursuant to Section 14.1 establishes any inaccuracy in an invoice or other amount payable under this Agreement, the Parties will forthwith agree on the amount and make such adjusting payments as may be necessary to rectify such inaccuracy within 15 days of such agreement. Failing such agreement being reached within 30 days, either Party may submit the matter to dispute resolution pursuant to ARTICLE 17.
- (b) Any claim of an inaccurate amount under Section 14.4(a) must be made within six months after the date of the invoice covering any amount payable under this Agreement which gives rise to such claim.

14.5. No Waiver

Failure by either Party to perform any Audit shall not constitute a waiver of any of the rights of such Party, or any of the obligations or liabilities of the other Party, under this Agreement.

**ARTICLE 15.
TERMINATION**

15.1. Termination of Agreement

This Agreement or any Generation Control Services may be terminated:

- (a) by BC Hydro at any time in accordance with Section 9.6(d) or pursuant to Section 26.2 of the Master Agreement; or
- (b) at any time by the agreement of the Parties.

15.2. Stranded Costs upon Termination

- (a) If BC Hydro terminates this Agreement or any Generation Control Services in accordance with Section 15.1(a), BC Hydro will not be responsible for any costs and expenses associated with any stranded assets or personnel of BCTC.
- (b) If the Parties terminate this Agreement or any Generation Control Services by mutual agreement in accordance with Section 15.1(b), each Party's responsibility, if any, for costs and expenses associated with any stranded assets or personnel of the other will be as determined by the Parties in connection with such termination.

15.3. Orderly Transition

If this Agreement or any Generation Control Services is terminated pursuant to Section 15.1:

- (a) by no later than 90 days following notice of termination or the Parties' mutual decision to terminate, as the case may be, the Parties will negotiate and reach agreement on a reasonable transition process and period to facilitate the orderly transfer of the Generation Control Services from BCTC to BC Hydro or a Third Party designated by BC Hydro, and failing such agreement, in the event of a termination of the Agreement in its entirety or substantially all of the Generation Control Services set forth in Section 4.2, such transition will occur at the earliest one year, and at the latest not more than two years or such later date as may be determined by BC Hydro, following the notice of termination or the Parties' mutual decision to terminate, as the case may; and
- (b) each Party will provide to the other Party such reasonable cooperation, assistance and services to allow the operation of the Electric System to continue without interruption or adverse effect and to facilitate the orderly transition between the Parties.

15.4. **Survival on Termination**

Notwithstanding any other provision of this Agreement, if this Agreement is terminated, the provisions of this Agreement setting out rights and obligations relating to confidentiality, indemnification, limitation of liability, audit rights and dispute resolution will survive such termination and remain in full force and effect with respect to any matter arising prior to such termination. [MA 3.2]

ARTICLE 16. LIABILITIES AND INDEMNITIES

16.1. **Definitions**

For the purposes of this ARTICLE 16, the following terms shall have the following meanings:

- (a) **“BCTC Indemnitees”** means BCTC and its partners, shareholders, agents, directors, officers, employees, affiliates, successors and assigns, but does not include BC Hydro or its partners, shareholders, agents, directors, officers, employees, affiliates, successors and assigns.
- (b) **“BC Hydro Indemnitees”** means BC Hydro and its partners, shareholders, agents, directors, officers, employees, affiliates, successors and assigns, but does not include BCTC or its partners, shareholders, agents, directors, officers, employees, affiliates, successors and assigns.
- (c) **“Claim”** means any claim, action, suit, litigation, investigation, arbitration, proceeding or other matter, whether in contract or tort (including, without limitation, in negligence or in any tort imposing strict liability) or otherwise, that is threatened, made, commenced or brought by a Third Party against a BC Hydro Indemnitee or BCTC Indemnitee, as the case may be, and in respect of which the Party intends to seek indemnification from the other Party pursuant to the applicable indemnification provisions of this ARTICLE 16.
- (d) **“Contractor”** means, in relation to:
 - (i) BCTC, any Third Party engaged directly or indirectly by it to provide Generation Control Services to BC Hydro on behalf of BCTC; and
 - (ii) BC Hydro, any Third Party engaged directly or indirectly by it to provide GMS Operator Services or FNG Operator Services to BCTC on behalf of BC Hydro.
- (e) **“Losses”** means any and all losses, liabilities, damages, actions, claims, costs and expenses of any nature or kind (including reasonable legal fees and disbursements).

16.2. **BCTC Indemnity**

In addition to the indemnity provided by BCTC to BC Hydro pursuant to Section 23.3 of the Master Agreement, BCTC will, subject to Section 16.4, indemnify and save the BC Hydro Indemnitees harmless from and against any Losses suffered or incurred by the BC Hydro Indemnitees arising out of or in connection with any of the following:

- (a) any Claim arising out of or in connection with any act or omission of BCTC or any BCTC Contractor in the course of providing the Generation Control Services to BC Hydro pursuant to this Agreement; and
- (b) any damage to BC Hydro's assets caused by or arising out of or related to any negligence or wilful misconduct by BCTC or any BCTC Contractor in the course of providing the Generation Control Services to BC Hydro pursuant to this Agreement,

provided that BCTC will not be required to indemnify any of the BC Hydro Indemnitees in respect of the Losses specified in this Section 16.2 to the extent BC Hydro receives insurance proceeds relating to such Losses. **[MA 23.3(a)(ii)]**

16.3. **BC Hydro Indemnity**

In addition to the indemnity provided by BC Hydro to BCTC pursuant to Section 23.7 of the Master Agreement, BC Hydro will, subject to Section 16.4, indemnify and save the BCTC Indemnitees harmless from and against any Losses suffered or incurred by the BCTC Indemnitees arising out of or in connection with any of the following:

- (a) any Claim arising out of or in connection with any act or omission of BC Hydro or any BC Hydro Contractor in the course of providing the GMS Operator Services and the FNG Operator Services to BCTC pursuant to this Agreement; and
- (b) any damage to BCTC's assets caused by or arising out of or related to any negligence or wilful misconduct by BC Hydro or any BC Hydro Contractor in the course of providing the GMS Operator Services and the FNG Operator Services to BCTC pursuant to this Agreement,

provided that BC Hydro will not be required to indemnify any of the BCTC Indemnitees in respect of the Losses specified in this Section 16.3 to the extent BCTC receives insurance proceeds relating to such Losses.

16.4. **No Consequential Damages**

Neither Party nor any of its affiliates, officers, directors or employees will be liable in contract or tort (including, without limitation, in negligence or in any tort imposing strict liability) or otherwise for indirect, special, incidental, consequential, exemplary or punitive damages or damages for loss of use, loss of work in process, down time or loss of profits of the other Party, and such limitation on damages will survive failure of any exclusive remedy and will survive termination of this Agreement, including by reason of

a fundamental breach; provided, however, that the foregoing provisions will not limit compensation for goods sold, services rendered or other compensation specifically provided for under this Agreement. The foregoing limitation on liability of a Party, its affiliates, officers, directors or employees, is not intended to apply to the extent that the Losses for which a Party seeks indemnification hereunder are indirect, special, incidental, consequential, exemplary or punitive damages or damages for loss of use, loss of work in process, down time or loss of profits claimed against the Party seeking indemnification by a Third Party resulting from an action or failure to act that is indemnified under this ARTICLE 16. [MA 23.6]

16.5. Indemnification Process

The process set out in Section 23.8 of the Master Agreement will apply to any Claims for which a Party seeks indemnification from the other Party under this ARTICLE 16.

**ARTICLE 17.
DISPUTE RESOLUTION**

17.1. Dispute Resolution

Except as and to the extent otherwise expressly provided for in this Agreement, all disputes between the Parties which may arise under, out of, in connection with or in relation to this Agreement (a “**Dispute**”) will be resolved strictly and exclusively in accordance with this ARTICLE 17, including Disputes arising in connection with any provision of the this Agreement which provides (regardless of the actual words used) that:

- (a) the Parties will reach agreement on a particular matter and the time specified for reaching agreement has passed or, if no time is specified, the Parties have failed to reach agreement on the matter; and
- (b) either Party may submit a failure to reach agreement on the particular matter to dispute resolution pursuant to this ARTICLE 17.

17.2. Notice of Internal Escalation

- (a) In the event of a Dispute that cannot be resolved by the respective responsible managers of the Parties, either Party may at any time provide the other Party with written notice of its intention to formally invoke the internal escalation provisions of Section 17.3 (a “**Notice of Internal Escalation**”).
- (b) The Party issuing a Notice of Internal Escalation pursuant to paragraph (a) above will also deliver a copy thereof to each Party’s Contract Representative.

17.3. Internal Escalation of Dispute

- (a) Following the delivery of a Notice of Internal Escalation pursuant to Section 17.2, the Parties will use commercially reasonable efforts to resolve the Dispute by

good faith discussions between the respective Contract Representatives of the Parties within 15 days of the delivery of the Notice of Internal Escalation.

- (b) If the discussions between the Parties' Contract Representatives pursuant to paragraph (a) above are not successful in resolving the Dispute, the Parties will use commercially reasonable efforts to resolve the Dispute by good faith discussions between the Parties' responsible Vice Presidents within a further 15 day period.
- (c) Each of the Parties will provide full, candid and timely disclosure of all relevant facts, information and documents to facilitate any such discussions.

17.4. **Notice of Dispute**

In the event of a Dispute that has not been resolved to the satisfaction of the Parties under Section 17.3, either Party may at any time following the expiration of the time periods set out in Section 17.3 provide the other Party with written notice of its intention to formally invoke the external dispute resolution provisions of this ARTICLE 17 (a "**Notice of Dispute**"). [MA 25.2]

17.5. **Recommendations by Independent Expert**

Following the issuance of a Notice of Dispute pursuant to Section 17.4, the Parties may, by mutual agreement, elect to have an independent expert review and submit written recommendations as to the resolution of the Dispute on a non-binding basis. The costs of such an expert will be shared equally between the Parties. [MA 25.4]

17.6. **Mediation**

Following the issuance of a Notice of Dispute pursuant to Section 17.4, either Party may, at any time after 14 days following the date that a Notice of Dispute is given in respect of the Dispute, refer the Dispute, including a Dispute which is under review or subject to a recommendation under Section 17.5, to mediation which, unless otherwise agreed between the Parties, will be commenced and carried out in accordance with the mediation rules of procedure of the British Columbia International Commercial Arbitration Centre in effect at the time of the mediation. [MA 25.5]

17.7. **External Arbitration**

- (a) If a Dispute is not resolved by mediation within 14 days of a mediator being appointed or agreed to by the Parties or at any time after written notice to the Parties by the mediator that the Dispute is not likely to be resolved through mediation, then either Party may, by notice to the other Party, require the Dispute to be settled by arbitration under this Section 17.7. In the event that a dispute is not referred to mediation under Section 17.6, then either Party may, at any time after 14 days following the date that a Notice of Dispute is given in respect of the Dispute, require the Dispute to be settled by arbitration under this Section 17.7.

- (b) The following provisions will apply to any arbitration initiated pursuant to this Section 17.7:
- (i) The arbitration will be conducted in British Columbia in accordance with the *Commercial Arbitration Act* (British Columbia).
 - (ii) The Parties will use commercially reasonable efforts to agree on and appoint a single arbitrator.
 - (iii) If the Parties fail to agree upon a single arbitrator within 10 days of the referral of the dispute to arbitration, each Party will choose one arbitrator who will sit on a three-member arbitration panel. The two arbitrators so chosen will within 20 days of their selection, select a third arbitrator to chair the arbitration panel.
 - (iv) The arbitrator(s) appointed under paragraph (ii) or (iii) above will be knowledgeable in electric utility matters, including electric transmission and bulk power issues, and, unless the Parties otherwise agree, will be neutral and not have any current or past substantial business or financial relationships with either Party (except through prior arbitrations).
 - (v) Where the Parties have failed to agree on a matter referred to in Section 17.1(a), each Party expressly authorizes and directs the arbitrator(s) to establish the terms of the agreement between the Parties addressing the matter on which the Parties were unable to reach agreement and such agreement will be binding on the Parties.
 - (vi) Unless otherwise agreed, the arbitrator(s) will render a decision within 90 days of appointment and will notify the Parties in writing of the decision and the reasons for the decision.
 - (vii) Any decision of the arbitrator(s) must comply with any order or other requirement of the Workers' Compensation Board or other regulatory agency having jurisdiction over occupational health and safety.
 - (viii) If the decision of the arbitrator(s) will affect the rates, terms and conditions of service or facilities of BCTC or BC Hydro or any other matter under the WTS Tariff or the OATT (each as defined in the Master Agreement), as the case may be, such decision must also be filed with the Commission.
 - (ix) Subject to any award of costs by the arbitrator(s), each Party will be responsible for its own costs incurred during the arbitration process and for the following costs, if applicable:
 - A. the cost of the arbitrator chosen by the Party to sit on the three member panel and one half of the cost of the third arbitrator chosen; or

- B. one half of the cost of the single arbitrator jointly chosen by the Parties. [MA 25.6]

17.8. Confidentiality in Respect of Disputes

Unless otherwise agreed by the Parties, all hearings, meetings and communications in connection with Disputes under this ARTICLE 17 and, subject to Section 17.7(b)(viii), all decisions of the arbitrator(s) will be treated as strictly private and confidential, and will not be disclosed except as may be required by applicable Laws. [MA 25.7]

**ARTICLE 18.
CONTRACT REPRESENTATIVES**

18.1. Appointment of Contract Representatives

Each of the Parties will, by notice in writing to the other Party, appoint a person as its Contract Representative under this Agreement to be responsible for the relationship between the Parties under this Agreement. Either Party may replace such Contract Representative by notice in writing to the other Party from time to time.

18.2. Contract Representative Designates

Each Contract Representative may designate in writing a reasonable number of additional employees of such Party to be points of contact for the other Party in respect to particular subject matters under this Agreement.

18.3. Scope of Authority

- (a) Each Contract Representative and its designates will have the authority to make decisions with respect to actions to be taken by its Party in the ordinary course of day-to-day management of the obligations of such Party under this Agreement.
- (b) The Contract Representatives will also have the authority to agree to any required amendments of a technical or operational nature to the Attachments; otherwise the Contract Representatives and their respective designates will have no authority, expressly or by course of conduct, to agree to amend this Agreement.

18.4. Meetings of Contract Representatives

Pursuant to Section 9.4, the Contract Representatives and their designates will meet no less frequently than quarterly (or more frequently as determined by the Parties), and otherwise pursuant to this Section 18.4 will meet upon the request of either of them to review the effectiveness of this Agreement and the relationship between the Parties under this Agreement.

**ARTICLE 19.
NOTICES**

19.1. Notices

All notices to be given pursuant to this Agreement will be in writing and will be given by delivery or facsimile of the same to the address or facsimile number designated hereunder or to such other address or facsimile number as may be substituted therefor from time to time for the proper notice to a Party hereunder. Where a notice is sent by facsimile, if it is received by a Party prior to 4:00 p.m. local time on a Business Day, it will be deemed to have been received on that Business Day, and otherwise such notice will be deemed to be received on the Business Day next following its actual receipt. A Party may change its address or facsimile number from time to time by giving written notice of such change to the other Party in accordance with this Section 19.1. The respective addresses and facsimile numbers of the Parties are as follows:

To BC Hydro:	British Columbia Hydro and Power Authority 333 Dunsmuir Street Vancouver, B.C. V6B 5R3
	Attention: Executive Vice President, Generation Facsimile: (604) 623-4586
	Attention: Vice President and General Counsel Facsimile: (604) 623-4323
	Attention: Director, Business Partnerships Facsimile: (604) 623-4545
To BCTC:	British Columbia Transmission Corporation Suite 1100, Four Bentall Centre 1055 Dunsmuir Street P.O. Box 49260 Vancouver, B.C. V7X 1V5
	Attention: Vice President Legal & General Counsel Facsimile: (604) 699-7471

19.2. Routine Communications

Notwithstanding Section 19.1, any notices or other communications between the Parties that relate to operating procedures are not required to be in writing and will be made as set out in this Agreement, by industry practice or as otherwise agreed by the Parties.

ARTICLE 20.
ASSIGNMENT AND SUBCONTRACTING

20.1. Successors and Assigns

All covenants and provisions of this Agreement by and for the benefit of the Parties will bind and enure to the benefit of their respective successors and permitted assigns, but no permitted assignment or transfer will relieve the assignor or transferor of its obligations except to the extent specifically provided in this Agreement or any of the Key Agreements.

20.2. Assignment

Neither Party will assign, pledge or transfer all or any part of, or any right or obligation under, this Agreement except in accordance with Article 28 of the Master Agreement, as if this Agreement was one of the Key Agreements.

20.3. Subcontractors

Without limiting the generality of Section 20.2, BCTC may not subcontract all or substantially all of the Generation Control Services set forth in Sections 4.2 to 4.4 to any Third Party without the prior written consent of BC Hydro not to be unreasonably withheld or delayed, but BC Hydro's consent thereto will not relieve BCTC from any of its responsibilities or obligations under this Agreement. Notwithstanding the foregoing, BCTC may subcontract particular functions that are required to deliver the Generation Control Services, or particular portions of a Generation Control Service, to a Third Party without the prior written consent of BC Hydro, provided that such Third Party does not compete with BC Hydro or its business.

ARTICLE 21.
FORCE MAJEURE

21.1. Definitions

In this Article, "**Force Majeure**" means acts of God; acts of the public enemy; wars; sabotage; terrorism; riots; strikes; lockouts; vandalism; blockages; labour disputes; fires; explosions; natural disasters; floods; perils of the sea; lightning; wind; actions of a court or public authority (including the denial, revocation or non-renewal of a permit or licence); accidents or failure of equipment or machinery; inability to obtain or maintain any transmission property right; or allocation or failure of normal sources of supply of materials, transportation, energy or utilities or other causes of a similar nature which are beyond the reasonable control of the Party affected and could not have been avoided by the exercise of due diligence and that wholly or partly prevent, alter or delay the performance by such Party of its obligations or responsibilities under this Agreement. Economic hardship will not constitute a Force Majeure under this Agreement. **[MA 27.1]**

21.2. **Excuse From Performance**

Neither Party will be considered in default as to any of its obligations under this Agreement to the extent it is prevented from fulfilling the obligation due to an event of Force Majeure. However, a Party whose performance under this Agreement is hindered by an event of Force Majeure will use commercially reasonable efforts to perform its obligations under this Agreement and use commercially reasonable efforts to remedy the Force Majeure with reasonable dispatch and it will have the right to suspend performance of such obligations only to the extent and for the duration that the Force Majeure actually and reasonably prevents the performance of such obligations. Both Parties will use commercially reasonable efforts to mitigate or overcome the effects of any event of Force Majeure; provided that settlement of strikes, lockouts and other labour disturbances will be wholly within the discretion of the Party involved. [MA 27.2]

21.3. **Notification**

If there is a Force Majeure event affecting a Party's ability to perform its obligations under this Agreement, the affected Party will promptly notify the other Party of the occurrence of the Force Majeure event, identifying the nature of the event, its expected duration and the particular obligations affected. The affected Party will furnish to the other Party reports with respect to the Force Majeure event at such intervals as the other Party may reasonably request during the continuance of the Force Majeure event. [MA 27.3]

ARTICLE 22. GENERAL PROVISIONS

22.1. **Entire Agreement**

This Agreement, together with the Master Agreement, the other Key Agreements, and all other agreements referenced therein or entered into, directly or indirectly, pursuant thereto, together constitute the entire agreement between the Parties and supersede all previous agreements and understandings, whether oral or written, relating to the subject matter of this Agreement.

22.2. **Amendment of Agreement**

- (a) This Agreement may not be changed or modified orally and neither Party will be liable or bound to the other Party in any manner by any warranties, representations, covenants or agreements except as specifically set forth in the this Agreement or expressly required to be made or delivered pursuant hereto. [MA 31.1]
- (b) In the event that a Party wishes to raise and discuss with the other Party any matter relating to this Agreement due to the fact that, in the Party's opinion, there has been a change in circumstances or a particular provision of this Agreement is giving rise to unintended consequences, both Parties will enter into good faith negotiations to attempt to resolve the matter and amend or modify this Agreement accordingly. [MA 31.4]

- (c) If the Parties are unable to resolve any matter raised by a Party pursuant to paragraph (b) above, either Party may submit the matter to dispute resolution in accordance with ARTICLE 17.

22.3. Construction

Ambiguities or uncertainties in the wording of this Agreement will not be construed for or against either Party, but will be construed in a manner that most accurately reflects the purpose of such agreement and the nature of the rights and obligations of the Parties with respect to the matter being construed. [MA 31.2]

22.4. Governing Law and Attornment

This Agreement will be interpreted in accordance with and governed by the laws of the Province of British Columbia and the laws of Canada applicable therein. Each Party irrevocably attorns to the jurisdiction of the Courts of British Columbia.

22.5. Severability

In the event that any one or more of the provisions of this Agreement is held invalid, illegal or unenforceable under any applicable law, the remainder of this Agreement or the application of the provisions of this Agreement to persons or circumstances other than those as to which it is held invalid or unenforceable, will not be affected thereby. If a court of competent jurisdiction determines that any part of this Agreement is invalid, illegal or unenforceable, and, as a result of such determination and this Section 22.5, the basic intentions of the Parties in this Agreement are frustrated, the Parties will use commercially reasonable efforts to amend, supplement or otherwise vary this Agreement to give effect to their intentions in entering into this Agreement. [MA 31.7]

22.6. Waiver

The waiver by either Party of any intended or unintended breach, default or misrepresentation under this Agreement will not be deemed to extend to any prior or subsequent breach, default or misrepresentation under this Agreement, whether of a like or different character and will not affect in any way any rights arising by virtue of any such prior or subsequent occurrence, and any such waiver will only be valid if provided in writing, signed by the Party providing such waiver. [MA 31.8]

22.7. Preparation

The drafting and negotiation of this Agreement has been participated in by both Parties, and not by either Party to the exclusion of the other, and for all purposes this Agreement will be deemed to have been drafted jointly by the Parties. [MA 31.9]

22.8. Counterparts

This Agreement may be executed in counterparts and by electronic facsimile transmission, each of which will be deemed to be originals and all of which counterparts will constitute one and the same document.

22.9. Relationship of the Parties

Nothing contained in this Agreement will be construed to create an association, joint venture, trust, partnership, leasehold or other property interest or to impose a trust or partnership covenant, obligation or liability on or with regard to either of the Parties. **[MA 31.11]**

22.10. Further Assurances

Each Party will execute and deliver such further documents and do such further and other things as may be necessary to carry out and give effect to the intent of this Agreement and the transactions contemplated hereby.

22.11. Time of Essence

Time will be of the essence of this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the date first written above.

**BRITISH COLUMBIA HYDRO AND
POWER AUTHORITY**

By: _____

Title: _____

**BRITISH COLUMBIA TRANSMISSION
CORPORATION**

By: _____

Title: _____

By: _____

Title: _____

ATTACHMENT 1

Generation Control Services Definitions and Abbreviations

Where used in the Attachments to this Agreement, the following terms will have the following meanings in accordance with Section 1.4 of the Agreement, but references in square brackets to Attachments in which the following terms are used are for convenience of reference only and shall not affect the interpretation of this Agreement or such terms:

- (a) ABS-U– Accenture Business Services for Utilities. [See Attachment 4]
- (b) Automatic Generation Control (AGC) – a control program within the EMS that automatically controls the generator unit output of the AGC enabled BC Hydro plants, in response to changes in system frequency and tie-line loading. [See Attachment 2]
- (c) Availability – monthly per cent compliance of continuous provision of service (uninterrupted 24 hours a day for 7 days a week is 100%). [See Attachment 4]
- (d) Basepoint – Plant target generation, exclusive of synchronous condenser operation motoring losses, typically updated hourly by PSEO via the Genie/DCM web service and occasionally mid-hour by PSEO via the DCM client. [See Attachment 2]
- (e) Commercial Management (CM) – BC Hydro owned web/client/database application used for communication of water conveyance instructions to BCTC and recording NPRF operations. CM is also used for planning, scheduling and implementing generation asset outages, including the tracking of forced outages. Details for these functions are covered in BCTC SOO 1T-53 dated August 1, 2003. CM interfaces to CROW and DCM. [See Attachments 3, 7 and 8]
- (f) Control Communication Infrastructure – the elements of the telecommunications network utilised to operate the BC Hydro Electric System, including the microwave network, licenses and right-of-ways, Control Centres, Energy Management System including SCADA processes and devices and all associated software and hardware. [See Attachment 4]
- (g) CROW (Control Room Operating Window) – BCTC owned web/client/database application used for planning, scheduling, and implementing transmission asset outages, implementing generation asset outages, logging outage events and logging system condition events which includes forced outages, unusual conditions, deratings and operating restrictions. Details for these functions are covered in BCTC SOO 1T-54 dated July 28, 2004. CROW has a web service interface with BC Hydro’s CM application. [See Attachments 4, 5, 7 and 8]
- (h) Current (data) – refers to degree of latency or lag. Current data is that which is updated within its typical historical update pattern (eg. within 3 standard deviations of normal update frequency). [See Attachment 4]

- (i) Dispatch & Compliance Monitoring System (DCM) – BCTC owned client/database application used to instruct and receive generator dispatch instructions. Used by BCTC system operators and PSOSE as detailed in BCTC SOO 1T-56 dated August 1, 2003. [See Attachment 2]
- (j) Energy Management System (EMS) – BCTC’s energy management system. [See Attachment 4]
- (k) Event – a forced outage or a suddenly increased likelihood of a forced outage. [See Attachment 4]
- (l) Facility Obligations – the complete set of constraints, laws, conditions and licenses that a generating plant and its units must operate under. [See Attachment 2]
- (m) Forced Outage – an unplanned interruption of operational data Availability, which is not a consequence of a particular field device or amalgamated data provided to BCTC outside of the Control Communication Infrastructure (and typically covered under Generation Plant Agreements). A planned outage which extends more than 1 hour outside of its scheduled duration, shall be deemed to be a new forced outage (eg. a planned 4 hour outage that takes 6 hours, creates a 1 hour forced outage) [See Attachment 4]
- (n) Fortis British Columbia (FBC) – electric utility with a service area and generation facilities in the South Okanagan and Kootenay regions of B.C., formerly known as Aquila Networks Canada, Utilicorp Networks Canada and West Kootenay Power. [See Attachment 4]
- (o) GENIE – BC Hydro owned client/database decision-support application used by PSOSE to monitor, and plan Generation Operations. Interfaces to CM & DCM. [See Attachment 4]
- (p) Hydro Generation Dispatch (HGD) – the program function in the EMS that determines the optimum generation unit loading for AGC, through an algorithm which minimises plant water use. The unit characteristic data used in HGD is provided and approved by BC Hydro. [See Attachment 4]
- (q) Load Sheets – means the traditional hourly resolution summary of the BC Electric System generator, inertia, and regional load energy values, and the Fortis Service Area Interchange Schedule summary, which are currently provided by BCTC to BC Hydro’s Power Records department each Business Day. [See Attachment 4]
- (r) Max Gen – DCM instruction type requesting , until further notice, to load all available units in a normal manner to maximum output, subject to all prevailing constraints; starting units if necessary. [See Attachment 2]
- (s) Network Topology – the physical data communication infrastructure connecting sites, including subnets, routers, switches, cables and fibre, and associated control protocols and algorithms. [See Attachment 4]

- (t) Non-power Release Facility (NPRF) – a feature of a hydropower facility used for water release that is not related to the production of power. [See Attachment 3]
- (u) Nuisance Alarm – A nuisance alarm will be an alarm deemed as such by mutual agreement between BC Hydro and BCTC which meets any or all of the following conditions:
 - (i) An annunciating alarm whose relationship between the alarm and associated field condition is not valid; or
 - (ii) An annunciating alarm deemed invalid because the equipment may operate in the alarm zone; or
 - (iii) A chattering annunciating alarm resulting from a valid field condition which toggles in and out of a valid alarm state. [See Attachment 5]
- (v) Operational Control – means the physical dispatch of generation instructions, water conveyance instructions or the activation of equipment via remote or local control; including the responsibility for monitoring, recording and reporting of associated information. Joint SOO 1J-11 lists Operational Control for all the projects. [See Attachment 2]
- (w) Operational Data – instrumented, calculated, and manually entered data of a short-term time-sensitive nature, necessary for the successful monitoring and operation of the BC Hydro Electric System, which is visible to BCTC via the Control Communication Infrastructure and for purposes of this SLA, includes and is limited to all data which is: [See Attachment 4]
 - (i) produced by a device or process under BC Hydro’s operating responsibility, or
 - (ii) otherwise required by BC Hydro to undertake services in accordance with the Master Agreement, Key Agreements, this Agreement, Operating Order, SOO or prevailing RMR requirement, or
 - (iii) produced by a non-BC Hydro device or process, for which BC Hydro has signed permission to view.
- (x) PI Server – a physical server or cluster of servers, running an instance of the OSI, Inc commercial data-historian database and associated processes. [See Attachment 4]
- (y) Pitopi – the proprietary process of OSI, Inc. utilised for data exchange between PI servers across a data network. [See Attachment 4]
- (z) Planned Outage – a planned interruption of operational data Availability which is scheduled by BCTC or its Contractor and approved in advance by BC Hydro, including regular periodic outages and emergency operating system patch-type

outages requiring application within 5-days or less and required to minimise threats to network or data security reliability. [See Attachment 4]

- (aa) Planning Responsibility – means the planning, co-ordinating, forecasting, directing, monitoring and recording of the operation for power and non-power purposes of all the existing integrated system hydro and thermal generating resources including those of FBC, Cominco and IPPs according to the operating agreements. Joint SOO 1J-11 lists Planning Responsibility for all the projects. [See Attachment 2]
- (bb) Plant Economic Participation Factor (PEPF) – AGC Plant-specific load-following proportional constants provided hourly by PSOSE and used by AGC to reallocate Plant Basepoints in response to changing system load. [See Attachment 2]
- (cc) Plant Instructions – Document provided by BC Hydro to BCTC each Business Day containing current environmental restrictions, equipment unusual condition, water license limits, ALC schedule and expected IPP output. [See Attachments 2 and]
- (dd) Power Records – the Power Records group in the Hydrology Section of Generation Operations; Power Records are responsible for the review and verification of official generator energy and flow records. [See Attachment 4]
- (ee) Reliability Must Run (RMR) – an instruction issued by the BCTC System Operator to a Generator (PSOSE) which restricts the operation of a generator for Electric System reliability requirements. Issued using the DCM application. [See Attachment 2]
- (ff) Risk – a deviation from a system normal condition that materially threatens Availability. Example is a virus attack, redundant link or server failure, application health alerts. [See Attachment 4]
- (gg) Short-Term – a data stream of a time-varying nature that may contains a significant new value every few seconds to a few hours. [See Attachment 4]
- (hh) System and Area Control Center (SCC & ACC) – One or more of the BCTC facilities that remotely control electrical transmission and generation dispatch for BC Hydro’s transmission and generation facilities and flow releases from BC Hydro’s reservoirs and facilities. [See Attachments 3 and 5]
- (ii) Technical Owner – contact person responsible for the technical development and business process performance, of particular major software applications. BC Hydro’s Technical Owners include persons responsible for PI infrastructure, PSOSE tools and Hydrology applications. [See Attachment 4]
- (jj) Unit Commitment Table (UCT) – Plant-specific prevailing reference table updated by PSOSE via DCM, and used to define the corresponding desired unit commitment status for any plant Basepoint within the available operating range of the plant. [See Attachment 2]

- (kk) Unusual Condition (UC) – A change from a normal state or condition of equipment that impacts the operation of the equipment, where it is expected to be returned to its normal condition within two years. UCs address equipment abnormalities impacting operations that are not addressed by CM outages (i.e. MW deratings and ancillary service outages). [See Attachments 2 and 7]
- (ll) Web Services Technology – the technical architecture commonly used for business-to-business interface which utilizes XML (extensible markup language) to define data elements and SOAP (simple object access protocol) as the transportation protocol over the internet (and intranet). [See Attachment 4]

Certain other terms, abbreviations and acronyms used in the Attachments to this Agreement which are not otherwise defined herein may be defined in the GPOO Agreement, and unless the context otherwise requires will have the same meaning in this Agreement.

Operating Order References

As of the date of this Agreement, the following Operating Orders apply to or are referred to in the Attachments and may not be altered except in accordance with Article 12 of the Agreement and Section 5.5 of the Master Agreement:

- (a) Joint BC Hydro/BCTC SOO 1J-11 Power System Operation - Authority and Responsibility
- (b) Joint BC Hydro/BCTC SOO 1J-18 Interface between WPP and PSSP
- (c) BCTC SOO 1T-53 Implementation of BC Hydro GLoB's Commercial Management System by BCTC
- (d) BCTC SOO 1T-54 CROW (Control Room Operating Window)
- (e) BCTC SOO 1T-56 Implementation of BCTC's Dispatch and Compliance Monitoring System
- (f) BC Hydro GOO 1G-PFA-02 Employees Working Alone and/or Travelling in Remote Areas

ATTACHMENT 2
Generation Control Dispatch Services

1. AGC Generation Dispatch

(a) Service Definition

BCTC will startup, shutdown, ramp, mode change and dispatch BC Hydro AGC generation as per the hourly Basepoint and PEPF instructions issued by PSE&E with unit loading in compliance with the current Unit Commitment Tables. BCTC will implement all mid-hour Basepoint, PEPF or Max Gen instruction issued by PSE&E. BCTC will process the instructions before implementation and will reject those that would give rise to conditions which would negatively affect system reliability. BCTC will also reject instructions that violate the Facility Obligations of the particular generating plant including BC Hydro Operating Orders, GOOs, UCs and the current Plant Instruction document unless comments are included in the Instruction Details exempting the specific operation from these Facility Obligations. An explanation will be provided with an instruction rejection or deviation and an RMR will be issued for instructions that are rejected or that are not implemented in accordance with their terms due to transmission reliability concerns.

(b) Service Standard and Measure

Compliance monitoring in DCM automatically compares the performance of generating equipment to accepted instructions and other planned operations. When the deviation is outside of a pre-defined acceptable range mutually established by the Parties, a non-compliance event is triggered for initiating further analysis for the causes of such deviation.

BCTC will accurately and timely reject or implement at instructed target plant MW loading/PEPF and unit loading per UCT for at least 99% of the instructions issued per month.

2. Non-AGC Generation Dispatch

(a) Service Definition

BCTC will startup, shutdown, load change, mode change or take to Max Gen BC Hydro non-AGC generation as per instruction issued by PSE&E. BCTC will implement or forward instructions for non-BC Hydro plants for which BC Hydro has a Planning Responsibility. BCTC will process the instructions before implementation and will reject those that would give rise to conditions which would negatively affect system reliability. BCTC will also reject instructions that violate the Facility Obligations of the particular generating plant including BC Hydro Operating Orders, GOOs, UCs and the current Plant Instruction document unless comments are included in the Instruction Details exempting the specific operation from these Facility Obligations. An explanation will be provided with an instruction rejection or deviation and an RMR will be issued for instructions that

are rejected or that are not implemented in accordance with their terms due to transmission reliability concerns.

(b) Service Standard and Measure

Compliance monitoring in DCM automatically compares the performance of generating equipment to accepted instructions and other planned operations. When the deviation is outside of a pre-defined acceptable range mutually established by the Parties' Contract Representatives pursuant to Section 9.2, a non-compliance event is triggered for initiating further analysis for the causes of such deviation.

BCTC will accurately and timely reject or implement at instructed target unit MW loading and ramp for at least 95% of the instructions issued.

3. Small-BC Hydro and non-BC Hydro Generation Dispatch

(a) Service Definition

BCTC will forward instructions for implementation for BC Hydro generation over which BCTC does not have Operational Control. BCTC will forward instructions for implementation for non-BC Hydro generation over which BC Hydro has Planning Responsibility and BCTC does not have Operational Control.

(b) Service Standard and Measure

BCTC will accurately and timely forward at least 90% of the instructions issued.

4. Dispatch of Intertie Schedule Ramps

(a) Service Definition

BCTC will dispatch BC Hydro plants for those intertie schedule changes for which BC Hydro is directly responsible or because BC Hydro has an obligation of which it has notified BCTC with specific schedulers, marketers, generators or utilities to provide schedule ramping. Unless limited by system reliability or operational constraints, BCTC will implement the schedule ramp. BC Hydro will provide advance notification of large scheduled intertie ramps, i.e greater than 2000MW, and will provide direction on unit operation to the Dispatcher prior to the large ramp implementation. BCTC may override current AGC Generation Dispatch instructions to condition the system for large ramps in the next hour.

(b) Service Standard and Measure

BCTC will implement any level of scheduled ramp unless it would negatively affect system reliability or is not operationally possible.

ATTACHMENT 3

Water Conveyance Services

1. Implementation of Direct Water Conveyance Instructions

(a) Service Definition

PSOSE will instruct changes in water conveyance, through specific NPRFs or as a total flow at a BC Hydro project, to BCTC for implementation. For NPRFs with remote control the ACC will implement as per instruction. For NPRFs without remote control or where it is chosen not to use remote control the ACC will forward the instruction to BC Hydro staff for local implementation. BCTC will process the instructions before implementation and will reject those instructions that violate operating direction as per BC Hydro Operating Orders, GOOs, UCs and the current Plant Instruction document unless comments are included in the CM Instruction Details exempting the specific operation from the operating direction. BCTC will log details of the implementation into CM.

(b) Service Standard and Measure

- (i) BCTC will accurately and timely reject or implement instructions as per target discharge or NPRF opening for all instructions issued.
- (ii) BCTC will accurately log implementation details within 20 minutes of a remote control implementation or within 20 minutes of receipt from PF of a local implementation for all instructions issued.

2. Implementation of Standing Water Conveyance Instructions

(a) Service Definition

BC Hydro will establish standing instructions for project water conveyance from operating direction provided in BC Hydro Operating Orders, GOOs, UCs, the current Plant Instructions document, water licenses, and environmental restrictions. BCTC will implement the following standing instructions by operating or instructing operation of NPRFs:

- (i) CMC minimum flows;
- (ii) ALH/HLK total discharge (under forced outage conditions); and
- (iii) SEV gates to safely pass inflows in response to Boundary Dam emergency flow release.

Changes to this list of standing water conveyance instructions will be made in accordance with Section 4.5 of the Agreement.

BCTC will monitor automatically controlled NPRFs to ensure correct operation as required. These operations are for COM autospill and SEV automatic spillway gates control.

BCTC will log details into CM of any NPRF operation occurring from implementation of any standing instruction.

(b) Service Standard and Measure

(i) BCTC will accurately and timely implement all standing instructions as per target operation.

(ii) BCTC will accurately log implementation details within 20 minutes of implementation.

3. Recording of NPRF Operations

(a) Service Definition

BC Hydro may carry out non-instructed changes in NPRFs at specific projects, eg. ASH Hollow Cone Valve and report the details of operation to the ACC. The ACC will receive and log details of the NPRF operation into CM.

(b) Service Standard and Measure

BCTC will log details of all changes immediately and without error into CM.

ATTACHMENT 4
Generation Data Services

1. Provide Operational Data to BC Hydro via SCC PI Server

(a) Service Definition

BCTC shall provide BC Hydro with continuously available polling access via the pitopi service to current operational data on a BCTC PI server(s).

(b) Service Standard and Measure

- (i) Forced Outage: not less than 99.9% Availability (~1 hour per month unavailable due to forced outages) outside of all planned and approved outages.
- (ii) Overall Availability: not less than 99.5% Availability (~4 hours per month unavailable due to forced or planned outages).
- (iii) Contractor Dependency: it is recognised that Availability may depend upon the services of outside Contractors engaged from time to time, by either BCTC or BC Hydro (eg. Network services contracted from ABS-U, Telus, Bell). In these circumstances, both Parties agree to enter with good faith, into sufficient contracts for services, as to meet the GC Service Standards specified in this Agreement, within the prevailing network topology.
- (iv) Outage Notification: BCTC is responsible for continuously monitoring the Availability and, in turn, immediately reporting of events:
 - by telephone and email to the onshift PSOSE,
 - by email to the BC Hydro PI and PSOSE Technical Owners or their delegates,

unless otherwise agreed between the Contract Representatives. Automatic means of notification (eg. BMC Patrol) may replace the need for a phone call. Also, BCTC may provide signals to BC Hydro to use as monitoring and self-reporting.

Except as noted below, notice of planned outages shall be provided to the above recipients, a minimum of 5 Business Days in advance, with reminder notices on the day before and same day of the planned outage. BCTC shall provide 10 Business Days advance notice for all proposed planned outages to solicit input from BC Hydro on timing, duration and risk mitigation. All Planned outages shall be approved & scheduled using the agreed business process. Exceptions:

- Regular periodic outages (eg. Monthly backup) need no advance notice beyond the first occurrence, other than a same day reminder.
- Emergency patch type outages need no advance notice but shall be approved and scheduled directly with the PSOSE technical owner or PSOSE if the former is unavailable.

2. Maintain and Extend Operational Data to BC Hydro

(a) Service Definition

BCTC shall document and apprise BC Hydro of all relevant data source details, and shall maintain the operational data elements in accordance with Good Utility Practice.

(b) Service Standard and Measure

- (i) Additions, Deletions, Corrections and Replacements: BCTC will notify BC Hydro within 5 Business Days of any changes affecting BC Hydro's interpretation and application of polled operational data, unless a delay may reasonably constitute a contravention of Section 4.1 of this Agreement, in which case, such information shall be provided immediately. Such changes include new and alternate data points associated with BC Hydro Generator and Water Conveyance devices, and other Party's devices (which BC Hydro has permission to view). Enabling BC Hydro (read-only) access to a current data maintenance database would constitute sufficient notification.
- (ii) Requests for Information, Implementation: BCTC shall acknowledge receipt of BC Hydro requests for data point availability and implementation within 2 Business Days, and shall respond within 5 Business Days. Execution of approved requests shall be within:
 - 10 Business Days for requests of less than one person-day work, else
 - 10 Business Days per person-day of effort,unless otherwise agreed by the Contract Representatives.

3. Provide Daily Reports to BC Hydro's Power Records

(a) Service Definition

BCTC shall provide consistent hardcopy and electronic copies of the Load Sheets to Power Records.

(b) Service Standard and Measure

BCTC shall ensure hardcopy and electronic delivery of the Load Sheets to BC Hydro's Power Records business location, each Business Day, prior to 0700 hours. The Load Sheets shall correspond to the latest unreported period up to 2400 hours of the previous day. BCTC's calculated Load values shall utilise all Plant Generation Hourly MWh values provided by PSEO (retrieved from the DCM basepoint values for yesterday, produced after 0215 hrs today).

Corrections discovered by either party shall be notified to the other immediately; BCTC shall produce correspondingly updated Load Sheets (electronic and hardcopy) within 1 Business Day, unless otherwise agreed.

For each of the reported BC Hydro load values noted below, both Parties agree to undertake a reconciliation exercise in accordance with Good Utility Practise, should the unreconciled deviation between any of the:

- SCC integrated hourly instantaneous load, (Hourly integration of EMS data point "analog.agcghost.BC Hydro_Load" expressed as PI tag BC Hydro_sys_load_MWh_00)
- SCC hourly state estimated load, (Hourly integration of EMS data point "TSA:sys_par.BC Hydromwld" expressed as PI tag BC Hydro_sys_loadSEHourly_MWh_00)
- the Load Sheet calculated load,

exceed a monthly average of 100 MWh for the reported BC Hydro loads, and similarly exceed 30 MWh for the corresponding FBC reported loads.

4. Implement Current Data Tables for EMS Generator Dispatch

(a) Service Definition

BCTC shall utilise the latest BC Hydro-authorized static tabular data within BCTC's Energy Management System for the control and dispatch of BC Hydro Generators. This includes, but is not limited to Unit Flow Characteristics, Unit Capability Curves, Unit Control Response Characteristics and other data as required by the Hydro Generation Dispatch (HGD) function.

BCTC shall implement the new data provided by BC Hydro in a timely manner, and provide verifiable confirmation upon actual implementation.

BCTC shall document and make available for BC Hydro review, the tabular data used for BC Hydro Generator control and dispatch.

(b) Service Standard and Measure

BCTC shall confirm or enable BC Hydro visibility of the production tabular data with 1 Business Day upon request. Such requests are typically for purposes of reconciliation and shall be limited to one plant per day. BCTC shall review, test and implement new data tables provided by BC Hydro within 30 Business Days, unless otherwise agreed by the Contract Representatives.

5. Provide and Maintain Business to Business Interfaces to BC Hydro Applications (non PI)

(a) Service Definition

BCTC shall make available to BC Hydro, data exchange interfaces using web services technology. Current implementations of this service include the GENIE/DCM interface, CM/CROW interface and CM/DCM interface.

(b) Service Standard and Measure

BCTC shall meet the same GC Service Standards and measures as noted in Section 1(a) above, with the following exceptions:

- (i) Forced Outage: not less than 99.5% Availability (~4 hours per month unavailable due to forced outages) outside of all planned and approved outages.
- (ii) Overall Availability: not less than 99% Availability (~8 hours per month unavailable due to forced or planned outages) as a six month rolling average.

ATTACHMENT 5

Alarm Monitoring Services

1. Generating Equipment Alarm Monitoring Services

(a) Service Definition

The ACCs will monitor generating station alarms and carry out action as dictated by Generation Operating Orders and Unusual Conditions. For instances not covered by a GOO, the ACC must use good judgment in deciding whether a callout is warranted or not. This decision may include discussion with PSEO and/or the appropriate BC Hydro manager, but no such discussion shall relieve the ACC of its obligations.

The ACC, using good judgment, must disable or inhibit Nuisance Alarms. In this circumstance, the ACC shall notify BC Hydro in accordance with the associated priority response for the corresponding Operating Order (e.g. disabling a priority 3 alarm means call immediately, priority 5 alarm means call next Business Day). BCTC will notify BC Hydro immediately and realtime via CROW when alarms are disabled or inhibited and returned to service. A disabled nuisance alarm will be enabled after it has been mutually agreed between BCTC and BC Hydro that the alarm should return to service. BC Hydro will use reasonable effort to eliminate Nuisance Alarms and update BC Hydro alarm GOOs.

(b) Service Standard and Measure

ACC's will respond to 100% of all generating station alarms as required by Operating Orders.

ACC's will report any missed alarms on a daily basis.

2. Dam Safety Alarm Monitoring Services

(a) Service Definition

Critical dam safety performance indicators in various dams and landslide slopes are monitored in real time with instrumentation that is connected to Automatic Data Acquisition Systems (ADAS). Alarms are activated if an ADAS instrument reading is outside of predetermined bounds. The ADAS alarms are annunciated in Area Control Centres.

BC Hydro has established ADAS alarm response procedures as documented in GOOs and other written procedures. These procedures include both operational (including data loss and Nuisance Alarm) procedures and notification requirements and are specific and time-sensitive obligations. BCTC shall comply with all alarm response procedures. BCTC and BC Hydro will review Nuisance Alarms and mutually agree on the best course of action relating to the services provided by BCTC including inhibiting the alarm if appropriate, and failing such agreement, either Party may submit the matter to dispute resolution pursuant to ARTICLE 17. Inhibiting or disabling an ADAS dam safety alarm requires the agreement of the BC Hydro Generation Director of Dam Safety, or his

designate. A nuisance alarm will be enabled after it has been mutually agreed that the alarm should return to service. BCTC will record in CROW when alarms are inhibited and returned.

(b) Service Standard and Measure

100% compliance with required procedures.

3. Power Facilities Security Monitoring Services

(a) Service Definition

Security and intrusion alarms will annunciate at the ACCs. BCTC will follow notification requirements as documented in the BC Hydro alarm GOOs.

(b) Service Standard and Measure

100% compliance with required procedures.

4. Operating Incident Reporting

(a) Service Definition

BCTC will notify BC Hydro of any non-routine operating incidents for all BC Hydro facilities under BCTC's control, which represent threats to security, safety, environment or equipment availability. Reporting is done via a logged CROW event or if more appropriate by email or phone call.

(b) Service Standard and Measure

Reporting of all operating incidents as appropriate in CROW or by email or phone call.

ATTACHMENT 6
Equipment Unusual Condition Management Service

1. Equipment Unusual Condition Management Service

(a) Service Definition

BCTC shall track Unusual Conditions impacting generation equipment and reservoirs using computer based unusual condition records. UC records created by BCTC in CROW shall be made available to BC Hydro within 10 minutes for importing through a web service application or equivalent. With respect to the CROW Web Application, BCTC shall maintain or enhance BC Hydro's current visibility as an authorized user and email subscription capability with respect to BC Hydro responsible equipment.

BCTC shall prefer any wording advised by BC Hydro for UCs impacting generation equipment.

BCTC shall include the UC start time and estimated end time where known.

BCTC shall update ended UCs with the end time within 24 hrs of the UC ending.

BCTC shall retain BC Hydro related UCs until advised by BC Hydro that they can be deleted.

Where a UC impacts both BCTC and BC Hydro equipment a UC shall be entered for the generation equipment irrespective of what BCTC enters for BCTC equipment.

UC processing details shall be in accordance with user documentation from IT projects sponsored, managed, and signed off by both BCTC and BC Hydro. Where the tools and their documentation do not reflect or support the process, addendum to their documentation, signed off by both parties, must be provided.

The recording in CM and CROW of accurate and timely data from outage management and Unusual Condition management is critical to generation scheduling, outage analysis, equipment health reporting and equipment benchmarking. To this end the respective parties in BC Hydro and BCTC have a dual responsibility to maintain current the key pieces of data in an Unusual Condition record. BC Hydro must inform BCTC in writing of changes and likewise BCTC shall request BC Hydro personnel provide them with updates in writing to data missing or known to change from the current UC record. Unusual Conditions that persist in the long term to the extent they become standard operating procedures must be removed as a UC but retained as an operating condition in Operating Orders.

(b) Service Standard and Measure

BCTC must comply with 100% of required Unusual Condition management procedures.

ATTACHMENT 7

Equipment Outage Management Service

1. Equipment Outage Management Service

(a) Service Definition

BCTC shall perform realtime outage record management and record BC Hydro impacted forced outages using the CROW application in accordance with BCTC SOO 1T-54 dated July 28, 2004 or its successor/equivalent SOO from time to time. CROW shall interface with CM via web services with Availability as per Attachment 4 Section 5. With respect to the CROW Web application, BCTC shall maintain or enhance BC Hydro's current visibility as an authorized user and email subscription capability with respect to BC Hydro responsible equipment.

BCTC shall implement outages that have been confirmed by BC Hydro as being OK to implement once called for by BC Hydro. Outages must be confirmed by BC Hydro before implementation. BCTC shall put the outage record into its active status in a timely manner (within 10-15 minutes). BCTC shall put the outage record into returned or completed status as soon as practical (within 10-15 minutes) after the equipment is available for service. Units going or staying online after an outage is completed will require a DCM instruction or a discussion with PSOSE beforehand.

Outage processing details will be in accordance with user documentation from IT projects sponsored, managed, and signed off by both BCTC and BC Hydro. Where the tools and their documentation do not reflect or support the process, addendum to their documentation, signed off by both parties, must be provided.

The recording in CM and CROW of accurate and timely data from outage management and unusual condition management is critical to generation scheduling, outage analysis, equipment health reporting and equipment benchmarking. To this end the respective parties in BC Hydro and BCTC have a dual responsibility to maintain current the key pieces of data in an outage record. BC Hydro must immediately inform BCTC if start times, end times/dates, loadings, operations etc. for forced or planned outages are established or revised as appropriate. Likewise BCTC shall request BC Hydro personnel provide them with updates to data missing or known to change from the outage plan.

(b) Service Standard and Measure

BCTC must comply with 100% of required outage management procedures.

ATTACHMENT 8
Power Facilities Accident and Emergency Assistance Dispatch

1. Power Facilities Accident and Emergency Assistance Dispatch

(a) Service Definition

BC Hydro staff and contractors at a BC Hydro facility are in radio or telephone communication with the ACCs. In the event of an onsite accident or emergency the worker may contact the ACC who will request the dispatch of emergency assistance when necessary or as specified in a GOO. Further, the ACC will carry out duties as per SOO 1J-18 in respect of work protection. In the instance of employees working alone a communication protocol has been established and is covered in BC Hydro GOO 1G-PFA-02 Employees Working Alone and/or Travelling in Remote Areas. BCTC will continue to provide this service to a level that existed at the start of the Agreement.

(b) Service Standard and Measure

Provide dispatch services as necessary.

ATTACHMENT 9

PSOSE Emergency Transition Operation

1. PSOSE Emergency Transition Operation

(a) Service Definition

PSOSE has an Emergency Plan in place, which includes a backup office that's staffed workdays, redundant equipment and emergency procedures designed to minimize the risk of being unable to operate. These Plans are continually being improved upon to address a multitude of emergency and disaster situations but another remote location backup office that is staffed 24x7 is not envisioned at this time.

BCTC will provide a functionally limited backup to PSOSE in the event of an emergency such as loss of data or fire at the PSOSE primary location. This is expected to be a short-term emergency operation while the primary and alternate locations are out of service and will cease when PSOSE is reestablished either at its primary location or the alternate shift office location is activated. In the absence of PSOSE direction BCTC is expected to continue to operate BC Hydro's generation system respecting environmental laws and restrictions, BC Hydro Operating Orders, GOOs, Plant Instructions, current non-AGC generation operation, current hour basepoints and future hour basepoints. These conditions are well known to BCTC as per its responsibility to operate generation to support Transmission system reliability or generation plant Operational Obligation.

During this emergency transition time BCTC will not take on PSOSE's other functions including:

- interaction with BC Hydro's Marketer regarding system capability,
- changes to unit operation without cause,
- creation and implementation of direct instruction for water conveyance beyond standing instructions or emergency requirements,
- optimization of generation facilities and reservoirs.

(b) Service Standard and Measure

This is an infrequent service brought about by unique circumstances to which no performance measure can be established beforehand. Both Parties will review each occurrence and any learning will be incorporated into future provision of an Emergency Transition Operation service.

ATTACHMENT 10
Requests for Site Readings

1. Requests for Site Readings

(a) Service Definition

Outside of regular working hours PSEO will request site readings through the ACC. BCTC will forward site reading requests from PSEO to BC Hydro generation field staff and report returned readings to PSEO.

(b) Service Standard and Measure

All requests must be managed in a timely manner.

BCTC must provide request reviews when asked.

ATTACHMENT 11
GMS Operator Services and FNG Operator Services

(a) Service Definition

The GMS Operators will provide the following services to BCTC using BCTC tools: event logging, system disturbance reporting, and outage request processing. They will also operate the switchyard equipment on behalf of BCTC.

CROW will be used as a real-time logging and communications tool, that provides all operations staff with a view of system conditions. The GMS operators are restricted to view only those events that they have operating authority for, and also for equipment that GMS/PCN staff provides maintenance services for. This restriction satisfies the BCTC Standards of Conduct.

The GMS/PCN operators are expected to view the CROW events browser 24x7, add comments to events entered by SCC and NCC where appropriate, enter outage events for equipment in the GMS and PCN yards, and for circuits that they provide operating services for. The operators are also expected to enter SDR outage data, track alarms and unusual condition in crow and review, revise, implement and complete Outage Requests in CROW.

The Manager of the GMS Operators or his delegate will approve outages on behalf of BCTC in CROW for the GMS and PCN generating stations.

The tools have been in use at GMS since 1999, but more features have been added recently. BC Hydro will train the GMS Operators in the usage of CROW as necessary. BC Hydro is also responsible for reviewing and ensuring that the GMS Operators understand the content of CROW SOO. BCTC will also provide training as requested and cover the trainer's cost.

BC Hydro will ensure that OAD's are trained in PSSP to category 6.

The FNG Operators will provide the following services to BCTC as detailed in LOO 3J-FNG-01 dated February 18, 2004: event logging and system disturbance reporting. They will also operate the switchyard equipment on behalf of BCTC.

(b) Service Standard and Measure

The GMS Operators and FNG Operators must provide dispatch services as necessary.

ATTACHMENT 12

Performance Reporting Summary

This Attachment summarises Performance Reporting at the time of the Agreement signing. Following execution of this Agreement, as per Article 9, both Parties will develop and agree on a Reporting Plan and Performance Agreement as per Section 9.2. The Service Standards, Performance Measures and Performance Reporting listed below might change and will be superseded by the Reporting Plan and Performance Agreement that is agreed to. This Attachment is for reference purposes only for convenience as a summary of Attachments 2-10; in the event of any conflict between the information contained in this Attachment 12 and the provisions of any other Attachment, the provisions of such other Attachment shall prevail.

GENERATION CONTROL SERVICE	SERVICE STANDARD/ PERFORMANCE MEASURE	PERFORMANCE REPORTING
4.2 Generation Control Dispatch Services		
4.2(a) AGC Generation Dispatch [Attachment 2, Section 1]	<ul style="list-style-type: none"> BCTC accurately and timely implements at least 99% of AGC instructions per month (for example, a minimum of 10,000 AGC instructions sent per month with an error rate of 100 implementations or less). Standards to be further established as per Section 9.2(a). 	DCM non-compliance event reporting provided per month.
4.2(b) Non-AGC Generation Dispatch [Attachment 2, Section 2]	<ul style="list-style-type: none"> BCTC accurately and timely implements at least 95% of non-AGC instructions per month (for example, an average of 800 non-AGC instructions sent per month with an error rate of 40 implementations or less). Standards to be further established as per Section 9.2(a). 	DCM non-compliance event reporting provided per month.
4.2(c) Small BC Hydro and non-BC Hydro Generation Dispatch [Attachment 2, Section 3]	<ul style="list-style-type: none"> BCTC accurately and timely forwards at least 90% of these types of instructions. Standards to be further established as per Section 9.2(a). 	BCTC to provide report as requested.
4.2(d) Dispatch for Intertie Schedule Ramps [Attachment 2, Section 4]	<ul style="list-style-type: none"> BCTC implements 100% of schedule ramps. 	BCTC to provide number of occurrences of schedule ramp restrictions.
4.3 Water Conveyance Services		
4.3(a) Implementation of Direct Water Conveyance Instructions [Attachment 3, Section 1]	<ul style="list-style-type: none"> BCTC accurately and timely implements water conveyance instruction. Standards to be further established as per Section 9.2(a). 	BC Hydro reviews each operation and notes Implementation Issues if appropriate.
4.3(b) Implementation of Standing Water Conveyance Instructions [Attachment 3, Section 2]	<ul style="list-style-type: none"> BCTC appropriately implements standing water conveyance instructions. Standards to be further established as per Section 9.2(a). 	BC Hydro reviews each operation and notes Implementation Issues if appropriate.
4.3(c) Recording of NPRF Operations [Attachment 3, Section 3]	<ul style="list-style-type: none"> BCTC appropriately records NPRF operation. 	BC Hydro reviews each operation and notes Implementation Issues if appropriate.

GENERATION CONTROL SERVICE	SERVICE STANDARD/ PERFORMANCE MEASURE	PERFORMANCE REPORTING
4.4 Other Generation Services		
4.4(a) Generation Data Services - Provide Operational Data to BC Hydro via SCC PI Server [Attachment 4, Section 1]	<ul style="list-style-type: none"> • BCTC limits Forced Outage to less than 0.1% per month (at least 99.9% per month Availability). • BCTC provides Overall Availability of at least 99.5% per month. • BCTC notifies of planned outages within 5 Business Days with exceptions as noted. 	BC Hydro tracks monthly performance and reports per the monthly Performance Review.
4.4(b) Generation Data Services - Maintain and Extend Operational Data to BC Hydro [Attachment 4, Section 2]	<ul style="list-style-type: none"> • BCTC notifies of data additions, deletions, corrections and replacements within 5 Business Days of change. • BCTC acknowledges information requests within 2 Business Days and responds within 5 Business Days with exceptions as noted. 	BC Hydro tracks monthly performance and reports per the monthly Performance Review.
4.4(c) Generation Data Services - Provide Daily Reports to BC Hydro's Power Records [Attachment 4, Section 3]	<ul style="list-style-type: none"> • BCTC delivers load sheets daily prior to 0700hrs. • Corrected load sheets shall be produced with 1 Business Day • Reported BC Hydro and FBC loads shall be reconciled 	BC Hydro tracks monthly performance and reports per the monthly Performance Review.
4.4(d) Generation Data Services - Implement Current Data Tables for EMS Generator Dispatch [Attachment 4, Section 4]	<ul style="list-style-type: none"> • BCTC utilizes the data tables for Generation EMS functions • BCTC implements new data tables within 30 Business Days. 	BCTC to provide tabular data properties upon request within 1 Business Day.
4.4(e) Generation Data Services - Provide and Maintain Business to Business Interfaces to BC Hydro Applications (non PI) [Attachment 4, Section 5]	<ul style="list-style-type: none"> • BCTC limits Forced Outage to less than 0.5% per month (at least 99.5% Availability per month). • BCTC provides Overall Availability of at least 99% per six month rolling average. 	BC Hydro tracks monthly performance and reports per the monthly Performance Review.
4.4(f) Alarm Monitoring Services - Generating Equipment Alarm Monitoring Services [Attachment 5, Section 1]	<ul style="list-style-type: none"> • BCTC responds to 100% of generating station alarms. 	BCTC to provide exception reporting for missed alarms on a daily basis.
4.4(f) Alarm Monitoring Services – Dam Safety Alarm Monitoring Services [Attachment 5, Section 2]	<ul style="list-style-type: none"> • BCTC complies 100% with required procedures. 	Both parties to review each occurrence.
4.4(f) Alarm Monitoring Services – Power Facilities Security Monitoring Services [Attachment 5, Section 3]	<ul style="list-style-type: none"> • BCTC complies 100% with required procedures. 	BCTC to provide exception reporting for missed alarms.

GENERATION CONTROL SERVICE	SERVICE STANDARD/ PERFORMANCE MEASURE	PERFORMANCE REPORTING
4.4(f) Alarm Monitoring Services – Operating Incident Reporting [Attachment 5, Section 4]	<ul style="list-style-type: none"> BCTC reports all operating incidents. 	Both parties to review as required.
4.4(h) Equipment Unusual Condition Management Service [Attachment 6]	<ul style="list-style-type: none"> BCTC complies with 100% of required UC procedures. 	BC Hydro to review and report on non-compliant UC data and process.
4.4(i) Equipment Outage Management Service [Attachment 7]	<ul style="list-style-type: none"> BCTC complies with 100% of required outage procedures. 	BC Hydro to review and report on non-compliant outage data and process.
4.4(j) Power Facilities Accident and Emergency Assistance Dispatch Service [Attachment 8]	<ul style="list-style-type: none"> BCTC provides dispatch service as necessary. 	Both Parties to review each occurrence.
4.4(k) PSOSE Emergency Transition Operation [Attachment 9]	<ul style="list-style-type: none"> Infrequent service with no established performance measure. 	Both Parties to review each occurrence.
4.4(l) Requests for Site Readings [Attachment 10]	<ul style="list-style-type: none"> BCTC complies with 100% of requests. 	BCTC to provide reviews when asked.

**SDA ASSET MANAGEMENT
SERVICE AGREEMENT**

Between

BRITISH COLUMBIA HYDRO AND POWER AUTHORITY

and

BRITISH COLUMBIA TRANSMISSION CORPORATION

Dated as of April 1, 2005

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SDA ASSET MANAGEMENT SERVICE AGREEMENT

THIS AGREEMENT is dated as of the 1st day of April, 2005.

BETWEEN:

BRITISH COLUMBIA TRANSMISSION CORPORATION, a Crown corporation organized and existing under the laws of the Province of British Columbia

(“**BCTC**”)

AND:

BRITISH COLUMBIA HYDRO AND POWER AUTHORITY, a Crown corporation organized and existing under the laws of the Province of British Columbia

(“**BC Hydro**”)

WHEREAS:

- A. BC Hydro and BCTC have, pursuant to the *Transmission Corporation Act* (British Columbia), entered into the Master Agreement; and
- B. BC Hydro and BCTC propose to enter into this Agreement pursuant to Section 12.2 of the Master Agreement to specifically set out certain terms and conditions for the planning, designing, building, managing and maintaining of the Substation Distribution Assets by BCTC as a service to BC Hydro in accordance with Article 12 of the Master Agreement;

NOW THEREFORE, in consideration of the premises and mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, the Parties agree as follows:

ARTICLE 1. DEFINITIONS

1.1. Definitions

In this Agreement, the following terms will have the following meanings respectively:

- (a) “**Audit**” has the meaning ascribed to it in Section 11.1.
- (b) “**BC Hydro**” means British Columbia Hydro and Power Authority and its successors and permitted assigns.

- (c) “**BCTC**” means British Columbia Transmission Corporation and its successors and permitted assigns.
- (d) “**Business Day**” means a day that is not a Saturday, Sunday or statutory holiday in the Province of British Columbia.
- (e) “**Commission**” means the British Columbia Utilities Commission or any successor agency having regulatory jurisdiction over transmission services in British Columbia.
- (f) “**Consequences**” means, in respect of any proposed action to be taken by BCTC hereunder:
 - (i) the feasibility of such proposed action;
 - (ii) any costs to be incurred by BCTC in taking such proposed action due to:
 - A. either or both additional time being spent by BCTC employees in taking such proposed action or additional costs being incurred directly by BCTC to take such proposed action; or
 - B. any stranded assets or personnel resulting from such proposed action;
 - (iii) any impact on the timely provision of any other SDA Services hereunder resulting from the reallocation of resources by BCTC in order to take such proposed action, including any resulting implications for SDA Performance Targets;
 - (iv) any impact on BCTC’s ability to meet the SDA Performance Targets; and
 - (v) any other direct or indirect impact on BC Hydro or BCTC in connection with the taking of such action by BCTC, including any impact on the provision of any other service by, or satisfaction of any other obligation of, BCTC to BC Hydro as contemplated by the Key Agreements or any other service level agreement entered into between the Parties, provided that no such impact shall be deemed to amend any Key Agreement or other such service level agreement, or any of the respective roles and responsibilities of BCTC or BC Hydro thereunder.
- (g) “**Contract Representative**” means a contract representative of a Party appointed under ARTICLE 15.
- (h) “**Contract Year**” means the one year period commencing on April 1 of each year and ending on March 31 of the next following year.
- (i) “**Distribution Line of Business**” or “**DLoB**” means the Distribution line of business of BC Hydro.

- (j) “**Distribution System**” means the Substation Distribution Assets and the Downstream Distribution System.
- (k) “**DO Service Agreement**” means the service agreement of even date herewith between BC Hydro and BCTC in connection with the provision of services by BCTC to BC Hydro for the operation of the Distribution System, as such agreement may be amended from time to time.
- (l) “**Downstream Distribution System**” means those assets operated at distribution voltage of less than 60 kV that are owned by, or are held under contract by, BC Hydro from time to time that are downstream from the Substation Boundary to the point of connection to customers, including feeder cables, risers and poles within the substation fence but downstream from the Substation Boundary.
- (m) “**Good Utility Practice**” means any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry in the United States and Canada 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 Utility 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 United States and Canada.
- (n) “**Key Agreements**” has the meaning ascribed to it in the Master Agreement.
- (o) “**Laws**” means (i) all statutes, treaties, codes, ordinances, orders in council, decrees, rules, regulations, directions, by-laws, permits, licences and approvals enacted, adopted or issued by a governmental authority, including all rules, regulations, orders, policies, practices and guidelines of the Commission and (ii) all policies, practices and guidelines (including any shareholder’s letter of expectations) of any governmental authority or body that, although not actually having the force of law, are considered by such governmental authority or body as requiring compliance, that apply to either of the Parties. [MA 1.1(y)]
- (p) “**Master Agreement**” means the Master Agreement dated as of November 12, 2003 between BC Hydro and BCTC, as such agreement may be amended from time to time.
- (q) “**OMA**”, when used in relation to expenditures, costs or budgets, means operating, maintenance and administration expenditures, costs or budgets as the case may be.
- (r) “**Parties**” means collectively, BC Hydro and BCTC, and “**Party**” means individually, BC Hydro or BCTC.
- (s) “**Payment Limit**” has the meaning ascribed to it in Section 6.5.

- (t) **“Performance Incentive”** has the meaning ascribed to it in Section 6.5.
- (u) **“Performance Payment”** has the meaning ascribed to it in Section 6.5
- (v) **“Person”** means a corporation, an association, a partnership, an organization, a business, a limited liability company, an individual, a government or a political subdivision thereof or a governmental agency. [MA 1.1(ii)]
- (w) **“SDA Performance Targets”** means the targets relating to performance of the Substation Distribution Assets, as established from time to time under Section 4.7, including targets relating to customer hours lost, duration and frequency of outages (including restoration time) and asset health. Certain of these targets will be used to assess whether Performance Incentives or Performance Payments are payable pursuant to Section 6.5 for a Contract Year.
- (x) **“SDA Services”** means the services to be provided by BCTC to BC Hydro with respect to planning, designing, building, managing and maintaining the Substation Distribution Assets, including all work contemplated by an SDA Services Plan, all as more fully described in ARTICLE 4.
- (y) **“SDA Services Plan”** means the services plan established from time to time under ARTICLE 4 that sets forth for the period specified in it:
 - (i) a detailed description of the SDA Services to be performed by BCTC and related activities to be performed by BC Hydro,
 - (ii) the work plan with respect to the SDA Services,
 - (iii) pricing for the SDA Services,
 - (iv) a capital expenditure plan (including growth and sustaining capital and contributions in aid of construction) and an environmental management plan with respect to managing and maintaining the Substation Distribution Assets from time to time,
 - (v) the associated capital and OMA budgets established under Sections 4.8 and 4.9,
 - (vi) SDA Performance Targets established under Section 4.7,
 - (vii) additional Services Standards necessary or advisable in connection with carrying out the SDA Services;
 - (viii) accounting, reporting and payment procedures as may be agreed between the Parties;
 - (ix) the precedence, if any, between components of the SDA Services Plan; and

- (x) such other components as the Parties may agree.
- (z) “**Services Standards**” means the standards for performing the SDA Services as set forth in ARTICLE 5 together with any additional performance standards, metrics or targets set forth in an SDA Services Plan.
- (aa) “**Standards of Conduct**” means the policies of BCTC or BC Hydro, as the context requires, with respect to open access and availability of information, as approved by the Commission from time to time in connection with the WTS Tariff or OATT and information regarding the Transmission System.
- (bb) “**Substation Boundary**” means the point of connection of the feeder cable or overhead conductor, as the case may be, to the feeder disconnect.
- (cc) “**Substation Distribution Assets**” means substation step-down transformers to distribution voltage (from the high side bushing) and all associated distribution voltage equipment to the Substation Boundary, [MA 1.1(oo)]
- (dd) “**Term**” has the meaning ascribed to it in Section 2.1.
- (ee) “**Third Party**” means a Person other than BC Hydro or BCTC or a successor or permitted assign thereof.
- (ff) “**Transmission System**” means those assets that are owned by, or are held under contract by, BC Hydro from time to time and that are or may be used in connection with or that otherwise relate to the transmission of electrical energy at 60 kV and above, including the following:
 - (i) all lines, including underground and underwater cables, of voltage class 60 kV and above that transmit electrical energy from a generation facility step-up transformer to a substation step-down transformer, together with:
 - A. all towers, poles, transformers, equipment, fixtures and switching station and substation facilities that are or may be used in connection with or that otherwise relate to that transmission; and
 - B. each substation step-down transformer to which the electrical energy is transmitted and all associated equipment to the substation boundary;
 - (ii) telecommunication facilities used for the operation, protection or control of switching stations, substation facilities, control centres or other components of the transmission system; and
 - (iii) rights-of-way, permits, licences and agreements in respect of any of the assets or rights described above;

but specifically excluding the Substation Distribution Assets.

For greater certainty, the interface between the Transmission System and the generation facilities of BC Hydro will be as referenced in the document entitled “Separation of Assets between Generation and Transmission Lines of Business” dated April 4, 2002 or as otherwise agreed between the Parties from time to time.
[MA 1.1(xx)]

1.2. Interpretation

Unless the context otherwise necessarily requires, the following provisions will govern the interpretation of this Agreement:

- (a) the words “hereof”, “herein” and “hereunder” and similar expressions will refer to this Agreement as a whole and not to any particular provision of this Agreement;
- (b) each reference to a time of day in this Agreement will mean that time in Vancouver, British Columbia, unless otherwise specified. In computation of periods of time in this Agreement from a specified date to a later specified date, the word “from” means “from and including” and the words “to” and “until” both mean “to but excluding”;
- (c) the meanings given to terms defined in this Agreement will apply to both the singular and plural forms of those terms;
- (d) except as otherwise specified in this Agreement, each reference to a statute, requirement of law or governmental consent will be deemed to refer to such statute, requirement of law or governmental consent as the same may be amended, supplemented or otherwise modified from time to time;
- (e) each reference in this Agreement to any Party will be deemed to include such Party’s successors and permitted assigns unless expressly stated otherwise herein;
- (f) where a term is defined, a derivative of that term will have a corresponding meaning;
- (g) the words “include”, “including” and similar expressions mean “including but not limited to”;
- (h) all references to “Articles” and “Sections” are references to Articles or Sections of this Agreement unless otherwise specified;
- (i) the division of this Agreement into Articles, Sections and other subdivisions and the insertion of headings are for convenience of reference only and will not affect the construction or interpretation of this Agreement;
- (j) except as otherwise defined in such agreement, terms used in this Agreement that have well-known technical, trade or industry meanings will be interpreted in accordance with those well-known technical, trade or industry meanings; and
[MA 1.2]

- (k) if there is an inconsistency between this Agreement and an SDA Services Plan established under it, this Agreement will prevail with respect to the inconsistency.

1.3. **Priority and Application of Key Agreements**

This Agreement is entered into pursuant to the Master Agreement and elaborates on the provisions of the Master Agreement with respect to the provision of SDA Services. The Parties believe that this Agreement is consistent with the terms and conditions of the Master Agreement and agree that if there is any express conflict or inconsistency between the provisions of this Agreement and of the Master Agreement, the provisions of the Master Agreement will prevail. Provisions in this Agreement which, for ease of reference, duplicate, with necessary changes, provisions contained in the Master Agreement are identified in this Agreement by the inclusion following such provisions of the initials "MA" and the section reference therein.

ARTICLE 2. TERM

2.1. **Term**

Notwithstanding the actual date of execution, the term of this Agreement (the "Term") will commence effective April 1, 2005 and will continue unless and until terminated in accordance with ARTICLE 12.

ARTICLE 3. GENERAL PRINCIPLES

3.1. **Principles for Provision of SDA Services**

- (a) BC Hydro has the responsibility and authority for operating, planning, designing, managing and maintaining the Distribution System, including the Substation Distribution Assets, but has agreed to retain BCTC to plan, design, manage and maintain the Substation Distribution Assets on BC Hydro's behalf as a service to BC Hydro under and pursuant to the terms of this Agreement.
- (b) The Parties acknowledge and agree that BCTC has the authority and responsibility pursuant to the Key Agreements (subject to any limitations therein) for operating, managing and maintaining the Transmission System. BCTC's authority and responsibility for operating, managing and maintaining the Transmission System is outside of the scope of this Agreement and accordingly the Parties agree that BC Hydro will receive transmission service in accordance with other agreements entered into between the Parties, applicable tariffs and/or regulatory processes.
- (c) The Parties agree that BCTC will also manage and maintain those assets within BC Hydro substations that support the Substation Distribution Assets, including land within such substations, fencing, roads, buildings, security systems and auxiliary electro-mechanical equipment. BCTC's responsibility for managing

those assets is described in the Transmission-Distribution Interface Agreement to be entered into between the Parties concurrently herewith.

- (d) Once an SDA Services Plan is approved under Section 4.3, the Parties acknowledge and agree that BCTC will be responsible for determining how to provide the SDA Services within the scope of the SDA Services Plan and BC Hydro will not, except as may be contemplated in this Agreement or the SDA Services Plan, or in accordance with a performance improvement plan established under Section 6.4, involve itself in the day to day provision of the SDA Services.
- (e) The Parties have developed and approved an initial SDA Services Plan for the Contract Years commencing April 1, 2004 through March 31, 2007 (with a particular focus on the year ended March 31, 2005) with respect to the SDA Services to be provided under this Agreement. At the date of this Agreement, the Parties agree that the SDA Services Plan accurately describes the SDA Services to be provided during the term of the SDA Services Plan, the SDA Performance Targets, the pricing for the SDA Services (except as otherwise provided herein) and the budgets for the period indicated (recognizing certain elements of the SDA Services Plan require completion as indicated therein).

3.2. **Continuous Improvement**

- (a) BC Hydro acknowledges the importance of orderly input, review and approvals by BC Hydro in order for BCTC to achieve maximum efficiency in providing the SDA Services.
- (b) BCTC acknowledges the importance to BC Hydro of continuous improvement, continuous efforts to reduce costs and increase efficiency and the demonstration of efficiency and value in the provision of the SDA Services. BCTC will at all times use commercially reasonable efforts to increase efficiencies and reduce costs associated with the SDA Services.
- (c) BC Hydro and BCTC acknowledge that their common objective of increased cost effectiveness in the provision of the SDA Services will require cooperation and coordination between the Parties during the Term. The Parties will at all time during the Term use commercially reasonable efforts to cooperate in coordinating the requirements for the provision of SDA Services in a manner that optimizes the utilization of BCTC resources, minimizes stranded costs to BCTC and meets the budgets and SDA Performance Targets established pursuant to this Agreement.
- (d) In furtherance of the Parties' commitment to continuous improvement, the Parties will establish a continuous improvement team ("**CI Team**") comprised of a representative from each of BC Hydro and BCTC appointed by their respective Contract Representatives. Leadership of the CI Team will alternate annually between a BCTC and BC Hydro representative. The CI Team will meet no less frequently than bimonthly, and will provide a quarterly status report to the Parties' Contract Representatives for consideration as part of the performance review to be conducted pursuant to Section 6.2.

- (e) The CI Team will collaborate to identify improvement opportunities (“**Opportunities**”) for both BCTC and BC Hydro related to the Services provided hereunder. The CI Team will define the benefits expected from, and the costs of, implementation of the Opportunities and will prioritise the Opportunities after the consideration of scope, costs and schedule for the respective Party. The CI Team will arrange for approval and implementation of the Opportunities as appropriate. The CI Team will provide quarterly status reports to the Contract Representatives including progress, incurred costs and realized benefits of the Opportunities.
- (f) All Opportunities identified and considered by the CI Team will be treated as Confidential Information under ARTICLE 8.

3.3. **Quality Management**

In furtherance of the goal of continuous improvement set out in Section 3.2, BCTC will develop in accordance with the schedule to be developed by the CI Team, and provide the SDA Services hereunder in accordance with, a quality management system consistent with the principles of ISO9001:2000 Quality Management Systems. Registration of the quality management system under the International Organization for Standardization is not a requirement for the quality management system. BC Hydro will have the right to undertake audits of such quality management system pursuant to Section 11.1 and pursuant to the implementation schedule established by the CI Team. Responsibility for the costs of establishing and maintaining any such quality management system will be determined in accordance with Section 10.3.

ARTICLE 4. ENGAGEMENT OF BCTC

4.1. **SDA Services**

Subject to the terms and conditions of this Agreement, BC Hydro hereby engages BCTC to, and BCTC hereby agrees to plan, design, build, manage and maintain the existing and future Substation Distribution Assets during the Term for and on behalf of BC Hydro as a service to BC Hydro and to meet BC Hydro’s service and operations requirements, including the SDA Performance Targets, all within the budgets established under Sections 4.8 and 4.9, and all as set forth from time to time in an SDA Services Plan.

4.2. **Certain Elements of the SDA Services**

In connection with providing the SDA Services, BCTC will:

- (a) provide planning services to BC Hydro with respect to existing and future Substation Distribution Assets, including planning for growth capital, sustaining capital and OMA expenditures to achieve the SDA Performance Targets and minimize the life-cycle costs of the Substation Distribution Assets, for approval of BC Hydro;
- (b) with respect to growth capital planning matters:

- (i) consult with BC Hydro while preparing SDA Services Plans, including the components related to planning of substations, to fully understand BC Hydro's requirements of the Transmission System as input into the planning of the Substation Distribution Assets and Transmission System;
 - (ii) jointly with BC Hydro, appoint a team comprising representatives of both Parties to review BCTC's substation planning studies where additions or changes to the Substation Distribution Assets are necessary or proposed to serve demand growth;
 - (iii) ensure facilities, including new substations if required, are in place to meet BC Hydro's 10 year load and resource forecasts provided to BCTC from time to time;
 - (iv) design the Transmission System and new Substation Distribution Assets to meet BC Hydro's specified performance requirements for specific delivery points;
 - (v) provide BC Hydro with a range of possible planning alternatives, including alternatives identified by BC Hydro, which take into account the impact on the Distribution System of such alternatives as provided by BC Hydro. Such impacts may include, but will not be limited to, capital costs, ongoing maintenance costs, energy losses, other sustaining costs, environmental impacts, reliability and risk assessments, and other relevant considerations such that the final recommendation may be based on an integrated approach incorporating both distribution and transmission considerations;
 - (vi) document its assessment of the substation expansion alternatives and its recommendation(s) in a report to BC Hydro. Prior to finalization of such recommendation, the Parties will meet to review any outstanding concerns about the report and its recommendations. This review should include any of BC Hydro's concerns with the analysis performed by BCTC, as well as potential concerns that BCTC may have with information provided by BC Hydro. Should the Parties be unable to agree on any of the components of the report or the recommendation, the report will be finalised by BCTC and BC Hydro will document its concerns in a letter, supplemental report or other submission to BCTC; and
 - (vii) prepare its substation expansion plan and review the plan with BC Hydro to explain how the plan meets BC Hydro's requirements. These discussions will include the location and configuration of the substations;
- (c) develop and update annually a capital expenditure plan for Substation Distribution Assets that addresses load growth, sustaining capital and performance improvement requirements of BC Hydro and that is consistent with and supports BC Hydro's capital planning process, for approval by BC Hydro;

- (d) prepare business cases, obtain necessary BC Hydro financial approvals and, if requested by BC Hydro, Commission approvals for expenditures contemplated by SDA Services Plans, including the capital expenditure plans, and associated budgets to be established under this Agreement;
- (e) subject to applicable agreements between the Parties regarding first nations and property services, coordinate public consultation processes with respect to the Substation Distribution Assets, with such public consultation processes being undertaken jointly by BC Hydro and BCTC (including co-hosting public processes as agreed by the Parties), and will coordinate communications with BC Hydro with respect to the Substation Distribution Assets;
- (f) use commercially reasonable efforts to implement the approved SDA Services Plan in effect from time to time, within the associated services budget and in accordance with and subject to the terms of this Agreement and the SDA Services Plan, including managing all expenditures contemplated by the SDA Services Plan;
- (g) manage the financial accounting for the Substation Distribution Assets (excluding accounting for interest, depreciation, return on equity and similar owner's accounts) in accordance with generally accepted accounting principles and accounting policies and procedures approved by BC Hydro from time to time; and
- (h) track and report to BC Hydro on Substation Distribution Assets operating performance and failures, including frequency and causes of failures and costs of corrective work,

all as more specifically set out and described from time to time in an SDA Services Plan.

4.3. **Establishment of SDA Services Plans**

- (a) BCTC will annually establish 3-year SDA Services Plans for providing the SDA Services, that include a detailed budget of OMA and capital costs for at least the following Contract Year as provided in Sections 4.8 and 4.9. The initial SDA Services Plan is described in Section 3.1(e).
- (b) BCTC will provide to BC Hydro preliminary SDA Services Plans for the ensuing three Contract Years by no later than 120 days prior to the commencement of that Contract Year. BCTC and BC Hydro will commence the consideration and discussion of the preliminary SDA Services Plans within 15 days of the receipt thereof by BC Hydro. SDA Services Plans will be developed through a cooperative, consultative process, taking into account the Services Standards set forth in ARTICLE 5, SDA Performance Targets established under Section 4.7 and BC Hydro's input, including input regarding acceptable costs and desired outcomes. SDA Services Plans will be submitted by BCTC to BC Hydro for approval. If BC Hydro does not approve any part of an SDA Services Plan developed by BCTC, BC Hydro will promptly detail for BCTC its concerns regarding the plan and:

- (i) BC Hydro will approve that portion of the SDA Services Plan not in dispute;
 - (ii) if the dispute relates to issues regarding reliability of the Transmission System, then the Parties will first refer the dispute for resolution in accordance with Section 14.3 and, failing resolution, will refer the matter to the Commission to resolve the dispute;
 - (iii) subject to Section 4.3(d), in the case of any dispute with respect to OMA or sustaining capital matters the Parties will first refer the dispute for resolution in accordance with Section 14.3 and, failing resolution, BCTC will promptly rework the disputed portion of the SDA Services Plan to address concerns raised by BC Hydro until such portion of the SDA Services Plan is approved by BC Hydro; and
 - (iv) subject to Section 4.3(d), if the dispute relates to growth capital expenditures, then the matter will be dealt with in accordance with the planning process described in Section 4.2.
- (c) SDA Services Plans must be consistent with the then-current capital expenditure plan developed by BCTC pursuant to Section 4.2(c).
 - (d) Cost allocation and other issues with respect to pricing of the SDA Services will be resolved as provided in Section 10.3.
 - (e) In addition to the development of the Services Plan in accordance with the foregoing, the Parties will prepare and provide to each other any information regarding the SDA Services in a timely manner as required by either Party for the purposes of any filings with or other information required by any governmental authority.

4.4. **Review and Amendment of SDA Services Plans**

- (a) The Parties will review the SDA Services Plan annually in accordance with the process described under Section 4.3(b), or more frequently at the reasonable request of either Party. Each annual review will consider the then current 3-year plan with specific focus on the following Contract Year and will also add a year so the current SDA Services Plan from time to time will have a 3-year term. Each annual review will also include a detailed budget of estimated OMA and capital costs for at least the following Contract Year developed pursuant to Sections 4.8 and 4.9. As part of the annual review, BC Hydro will provide BCTC with as much advance notice as possible regarding changes to load requirements.
- (b) The Parties acknowledge that it may be convenient to review the SDA Services Plan from time to time in conjunction with a review of the services plan developed under the DO Service Agreement or otherwise in conjunction with processes that relate to operating the Distribution System.

- (c) The SDA Services Plan established pursuant to Section 4.3, including any of the costs, budgets, schedules or other information included therein, may, at any time before or during any Contract Year covered thereby, be amended:
- (i) with the agreement of both Parties, each acting reasonably, to the extent such amendment increases the amount of the SDA Services to be provided by BCTC hereunder or changes any programs included in the SDA Services Plan for any such Contract Year, provided that it shall not be reasonable for BCTC to reject any such amendment of the SDA Services Plan proposed by BC Hydro where BC Hydro agrees to accept and be responsible for the Consequences resulting from such amendment; or
 - (ii) by BC Hydro, to the extent such amendment decreases or does not change the amount of the SDA Services to be provided by BCTC hereunder for any such Contract Year, provided that BC Hydro agrees to accept and be responsible for the Consequences resulting from any such amendment of the SDA Services Plan;

provided that the Parties will work together in the event of any decrease in the amount of the SDA Services to reprioritize the remaining work under the SDA Services Plan.

- (d) BCTC will not, without the prior express written consent of BC Hydro to such amendment of the SDA Services Plan, materially vary the work plan included in the SDA Services Plan. BCTC will prepare a revised SDA Services Plan in consultation with BC Hydro if BCTC wishes to materially vary the work plan for any reason, including budget overruns. The revised SDA Services Plans will be submitted by BCTC to BC Hydro for approval in the same manner as the annual SDA Services Plan.
- (e) BCTC will give notice to BC Hydro of any material cost overrun for any growth capital project or OMA or sustaining capital program (each as described in the SDA Services Plans) within 15 days of becoming aware of the overrun or anticipated overrun. BCTC will give notice to BC Hydro of any material cost underrun for any such project or program within 90 days of becoming aware of the underrun or anticipated underrun.
- (f) Subject to Section 4.4(h), BCTC will obtain BC Hydro's written consent before undertaking any work when:
- (i) an updated OMA or sustaining capital cost estimate exceeds the approved SDA Services Plan budget for such work, or the approved capital budget amount in the case of a sustaining capital program, by the greater of 5% or \$5,000; or
 - (ii) an updated growth capital costs estimate for any project exceeds the approved SDA Services Plan budget amount for the project by \$5,000 or more;

or by such other amounts as the Parties may agree from time to time.

- (g) Subject to Section 4.15, BCTC will not, without the prior express written consent of BC Hydro to such amendment of the SDA Services Plan, exceed the total budgeted amount for OMA included in the SDA Services Plan in providing the SDA Services, provided further that in the event that BCTC does exceed the total budgeted amount for OMA in contravention hereof, BC Hydro will have no obligation to pay such excess pursuant to this Agreement.
- (h) The Parties recognize that certain projects or programs may include both Substation Distribution Assets and components of the Transmission System and may involve an allocation of budgeted and actual expenditures to the Substation Distribution Assets. BCTC will propose an initial allocation of budgeted expenditures to the Substation Distribution Assets in the SDA Services Plan. If the actual allocation of expenditures of a project or program in any Contract Year exceeds the budgeted allocation, BCTC will be subject to a Performance Payment as set out in Section 6.5.

4.5. **Service Plan Change Request**

- (a) In the course of the performance by BCTC of the SDA Services Plan, BCTC may provide to BC Hydro a written request for a change to the scope, cost, budget or schedule of work specified in the SDA Services Plan for any reason arising which is beyond the control of BCTC, including due to:
 - (i) changes in the costs or availability of BCTC's service providers;
 - (ii) changes in the costs or availability of materials or supplies;
 - (iii) delays in obtaining necessary BC Hydro or Third Party approvals (provided that BCTC has sought such approvals in a timely manner);
 - (iv) changes in scheduled outages and the availability of the Distribution System;
 - (v) unforeseen worksite conditions; or
 - (vi) a Force Majeure event under Section 18.2.
- (b) Within 15 days following the receipt of such a request, BC Hydro will either provide written consent to such change, not to be unreasonably withheld, in which case such amended SDA Services Plan will be the SDA Services Plan on which BCTC's performance will be reviewed in accordance with ARTICLE 6, or request that the Contract Representatives meet to discuss the change request. If the Parties fail to agree on the change request, either Party may submit the matter to dispute resolution pursuant to ARTICLE 14.

4.6. **Unauthorized Work**

Subject to Section 4.15, any work carried out by BCTC hereunder:

- (a) which is not included in the then-applicable SDA Services Plan or otherwise specifically authorized by BC Hydro; or
- (b) which is carried out in contravention of Section 4.4(f) or 4.4(g),

will not form part of the SDA Services and BC Hydro will have no obligation under this Agreement to pay BCTC for any such unauthorized work.

4.7. **Performance Targets**

- (a) The Parties acknowledge and agree that the SDA Services and the Substation Distribution Assets are to be provided and managed by BCTC to meet Services Standards performance targets and SDA Performance Targets which will be developed from time to time to address 3 main categories of performance, as follows:
 - (i) financial performance,
 - (ii) Substation Distribution Assets performance, and
 - (iii) Substation Distribution Assets asset health.
- (b) In connection with developing an SDA Services Plan from time to time, the Parties will endeavour to develop mutually agreeable SDA Performance Targets and Services Standards performance targets to be included in the SDA Services Plan.
- (c) BC Hydro will provide to BCTC a proposal with respect to the SDA Performance Targets and Services Standards performance targets to be used for the purposes of Section 6.5 no later than 20 days following the commencing of the Contract Year. Within 10 days of the receipt thereof, BCTC will provide written confirmation of its agreement on such proposal or request that the Contract Representatives meet within the next 10 days to discuss the proposal. If the Parties fail to agree on the SDA Performance Targets and Services Standards performance targets by 45 days following the commencement of the Contract Year, either Party may submit the matter to dispute resolution pursuant to ARTICLE 14. Until such time as new SDA Performance Targets and Services Standards performance targets for a Contract Year are agreed to between the Parties or determined pursuant to any dispute resolution, the SDA Performance Targets and Services Standards performance targets for the previous Contract Year will remain in effect.
- (d) The Parties acknowledge and agree that the SDA Performance Targets and Services Standards performance targets to be established under this Section 4.7 should be established in conjunction with performance targets relating to operating the Distribution System. The Parties also acknowledge that SDA

Performance Targets and Services Standards performance targets for an SDA Services Plan under this Agreement may be established by appropriate reference to another agreement or plan that relates to operating the Distribution System, including the DO Service Agreement.

4.8. **OMA Budgets for SDA Services**

- (a) OMA budgets will be developed by BCTC in advance of each Contract Year as part of the process for establishing the SDA Services Plan in accordance with Section 4.3. To the extent that either Party's regulatory processes require different timing for establishing such budgets, the Parties will seek to accommodate those processes.
- (b) OMA budgets will be segmented on a reasonable basis for components of the SDA Services so that the Parties are able to effectively respond to contingencies and so that budget overruns and underruns with respect to different components of the SDA Services may be more easily identified.
- (c) BC Hydro has the right to approve the OMA budgets included in SDA Services Plans from time to time, including changes to such budgets that may be required from time to time in accordance with Section 4.4.
- (d) BC Hydro may require changes to OMA budgets to meet changes to the associated SDA Services Plan in accordance with Section 4.4.

4.9. **Capital Expenditure Budgets**

- (a) Capital expenditure budgets for the Substation Distribution Assets will be developed by BCTC in advance of each Contract Year as part of the process for establishing the SDA Services Plan in accordance with Section 4.3. To the extent that either Party's regulatory processes require different timing for establishing such budgets, the Parties will seek to accommodate those processes. Such capital expenditure budgets will be consistent with and support BC Hydro's capital planning process.
- (b) Capital budgets will be segmented on a reasonable basis by program or project so that the Parties are able to effectively respond to contingencies and so that capital budget overruns and underruns with respect to different capital programs and projects may be more easily identified. To the extent that a program or project includes both Substation Distribution Assets and components of the Transmission System, the Parties will work together to ensure a reasonable method for allocating and reporting costs chargeable to the Substation Distribution Assets in accordance with Section 4.4(h).
- (c) BC Hydro has the right to approve the capital expenditure budgets included in SDA Services Plans from time to time, including changes to such budgets that may be required from time to time in accordance with Section 4.4.

- (d) BC Hydro may require changes to capital expenditure budgets to meet changes to the associated SDA Services Plan in accordance with Section 4.4.

4.10. **Project Approvals**

BCTC acknowledges that growth capital and sustaining capital projects or programs will require specific project or program approvals within BC Hydro. Once BC Hydro project or program approvals are obtained, BCTC will manage project or program expenditures within approval limits, all in accordance with BC Hydro's financial accountability policies from time to time. BC Hydro will make available to BCTC any such applicable financial accountability policies. Expenditure approval processes and levels may be set out in SDA Services Plans. BCTC will report capital project or program overruns in accordance with BC Hydro's policies as set out in an SDA Services Plan.

4.11. **Substation Distribution Assets Acquired on Behalf of BC Hydro**

Capital expenditures incurred with respect to the Substation Distribution Assets will be incurred by BCTC on behalf of BC Hydro as the owner of the Substation Distribution Assets. Substation Distribution Assets will be acquired in the name of BC Hydro and all warranties will accrue to the benefit of BC Hydro; provided that the Parties agree that BCTC will manage warranty claims on behalf of BC Hydro. Work orders, purchase orders and similar documentation to implement approved capital expenditures will be issued by BCTC on BC Hydro's behalf.

4.12. **Other Approvals**

- (a) In connection with establishing SDA Services Plans under Section 4.3, BC Hydro will use commercially reasonable efforts to seek, prior to the commencement of a Contract Year or as soon thereafter as may be reasonable in the circumstances, any approvals required to commence the SDA Services identified in the SDA Services Plan for such Contract Year. The Parties acknowledge that specific project or program approvals will be sought during a Contract Year prior to commencement of the project or program.
- (b) BC Hydro will assume the risk of regulatory approvals not being obtained if it instructs BCTC to proceed with any capital project relating to the Substation Distribution Assets without first obtaining any regulatory approvals that may be required.

4.13. **Ex-Plan SDA Services**

When requested by BC Hydro from time to time, BCTC will estimate the cost of and will provide SDA Services to BC Hydro that are within the scope of SDA Services provided for in Section 4.1 but that are not included in the then-current SDA Services Plan ("**ex-plan SDA Services**"), provided BC Hydro agrees to accept and be responsible for the Consequences of BCTC providing such ex-plan SDA Services. Ex-plan SDA Services may include providing studies, analyses and reports, including studies defining and assessing the impacts on the Distribution System of connecting generation to the

Distribution System and the OMA and capital costs of mitigating against equipment failures. The Parties will include such ex-plan SDA Services (and the associated budget for costs) in revisions to the SDA Services Plan. The Parties acknowledge that costs related to ex-plan SDA Services may include costs charged against Distribution System capital projects in appropriate circumstances. Where possible, costs related to the ex-plan SDA Services will be recorded and tracked to the specific ex-plan SDA Service requested.

4.14. **Additional Services**

The Parties acknowledge that it may be convenient and cost-effective for BCTC to provide services to BC Hydro that are not included within the scope of SDA Services provided for in Section 4.1 but that are within the capability and expertise of BCTC or are related to planning, designing, building, managing and maintaining the Substation Distribution Assets. BC Hydro may request that BCTC provide such additional services and, subject to agreement of BCTC not to be unreasonably withheld, the Parties will include such additional services (and the associated budget for costs) in a revised SDA Services Plan and BCTC will provide such additional services in accordance with this Agreement and the SDA Services Plan, as so revised. It will not be reasonable for BCTC to withhold consent where BC Hydro agrees to accept and be responsible for the Consequences of BCTC providing such additional services.

4.15. **Extraordinary Expenditures**

- (a) If BCTC is required to provide SDA Services and incur expenditures that are materially in excess of the SDA Services and expenditures contemplated by the SDA Services Plan and its associated budgets due to extraordinary, unplanned events affecting the Substation Distribution Assets, BCTC will consult as soon as possible with BC Hydro regarding such extraordinary expenditures not included in such budgets; provided that in emergency situations BCTC may incur unbudgeted expenditures without consultation if the delay would pose a further risk to security, system reliability, persons or property. BCTC will base its response to extraordinary conditions on timely input from BC Hydro where there are different response options and associated costs.
- (b) BCTC will submit revisions to the then-current SDA Services Plan in consultation with BC Hydro to include the work and expenditures required as a result of such extraordinary unplanned events and any recommended changes to the SDA Services Plan if BC Hydro wishes to maintain the annual capital and OMA budget notwithstanding the extraordinary expenditures referred to in Section 4.15(a). The revised SDA Services Plans will be submitted by BCTC to BC Hydro for approval in the same manner as the annual SDA Services Plan.

4.16. **Determination of Consequences**

In the circumstances where this Agreement requires BC Hydro to accept and be responsible for Consequences resulting from an action, BCTC will:

- (a) timely provide to BC Hydro a written report describing the specific Consequences that BCTC reasonably believes will be incurred as a result of such circumstances;
- (b) provide BC Hydro with an opportunity to advise BCTC with respect to further changes to such circumstances to alleviate or minimize all or any of such Consequences; and
- (c) use commercially reasonable efforts to plan for and minimize the Consequences actually incurred by BCTC;

provided BC Hydro will accept and be responsible for all Consequences, whether identified by BCTC pursuant to paragraph (a) above or otherwise incurred. In the event of any dispute between the Parties as to whether any such Consequences should be reimbursed by BC Hydro to BCTC, either Party may submit the matter for dispute resolution pursuant to ARTICLE 14.

ARTICLE 5. SERVICES STANDARDS

5.1. General Services Standards

In providing the SDA Services, BCTC will:

- (a) manage and maintain the Substation Distribution Assets as would a prudent owner of similar assets in like circumstances;
- (b) act in a commercially reasonable, efficient and professional manner and in accordance with Good Utility Practice;
- (c) provide the SDA Services to at least the standard and quality of similar services it provides to its own operations;
- (d) establish and comply with appropriate systems and procedures with respect to occupational health and safety matters, including worker safety and public safety matters;
- (e) provide the SDA Services to meet any Commission requirements relating to safety, cost and reliability;
- (f) provide the SDA Services to meet applicable industry standards in the United States and Canada;
- (g) comply with applicable Laws, including environmental Laws;
- (h) comply with BC Hydro policies, practices and procedures that are applicable to the SDA Services and of which BC Hydro has given BCTC notice;

- (i) comply with the terms of all rights, permits and licences held by BC Hydro and not take any action in providing the SDA Services that would invalidate or violate any such rights, permits and licences;
- (j) manage and maintain the Substation Distribution Assets in compliance with BC Hydro's engineering and maintenance standards, until such standards are changed by BCTC through the appropriate BCTC review processes;
- (k) exercise due diligence relating to environmental protection and other environmental requirements relating to the Substation Distribution Assets and provide the SDA Services in compliance with the annual environmental management plan established pursuant to Section 5.3;
- (l) take all necessary or advisable steps from time to time to plan, design, build, manage and maintain the Substation Distribution Assets in accordance with the risk management plan established pursuant to Section 5.4;
- (m) use commercially reasonable efforts to meet or exceed the additional services standards, if any, that are set out in an SDA Services Plan from time to time; and
- (n) comply with, and will ensure that each employee, subcontractor, agent and invitee who performs the SDA Services, is made aware of and agrees to comply with the BCTC Standards of Conduct.

5.2. **Public Representation**

In performing the SDA Services, BCTC will use commercially reasonable efforts to ensure the public is appropriately informed that BC Hydro is the owner of and responsible for the Substation Distribution Assets and that BCTC is planning, designing, building, managing and maintaining the Substation Distribution Assets as a service to BC Hydro on its behalf. The Parties will work together in a cooperative manner to determine appropriate practices regarding such public representation, including project and worker identification and contracting practices, failing which either Party may submit the matter in dispute for dispute resolution in accordance with ARTICLE 14.

5.3. **Environmental Management**

- (a) BCTC will establish and comply with appropriate systems and procedures with respect to environmental matters related to the SDA Services and the Substation Distribution Assets in order to meet all applicable Laws.
- (b) The SDA Services Plan established under Section 4.3 will include an annual environmental management plan to address potential risks associated with the SDA Services and the Substation Distribution Assets, and their respective impacts on the environment. The environmental management plan will address matters related to environmental management, containment of environmental contaminants (if any) within the Substation Distribution Assets and will provide for training, compliance monitoring and incident response and reporting.

- (c) BCTC will obtain and comply with any necessary environmental approvals, relating to the SDA Services and the Substation Distribution Assets.

5.4. Risk Management Plan

BCTC will be responsible for establishing a risk management plan from time to time to address potential risks associated with the SDA Services and the Substation Distribution Assets, and their respective impacts on the Downstream Distribution System and BC Hydro's customers. BCTC will consult with BC Hydro and will base such risk management plan on BC Hydro feedback, including inputs relating to service to BC Hydro customers and related costs, including acceptable outage risks during periods of single contingency outages.

**ARTICLE 6.
PERFORMANCE MEASUREMENT AND REVIEW**

6.1. Performance Targets

BCTC will meet or exceed the SDA Performance Targets and the Services Standards performance targets, as set out in each SDA Services Plan.

6.2. Performance Review

During the Term, the Parties' Contract Representatives and their designates will meet as required, and in any event no less frequently than within 30 days following the end of each quarter, to review:

- (a) BCTC's performance, including its attainment of the SDA Performance Targets and Services Standards performance targets, in the provision of the SDA Services hereunder;
- (b) BCTC's performance of the SDA Services in relation to the Services Standards;
- (c) BCTC's performance of the SDA Services contemplated by the work plan and the costs thereof as compared with the approved capital and OMA budgets and the applicable capital project and program approvals; and
- (d) performance of the Substation Distribution Assets as compared to the specific SDA Performance Targets provided for in the then current SDA Services Plan, in accordance with the SDA Services Plan.

6.3. Objective of Performance Review

The Parties acknowledge and agree that an objective in the review of BCTC's performance hereunder is to encourage continuous improvement in the performance of the SDA Services, as described in Section 3.2, and that such review must therefore include:

- (a) developing and maintaining a healthy relationship between the Parties, including reviewing BC Hydro's performance with respect to its obligations under this Agreement and the impact of such performance on the provision of the SDA Services by BCTC to BC Hydro;
- (b) learning from successes, including identifying innovations and situations where delivered value significantly exceeded expectations, and applying the lessons learned from these successes to other situations;
- (c) developing workable solutions to current ongoing problems, including attempting to solve such problems through cooperation before invoking the formal dispute resolution process pursuant to ARTICLE 14; and
- (d) determining the cause of problems, including unauthorized work under Section 4.6 and remedying such causes to avoid recurrences of the same problems in the future.

6.4. Performance Issues and Improvement Plans

- (a) If a performance review conducted pursuant to Section 6.2 establishes that BCTC has failed to meet any requirement of this Agreement or an SDA Services Plan, any Service Standard or any SDA Performance Target in a particular quarterly reporting period (the "**Performance Issue**"):
 - (i) by no later than 15 days following the completion of the performance review, the Parties' Contract Representatives or their designees will meet further to discuss the Performance Issue, including the cause of the Performance Issue and possible solutions to address the Performance Issue;
 - (ii) except to the extent that the Parties agree pursuant to paragraph (i) above that the Performance Issue is not material, or is caused solely by BC Hydro's action or inaction, BCTC will, at the request of BC Hydro, develop and submit for BC Hydro's approval, within 30 days of the date of such request or such other period as may be determined by the Parties pursuant to paragraph (i), a performance improvement plan (a "**Performance Improvement Plan**") to address the Performance Issue;
 - (iii) upon the approval of a Performance Improvement Plan by BC Hydro pursuant to paragraph (ii) above, BCTC will proceed to implement such Performance Improvement Plan in accordance with the schedule set out therein.
- (b) In the event that BCTC:
 - (i) fails to submit a Performance Improvement Plan acceptable to BC Hydro in the circumstances and within the time period specified in paragraph (a)(ii) above;

- (ii) fails to implement an approved Performance Improvement Plan in accordance with the schedule set out therein; or
- (iii) having implemented an approved Performance Improvement Plan, nevertheless fails to remedy the Performance Issue by failing to meet the Service Standard or the particular SDA Performance Target in the first full quarterly reporting period following implementation of the Performance Improvement Plan, or such other period as may be established by the approved Performance Improvement Plan,

the matter will be referred to the responsible Vice Presidents of each of BC Hydro and BCTC for consideration pursuant to paragraph (c) below.

- (c) The responsible Vice Presidents of each of BC Hydro and BCTC will meet by no later than 15 days following the date of the referral under paragraph (b) above to discuss any failure thereunder and agree on the appropriate rectification action to be taken.
- (d) In the event of any dispute between the Parties as to whether a Performance Issue is material or has been cured, either Party may submit the matter for dispute resolution pursuant to ARTICLE 14.

6.5. **Performance Incentives and Payments**

- (a) Within 45 days following the end of each Contract Year, the Parties will determine on the basis of the SDA Performance Targets and Services Standards performance targets included in the SDA Services Plan for that year whether an incentive payment (the “**Performance Incentive**”) is payable by BC Hydro to BCTC or whether a performance payment (the “**Performance Payment**”) is payable by BCTC to BC Hydro. If the Parties have not been able to agree on the amount payable within 60 days after the end of a Contract Year, either Party may submit the matter to dispute resolution pursuant to ARTICLE 14.
- (b) Subject to Section 6.5(c), the maximum amount of Performance Incentives or Performance Payments payable (the “**Payment Limits**”) in respect of fiscal 2006 will be equal to \$100,000. For each subsequent Contract Year:
 - (i) if, in the previous Contract Year, a Performance Incentive was payable, the Payment Limit for Performance Incentives for that Contract Year will be \$200,000 and the Payment Limit for Performance Payments for that Contract Year will be \$100,000;
 - (ii) if, in the previous Contract Year, a Performance Payment was payable, the Payment Limit for Performance Incentives for that Contract Year will be \$100,000 and the Payment Limit for Performance Payments for that Contract Year will be \$200,000;
 - (iii) if, in the previous Contract Year, neither a Performance Incentive nor a Performance Payment was payable, the Payment Limit for Performance

Incentives and Performance Payments for that Contract Year will be \$100,000.

- (c) The amount of any Performance Incentive or Performance Payment will be determined in accordance with the method for scaling such amounts within the applicable Payment Limits as agreed to by the Parties in the determination of SDA Performance Targets and Services Standards performance targets pursuant to Section 4.7.
- (d) No portion of a Performance Payment will be payable by BCTC if and to the extent that the failure to meet the SDA Performance Targets or the Services Standards performance targets is due to any increased costs or delays for which BC Hydro is responsible, including any delays in obtaining BC Hydro approvals or any failures by BC Hydro to meet its responsibilities in providing or procuring materials required by BCTC on a timely basis.

6.6. Settlement of Performance Payments and Incentives

The amount of any Performance Payment or Performance Incentive, as the case may be, determined pursuant to Section 6.5(a) will be payable by the applicable Party to the other Party within 30 days of such determination.

6.7. Review of Performance Payments and Incentives

The performance review conducted following the end of any fourth quarter in accordance with Section 6.2 will include a consideration of the Performance Payment and Performance Incentive process set out in this Agreement and the applicable SDA Performance Targets and Services Standards performance targets and any recommendations to BC Hydro and BCTC to establish an alternate process or for any necessary amendments to the provisions relating to such performance payments and incentives.

6.8. Cumulative Remedies

The remedies in this Agreement are cumulative and may be exercised concurrently or separately. No remedy is exclusive of any other right or remedy provided or permitted by law.

ARTICLE 7. REPORTING AND INFORMATION

7.1. Reporting Requirements

BCTC will maintain and timely provide to BC Hydro, as part of the SDA Services, such data, information, documentation and records relating to the Substation Distribution Assets and the SDA Services, as may be requested by BC Hydro from time to time, including:

- (a) a monthly report regarding OMA and capital expenditures as compared to budget, a variance report (including an explanation for the variances) and the remaining estimated cost of completing the SDA Services Plan as compared to the remaining budgets for the balance of the Contract Year;
- (b) if an OMA or capital budget covers both Substation Distribution Assets and components of the Transmission System, BCTC will use commercially reasonable efforts to provide the monthly reports referred to in paragraph (a) above on a basis that shows the allocation of expenditures to the Substation Distribution Assets;
- (c) a quarterly report setting forth a comparison between the SDA Services Plan, including budgets, for such quarter and the current Contract Year, and the actual performance of the SDA Services, SDA Performance Targets achieved and capital and OMA costs actually incurred;
- (d) operating, performance and cost data relating to the Substation Distribution Assets, including data related to normal as well as upset conditions, excursions and incidents;
- (e) plans, drawings, designs and asset operating logs, if specifically required pursuant to a SDA Services Plan;
- (f) information, documentation and records in connection with any review of an SDA Services Plan from time to time pursuant to ARTICLE 4, or any review of BCTC's performance of the SDA Services or the SDA Performance Targets from time to time pursuant to ARTICLE 6;
- (g) information, documentation and records related to or following up on a performance improvement plan established in accordance with Section 6.4;
- (h) information and documentation pertaining to BC Hydro revenue requirement filings as they relate to the SDA Services or the Substation Distribution Assets; and
- (i) such other data, information and records as may be provided for in an SDA Services Plan from time to time.

BC Hydro acknowledges and agrees that BCTC is changing its accounting, asset management and related systems and therefore is not able to provide all of the data, information, documentation and records referred to in paragraphs (a) through (d) above as at the date of this Agreement. BCTC will work diligently in order to be able to provide the requested information within a reasonable period of time consistent with the project schedule for BCTC's accounting and asset management projects. The Parties acknowledge and agree that the cost of providing the data, information, documentation and records referred to in paragraphs (a) through (i) above is included in the fixed price component set out in Section 10.2.

7.2. **Management and Accounting System Data and Information**

- (a) BCTC will ensure that its asset management and accounting system enables recording of, and reporting with respect to, assets, asset values, costing for OMA and capital costs, maintenance and replacement scheduling and other activities necessary to properly and effectively manage the Substation Distribution Assets.
- (b) BCTC will consult with BC Hydro and ensure that BCTC's asset management and accounting systems are able to timely provide or transfer to BC Hydro such data and other information and reports pertaining to the System Distribution Assets as are required to be provided by BCTC to BC Hydro as part of the SDA Services pursuant to this Agreement, in such usable form and meeting such other specifications as may be reasonably required by BC Hydro in order for BC Hydro to meet its data, systems and reporting needs.
- (c) If requested by BC Hydro, BCTC will transfer data and other information pertaining to the Substation Distribution Assets to any asset management and accounting system operated by BC Hydro from time to time.

7.3. **Changes to Reporting Requirements**

BC Hydro may change the type, frequency, content or form of any data or reports or manner of providing any data or reports to be provided by BCTC pursuant to Section 7.1, on an exception basis or otherwise, at any time during the Term by written notice to BCTC, provided that:

- (a) before being required to provide any such modified data or report, BCTC will have an opportunity to advise BC Hydro with respect to the Consequences of providing such modified data or report, and to suggest further or other changes to the type, frequency, content or form of such modified data or report to alleviate or minimize all or any of such Consequences;
- (b) if it decides to proceed with the request for such modified data or report, BC Hydro will accept and be responsible for the Consequences; and
- (c) in the event of any dispute between the Parties as to the Consequences of such request or whether any additional costs resulting from the modification of such data or report should be reimbursable by BC Hydro to BCTC as additional time spent by BCTC employees or additional costs incurred directly by BCTC, either Party may submit the matter for dispute resolution pursuant to ARTICLE 14.

7.4. **Maintenance of Records**

The Parties will maintain adequate records and systems of internal control for the performance of all of their respective obligations under this Agreement.

7.5. **BCTC Reports**

At each quarterly performance review meeting described in Section 6.2, BCTC will provide BC Hydro with an up-to-date list of all completed reports, studies or audits prepared by or on behalf of BCTC in connection with the SDA Services or the Substation Distribution Assets, other than internal reports prepared to address quality control or personnel issues. BCTC will timely provide BC Hydro with copies of any such reports, studies or audits requested by BC Hydro.

7.6. **Provision of Information by BC Hydro**

BC Hydro will timely provide the following data, information and records to BCTC:

- (a) policies established by BC Hydro from time to time that impact provision of the SDA Services;
- (b) information necessary for BCTC to perform the SDA Services; and
- (c) such other data, information and records as may be provided for in an SDA Services Plan from time to time.

7.7. **Records Retention**

- (a) BCTC will retain an electronic, microfiche and original hard copy, each if available, of all asset-related and planning documentation, including drawings, reports, calculations and settings, in perpetuity or for such shorter period as may be established by the BC Hydro policies provided to BCTC from time to time.
- (b) The Parties will retain all other records relevant to this Agreement and performance of the SDA Services pursuant to this Agreement for such period as may be established by the BC Hydro policies provided to BCTC from time to time and a Party will make the retained records available to the other Party as required.
- (c) BCTC will notify BC Hydro upon the expiry of the applicable period of retention for any record retained pursuant to paragraphs (a) or (b) above. If BC Hydro determines that such records should be retained for a longer period, BC Hydro will be responsible for the cost of retention for such extended period. If BC Hydro determines that such records need not be retained for a longer period, BCTC will be solely responsible for any cost of further retention.

7.8. **Standards of Conduct**

- (a) Notwithstanding any other provision of this Agreement, BCTC is not required to provide any information or take any other action that BCTC reasonably believes would result in a breach of any requirement imposed on BCTC or its employees pursuant to BCTC's Standards of Conduct, or to breach any present and future orders, directives, guidelines, rules, regulations, decrees or policies of the Commission.

- (b) BCTC will not unreasonably rely on the provisions of the Standards of Conduct to avoid performing its obligations under, or providing information that is required by, this Agreement.

ARTICLE 8. CONFIDENTIALITY

8.1. Definition

In this ARTICLE 8, “**Confidential Information**” means documents, data or other information received by a Party from the other Party or documents, data or other information of a Party to which the other Party has access under this Agreement, whether in written, oral or machine-readable form, relating to the disclosing Party’s business operations, financial condition, customers, products, services or technical knowledge, that (i) the disclosing Party has identified as confidential or proprietary, whether before or after the date of this Agreement, or (ii) reasonably should have been understood by the receiving Party, because of confidentiality or similar legends, the circumstances of disclosure or the nature of the information itself, to be confidential or proprietary to the disclosing Party. [MA 24.1]

8.2. Restrictions on Use of Confidential Information

- (a) BCTC hereby agrees that it will not, and will cause its auditors and other representatives not to, at any time, whether before or after the termination of this Agreement, use, disclose, or make available to any Person any Confidential Information of BC Hydro acquired in connection with the performance of its obligations under this Agreement or otherwise or prior to or after the date hereof, except to the extent that:

- (i) BC Hydro consents to such use, disclosure or making available;
- (ii) such use is expressly permitted in or necessary or advisable for the performance of this Agreement;
- (iii) such disclosure is, in the opinion of counsel, required in order to comply with any applicable Law, including disclosure obligations of BCTC; or
- (iv) such Confidential Information comes into the public domain otherwise than through a breach of this Agreement by BCTC;

and provided further that:

- (v) any such permitted or required use or disclosure is permitted by and made in accordance with BCTC’s Standards of Conduct;
- (vi) except as otherwise:
 - A. expressly consented to by BC Hydro;

- B. expressly permitted in this Agreement; or
- C. required for the performance of this Agreement by BCTC,

no such Confidential Information shall be disclosed or made available by BCTC to any BCTC employee, business unit or division of BCTC, or shall be used by BCTC for the commercial benefit of BCTC.

- (b) BCTC will establish and maintain during the Term such systems, protocols and procedures as may be required to ensure compliance with paragraph (a)(vi) above, and BC Hydro will have the right:
 - (i) to undertake Audits of such systems, protocols and procedures pursuant to Section 11.1, to the extent only that such systems, protocols and procedures relate to Confidential Information acquired by BCTC from Third Parties in the course of performing the SDA Services hereunder; and
 - (ii) if BC Hydro becomes aware of any material breach by BCTC of paragraph (a)(vi) above in respect of any Confidential Information other than that referred to in paragraph (b)(i) above, to raise such breach as a topic for good faith discussions between the Parties' responsible Vice Presidents.
- (c) BC Hydro hereby agrees that it will not, and will cause its auditors and other representatives not to, at any time, whether before or after the termination of this Agreement, use, disclose, or make available to any Person any Confidential Information of BCTC acquired in connection with the performance of its obligations under this Agreement or otherwise or prior to or after the date hereof, except to the extent that:
 - (i) BCTC consents to such use, disclosure or making available;
 - (ii) such use is expressly permitted in or necessary or advisable for the performance of this Agreement;
 - (iii) such disclosure is, in the opinion of counsel, required in order to comply with any applicable Law, including disclosure obligations of BC Hydro; or
 - (iv) such Confidential Information comes into the public domain otherwise than through a breach of this Agreement by BC Hydro;

and provided further that any such permitted or required use or disclosure is permitted by and made in accordance with BC Hydro's Standards of Conduct.

8.3. Required Disclosure

If either Party, or any of its auditors or other representatives, is required by applicable Law, or compelled by order of a court or regulatory agency of competent jurisdiction, to disclose Confidential Information of the other Party, as soon as such Party learns of the

disclosure requirement, and before making such disclosure, it will notify the other Party of the requirement and the terms thereof. The other Party may, in its sole discretion and at its sole cost and expense, undertake any challenge to or defence against such disclosure requirement. The disclosing Party will cooperate with the other Party to the maximum extent practicable, at the other Party's sole cost and expense, to minimize or eliminate the disclosure of Confidential Information consistent with applicable Law and to obtain proprietary or confidential treatment of Confidential Information by any Person to whom such information is disclosed pursuant to this Section 8.3 before any such disclosure. [MA 24.3]

8.4. **Specific Remedies**

The Parties agree that irreparable damage would occur and that they would not have any adequate remedy at law in the event that any of the provisions of this ARTICLE 8 were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the Parties will be entitled to an injunction or injunctions to prevent breaches of this ARTICLE 8 (without the requirement of posting a bond or otherwise securing any undertaking as to damages) and to enforce specifically the terms and provisions of this ARTICLE 8, this being in addition to any other remedy to which they are entitled at law. [MA 24.4]

ARTICLE 9. INTELLECTUAL PROPERTY

9.1. **Intellectual Property**

The Parties hereby acknowledge and agree that in performing their obligations under this Agreement, the use of all Intellectual Property owned by BC Hydro and the ownership and use of any Improvements or any New Intellectual Property made or developed by BCTC, all in the course of providing the SDA Services under this Agreement (whether alone or in collaboration with any other Person) shall be governed in accordance with the terms and conditions of the Intellectual Property Agreement dated as of December 1, 2003 made between BC Hydro and BCTC, as such agreement may be amended from time to time or the Supplemental Intellectual Property Agreement to be entered into by the Parties to provide for the rights and restrictions governing New Intellectual Property made or developed by the Parties after the Effective Date, as such agreement may be amended from time to time, as the case may be. In this Section 9.1, the terms "Effective Date", "Intellectual Property", "Improvements" and "New Intellectual Property" have the meanings ascribed to them in those agreements.

ARTICLE 10. PRICING AND PAYMENT

10.1. **Cost-based Pricing**

The price for the SDA Services provided by BCTC to BC Hydro pursuant to this Agreement will be BCTC's reasonable costs of providing the SDA Services, including capital, operating, maintenance, overhead, vehicle and other expenses incurred by BCTC

in the course of providing such SDA Services, and will be comprised of the following components:

- (a) subject to Sections 10.1(b), 10.2 and 10.3, a fixed price component representing a negotiated allocation to the SDA Services of BCTC's total costs; provided that such allocation will not include the costs of BCTC accounting and asset management systems except as determined pursuant to Section 10.3;
- (b) if it is reasonably practical at any time in the future, all or a part of the internal costs of BCTC personnel providing the SDA Services that would otherwise be a fixed price allocation may be charged on a negotiated hourly rate basis, by agreement of the Parties;
- (c) actual costs incurred by BCTC under any contracts with subcontractors, including BC Hydro, entered into by BCTC pursuant to and in accordance with Section 17.3, without mark-up (provided that the fixed price or hourly charge may include BCTC's reasonable costs actually incurred to manage subcontractors); and
- (d) other specific costs incurred directly by BCTC in the performance of the SDA Services, and not otherwise included in the amount determined in accordance with paragraph (a) or (b) above and Section 10.3, that are specifically requested and authorized by BC Hydro and acknowledged to be separately payable hereunder at the time of the request.

It is a principle of this Agreement that the price charged to BC Hydro for providing SDA Services will not include any allocation of costs incurred by BCTC primarily in connection with its authority and responsibility for planning, managing, maintaining or operating the Transmission System.

10.2. Fee for initial Contract Year

The Parties acknowledge and agree that the total price for providing the SDA Services for the year ending March 31, 2006 will be as set out in BC Hydro's 2003 revenue requirement application to the Commission (subject to agreed adjustments between the Parties), provided that, in the event that the Commission's decision on such application amends such total price, as so adjusted, the Parties will amend the applicable SDA Services Plan accordingly pursuant to Section 4.4, and provided further that the Parties will use commercially reasonable efforts to manage the SDA Services to be delivered hereunder to such total price amount. The total price for such year includes a fixed price component (as referred to in Section 10.1(a)) of \$1,846,000. The fixed price component amount establishes a base for negotiating the fixed price component of the costs of providing the same or similar SDA Services in future.

10.3. Determination of Pricing

In respect of all Contract Years commencing from and after April 1, 2006:

- (a) BCTC will, in each revenue requirement application to the Commission applicable to such Contract Year, seek an order from the Commission approving

the appropriate cost to be recovered by BCTC from BC Hydro for the SDA Services provided pursuant to this Agreement;

- (b) BCTC will review with BC Hydro its proposed application to the Commission pursuant to paragraph (a) above, and BC Hydro will provide BCTC with its timely comments and feedback in connection therewith, including the cost allocation between the SDA Services and BCTC's costs of planning, managing, maintaining and operating the Transmission System. In the event that the Parties are unable to agree on the amount of the fixed price component (as referred to in Section 10.1(a)) to be included in the total price for the SDA Services in respect of any Contract Year, such amount shall be determined in accordance with ARTICLE 14 prior to submission of BCTC's revenue requirement application to the Commission and BCTC shall include the amount so determined in its application; and
- (c) BC Hydro:
 - (i) will not intervene in BCTC's proceeding before the Commission in regard to the order sought by BCTC for the cost of the SDA Services pursuant to paragraph (a) above; and
 - (ii) may be required to defend the SDA Services Plan during BCTC's proceeding before the Commission in order to defend the cost of the SDA Services to be allocated to BC Hydro.

10.4. **Taxes**

- (a) Subject to paragraph (b) below, in the event that any taxes, including provincial sales tax and GST, are imposed on BC Hydro in connection with the provision of the SDA Services by BCTC under this Agreement, BC Hydro will be responsible for the payment of any such taxes and will indemnify BCTC if BCTC pays any such taxes, notwithstanding that BCTC was obliged to collect any such taxes in connection with the provision of the SDA Services by BCTC under this Agreement. **[MA 31.6]**
- (b) BCTC will comply with all applicable Laws in respect of the billing and invoicing for the SDA Services, and BC Hydro will not be responsible for any interest or penalties relating to the non-payment of any taxes in connection with the provision of the SDA Services to the extent that the failure to pay such taxes is attributable to the failure of BCTC to comply with such Laws.
- (c) BCTC will be responsible for ensuring that invoices and supporting documentation for the SDA Services properly identify and separate those SDA Services that may be taxable from those SDA Services that are not taxable so that BC Hydro is liable for the payment of tax only on SDA Services which are taxable.

- (d) The Parties will administer this Agreement in a manner that is tax efficient. If either Party identifies a way of increasing the tax efficiency of this Agreement by administering it in a different manner, the Parties will work together in an effort to achieve such efficiency, in full compliance with applicable Laws.

10.5. **Payment Process**

- (a) Until such time as the invoicing and payment mechanics contemplated by paragraphs (b) and (c) below have been implemented, BCTC and BC Hydro will continue to, respectively, charge and effect payment for the SDA Services in accordance with the policies and procedures in place as of the date of this Agreement.
- (b) From and after the Tariff Commencement Date, BCTC will invoice BC Hydro for the price for providing the SDA Services in the manner set out in the SDA Services Plan, and will deliver such statements to BC Hydro on or before the 15th Business Day of each month.
- (c) From and after the Tariff Commencement Date, BC Hydro will effect payment of all invoices received from BCTC pursuant to paragraph (b) above within 30 days after receipt thereof by BC Hydro or pursuant to the monthly settlement between the Parties of all amounts payable between the Parties under this Agreement and any other service level agreement contemplated by the Key Agreements.

10.6. **SDA Capital Project Account**

To facilitate payment of capital expenditures to be charged to capital projects pertaining to Substation Distribution Assets, BCTC will establish an account (the “**SDA Capital Project Account**”) to be used for funding capital expenditures incurred under this Agreement by BCTC pertaining to the Substation Distribution Assets. BCTC will be entitled to draw down from the SDA Capital Project Account amounts required to make payment for capital expenditures that have been approved in accordance with Section 4.9 and, where required, Section 4.10. BC Hydro will arrange with its bankers to transfer sufficient funds from time to time to the SDA Capital Project Account so that BCTC is able to pay approved capital expenditures as they are incurred in accordance with this Section 10.6.

10.7. **Disputed Amounts**

In the event of a dispute by BC Hydro in respect of any amount included on any invoice received from BCTC, BC Hydro may submit such dispute to dispute resolution pursuant to ARTICLE 14 and withhold payment of the disputed amount but, pending the resolution of such dispute, will effect full payment to BCTC of the undisputed amount in accordance with Section 10.5.

10.8. **Interest on Unpaid Amounts**

Any amounts payable under Section 10.5 will, if not paid by the due date specified, accrue interest at the annual rate of 2% above the then effective interest rate payable by

BC Hydro on 30 day commercial paper or equivalent instrument, from the date payment is due until the date payment is made. [MA 21.4]

ARTICLE 11. AUDIT

11.1. Right to Audit

BC Hydro, its auditors and other representatives will have the right to conduct such reviews, investigations, inspections, audits, confirmations, certifications, tests, studies and determinations (collectively, “**Audit**”) of the systems, processes, facilities and records of BCTC as BC Hydro determines, acting reasonably, are required to verify:

- (a) the accuracy of all amounts invoiced or otherwise claimed by BCTC under this Agreement, including whether BCTC has performed all work for which a fixed fee is being charged;
- (b) compliance by BCTC with its obligations under this Agreement, including without limitation:
 - (i) the adequacy of the performance of the SDA Services by BCTC hereunder, including the accuracy of the information relating to the performance of the SDA Services contained in all reports provided by BCTC to BC Hydro under this Agreement;
 - (ii) performance of the SDA Services in accordance with the Services Standards;
 - (iii) whether the Substation Distribution Assets are meeting the SDA Performance Targets; and
 - (iv) BCTC’s establishment, maintenance and compliance with the quality management system required pursuant to Section 3.3.

11.2. Conduct of Audit

- (a) Any Audit performed for or on behalf of BC Hydro pursuant to Section 11.1 will be conducted in accordance with industry or professionally accepted practices or requirements, if any, applicable Laws, this Agreement, and all other agreements between the Parties.
- (b) Any Audit performed for or on behalf of BC Hydro pursuant to Section 11.1 will be conducted on no less than 30 days’ notice in writing to BCTC.
- (c) BCTC will provide access to its systems, facilities and records to such auditors and other representatives as BC Hydro may reasonably require for the purposes of the Audits contemplated in Section 11.1, provided that any such access to facilities and records will be during normal business hours unless otherwise agreed to by BCTC, will be conducted in a manner that does not unreasonably

interfere with BCTC's business operations, and will, where applicable, be subject to any building and office security that is ordinarily in place at such facilities.

- (d) If BCTC's Standards of Conduct prevent or restrict the disclosure of relevant systems, facilities and records to BC Hydro, BCTC will provide access to such systems, facilities and records to BC Hydro's auditors or other representatives provided that such auditors or other representatives agree not to provide such systems, facilities and records to BC Hydro in a form or manner that would breach BCTC's Standards of Conduct.
- (e) The cost of any Audit performed pursuant to Section 11.1 will be borne by BC Hydro.
- (f) The audit findings and any Confidential Information of BCTC which is reviewed in the course of the Audit or contained in the audit findings will only be used for assessing BCTC's performance and compliance with its obligations under this Agreement.

11.3. **Audit Findings**

BCTC will be entitled to receive and respond to any questions arising during the course of any Audit and to receive and comment upon, prior to finalization, the draft report of the audit findings. A copy of the final report on the audit findings will be provided to BCTC upon its completion.

11.4. **Resolution of Audit Findings**

- (a) If any Audit performed pursuant to Section 11.1 establishes any inaccuracy in an invoice or other amount payable under this Agreement, the Parties will forthwith agree on the amount and make such adjusting payments as may be necessary to rectify such inaccuracy within 15 days of such agreement. Failing such agreement being reached within 30 days, either Party may submit the matter to dispute resolution pursuant to ARTICLE 14.
- (b) Any claim of an inaccurate amount under Section 11.4(a) must be made within six months after the date of the invoice covering any amount payable under this Agreement which gives rise to such claim.

11.5. **No Waiver**

Failure by BC Hydro to perform any Audit shall not constitute a waiver of any of the rights of BC Hydro, or any of the obligations or liabilities of BCTC, under this Agreement.

ARTICLE 12.
AGREEMENT RE-OPENING AND TERMINATION

12.1. Re-Opening of Agreement

Either Party may re-open this Agreement by giving two years' notice to the other Party, provided that such notice may not be given prior to April 1, 2008 and that upon giving such notice:

- (a) the Party wishing to re-open this Agreement may re-open it as to any one or more of planning, designing, building, managing or maintaining of any of the Substation Distribution Assets; and
- (b) the Parties will undertake good faith negotiations to establish a new arrangement acceptable to both Parties, provided that if the Parties are unable to agree on a new arrangement, either Party may terminate this Agreement effective at the end of the two-year notice period, with the result that BC Hydro would become responsible for planning, designing, building, managing and maintaining the Substation Distribution Assets itself, subject to Section 12.3. **[MA 12.2(b)(v)]**

12.2. Other Termination

In addition to termination of this Agreement by either Party pursuant to Section 12.1(b), this Agreement may be terminated:

- (a) by BC Hydro in accordance with Section 26 of the Master Agreement; or
- (b) at any time by agreement of the Parties.

12.3. Effect of Termination

- (a) In the event this Agreement is terminated pursuant to Section 12.1(b) or 12.2, the Parties will determine, on a substation by substation basis, which Substation Distribution Assets, if any, BCTC should be responsible for managing and maintaining on an ongoing basis and the Parties will enter into a service level agreement to reflect management and maintenance services, if any, to be provided by BCTC with respect to such Substation Distribution Assets on an ongoing basis. In making such determination, the Parties will apply the following primary principles, in order of priority:
 - (i) safe work environment for field personnel;
 - (ii) consistency with the definition of Substation Distribution Assets in this Agreement; and
 - (iii) operating and cost efficiency. **[MA 12.2(b)(vi)]**
- (b) In the event the Parties are unable to agree which Substation Distribution Assets, if any, BCTC should be responsible for managing and maintaining on an ongoing

basis pursuant to paragraph (a) above, either Party may submit the matter to dispute resolution pursuant to ARTICLE 14 and, upon such resolution by dispute resolution, the Parties will enter into a service level agreement to reflect management and maintenance services, if any, to be provided by BCTC with respect to those Substation Distribution Assets. [MA 12.2(b)(vii)]

12.4. **Responsibility for Termination Costs**

- (a) If:
 - (i) either Party terminates this Agreement in accordance with Section 12.1(b); or
 - (ii) BC Hydro terminates this Agreement in accordance with Section 12.2(a),BC Hydro will not be responsible for any costs and expenses associated with any stranded assets or personnel of BCTC.
- (b) If the Parties terminate this Agreement by mutual agreement in accordance with Section 12.2(b), BC Hydro's responsibility, if any, for costs and expenses associated with any stranded assets or personnel of BCTC will be as determined by the Parties in connection with such termination.

12.5. **Orderly Transition**

If this Agreement is terminated pursuant to this ARTICLE 12:

- (a) by no later than 90 days following notice of termination or the Parties' mutual decision to terminate, as the case may be, the Parties will negotiate and reach agreement on a reasonable transition process and period to facilitate the orderly transfer of the SDA Services to BC Hydro; failing agreement either Party may submit the matter in dispute for dispute resolution in accordance with ARTICLE 14; and
- (b) BCTC will provide to BC Hydro such reasonable cooperation, assistance and services, including all necessary access to the assets within BC Hydro substations that are referred to in Section 3.1(c), to allow the planning, designing, building, managing and maintaining of the Substation Distribution Assets to continue without interruption or adverse effect and to facilitate the orderly transition to BC Hydro.

12.6. **Survival on Termination**

Notwithstanding any other provision of this Agreement, if this Agreement is terminated, the provisions of this Agreement setting out rights and obligations relating to confidentiality, indemnification, limitation of liability, audit rights and dispute resolution will survive such termination or expiry and remain in full force and effect with respect to any matter arising prior to such termination or expiry. [MA 3.2]

12.7. **Intellectual Property Rights upon Termination**

If this Agreement is terminated, the rights of the Parties with respect to intellectual property shall be as set out in the Supplemental Intellectual Property Agreement dated April 1, 2005 made between the Parties.

ARTICLE 13. LIABILITIES AND INDEMNITIES

13.1. **Definitions**

For the purposes of this ARTICLE 13, the following terms shall have the following meanings:

- (a) **“BC Hydro Indemnitees”** means BC Hydro and its partners, shareholders, agents, directors, officers, employees, affiliates, successors and assigns, but does not include BCTC or its partners, shareholders, agents, directors, officers, employees, affiliates, successors and assigns.
- (b) **“BCTC Contractor”** means any Third Party engaged directly or indirectly by BCTC to provide services to or on behalf of BCTC in connection with the SDA Services; for further certainty, “BCTC Contractor” specifically excludes any subcontractor engaged directly or indirectly by BC Hydro when BC Hydro has itself been engaged by BCTC.
- (c) **“Claim”** means any claim, action, suit, litigation, investigation, arbitration, proceeding or other matter, whether in contract or tort (including, without limitation, in negligence or in any tort imposing strict liability) or otherwise, that is threatened, made, commenced or brought by a Third Party against any of the BC Hydro Indemnitees and in respect of which BC Hydro intends to seek indemnification from BCTC pursuant to Section 13.2.
- (d) **“Losses”** means any and all losses, liabilities, damages, actions, claims, costs and expenses of any nature or kind (including reasonable legal fees and disbursements).

13.2. **BCTC Indemnity**

In addition to the indemnity provided by BCTC to BC Hydro pursuant to Section 23.3 of the Master Agreement, BCTC will, subject to Section 13.3, indemnify and save the BC Hydro Indemnitees harmless from and against any Losses suffered or incurred by the BC Hydro Indemnitees arising out of or in connection with any of the following:

- (a) any Claim arising out of or in connection with any act or omission of BCTC or any BCTC Contractor in the course of providing the SDA Services to BC Hydro pursuant to this Agreement; [MA 23.3(a)(ii)]
- (b) any damage to the Distribution System caused by or arising out of or related to any negligence or wilful misconduct by BCTC or any BCTC Contractor in the

course of providing the SDA Services to BC Hydro pursuant to this Agreement;
and

- (c) any release or discharge of Hazardous Materials (as defined in the Master Agreement) on or from the Substation Distribution Assets caused directly or indirectly by any act or omission of BCTC or any BCTC Contractor in the course of providing the SDA Services;

provided that BCTC will not be required to indemnify any of the BC Hydro Indemnitees in respect of the Losses specified in this Section 13.2 to the extent BC Hydro receives insurance proceeds relating to such Losses.

13.3. **No Consequential Damages**

Neither Party nor any of its affiliates, officers, directors or employees will be liable in contract or tort (including, without limitation, in negligence or in any tort imposing strict liability) or otherwise for indirect, special, incidental, consequential, exemplary or punitive damages or damages for loss of use, loss of work in process, down time or loss of profits of the other Party, and such limitation on damages will survive failure of any exclusive remedy and will survive termination of this Agreement, including by reason of a fundamental breach; provided, however, that the foregoing provisions will not limit compensation for goods sold, services rendered or other compensation specifically provided for under this Agreement. The foregoing limitation on liability of a Party, its affiliates, officers, directors or employees, is not intended to apply to the extent that the Losses for which BC Hydro seeks indemnification hereunder are indirect, special, incidental, consequential, exemplary or punitive damages or damages for loss of use, loss of work in process, down time or loss of profits claimed against any of the BC Hydro Indemnitees by a Third Party resulting from an action or failure to act by BCTC that is indemnified under Section 13.2. [MA 23.6]

13.4. **Indemnification Process**

The process set out in Section 23.8 of the Master Agreement will apply to any Claims for which BC Hydro seeks indemnification from BCTC under Section 13.2.

13.5. **Insurance**

BCTC will ensure that all Third Party contractors and subcontractors that are contracted to provide any of the SDA Services work on the Substation Distribution Assets in any capacity carry appropriate insurance coverage on a basis which meets the requirements of BC Hydro's procurement policies from time to time, and with BC Hydro named as a loss payee. During the Term, BCTC will be responsible for managing any insurance claims as requested by BC Hydro.

ARTICLE 14. DISPUTE RESOLUTION

14.1. Dispute Resolution

Except as and to the extent otherwise expressly provided for in this Agreement, all disputes between the Parties which may arise under, out of, in connection with or in relation to this Agreement (a “**Dispute**”) will be resolved strictly and exclusively in accordance with this ARTICLE 14, including Disputes arising in connection with any provision of this Agreement which provides (regardless of the actual words used) that:

- (a) the Parties will reach agreement on a particular matter and the time specified for reaching agreement has passed or, if no time is specified, the Parties have failed to reach agreement on the matter; and
- (b) either Party may submit a failure to reach agreement on the particular matter to dispute resolution pursuant to this ARTICLE 14.

14.2. Notice of Internal Escalation

- (a) In the event of a Dispute that cannot be resolved by the respective responsible managers of the Parties, either Party may at any time provide the other Party with written notice of its intention to formally invoke the internal escalation provisions of Section 14.3 (a “**Notice of Internal Escalation**”).
- (b) The Party issuing a Notice of Internal Escalation pursuant to paragraph (a) above will also deliver a copy thereof to each Party’s Contract Representative.

14.3. Internal Escalation of Dispute

- (a) Following the delivery of a Notice of Internal Escalation pursuant to Section 14.2, the Parties will use commercially reasonable efforts to resolve the Dispute by good faith discussions between the respective Contract Representatives of the Parties within 15 days of the delivery of the Notice of Internal Escalation.
- (b) If the discussions between the Parties’ Contract Representatives pursuant to paragraph (a) above are not successful in resolving the Dispute, the Parties will use commercially reasonable efforts to resolve the Dispute by good faith discussions between the Parties’ responsible Vice Presidents within a further 15 day period.
- (c) Each of the Parties will provide full, candid and timely disclosure of all relevant facts, information and documents to facilitate any such discussions.

14.4. Notice of Dispute

In the event of a Dispute that has not been resolved to the satisfaction of the Parties under Section 14.3, either Party may at any time following the expiration of the time periods set out in Section 14.3 provide the other Party with written notice of its intention to formally

invoke the external dispute resolution provisions of this ARTICLE 14 (a “**Notice of Dispute**”). [MA 25.2]

14.5. Recommendations by Independent Expert

Following the issuance of a Notice of Dispute pursuant to Section 14.4, the Parties may, by mutual agreement, elect to have an independent expert review and submit written recommendations as to the resolution of the Dispute on a non-binding basis. The costs of such an expert will be shared equally between the Parties. [MA 25.4]

14.6. Mediation

Following the issuance of a Notice of Dispute pursuant to Section 14.4, either Party may, at any time after 14 days following the date that a Notice of Dispute is given in respect of the Dispute, refer the Dispute, including a Dispute which is under review or subject to a recommendation under Section 14.5, to mediation which, unless otherwise agreed between the Parties, will be commenced and carried out in accordance with the mediation rules of procedure of the British Columbia International Commercial Arbitration Centre in effect at the time of the mediation. [MA 25.5]

14.7. External Arbitration

- (a) If a Dispute is not resolved by mediation within 14 days of a mediator being appointed or agreed to by the Parties or at any time after written notice to the Parties by the mediator that the Dispute is not likely to be resolved through mediation, then either Party may, by notice to the other Party, require the Dispute to be settled by arbitration under this Section 14.7. In the event that a dispute is not referred to mediation under Section 14.6, then either Party may, at any time after 14 days following the date that a Notice of Dispute is given in respect of the Dispute, require the Dispute to be settled by arbitration under this Section 14.7.
- (b) The following provisions will apply to any arbitration initiated pursuant to this Section 14.7:
 - (i) The arbitration will be conducted in British Columbia in accordance with the *Commercial Arbitration Act* (British Columbia).
 - (ii) The Parties will use commercially reasonable efforts to agree on and appoint a single arbitrator.
 - (iii) If the Parties fail to agree upon a single arbitrator within 10 days of the referral of the dispute to arbitration, each Party will choose one arbitrator who will sit on a three-member arbitration panel. The two arbitrators so chosen will within 20 days of their selection, select a third arbitrator to chair the arbitration panel.
 - (iv) The arbitrator(s) appointed under paragraph (ii) or (iii) above will be knowledgeable in electric utility matters, including electric transmission and bulk power issues, and, unless the Parties otherwise agree, will be

neutral and not have any current or past substantial business or financial relationships with either Party (except through prior arbitrations).

- (v) Where the Parties have failed to agree on a matter referred to in Section 14.1(a), each Party expressly authorizes and directs the arbitrator(s) to establish the terms of the agreement between the Parties addressing the matter on which the Parties were unable to reach agreement and such agreement will be binding on the Parties.
- (vi) Unless otherwise agreed, the arbitrator(s) will render a decision within 90 days of appointment and will notify the Parties in writing of the decision and the reasons for the decision.
- (vii) Any decision of the arbitrator(s) must comply with any order or other requirement of the Workers' Compensation Board or other regulatory agency having jurisdiction over occupational health and safety.
- (viii) If the decision of the arbitrator(s) will affect the rates, terms and conditions of service or facilities of BCTC or BC Hydro or any other matter under the WTS Tariff or the OATT (each as defined in the Master Agreement), as the case may be, such decision must also be filed with the Commission.
- (ix) Subject to any award of costs by the arbitrator(s), each Party will be responsible for its own costs incurred during the arbitration process and for the following costs, if applicable:
 - A. the cost of the arbitrator chosen by the Party to sit on the three member panel and one half of the cost of the third arbitrator chosen; or
 - B. one half of the cost of the single arbitrator jointly chosen by the Parties. [MA 25.6]

14.8. Confidentiality in Respect of Disputes

Unless otherwise agreed by the Parties, all hearings, meetings and communications in connection with Disputes under this ARTICLE 14 and, subject to Section 14.7(b)(viii), all decisions of the arbitrator(s) will be treated as strictly private and confidential, and will not be disclosed except as may be required by applicable Laws. [MA 25.7]

ARTICLE 15. CONTRACT REPRESENTATIVES

15.1. Contract Representatives

Each of the Parties shall, by notice in writing to the other Party, appoint an individual as its Contract Representative under this Agreement to be responsible for the relationship

between the Parties under this Agreement. Either Party may replace such Contract Representative by notice in writing to the other Party from time to time.

15.2. Designates

Each Contract Representative may designate in writing a reasonable number of additional employees of such Party to be points of contact for the other Party in respect to particular subject matters under this Agreement.

15.3. Scope of Authority

- (a) Each Contract Representative and its designates will have the authority to make decisions with respect to actions to be taken by its Party in the ordinary course of day-to-day management of the obligations of such Party under this Agreement, including acting as each Party's point of contact for all matters related to the development, management and amendment of SDA Services Plans pursuant to this Agreement.
- (b) The Contract Representatives and their respective designates will have no authority, expressly or by course of conduct, to agree to amend this Agreement.

15.4. Meetings of Contract Representatives

The Contract Representatives and their designates will meet quarterly (or more or less frequently as determined by the Parties) to review the effectiveness of this Agreement and the relationship between the Parties under this Agreement.

**ARTICLE 16.
NOTICES**

16.1. Notices

All notices to be given pursuant to this Agreement will be in writing and will be given by delivery or facsimile of the same to the address or facsimile number designated hereunder or to such other address or facsimile number as may be substituted therefor from time to time for the proper notice to a Party hereunder. Where a notice is sent by facsimile, if it is received by a Party prior to 4:00 p.m. local time on a Business Day, it will be deemed to have been received on that Business Day, and otherwise such notice will be deemed to be received on the Business Day next following its actual receipt. A Party may change its address or facsimile number from time to time by giving written notice of such change to the other Party in accordance with this Section 16.1. The respective addresses and facsimile numbers of the Parties are as follows:

To BC Hydro: British Columbia Hydro and Power Authority
333 Dunsmuir Street
Vancouver, B.C.
V6B 5R3

Attention: Vice-President Distribution
Facsimile: (604) 623-4430

Attention: Vice-President & General Counsel
Facsimile: (604) 623-4323

Attention: Director, Business Partnerships
Facsimile: (604) 623-4545

To BCTC: British Columbia Transmission Corporation
Suite 1100, Four Bentall Centre
1055 Dunsmuir Street
P.O. Box 49260
Vancouver, B.C.
V7X 1V5

Attention: Vice President Legal & General Counsel
Facsimile: (604) 699-7471

16.2. Routine Communication

Notwithstanding Section 16.1, any notices or other communications between the Parties that relate to operating procedures are not required to be in writing and will be made as set out in this Agreement, by industry practice or as otherwise agreed by the Parties.

ARTICLE 17. ASSIGNMENT AND SUBCONTRACTING

17.1. Successors and Assigns

All covenants and provisions of this Agreement by and for the benefit of the Parties will bind and enure to the benefit of their respective successors and permitted assigns, but no permitted assignment or transfer will relieve the assignor or transferor of its obligations except to the extent specifically provided in this Agreement or any of the Key Agreements.

17.2. Assignment

Subject only to Section 17.3, neither Party will assign, pledge or transfer all or any part of, or any right or obligation under, this Agreement except in accordance with Article 28 of the Master Agreement, as if this Agreement was one of the Key Agreements.

17.3. **Subcontracting**

BCTC may not subcontract all or substantially all of the SDA Services and may not subcontract the planning and asset management components of the SDA Services that were carried out by BCTC's staff as at April 1, 2005 to any Third Party, in either case without the prior written consent of BC Hydro not to be unreasonably withheld or delayed. BC Hydro's consent thereto will not relieve BCTC from any of its responsibilities or obligations under this Agreement. Notwithstanding the foregoing, BCTC may subcontract minor items of work included in the planning and asset management component of the SDA Services to a Third Party or to BC Hydro where those items of work may be more conveniently and efficiently carried out by subcontractors; provided that BCTC will not be relieved of any of its responsibilities or obligations under this Agreement.

ARTICLE 18. FORCE MAJEURE

18.1. **Definitions**

In this ARTICLE 18, "**Force Majeure**" means acts of God; acts of the public enemy; wars; sabotage; terrorism; riots; strikes; lockouts; vandalism; blockages; labour disputes; fires; explosions; natural disasters; floods; perils of the sea; lightning; wind; actions of a court or public authority (including the denial, revocation or non-renewal of a permit or licence); accidents or failure of equipment or machinery; inability to obtain or maintain any transmission property right; or allocation or failure of normal sources of supply of materials, transportation, energy or utilities or other causes of a similar nature which are beyond the reasonable control of the Party affected and could not have been avoided by the exercise of due diligence and that wholly or partly prevent, alter or delay the performance by such Party of its obligations or responsibilities under this Agreement. Economic hardship will not constitute a Force Majeure under this Agreement. **[MA 27.1]**

18.2. **Excuse From Performance**

Neither Party will be considered in default as to any of its obligations under this Agreement to the extent it is prevented from fulfilling the obligation due to an event of Force Majeure. However, a Party whose performance under this Agreement is hindered by an event of Force Majeure will use commercially reasonable efforts to perform its obligations under this Agreement and use commercially reasonable efforts to remedy the Force Majeure with reasonable dispatch and it will have the right to suspend performance of such obligations only to the extent and for the duration that the Force Majeure actually and reasonably prevents the performance of such obligations. Both Parties will use commercially reasonable efforts to mitigate or overcome the effects of any event of Force Majeure; provided that settlement of strikes, lockouts and other labour disturbances will be wholly within the discretion of the Party involved. **[MA 27.2]**

18.3. **Notification**

If there is a Force Majeure event affecting a Party's ability to perform its obligations under this Agreement, the affected Party will promptly notify the other Party of the occurrence of the Force Majeure event, identifying the nature of the event, its expected duration and the particular obligations affected. The affected Party will furnish to the other Party reports with respect to the Force Majeure event at such intervals as the other Party may reasonably request during the continuance of the Force Majeure event. [MA 27.3]

ARTICLE 19. GENERAL PROVISIONS

19.1. **Entire Agreement and Amendment**

This Agreement, together with the Master Agreement and any agreements or provisions thereof referred to in this Agreement, constitutes the entire agreement between the Parties and supersedes all previous agreements and understandings, whether oral or written, relating to the subject matter of this Agreement. Section 15.2(i) of the Master Agreement applies to this Agreement as if incorporated herein.

19.2. **Amendment of Agreement**

- (a) This Agreement may not be changed or modified orally and neither Party will be liable or bound to the other Party in any manner by any warranties, representations, covenants or agreements except as specifically set forth in the this Agreement or expressly required to be made or delivered pursuant hereto. [MA 31.1]
- (b) In the event that a Party wishes to raise and discuss with the other Party any matter relating to this Agreement due to the fact that, in the Party's opinion, there has been a change in circumstances or a particular provision of this Agreement is giving rise to unintended consequences, both Parties will enter into good faith negotiations to attempt to resolve the matter and amend or modify this Agreement accordingly. [MA 31.4]
- (c) If the Parties are unable to resolve any matter raised by a Party pursuant to paragraph (b) above, either Party may submit the matter to dispute resolution in accordance with ARTICLE 14.

19.3. **Construction of Agreement**

Ambiguities or uncertainties in the wording of this Agreement will not be construed for or against either Party, but will be construed in a manner that most accurately reflects the purpose of such agreement and the nature of the rights and obligations of the Parties with respect to the matter being construed. [MA 31.2]

19.4. Governing Law and Attornment

This Agreement will be interpreted in accordance with and governed by the laws of the Province of British Columbia and the laws of Canada applicable in British Columbia. Each Party irrevocably attorns to the jurisdiction of the Courts of British Columbia.

19.5. Severability

In the event that any one or more of the provisions of this Agreement is held invalid, illegal or unenforceable under any applicable law, the remainder of this Agreement or the application of the provisions of this Agreement to Persons or circumstances other than those as to which it is held invalid or unenforceable, will not be affected thereby. If a court of competent jurisdiction determines that any part of this Agreement is invalid, illegal or unenforceable, and, as a result of such determination and this Section 19.5, the basic intentions of the Parties in this Agreement are frustrated, the Parties will use commercially reasonable efforts to amend, supplement or otherwise vary this Agreement to give effect to their intentions in entering into this Agreement. [MA 31.7]

19.6. Waiver

The waiver by either Party of any intended or unintended breach, default or misrepresentation under this Agreement will not be deemed to extend to any prior or subsequent breach, default or misrepresentation under this Agreement, whether of a like or different character and will not affect in any way any rights arising by virtue of any such prior or subsequent occurrence, and any such waiver will only be valid if provided in writing, signed by the Party providing such waiver. [MA 31.8]

19.7. Preparation

The drafting and negotiation of this Agreement have been participated in by both Parties, and not by either Party to the exclusion of the other, and for all purposes this Agreement will be deemed to have been drafted jointly by the Parties. [MA 31.9]

19.8. Counterparts

This Agreement may be executed in counterparts and by electronic facsimile transmission, each of which will be deemed to be originals and all of which counterparts will constitute one and the same document.

19.9. Relationship of the Parties

Nothing contained in this Agreement will be construed to create an association, joint venture, trust, partnership, leasehold or other property interest or to impose a trust or partnership covenant, obligation or liability on or with regard to either of the Parties. [MA 31.11]

19.10. Further Assurances

Each Party will execute and deliver such further documents and do such further and other things as may be necessary to carry out and give effect to the intent of this Agreement and the transactions contemplated hereby.

19.11. Time of Essence

Time will be of the essence of this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the date first written above.

**BRITISH COLUMBIA HYDRO AND
POWER AUTHORITY**

By: _____

Title: _____

**BRITISH COLUMBIA TRANSMISSION
CORPORATION**

By: _____

Title: _____

By: _____

Title: _____

**DISTRIBUTION OPERATIONS
SERVICE AGREEMENT**

Between

BRITISH COLUMBIA HYDRO AND POWER AUTHORITY

and

BRITISH COLUMBIA TRANSMISSION CORPORATION

Dated as of April 1, 2005

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DISTRIBUTION OPERATIONS SERVICE AGREEMENT

THIS AGREEMENT is dated as of the 1st day of April, 2005.

BETWEEN:

BRITISH COLUMBIA TRANSMISSION CORPORATION, a Crown corporation organized and existing under the laws of the Province of British Columbia

(“**BCTC**”)

AND:

BRITISH COLUMBIA HYDRO AND POWER AUTHORITY, a Crown corporation organized and existing under the laws of the Province of British Columbia

(“**BC Hydro**”)

WHEREAS:

- A. BC Hydro and BCTC have, pursuant to the *Transmission Corporation Act* (British Columbia), entered into the Master Agreement; and
- B. BC Hydro and BCTC propose to enter into this Agreement pursuant to Section 11.3 of the Master Agreement to specifically set out certain terms and conditions for the operation of the Distribution System by BCTC as a service to BC Hydro in accordance with Article 11 of the Master Agreement.

NOW THEREFORE, in consideration of the premises and mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, the Parties agree as follows:

ARTICLE 1. DEFINITIONS

1.1. Definitions

In this Agreement, the following terms will have the following meanings respectively:

- (a) “**Audit**” has the meaning ascribed to it in Section 11.1.
- (b) “**BC Hydro**” means British Columbia Hydro and Power Authority and its successors and permitted assigns.
- (c) “**BCTC**” means British Columbia Transmission Corporation and its successors and permitted assigns.

- (d) **“Business Day”** means a day that is not a Saturday, Sunday or statutory holiday in the Province of British Columbia.
- (e) **“Commission”** means the British Columbia Utilities Commission or any successor agency having regulatory jurisdiction over transmission services in British Columbia.
- (f) **“Consequences”** means, in respect of any proposed action to be taken by BCTC hereunder:
 - (i) the feasibility of such proposed action;
 - (ii) any costs to be incurred by BCTC in taking such proposed action due to:
 - A. either or both additional time being spent by BCTC employees in taking such proposed action or additional costs being incurred directly by BCTC to take such proposed action; or
 - B. any stranded assets or personnel resulting from such proposed action;
 - (iii) any impact on the timely provision of any other DO Services hereunder resulting from the reallocation of resources by BCTC in order to take such proposed action, including any resulting implications for DO Performance Targets;
 - (iv) any impact on BCTC’s ability to meet the DO Performance Targets; and
 - (v) any other direct or indirect impact on BC Hydro or BCTC in connection with the taking of such action by BCTC, including any impact on the provision of any other service by, or satisfaction of any other obligation of, BCTC to BC Hydro as contemplated by the Key Agreements or any other service level agreement entered into between the Parties, provided that no such impact shall be deemed to amend any Key Agreement or other such service level agreement, or any of the respective roles and responsibilities of BCTC or BC Hydro thereunder.
- (g) **“Contract Representative”** means a contract representative of a Party appointed under ARTICLE 15.
- (h) **“Contract Year”** means the one year period commencing on April 1 of each year and ending on March 31 of the next following year.
- (i) **“Distribution Line of Business”** or **“DLoB”** means the Distribution line of business of BC Hydro.
- (j) **“Distribution System”** means the Substation Distribution Assets and the Downstream Distribution System.

- (k) **“DO Performance Targets”** means the targets relating to performance of the DO Services, as established from time to time under Section 4.8, including targets relating to customer hours lost, response and restoration time for Substation Distribution Assets, switching accuracy, accuracy and timeliness of permits, duration of outages and operation within equipment limits for the Distribution System. Certain of these targets will be used to assess whether Performance Incentives or Performance Payments are payable pursuant to Section 6.5 for a Contract Year.
- (l) **“DO Services”** means the services to be provided by BCTC to BC Hydro with respect to operating the Distribution System, including all work contemplated by the DO Services Plan, all as more fully described in ARTICLE 4.
- (m) **“DO Services Plan”** means the services plan established from time to time under ARTICLE 4 that sets forth for the period specified in it:
 - (i) a detailed description of the services to be performed by BCTC and any related activities to be performed by BC Hydro;
 - (ii) the work plan with respect to the DO Services;
 - (iii) pricing for the DO Services;
 - (iv) the associated budgets established under Sections 4.9 and 4.10;
 - (v) DO Performance Targets established under Section 4.8;
 - (vi) accounting, reporting and payment procedures as may be agreed between the Parties;
 - (vii) the precedence, if any, between components of the DO Services Plan; and
 - (viii) such other components as the Parties may agree.
- (n) **“DO Services Standards”** means the standards for performing the DO Services as set forth in ARTICLE 5 together with any additional performance standards set forth in a DO Services Plan.
- (o) **“Downstream Distribution System”** means those assets operated at distribution voltage of less than 60 kV that are owned by, or are held under contract by, BC Hydro from time to time that are downstream from the Substation Boundary to the point of connection to customers, including feeder cables, risers and poles within the substation fence but downstream from the Substation Boundary.
- (p) **“Good Utility Practice”** means any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry in the United States and Canada 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 Utility 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 United States and Canada.

- (q) “**Key Agreements**” has the meaning ascribed to it in the Master Agreement.
- (r) “**Laws**” means (i) all statutes, treaties, codes, ordinances, orders in council, decrees, rules, regulations, directions, by-laws, permits, licences and approvals enacted, adopted or issued by a governmental authority, including all rules, regulations, orders, policies, practices and guidelines of the Commission and (ii) all policies, practices and guidelines (including any shareholder’s letter of expectations) of any governmental authority or body that, although not actually having the force of law, are considered by such governmental authority or body as requiring compliance, that apply to either of the Parties. [MA 1.1(y)]
- (s) “**Master Agreement**” means the Master Agreement dated as of November 12, 2003 between BC Hydro and BCTC, as such agreement may be amended from time to time.
- (t) “**OMA**”, when used in relation to expenditures, costs or budgets, means operating, maintenance and administration expenditures, costs or budgets as the case may be.
- (u) “**Operating Order**” has the meaning ascribed to it in the Master Agreement.
- (v) “**Parties**” means collectively, BC Hydro and BCTC, and “**Party**” means individually, BC Hydro or BCTC.
- (w) “**Payment Limit**” has the meaning ascribed to it in Section 6.5.
- (x) “**Performance Incentive**” has the meaning ascribed to it in Section 6.5.
- (y) “**Performance Payment**” has the meaning ascribed to it in Section 6.5.
- (z) “**Person**” means a corporation, an association, a partnership, an organization, a business, a limited liability company, an individual, a government or a political subdivision thereof or a governmental agency. [MA 1.1(ii)]
- (aa) “**SDA Asset Management Service Agreement**” means the service agreement of even date herewith between BC Hydro and BCTC in connection with the provision of services by BCTC to BC Hydro for the planning, designing, building, managing and maintaining of the Substation Distribution Assets, as such agreement may be amended from time to time.
- (bb) “**Standards of Conduct**” means the policies of BCTC or BC Hydro, as the context requires, with respect to open access and availability of information

approved by the Commission from time to time in connection with the WTS Tariff or OATT and information regarding the Transmission System.

- (cc) **“Substation Boundary”** means the point of connection of the feeder cable or overhead conductor, as the case may be, to the feeder disconnect.
- (dd) **“Substation Distribution Assets”** means substation step-down transformers to distribution voltage (from the high side bushing) and all associated distribution voltage equipment to the Substation Boundary. [MA 1.1(oo)]
- (ee) **“Term”** has the meaning ascribed to it in Section 2.1.
- (ff) **“Third Party”** means a Person other than BC Hydro or BCTC or a successor or permitted assign thereof.
- (gg) **“Transmission System”** means those assets that are owned by, or are held under contract by, BC Hydro from time to time and that are or may be used in connection with or that otherwise relate to the transmission of electrical energy at 60 kV and above, including the following:
 - (i) all lines, including underground and underwater cables, of voltage class 60 kV and above that transmit electrical energy from a generation facility step-up transformer to a substation step-down transformer, together with:
 - A. all towers, poles, transformers, equipment, fixtures and switching station and substation facilities that are or may be used in connection with or that otherwise relate to that transmission; and
 - B. each substation step-down transformer to which the electrical energy is transmitted and all associated equipment to the substation boundary;
 - (ii) telecommunication facilities used for the operation, protection or control of switching stations, substation facilities, control centres or other components of the transmission system; and
 - (iii) rights-of-way, permits, licences and agreements in respect of any of the assets or rights described above;

but specifically excluding the Substation Distribution Assets.

For greater certainty, the interface between the Transmission System and the generation facilities of BC Hydro will be as referenced in the document entitled “Separation of Assets between Generation and Transmission Lines of Business” dated April 4, 2002 or as otherwise agreed between the Parties from time to time. [MA 1.1(xx)]

1.2. Interpretation

Unless the context otherwise necessarily requires, the following provisions will govern the interpretation of this Agreement:

- (a) the words “hereof”, “herein” and “hereunder” and similar expressions will refer to this Agreement as a whole and not to any particular provision of this Agreement;
- (b) each reference to a time of day in this Agreement will mean that time in Vancouver, British Columbia, unless otherwise specified. In computation of periods of time in this Agreement from a specified date to a later specified date, the word “from” means “from and including” and the words “to” and “until” both mean “to but excluding”;
- (c) the meanings given to terms defined in this Agreement will apply to both the singular and plural forms of those terms;
- (d) except as otherwise specified in this Agreement, each reference to a statute, requirement of law or governmental consent will be deemed to refer to such statute, requirement of law or governmental consent as the same may be amended, supplemented or otherwise modified from time to time;
- (e) each reference in this Agreement to any Party will be deemed to include such Party’s successors and permitted assigns unless expressly stated otherwise herein;
- (f) where a term is defined, a derivative of that term will have a corresponding meaning;
- (g) the words “include”, “including” and similar expressions mean “including but not limited to”;
- (h) all references to “Articles” and “Sections” are references to Articles or Sections of this Agreement unless otherwise specified;
- (i) the division of this Agreement into Articles, Sections and other subdivisions and the insertion of headings are for convenience of reference only and will not affect the construction or interpretation of this Agreement;
- (j) except as otherwise defined in such agreement, terms used in this Agreement that have well-known technical, trade or industry meanings will be interpreted in accordance with those well-known technical, trade or industry meanings; and **[MA 1.2]**
- (k) if there is an inconsistency between this Agreement and a DO Services Plan established under it, this Agreement will prevail with respect to the inconsistency.

1.3. **Priority and Application of Key Agreements**

This Agreement is entered into pursuant to the Master Agreement and elaborates on the provisions of the Master Agreement with respect to the provision of DO Services. The Parties believe that this Agreement is consistent with the terms and conditions of the Master Agreement and agree that if there is any express conflict or inconsistency between the provisions of this Agreement and of the Master Agreement, the provisions of the Master Agreement will prevail. Provisions in this Agreement which, for ease of reference, duplicate, with necessary changes, provisions contained in the Master Agreement are identified in this Agreement by the inclusion following such provisions of the initials "MA" and the section reference therein.

ARTICLE 2. TERM

2.1. **Term**

Notwithstanding the actual date of execution, the term of this Agreement (the "**Term**") will commence effective April 1, 2005 and will continue unless and until terminated in accordance with ARTICLE 12.

ARTICLE 3. GENERAL PRINCIPLES

3.1. **Principles for Provision of DO Services**

- (a) BC Hydro has the responsibility and authority for operating, planning, designing, managing and maintaining the Distribution System, but has agreed to retain BCTC to operate the Distribution System on BC Hydro's behalf as a service to BC Hydro under and pursuant to the terms of this Agreement.
- (b) The Parties acknowledge and agree that BCTC has the authority and responsibility pursuant to the Key Agreements (subject to any limitations therein) for operating, managing and maintaining the Transmission System. BCTC's authority and responsibility for operating, managing and maintaining the Transmission System is outside of the scope of this Agreement and accordingly the Parties agree that BC Hydro will receive transmission service in accordance with other agreements entered into between the Parties, applicable tariffs and/or regulatory processes.
- (c) The Parties agree that BCTC will also manage and maintain those assets within BC Hydro substations that support the Substation Distribution Assets, including land within such substations, fencing, roads, buildings, security systems and auxiliary electro-mechanical equipment. BCTC's responsibility for managing those assets is described in the Transmission-Distribution Interface Agreement to be entered into between the Parties concurrently herewith.
- (d) Once a DO Services Plan is approved under Section 4.4, the Parties acknowledge and agree that BCTC will be responsible for determining how to provide the DO

Services within the scope of the DO Services Plan and BC Hydro will not, except as may be contemplated in this Agreement or the DO Services Plan, or in accordance with a performance improvement plan established under Section 6.4, involve itself in the day to day provision of the DO Services.

- (e) The Parties have developed and approved an initial DO Services Plan for the Contract Years commencing April 1, 2004 through March 31, 2007 (with a particular focus on the year ended March 31, 2005) with respect to the DO Services to be provided under this Agreement. At the date of this Agreement, the Parties agree that the DO Services Plan accurately describes the DO Services to be provided during the term of the DO Services Plan, the DO Performance Targets, the pricing for the DO Services (except as otherwise provided herein) and the budgets for the period indicated (recognizing certain elements of the DO Services Plan require completion as indicated therein).

3.2. **Continuous Improvement**

- (a) BC Hydro acknowledges the importance of orderly input, review and approvals by BC Hydro in order for BCTC to achieve maximum efficiency in providing the DO Services.
- (b) BCTC acknowledges the importance to BC Hydro of continuous improvement, continuous efforts to reduce costs and increase efficiency and the demonstration of efficiency and value in the provision of the DO Services. BCTC will at all times use commercially reasonable efforts to increase efficiencies and reduce costs associated with the DO Services.
- (c) BC Hydro and BCTC acknowledge that their common objective of increased cost effectiveness in the provision of the DO Services will require cooperation and coordination between the Parties during the Term. The Parties will at all time during the Term use commercially reasonable efforts to cooperate in coordinating the requirements for the provision of DO Services in a manner that optimizes the utilization of BCTC resources, minimizes stranded costs to BCTC and meets the budgets and DO Performance Targets established pursuant to this Agreement.
- (d) In furtherance of the Parties' commitment to continuous improvement, the Parties will establish a continuous improvement team (the "**CI Team**") comprised of a representative from each of BC Hydro and BCTC appointed by their respective Contract Representatives. Leadership of the CI Team will alternate annually between a BCTC and BC Hydro representative. The CI Team will meet no less frequently than bimonthly, and will provide a quarterly status report to the Parties' Contract Representatives for consideration as part of the performance review to be conducted pursuant to Section 6.2.
- (e) The CI Team will collaborate to identify improvement opportunities ("**Opportunities**") for both BCTC and BC Hydro related to the Services provided hereunder. The CI Team will define the benefits expected from, and the costs of, implementation of the Opportunities and will prioritise the Opportunities after the

consideration of scope, costs and schedule for the respective Party. The CI Team will arrange for approval and implementation of the Opportunities as appropriate. The CI Team will provide quarterly status reports to the Contract Representatives including progress, incurred costs and realized benefits of the Opportunities.

- (f) All Opportunities identified and considered by the CI Team will be treated as Confidential Information under ARTICLE 8.

3.3. **Control Centre Redevelopment**

- (a) In the event that BCTC intends to redevelop its control centres, BCTC will ensure that the redeveloped control centres enable BCTC to meet the performance, service, planning and other operational requirements of BC Hydro for the Distribution System as specified by BC Hydro. BCTC will consult with BC Hydro in the planning process, will establish a redevelopment advisory committee which will oversee the planning process of the redevelopment as it relates to Distribution Operations, and will appoint a representative selected by BC Hydro to serve on such committee. To the extent that the redevelopment relates to Distribution Operations, BC Hydro will have the right to approve the scope of the redevelopment and the costs of the DO Services resulting from such redevelopment. [MA 11.8].
- (b) The Parties acknowledge and agree that the control centre facilities and related system control assets owned and/or operated by BCTC as at April 1, 2005 are adequate to enable BCTC to provide the DO Services to BC Hydro and meet the requirements of this Agreement and the initial DO Services Plan without the need for BCTC to incur additional expenditures, other than those expenditures which would be required for the normal upkeep of such existing control centre facilities and related system control assets.

3.4. **Quality Management**

In furtherance of the goal of continuous improvement set out in Section 3.2, BCTC will develop in accordance with the schedule to be developed by the CI Team, and provide the DO Services hereunder in accordance with, a quality management system consistent with the principles of ISO9001:2000 Quality Management Systems. Registration of the quality management system under the International Organization for Standardization is not a requirement for the quality management system. BC Hydro will have the right to undertake audits of such quality management system pursuant to Section 11.1 and pursuant to the implementation schedule established by the CI Team. Responsibility for the costs of establishing and maintaining any such quality management system will be determined in accordance with Section 10.3.

ARTICLE 4.
ENGAGEMENT OF BCTC

4.1. Scope of DO Services

Subject to the terms and conditions of this Agreement, BC Hydro hereby engages BCTC, and BCTC hereby agrees, to operate the Distribution System during the Term for and on behalf of BC Hydro as a service to BC Hydro, including the following:

- (a) on a 24 hours, 7 days per week basis:
 - (i) person-in-charge duties, including issuing Safety Protection Guarantees and Permits, maintaining real-time mimic displays, managing Power System Safety Protection procedures, issuing switching orders and managing plant alteration processes;
 - (ii) managing field crews carrying out switching operations for system optimization and equipment protection purposes, including managing costs, budgets, quantity and quality of such switching operations;
 - (iii) real-time monitoring and reporting of events and requested near real-time information to BC Hydro;
 - (iv) response to unplanned outages, including responsibility for dispatching field crews and restoration of service to BC Hydro customers with respect to the Substation Distribution Assets (but not the Downstream Distribution System) and, in large scale outages involving feeder facilities, coordinating the restoration activities for the Downstream Distribution System;
 - (v) in the event of unplanned outages, coordinating repairs to Substation Distribution Assets with the party responsible for maintaining and managing the Substation Distribution Assets; and
 - (vi) initiating response to incidents which may affect the safety or operation of the Substation Distribution Assets, including dispatching field crews;
- (b) supplying required operating drawings to the BCTC control centres and to BC Hydro for the Distribution System and mimic display maintenance;
- (c) outage scheduling for Substation Distribution Assets and the Downstream Distribution System (excluding level 5 equipment, as described in Operating Order 1J-11 as at the date of this Agreement) including collecting, analysing, prioritizing and approving outages, co-ordinating commissioning of new plant into service, coordinating plant alterations and commissioning notices to energize, and managing field crews to implement requested services;
- (d) Operating Order administration;

- (e) developing Operating Orders pertaining exclusively to the Distribution System on a system-wide basis, provided that BCTC will obtain BC Hydro's consent to such Operating Orders;
- (f) operational planning including contingency planning and interim load balancing and transfers as required; and
- (g) other services as requested by BC Hydro, including providing studies, analyses and reports (including studies defining and assessing the impacts on the Distribution System of different operating scenarios), project management for service/process improvements and providing expert operator advice into distribution planning processes,

all as more specifically set out and described from time to time in a DO Services Plan.

4.2. **Changes to Distribution Operations**

- (a) The Parties may agree in writing that additional services, related to the services referred to in Section 4.1, be included within Distribution Operations in accordance with Section 4.14 or that services be excluded from Distribution Operations.
- (b) Subject to BCTC's agreement, not to be unreasonably withheld, BC Hydro may, upon reasonable notice from time to time, vary its requirements for Distribution Operations or the manner in which BCTC is to provide such services in order to respond to BC Hydro's changing needs, including transferring local control of the BC Hydro distribution system to DLoB employees or agents under emergency system conditions.[MA 11.5(b)]
- (c) BC Hydro may from time to time by notice to BCTC exclude some or all of the DO Services from parts of the Downstream Distribution System on a temporary basis to address widespread outages in an area in accordance with applicable emergency response plans for the Downstream Distribution System.

4.3. **Planning DO Services**

During the Term, as part of the DO Services, BCTC will:

- (a) provide operator input into the planning process with respect to growth capital, sustaining capital and operating, maintenance and administration expenditures on existing and future Substation Distribution Assets and the Downstream Distribution System;
- (b) provide BC Hydro with a range of possible operating solutions and alternatives, including alternatives identified by BC Hydro, and BCTC's recommendation for meeting the DO Performance Targets from time to time and incorporate BC Hydro's preferred solutions and alternatives in the DO Services Plans;

- (c) when requested by BC Hydro, provide BC Hydro with a range of operating options (including any options identified by BC Hydro) and associated operating cost information, together with a recommendation that assesses expected operating performance improvements with respect to the Distribution System at different levels of capital expenditures and operating, maintenance and administration expenditures; and
- (d) evaluate different feasible operating options and different forced and planned outage response scenarios, including trade-offs between costs of providing the DO Services and capital and maintenance expenditures on the Transmission System, Substation Distribution Assets and the Downstream Distribution System, based on input to be obtained as required regarding maintenance and management of the Transmission System, Substation Distribution Assets and the Downstream Distribution System; provided that nothing in this paragraph (d) is intended to affect BCTC's authority and responsibility for managing and maintaining the Transmission System.

4.4. **Establishment of DO Services Plans**

- (a) BCTC will annually establish 3-year DO Services Plans for providing the DO Services, that include budgets of estimated costs for at least the following Contract Year as provided in Sections 4.9 and 4.10. The initial DO Services Plan is described in Section 3.1(e).
- (b) BCTC will provide to BC Hydro preliminary DO Services Plans for the ensuing three Contract Years by no later than 120 days prior to the commencement of that Contract Year. BCTC and BC Hydro will commence the consideration and discussion of the preliminary DO Services Plans within 15 days of receipt thereof by BC Hydro. DO Services Plans will be developed through a cooperative, consultative process with BC Hydro, taking into account the Services Standards set forth in ARTICLE 5, DO Performance Targets established under Section 4.8 and BC Hydro's input, including input regarding acceptable costs and desired outcomes. DO Services Plans will be submitted by BCTC to BC Hydro for approval. If BC Hydro does not approve any part of a DO Services Plan developed by BCTC, BC Hydro will promptly detail for BCTC its concerns regarding the plan and:
 - (i) BC Hydro will approve that portion of the DO Services Plan not in dispute;
 - (ii) if the dispute relates to issues regarding reliability of the Transmission System, then the Parties will first refer the dispute for resolution in accordance with Section 14.3 and, failing resolution, will refer the matter to the Commission to resolve the dispute; and
 - (iii) in the case of any other dispute the Parties will first refer the dispute for resolution in accordance with Section 14.3 and, failing resolution, BCTC will promptly rework the disputed portion of the DO Services Plan to

address concerns raised by BC Hydro until such portion of the DO Services Plan is approved by BC Hydro.

- (c) Cost allocation and other issues with respect to pricing of the DO Services will be resolved as provided in Section 10.3.
- (d) In addition to the development of the DO Services Plans in accordance with the foregoing, the Parties will prepare and provide to each other any information regarding the DO Services in a timely manner as required by either Party for the purposes of any filings with or other information required by any governmental authority.

4.5. **Review and Amendment of DO Services Plans**

- (a) The Parties will review the DO Services Plan annually, in accordance with the process described under Section 4.4(b), or more frequently at the reasonable request of either Party. Each annual review will consider the then current 3-year plan with specific focus on the following Contract Year and will also add a year so the current DO Services Plan from time to time will have a 3-year term. Each annual review will also include a detailed OMA and capital budget of estimated costs for at least the following Contract Year developed pursuant to Sections 4.9 and 4.10. As part of the annual review, BC Hydro will provide BCTC with as much advance notice as possible regarding planned changes to the Downstream Distribution System so that BCTC is able to schedule its resources and budget for required DO Services. BC Hydro will seek operating input from BCTC as part of the process for planning changes to the Downstream Distribution System.
- (b) The Parties acknowledge that it may be convenient to review the DO Services Plan from time to time in conjunction with a review of the services plan developed under the SDA Asset Management Services Agreement or otherwise in conjunction with processes that relate to planning, designing, building, managing and maintaining the Substation Distribution Assets.
- (c) The DO Services Plan established pursuant to Section 4.4, including any of the costs, budgets, schedules or other information included therein, may, at any time before or during any Contract Year covered thereby, be amended:
 - (i) with the agreement of both Parties, each acting reasonably, to the extent such amendment increases the amount of the DO Services to be provided by BCTC hereunder or changes any programs included in the DO Services Plan for any such Contract Year, provided that it shall not be reasonable for BCTC to reject any such amendment of the DO Services Plan proposed by BC Hydro where BC Hydro agrees to accept and be responsible for the Consequences resulting from such amendment; or
 - (ii) by BC Hydro, to the extent such amendment decreases or does not change the amount of the DO Services to be provided by BCTC hereunder for any such Contract Year, provided that BC Hydro agrees to accept and be

responsible for the Consequences resulting from any such amendment of the DO Services Plan;

provided that the Parties will work together in the event of any decrease in the amount of the DO Services to reprioritize the remaining work under the DO Services Plan.

- (d) BCTC will not, without the prior express written consent of BC Hydro to such amendment of the DO Services Plan, materially vary the work plan included in the DO Services Plan. BCTC will prepare a revised DO Services Plan in consultation with BC Hydro if BCTC wishes to materially vary the work plan for any reason, including budget overruns. The revised DO Services Plans will be submitted by BCTC to BC Hydro for approval in the same manner as the annual DO Services Plan.
- (e) BCTC will give notice to BC Hydro of any material cost overrun for any growth capital project or OMA or sustaining capital program (each as described in the DO Services Plan) within 15 days of becoming aware of the overrun or anticipated overrun. BCTC will give notice to BC Hydro of any material cost underrun for any such project or program within 90 days of becoming aware of the underrun or anticipated underrun.
- (f) BCTC will obtain BC Hydro's written consent before undertaking any work when:
 - (i) an updated OMA or sustaining capital cost estimate exceeds the approved DO Services Plan budget for such work, or the approved capital budget amount in the case of a sustaining capital program, by the greater of 5% or \$5,000; or
 - (ii) an updated growth capital costs estimate for any project exceeds the approved DO Services Plan budget amount for the project by \$5,000 or more;or by such other amounts as the Parties may agree from time to time.
- (g) Subject to Section 4.15, BCTC will not, without the prior express written consent of BC Hydro to such amendment of the DO Services Plan, exceed the total budgeted amount for either OMA or capital included in the DO Services Plan in providing the DO Services, provided further that in the event that BCTC does exceed the total budgeted amount for either OMA or capital in contravention hereof, BC Hydro will have no obligation to pay such excess pursuant to this Agreement.

4.6. **Service Plan Change Request**

- (a) In the course of the performance by BCTC of the DO Services Plan, BCTC may provide to BC Hydro a written request for a change to the scope, cost, budget or

schedule of work specified in the DO Services Plan for any reason arising which is beyond the control of BCTC, including due to:

- (i) changes in the costs or availability of BCTC's service providers;
 - (ii) changes in the costs or availability of materials or supplies;
 - (iii) delays in obtaining necessary BC Hydro or Third Party approvals (provided that BCTC has sought such approvals in a timely manner);
 - (iv) changes in scheduled outages and the availability of the Distribution System;
 - (v) unforeseen worksite conditions; or
 - (vi) a Force Majeure event under Section 18.2.
- (b) Within 15 days following the receipt of such a request, BC Hydro will either provide written consent to such change, not to be unreasonably withheld, in which case such amended DO Services Plan will be the DO Services Plan on which BCTC's performance will be reviewed in accordance with ARTICLE 6, or request that the Contract Representatives meet to discuss the change request. If the Parties fail to agree on the change request, either Party may submit the matter to dispute resolution pursuant to ARTICLE 14.

4.7. **Unauthorized Work**

Subject to Section 4.15, any work carried out by BCTC hereunder:

- (a) which is not included in the then-applicable DO Services Plan or otherwise specifically authorized by BC Hydro; or
- (b) which is carried out in contravention of Section 4.5(f) or 4.5(g),

will not form part of the DO Services and BC Hydro will have no obligation under this Agreement to pay BCTC for any such unauthorized work.

4.8. **DO Performance Targets**

- (a) The Parties acknowledge and agree that the DO Services are to be provided by BCTC to meet the DO Services Standards and DO Performance Targets which will be developed from time to time to address 2 main categories of performance, as follows:
 - (i) financial performance; and
 - (ii) Distribution System performance.

- (b) In connection with developing a DO Services Plan from time to time, the Parties will endeavour to develop mutually agreeable DO Performance Targets to be included in the DO Services Plan.
- (c) BC Hydro will provide to BCTC a proposal with respect to the DO Performance Targets to be used for the purposes of Section 6.5 no later than 20 days following the commencing of the Contract Year. Within 10 days of the receipt thereof, BCTC will provide written confirmation of its agreement on the DO Performance Targets or request that the Contract Representatives meet within the next 10 days to discuss the DO Performance Targets. If the Parties fail to agree on the DO Performance Targets by 45 days following the commencement of the Contract Year, either Party may submit the matter to dispute resolution pursuant to ARTICLE 14. Until such time as new DO Performance Targets for a Contract Year are agreed to between the Parties or determined pursuant to any dispute resolution, the DO Performance Targets for the previous Contract Year will remain in effect.
- (d) The Parties acknowledge and agree that DO Performance Targets to be established under this Section 4.8 should be established in conjunction with performance targets relating to planning, designing, building, managing and maintaining the Substation Distribution Assets. The Parties also acknowledge that DO Performance Targets for a DO Services Plan under this Agreement may be established by appropriate reference to another agreement or plan that relates to planning, designing, building, managing and maintaining the Substation Distribution Assets, including the SDA Asset Management Service Agreement.

4.9. **OMA Budgets for DO Services**

- (a) OMA budgets will be developed by BCTC in advance of each Contract Year as part of the process for establishing the DO Services Plan in accordance with Section 4.4. To the extent that either Party's regulatory processes require different timing for establishing such budgets, the Parties will seek to accommodate those processes.
- (b) OMA budgets will be segmented on a reasonable basis for components of the DO Services so that the Parties are able to effectively respond to contingencies and so that budget overruns and underruns with respect to different components of the DO Services may be more easily identified.
- (c) BC Hydro has the right to approve the OMA budgets included in DO Services Plans from time to time, including changes to such budgets that may be required from time to time in accordance with Section 4.5.
- (d) BC Hydro may require changes to OMA budgets to meet changes to the associated DO Services Plan in accordance with Section 4.5.

4.10. **Capital Expenditure Budgets**

- (a) Capital expenditure budgets for the DO Services will be developed by BCTC in advance of each Contract Year as part of the process for establishing the DO Services Plan in accordance with Section 4.4. To the extent that either Party's regulatory processes require different timing for establishing such budgets, the Parties will seek to accommodate those processes. Such capital expenditure budgets will be consistent with and support BC Hydro's capital planning process.
- (b) Capital budgets will be segmented on a reasonable basis by program or project so that the Parties are able to effectively respond to contingencies and so that capital budget overruns and underruns with respect to different capital programs and projects may be more easily identified.
- (c) BC Hydro has the right to approve the capital expenditure budgets included in DO Services Plans from time to time, including changes to such budgets that may be required from time to time in accordance with Section 4.5.
- (d) BC Hydro may require changes to capital expenditure budgets to meet changes to the associated DO Services Plan in accordance with Section 4.5.

4.11. **Project Approvals**

BCTC acknowledges that growth capital and sustaining capital projects or programs will require specific project or program approvals within BC Hydro. Once BC Hydro project or program approvals are obtained, BCTC will manage project or program expenditures within approval limits, all in accordance with BC Hydro's financial accountability policies from time to time. BC Hydro will make available to BCTC any such applicable financial accountability policies. Expenditure approval processes and levels may be set out in DO Services Plans. BCTC will report capital project or program overruns in accordance with BC Hydro's policies as set out in a DO Services Plan.

4.12. **Other Approvals**

In connection with establishing DO Services Plans under Section 4.4:

- (a) BC Hydro will use commercially reasonable efforts to seek, prior to the commencement of a Contract Year or as soon thereafter as may be reasonable in the circumstances, any approvals required to commence the DO Services identified in the DO Services Plan for such Contract Year. The Parties acknowledge that specific project or program approvals will be sought during a Contract Year prior to commencement of the project or program; and
- (b) BC Hydro will assume the risk of regulatory approvals not being obtained if it instructs BCTC to proceed with any capital project relating to the DO Services without first obtaining any regulatory approvals that may be required.

4.13. **Ex-Plan DO Services**

When requested by BC Hydro from time to time, BCTC will estimate the cost of and will provide DO Services to BC Hydro that are within the scope of DO Services provided for in Section 4.1 but that are not included in the then-current DO Services Plan (“**ex-plan DO Services**”), provided BC Hydro agrees to accept and be responsible for the Consequences of BCTC providing such ex-plan DO Services. The Parties will include such ex-plan DO Services (and the associated budget for costs) in revisions to the DO Services Plan. The Parties acknowledge that costs related to ex-plan DO Services may include costs charged against Distribution System capital projects in appropriate circumstances. Where possible, costs related to the ex-plan DO Services will be recorded and tracked to the specific ex-plan Service requested.

4.14. **Additional DO Services**

The Parties acknowledge that it may be convenient and cost-effective for BCTC to provide services to BC Hydro that are not included within the scope of DO Services provided for in Section 4.1, but that are related to the operation of the Distribution System. BC Hydro may request that BCTC provide such additional services and, subject to agreement of BCTC not to be unreasonably withheld, the Parties will include such additional services (and the associated budget for costs) in a revised DO Services Plan and BCTC will provide such additional services in accordance with this Agreement and the DO Services Plan, as so revised. It will not be reasonable to withhold consent where BC Hydro agrees to accept and be responsible for the Consequences of BCTC providing such additional services.

4.15. **Extraordinary Expenditures**

- (a) If BCTC is required to provide DO Services and incur expenditures that are materially in excess of the DO Services and expenditures contemplated by the DO Services Plan and its associated budgets due to extraordinary, unplanned conditions on the Distribution System, BCTC will consult as soon as possible with BC Hydro regarding such extraordinary DO Services and associated costs not included in such budgets; provided that in emergency situations BCTC may incur unbudgeted expenditures without consultation if the delay would pose a further risk to security, system reliability, persons or property. BCTC will base its response to extraordinary conditions on timely input from BC Hydro where there are different response options and associated costs.
- (b) BCTC will submit revisions to the then-current DO Services Plan in consultation with BC Hydro to include the work and expenditures required as a result of such extraordinary unplanned events and any recommended changes to the DO Services Plan if BC Hydro wishes to maintain the annual budget notwithstanding the extraordinary expenditures referred to in Section 4.15(a). The revised DO Services Plans will be submitted by BCTC to BC Hydro for approval in the same manner as the annual DO Services Plan.

4.16. **Determination of Consequences**

In the circumstances where this Agreement requires BC Hydro to accept and be responsible for Consequences resulting from an action, BCTC will:

- (a) timely provide to BC Hydro a written report describing the specific Consequences that BCTC reasonably believes will be incurred as a result of such circumstances;
- (b) provide BC Hydro with an opportunity to advise BCTC with respect to further changes to such circumstances to alleviate or minimize all or any of such Consequences; and
- (c) use commercially reasonable efforts to plan for and minimize the Consequences actually incurred by BCTC;

provided BC Hydro will accept and be responsible for all Consequences, whether identified by BCTC pursuant to paragraph (a) above or otherwise incurred. In the event of any dispute between the Parties as to whether any such Consequences should be reimbursed by BC Hydro to BCTC, either Party may submit the matter for dispute resolution pursuant to ARTICLE 14.

4.17. **Policies and Practices for Distribution Operations**

The policies and practices applicable to the performance of Distribution Operations by BCTC pursuant to this ARTICLE 4 will be those established by BC Hydro from time to time, provided that such policies and procedures do not adversely affect Transmission System reliability. [MA 11.4]

ARTICLE 5. SERVICES STANDARDS

5.1. **General DO Services Standards**

In providing the DO Services, BCTC will:

- (a) operate the Distribution System as would a prudent owner of similar assets in like circumstances;
- (b) act in a commercially reasonable, efficient and professional manner and in accordance with Good Utility Practice;
- (c) provide the DO Services to at least the standard and quality of similar services it provides to its own operations;
- (d) provide the DO Services to meet any Commission requirements relating to safety, cost and reliability;

- (e) provide the DO Services to meet applicable industry standards in the United States and Canada;
- (f) comply with applicable Laws, including environmental Laws;
- (g) comply with operational limits for Substation Distribution Assets or assets forming part of the Downstream Distribution System, as specified by the respective managers of those assets from time to time;
- (h) comply with the terms of all rights, permits and licences held by BC Hydro and not take any action in providing the DO Services that would invalidate or violate any such rights, permits and licences;
- (i) comply with BC Hydro's Safety Practice Regulations, as they may be amended or revised from time to time;
- (j) develop appropriate cyber security policies and procedures with respect to operation of the Substation Distribution Assets and, subject to agreement with BC Hydro, will develop appropriate cyber security policies and procedures for Downstream Distribution System assets and the provision of the DO Services and monitor cyber security in connection therewith;
- (k) comply with Operating Orders established from time to time in accordance with Section 5.5 of the Master Agreement;
- (l) ensure that operating procedures established by it in connection with the DO Services are consistent with the work practices and methods of field crews working on the Distribution System from time to time;
- (m) use commercially reasonable efforts to meet or exceed the additional DO Services Standards, if any, that are set forth in a DO Services Plan from time to time; and
- (n) comply with, and will ensure that each employee, subcontractor, agent and invitee who performs the DO Services, is made aware of and agrees to comply with the Standards of Conduct.

5.2. **Responsibility for Safety**

- (a) During the Term, BCTC will have the responsibility and authority for electrical safety with respect to isolating parts of the Distribution System to ensure worker safety while work is carried out, including person-in-charge duties, issuing safety protection guarantees and permits, maintaining real-time mimic displays and managing Power System Safety Protection procedures with respect to the Distribution System.
- (b) The Parties' respective responsibility for site safety and security will be as provided for in the agreements, policies and procedures entered into by the Parties from time to time pursuant to Section 16.4 of the Master Agreement.

ARTICLE 6.
PERFORMANCE MEASUREMENT AND REVIEW

6.1. DO Performance Targets

BCTC will meet or exceed the DO Performance Targets for the DO Services.

6.2. Performance Review

During the Term, the Parties' Contract Representatives and their designates will meet as required, and in any event no less frequently than within 30 days following the end of each quarter, to review:

- (a) BCTC's performance under this Agreement, including performance of the DO Services in relation to the DO Services Standards and the DO Performance Targets; and
- (b) BCTC's performance of the DO Services contemplated by the work plan and the costs thereof as compared to the approved capital and OMA budgets and any applicable capital project and program approvals.

6.3. Objective of Performance Review

The Parties acknowledge and agree that an objective in the review of BCTC's performance hereunder is to encourage continuous improvement in the performance of the DO Services, as described in Section 3.2, and that such review must therefore include:

- (a) developing and maintaining a healthy relationship between the Parties, including reviewing BC Hydro's performance with respect to its obligations under this Agreement and the impact of such performance on the provision of the DO Services by BCTC to BC Hydro;
- (b) learning from successes, including identifying innovations and situations where delivered value significantly exceeded expectations, and applying the lessons learned from these successes to other situations;
- (c) developing workable solutions to current ongoing problems, including attempting to solve such problems through cooperation before invoking the formal dispute resolution process pursuant to ARTICLE 14; and
- (d) determining the cause of problems, including unauthorized work under Section 4.7 and remedying such causes to avoid recurrences of the same problems in the future.

6.4. Performance Issues and Improvement Plans

- (a) If a performance review conducted pursuant to Section 6.2 establishes that BCTC has failed to meet any requirement of this Agreement or of a DO Services Plan,

any DO Services Standard or any DO Performance Target in a particular quarterly reporting period (the “**Performance Issue**”):

- (i) by no later than 15 days following the completion of the performance review, the Parties’ Contract Representatives or their designees will meet further to discuss the Performance Issue, including the cause of the Performance Issue and possible solutions to address the Performance Issue;
 - (ii) except to the extent that the Parties agree pursuant to paragraph (i) above that the Performance Issue is not material, or is caused solely by BC Hydro’s action or inaction, BCTC will, at the request of BC Hydro, develop and submit for BC Hydro’s approval, within 30 days of the date of such request or such other period as may be determined by the Parties pursuant to paragraph (i), a performance improvement plan (a “**Performance Improvement Plan**”) to address the Performance Issue;
 - (iii) upon the approval of a Performance Improvement Plan by BC Hydro pursuant to paragraph (ii) above, BCTC will proceed to implement such Performance Improvement Plan in accordance with the schedule set out therein.
- (b) In the event that BCTC:
- (i) fails to submit a Performance Improvement Plan acceptable to BC Hydro in the circumstances and within the time period specified in paragraph (a)(ii) above;
 - (ii) fails to implement an approved Performance Improvement Plan in accordance with the schedule set out therein; or
 - (iii) having implemented an approved Performance Improvement Plan, nevertheless fails to remedy the Performance Issue by failing in a material way to meet the DO Services Standards or the particular DO Performance Target in the first full quarterly reporting period following implementation of the Performance Improvement Plan, or such other period as may be established by the approved Performance Improvement Plan,
- the matter will be referred to the responsible Vice Presidents of each of BC Hydro and BCTC for consideration pursuant to paragraph (c) below.
- (c) The responsible Vice Presidents of each of BC Hydro and BCTC will meet by no later than 15 days following the date of the referral under paragraph (b) above to discuss any failure thereunder and agree on the appropriate rectification action to be taken.
 - (d) If any failure referred to in Section 6.4(b)(i), (ii) or (iii) is not resolved following referral to the responsible Vice-Presidents, then provided the underlying Performance Issue is material and has not been cured, BC Hydro may:

- (i) if BCTC has failed to submit a Performance Improvement Plan acceptable to BC Hydro in the circumstances and within the time period specified in paragraph (a)(ii) above, establish a Performance Improvement Plan and submit it to BCTC for its approval and, unless BCTC accepts and approves such Performance Improvement Plan within 15 days, BC Hydro may terminate this Agreement in its entirety; or
- (ii) in any other case terminate this Agreement in its entirety;

in either case on no less than 90 days prior written notice to BCTC.

- (e) In the event of any dispute between the Parties as to whether a Performance Issue is material or has been cured, either Party may submit the matter for dispute resolution pursuant to ARTICLE 14.

6.5. **Performance Incentives and Payments**

- (a) Within 45 days following the end of each Contract Year, the Parties will determine on the basis of the DO Performance Targets whether an incentive payment (the “**Performance Incentive**”) is payable by BC Hydro to BCTC or whether a performance payment (the “**Performance Payment**”) is payable by BCTC to BC Hydro. If the Parties have not been able to agree on the amount payable within 60 days after the end of a Contract Year, either Party may submit the matter to dispute resolution pursuant to ARTICLE 14.
- (b) Subject to Section 6.5(c), the maximum amount of Performance Incentive or Performance Payment payable (the “**Payment Limits**”) in respect of fiscal 2006 will be equal to \$100,000. For each subsequent Contract Year:
 - (i) if, in the previous Contract Year, a Performance Incentive was payable, the Payment Limit for Performance Incentives for that Contract Year will be \$200,000 and the Payment Limit for Performance Payments for that Contract Year will be \$100,000;
 - (ii) if, in the previous Contract Year, a Performance Payment was payable, the Payment Limit for Performance Incentives for that Contract Year will be \$100,000 and the Payment Limit for Performance Payments for that Contract Year will be \$200,000;
 - (iii) if, in the previous Contract Year, neither a Performance Incentive nor a Performance Payment was payable, the Payment Limit for Performance Incentives and Performance Payments for that Contract Year will be \$100,000.
- (c) The amount of any Performance Incentive or Performance Payment will be determined in accordance with the method for scaling such amounts within the applicable Payment Limits as agreed to by the Parties in the determination of DO Performance Targets pursuant to Section 4.8..

- (d) No portion of a Performance Payment will be payable by BCTC if and to the extent that the failure to meet the DO Performance Targets is due to any increased costs or delays for which BC Hydro is responsible, including any delays in obtaining BC Hydro approvals or any failures by BC Hydro to meet its responsibilities in providing or procuring materials required by BCTC on a timely basis.

6.6. Settlement of Performance Payments and Incentives

The amount of any Performance Payment or Performance Incentive, as the case may be, determined pursuant to Section 6.5(a) will be payable by the applicable Party to the other Party within 30 days of such determination.

6.7. Review of Performance Payments and Incentives

The performance review conducted following the end of any fourth quarter in accordance with Section 6.2 will include a consideration of the Performance Payment and Performance Incentive process set out in this Agreement and the applicable DO Performance Targets and any recommendations to BC Hydro and BCTC to establish an alternate process or for any necessary amendments to the provisions relating to such performance payments and incentives.

6.8. Cumulative Remedies

The remedies in this Agreement are cumulative and may be exercised concurrently or separately. No remedy is exclusive of any other right or remedy provided or permitted by law.

ARTICLE 7. REPORTING AND INFORMATION

7.1. Reporting Requirements

BCTC will maintain and timely provide to BC Hydro, as part of the DO Services, such data, information, documentation and records relating to the DO Services as may be requested or required by BC Hydro in accordance with this Agreement from time to time, including:

- (a) a monthly report regarding its expenditures, including capital expenditures, as compared to budget, a variance report (including an explanation for the variances) and the remaining estimated cost of completing the DO Services Plan as compared to the remaining budgets for the balance of the Contract Year;
- (b) a quarterly report setting forth a comparison between the DO Services Plan, including budgets, for such quarter and the current Contract Year, and the actual performance of the DO Services, DO Performance Targets achieved and costs actually incurred;

- (c) operating drawings, system activity logs, incident reports, detailed cost information for the DO Services (if specifically required pursuant to a DO Services Plan) and operating information necessary for BC Hydro to remain a knowledgeable owner of the Distribution System;
- (d) information, documentation and records in connection with any review of a DO Services Plan from time to time pursuant to ARTICLE 4, or any review of BCTC's performance of the DO Services or the DO Performance Targets from time to time pursuant to ARTICLE 6;
- (e) information, documentation and records related to or following up on a performance improvement plan established in accordance with Section 6.3;
- (f) information, documentation and records pertaining to BC Hydro revenue requirement filings as they relate to the DO Services; and
- (g) such other data, information, records and reports as may be provided for in a DO Services Plan from time to time;

BC Hydro acknowledges and agrees that BCTC is changing its accounting, asset management and related systems and therefore is not able to provide all of the data, information, documentation and records referred to in paragraphs (a) and (b) above as at the date of this Agreement. BCTC will work diligently in order to be able to provide the requested information within a reasonable period of time consistent with the project schedule for BCTC's accounting and asset management projects. The Parties acknowledge and agree that the cost of providing the data, information, documentation and records referred to in paragraphs (a) through (g) above is included in the fixed price component set out in Section 10.2.

7.2. Outage Reporting/Public Communications

- (a) BCTC will provide information to BC Hydro to enable BC Hydro to provide coordinated reporting regarding BC Hydro customer outages. BC Hydro will be responsible for public communications regarding outages and response and repairs times, regardless of the cause; and
- (b) BCTC and BC Hydro will coordinate their public communications regarding planning and other non-outage circumstances so that information made available by either Party is consistent with information provided by the other Party.

7.3. Changes to Reporting Requirements

BC Hydro may change the type, frequency, content or form of any data or reports or manner of providing any data or reports to be provided by BCTC pursuant to Section 7.1, on an exception basis or otherwise, at any time during the Term by written notice to BCTC, provided that:

- (a) before being required to provide any such modified data or report, BCTC will have an opportunity to advise BC Hydro with respect to the Consequences of

providing such modified data or report, and to suggest further or other changes to the type, frequency, content or form of such modified data or report to alleviate or minimize all or any of such Consequences;

- (b) if it decides to proceed with the request for such modified data or report, BC Hydro will accept and be responsible for the Consequences; and
- (c) in the event of any dispute between the Parties as to the Consequences of such request or whether any additional costs resulting from the modification of such data or report should be reimbursable by BC Hydro to BCTC as additional time spent by BCTC employees or additional costs incurred directly by BCTC, either Party may submit the matter for dispute resolution pursuant to ARTICLE 14.

7.4. Maintenance of Records

The Parties will maintain adequate records and systems of internal control for the performance of all of their respective obligations under this Agreement.

7.5. BCTC Reports

At each quarterly performance review meeting described in Section 6.2, BCTC will provide BC Hydro with an up-to-date list of all completed reports, studies or audits prepared by or on behalf of BCTC in connection with the DO Services, other than internal reports prepared to address quality control or personnel issues. BCTC will timely provide BC Hydro with copies of any such reports, studies or audits requested by BC Hydro.

7.6. Provision of Information by BC Hydro

BC Hydro will timely provide the following data, information and records to BCTC:

- (a) policies established by BC Hydro from time to time that impact provision of the DO Services;
- (b) information necessary for BCTC to perform the DO Services; and
- (c) such other data, information and records set out in a DO Services Plan from time to time.

7.7. Records Retention

- (a) BCTC will retain an electronic, microfiche and original hard copy, each if available, of all asset-related and planning documentation, including drawings, reports, calculations and settings, in perpetuity or for such shorter period as may be established by the BC Hydro policies provided to BCTC from time to time.
- (b) The Parties will retain all other records relevant to this Agreement and performance of the DO Services pursuant to this Agreement for such period as may be established by the BC Hydro policies provided to BCTC from time to

time and a Party will make the retained records available to the other Party as required.

- (c) BCTC will notify BC Hydro upon the expiry of the applicable period of retention for any record retained pursuant to paragraphs (a) or (b) above. If BC Hydro determines that such records should be retained for a longer period, BC Hydro will be responsible for the cost of retention for such extended period. If BC Hydro determines that such records need not be retained for a longer period, BCTC will be solely responsible for any cost of further retention.

7.8. **Standards of Conduct**

- (a) Notwithstanding any other provision of this Agreement, BCTC is not required to provide any information or take any other action that BCTC reasonably believes would result in a breach of any requirement imposed on BCTC or its employees pursuant to BCTC's Standards of Conduct, or to breach any present and future orders, directives, guidelines, rules, regulations, decrees or policies of the Commission.
- (b) BCTC will not unreasonably rely on the provisions of the Standards of Conduct to avoid performing its obligations under, or providing information that is required by, this Agreement.

ARTICLE 8. CONFIDENTIALITY

8.1. **Definition**

In this ARTICLE 8, "**Confidential Information**" means documents, data or other information received by a Party from the other Party or documents, data or other information of a Party to which the other Party has access under this Agreement, whether in written, oral or machine-readable form, relating to the disclosing Party's business operations, financial condition, customers, products, services or technical knowledge (other than technical knowledge that is jointly owned by the Parties), that (i) the disclosing Party has identified as confidential or proprietary, whether before or after the date of this Agreement, or (ii) reasonably should have been understood by the receiving Party, because of confidentiality or similar legends, the circumstances of disclosure or the nature of the information itself, to be confidential or proprietary to the disclosing Party. **[MA 24.1]**

8.2. **Restrictions on Use of Confidential Information**

- (a) BCTC hereby agrees that it will not, and will cause its auditors and other representatives not to, at any time, whether before or after the termination of this Agreement, use, disclose, or make available to any Person any Confidential Information of BC Hydro acquired in connection with the performance of its obligations under this Agreement or otherwise or prior to or after the date hereof, except to the extent that:

- (i) BC Hydro consents to such use, disclosure or making available;
- (ii) such use is expressly permitted in or necessary or advisable for the performance of this Agreement;
- (iii) such disclosure is, in the opinion of counsel, required in order to comply with any applicable Law, including disclosure obligations of BCTC; or
- (iv) such Confidential Information comes into the public domain otherwise than through a breach of this Agreement by BCTC;

and provided further that

- (v) any such permitted or required use or disclosure is permitted by and made in accordance with BCTC's Standards of Conduct.
- (vi) except as otherwise:
 - A. expressly consented to by BC Hydro;
 - B. expressly permitted in this Agreement; or
 - C. required for the performance of this Agreement by BCTC,

no such Confidential Information shall be disclosed or made available by BCTC to any BCTC employee, business unit or division of BCTC, or shall be used by BCTC for the commercial benefit of BCTC.

- (b) BCTC will establish and maintain during the Term such systems, protocols and procedures as may be required to ensure compliance with paragraph (a)(vi) above, and BC Hydro will have the right:
 - (i) to undertake Audits of such systems, protocols and procedures pursuant to Section 11.1, to the extent only that such systems, protocols and procedures relate to Confidential Information acquired by BCTC from Third Parties in the course of performing the DO Services hereunder; and
 - (ii) if BC Hydro becomes aware of any material breach by BCTC of paragraph (a)(vi) above in respect of any Confidential Information other than that referred to in paragraph (b)(i) above, to raise such breach as a topic for good faith discussions between the Parties' responsible Vice Presidents.
- (c) BC Hydro hereby agrees that it will not, and will cause its auditors and other representatives not to, at any time, whether before or after the termination of this Agreement, use, disclose, or make available to any Person any Confidential Information of BCTC acquired in connection with the performance of its obligations under this Agreement or otherwise or prior to or after the date hereof, except to the extent that:

- (i) BCTC consents to such use, disclosure or making available;
- (ii) such use is expressly permitted in or necessary or advisable for the performance of this Agreement or to retain a replacement service provider upon termination of this Agreement;
- (iii) such disclosure is, in the opinion of counsel, required in order to comply with any applicable Law, including disclosure obligations of BC Hydro; or
- (iv) such Confidential Information comes into the public domain otherwise than through a breach of this Agreement by BC Hydro;

and provided further that any such permitted or required use or disclosure is permitted by and made in accordance with the BC Hydro's Standards of Conduct Compliance Agreement.

8.3. **Required Disclosure**

If either Party, or any of its auditors or other representatives, is required by applicable Law, or compelled by order of a court or regulatory agency of competent jurisdiction, to disclose Confidential Information of the other Party, as soon as such Party learns of the disclosure requirement, and before making such disclosure, it will notify the other Party of the requirement and the terms thereof. The other Party may, in its sole discretion and at its sole cost and expense, undertake any challenge to or defence against such disclosure requirement. The disclosing Party will cooperate with the other Party to the maximum extent practicable, at the other Party's sole cost and expense, to minimize or eliminate the disclosure of Confidential Information consistent with applicable Law and to obtain proprietary or confidential treatment of Confidential Information by any Person to whom such information is disclosed pursuant to this Section 8.3 before any such disclosure. [MA 24.3]

8.4. **Specific Remedies**

The Parties agree that irreparable damage would occur and that they would not have any adequate remedy at law in the event that any of the provisions of this ARTICLE 8 were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the Parties will be entitled to an injunction or injunctions to prevent breaches of this ARTICLE 8 (without the requirement of posting a bond or otherwise securing any undertaking as to damages) and to enforce specifically the terms and provisions of this ARTICLE 8, this being in addition to any other remedy to which they are entitled at law. [MA 24.4]

ARTICLE 9. INTELLECTUAL PROPERTY

9.1. **Intellectual Property**

The Parties hereby acknowledge and agree that in performing their obligations under this Agreement, the use of all Intellectual Property owned by BC Hydro and the ownership

and use of any Improvements or any New Intellectual Property made or developed by BCTC, all in the course of providing the DO Services under this Agreement (whether alone or in collaboration with any other Person) shall be governed in accordance with the terms and conditions of the Intellectual Property Agreement dated as of December 1, 2003 made between BC Hydro and BCTC, as such agreement may be amended from time to time or the Supplemental Intellectual Property Agreement to be entered into by the Parties to provide for the rights and restrictions governing New Intellectual Property made or developed by the Parties after the Effective Date, as such agreement may be amended from time to time, as the case may be. In this Section 9.1, the terms “Effective Date”, “Intellectual Property”, “Improvements” and “New Intellectual Property” have the meanings ascribed to them in those agreements.

ARTICLE 10. PRICING AND PAYMENT

10.1. Cost-based Pricing

The price for the DO Services provided by BCTC to BC Hydro pursuant to this Agreement will be BCTC’s reasonable costs of providing the DO Services, including capital, operating, maintenance, overhead, vehicle and other expenses incurred by BCTC in the course of providing such DO Services, and will be comprised of the following components:

- (a) subject to Sections 10.1(b), 10.2 and 10.3, a fixed price component representing a negotiated allocation to the DO Services of BCTC’s total costs; provided that such allocation will not include any costs of BCTC’s control centre redevelopment project or accounting or related systems except as determined pursuant to Section 10.3;
- (b) if it is reasonably practical at any time in the future, all or a part of the internal costs of BCTC personnel providing the DO Services that would otherwise be a fixed price allocation may be charged on a negotiated hourly rate basis, by agreement of the Parties;
- (c) actual costs incurred by BCTC under any contracts with subcontractors, including BC Hydro, entered into by BCTC pursuant to and in accordance with Section 17.3, without mark-up (provided that the fixed price or hourly charge may include BCTC’s reasonable costs actually incurred to manage subcontractors); and
- (d) other specific costs incurred directly by BCTC in the performance of the DO Services, and not otherwise included in the amount determined in accordance with paragraph (a) or (b) above and Section 10.3, that are specifically requested and authorized by BC Hydro and acknowledged to be separately payable hereunder at the time of the request.

It is a principle of this Agreement that the price charged to BC Hydro for providing DO Services will not include any allocation of costs incurred by BCTC primarily in connection with its authority and responsibility for planning, managing, maintaining or operating the Transmission System.

10.2. **Fee for initial Contract Year**

The Parties acknowledge and agree that the total price for providing the DO Services for the year ending March 31, 2006 will be as set out in BC Hydro's 2003 revenue requirement application to the Commission (subject to agreed adjustments between the Parties including the addition of costs for the operation of the Substation Distribution Assets, as shown in the fiscal 2006 DO Services Plan), provided that, in the event that the Commission's decision on such application amends such total price, as so adjusted, the Parties will amend the applicable DO Services Plan accordingly pursuant to Section 4.5, and provided further that the Parties will use commercially reasonable efforts to manage the DO Services to be delivered hereunder to such total price amount. The total price for such year includes a fixed price component (as referred to in Section 10.1(a)) of \$5,000,000. The fixed price component amount establishes a base for negotiating the fixed price component of the costs of providing the same or similar DO Services in future.

10.3. **Determination of Pricing**

In respect of all Contract Years commencing from and after April 1, 2006:

- (a) BCTC will, in each revenue requirement application to the Commission applicable to such Contract Year, seek an order from the Commission approving the appropriate cost to be recovered by BCTC from BC Hydro for the DO Services provided pursuant to this Agreement;
- (b) BCTC will review with BC Hydro its proposed application to the Commission pursuant to paragraph (a) above, and BC Hydro will provide BCTC with its timely comments and feedback in connection therewith, including the cost allocation between the DO Services and BCTC's costs of planning, managing, maintaining and operating the Transmission System. In the event that the Parties are unable to agree on the amount of the fixed price component (as referred to in Section 10.1(a)) to be included in the total price for the DO Services in respect of any Contract Year, such amount shall be determined in accordance with ARTICLE 14 prior to submission of BCTC's revenue requirement application to the Commission and BCTC shall include the amount so determined in its application; and
- (c) BC Hydro:
 - (i) will not intervene in BCTC's proceeding before the Commission in regard to the order sought by BCTC for the cost of the DO Services pursuant to paragraph (a) above; and
 - (ii) may be required to defend the DO Services Plan during BCTC's proceeding before the Commission in order to defend the cost of the DO Services to be allocated to BC Hydro.

10.4. **Taxes**

- (a) Subject to paragraph (b) below, in the event that any taxes, including provincial sales tax and GST, are imposed on BC Hydro in connection with the provision of the DO Services by BCTC under this Agreement, BC Hydro will be responsible for the payment of any such taxes and will indemnify BCTC if BCTC pays any such taxes, notwithstanding that BCTC was obliged to collect any such taxes in connection with the provision of the DO Services by BCTC under this Agreement. [MA 31.6]
- (b) BCTC will comply with all applicable Laws in respect of the billing and invoicing for the DO Services, and BC Hydro will not be responsible for any interest or penalties relating to the non-payment of any taxes in connection with the provision of the DO Services to the extent that the failure to pay such taxes is attributable to the failure of BCTC to comply with such Laws.
- (c) BCTC will be responsible for ensuring that invoices and supporting documentation for the DO Services properly identify and separate those DO Services that may be taxable from those DO Services that are not taxable, so that BC Hydro is liable for the payment of tax only on DO Services which are taxable.
- (d) The Parties will administer this Agreement in a manner that is tax efficient. If either Party identifies a way of increasing the tax efficiency of this Agreement by administering it in a different manner, the Parties will work together in an effort to achieve such efficiency, in full compliance with applicable Laws.

10.5. **Payment Process**

- (a) Until such time as the invoicing and payment mechanics contemplated by paragraphs (b) and (c) below have been implemented, BCTC and BC Hydro will continue to, respectively, charge and effect payment for the DO Services in accordance with the policies and procedures in place as of the date of this Agreement.
- (b) From and after the Tariff Commencement Date, BCTC will invoice BC Hydro for the price for providing the DO Services in the manner set out in the DO Services Plan, and will deliver such statements to BC Hydro on or before the 15th Business Day of each month.
- (c) From and after the Tariff Commencement Date, BC Hydro will effect payment of all invoices received from BCTC pursuant to paragraph (b) above within 30 days after receipt thereof by BC Hydro or pursuant to the monthly settlement between the Parties of all amounts payable between the Parties under this Agreement and any other service level agreement contemplated by the Key Agreements.

10.6. **Disputed Amounts**

In the event of a dispute by BC Hydro in respect of any amount included on any invoice received from BCTC, BC Hydro may submit such dispute to dispute resolution pursuant

to ARTICLE 14 and withhold payment of the disputed amount but, pending the resolution of such dispute, will effect full payment to BCTC of the undisputed amount in accordance with Section 10.5.

10.7. **Interest on Unpaid Amounts**

Any amounts payable under Section 10.5 will, if not paid by the due date specified, accrue interest at the annual rate of 2% above the then effective interest rate payable by BC Hydro on 30 day commercial paper or equivalent instrument, from the date payment is due until the date payment is made. [MA 21.4]

ARTICLE 11. AUDIT

11.1. **Right to Audit**

BC Hydro, its auditors and other representatives will have the right to conduct such reviews, investigations, inspections, audits, confirmations, certifications, tests, studies and determinations (collectively, “**Audit**”) of the systems, processes, facilities and records of BCTC as BC Hydro determines, acting reasonably, are required to verify:

- (a) the accuracy of all amounts invoiced or otherwise claimed by BCTC under this Agreement, including whether BCTC has performed all work for which a fixed fee is being charged; and
- (b) compliance by BCTC with its obligations under this Agreement, including without limitation:
 - (i) the adequacy of the performance of the DO Services by BCTC hereunder, including the accuracy of the information relating to the performance of the DO Services contained in all reports provided by BCTC to BC Hydro under this Agreement;
 - (ii) performance of the DO Services in accordance with the Service Standards;
 - (iii) whether the DO Services are meeting the DO Performance Targets; and
 - (iv) BCTC’s establishment, maintenance and compliance with the quality management system required pursuant to Section 3.4.

11.2. **Conduct of Audit**

- (a) Any Audit performed for or on behalf of BC Hydro pursuant to Section 11.1 will be conducted in accordance with industry or professionally accepted practices or requirements, if any, applicable Laws, this Agreement, and all other agreements between the Parties.
- (b) Any Audit performed for or on behalf of BC Hydro pursuant to Section 11.1 will be conducted on no less than 30 days’ notice in writing to BCTC.

- (c) BCTC will provide access to its systems, facilities and records to such auditors and other representatives as BC Hydro may reasonably require for the purposes of the Audits contemplated in Section 11.1, provided that any such access to facilities and records will be during normal business hours unless otherwise agreed to by BCTC, will be conducted in a manner that does not unreasonably interfere with BCTC's business operations, and will, where applicable, be subject to any building and office security that is ordinarily in place at such facilities.
- (d) If a BCTC's Standards of Conduct prevent or restrict the disclosure of relevant systems, facilities and records to the BC Hydro, BCTC will provide access to such systems, facilities and records to BC Hydro's auditors or other representatives provided that such auditors or other representatives agree not to provide such systems, facilities and records to BC Hydro in a form or manner that would breach BCTC's Standards of Conduct.
- (e) The cost of any Audit performed pursuant to Section 11.1 will be borne by BC Hydro.
- (f) The audit findings and any Confidential Information of BCTC which is reviewed in the course of the Audit or contained in the audit findings will only be used for assessing BCTC's performance and compliance with its obligations under this Agreement.

11.3. **Audit Findings**

BCTC will be entitled to receive and respond to any questions arising during the course of any Audit and to receive and comment upon, prior to finalization, the draft report of the audit findings. A copy of the final report on the audit findings will be provided to BCTC upon its completion.

11.4. **Resolution of Audit Findings**

- (a) If any Audit performed pursuant to Section 11.1 above establishes any inaccuracy in an invoice or other amount payable under this Agreement, the Parties will forthwith agree on the amount and make such adjusting payments as may be necessary to rectify such inaccuracy within 15 days of such agreement. Failing such agreement being reached within 30 days, either Party may submit the matter to dispute resolution pursuant to ARTICLE 14.
- (b) Any claim of an inaccurate amount under paragraph (a) above must be made within six months after the date of the invoice covering any amount payable under this Agreement which gives rise to such claim.

11.5. **No Waiver**

Failure by BC Hydro to perform any Audit shall not constitute a waiver of any of the rights of BC Hydro, or any of the obligations or liabilities of BCTC, under this Agreement.

ARTICLE 12.
AGREEMENT REVIEW AND TERMINATION

12.1. Review of Distribution Operations

- (a) Following November 20, 2009, and thereafter every two years unless the Parties agree on a different interval, representatives of the Parties will meet to discuss and review the terms and conditions of BCTC's provision of the DO Services under this Agreement.
- (b) During any such review, the Parties may agree to extend the Term of this Agreement for a further two-year term or such other period as the Parties may agree, and may make such other amendments to this Agreement as the Parties may agree.
- (c) If the Parties fail to reach agreement on an extension of this Agreement, this Agreement will continue on the same terms and conditions, subject to subsequent review under paragraph (a) above, unless terminated by either Party in accordance with paragraph (d) below.
- (d) At the time of each review under paragraph (a) above, each Party will have the right to terminate the provision of the DO Services by BCTC if the Party does not agree to an extension of this Agreement, in which event such Party will provide written notice of termination to the other Party. **[MA 11.9(a)-(d)]**

12.2. Other Termination

In addition to termination of this Agreement by either Party pursuant to Section 12.1(d), this Agreement may be terminated:

- (a) by BC Hydro in accordance with Section 26 of the Master Agreement; or
- (b) by BC Hydro at any time in accordance with Section 6.4(d); or
- (c) at any time by agreement of the Parties.

12.3. Responsibility for Termination Costs

- (a) If BC Hydro terminates this Agreement in accordance with Section 12.1(d), BC Hydro will be responsible for any material costs and expenses associated with any stranded assets or personnel of BCTC, provided that BC Hydro will only pay for any material asset or personnel costs and expenses associated with any stranded control centre facility constructed or any other material investment made in the facilities required to provide the DO Services after November 20, 2003 which BC Hydro agrees to pay. If the Parties are unable to reach agreement on any costs and expenses contemplated by this Section 12.3(a), either Party may submit the matter to dispute resolution pursuant to ARTICLE 14. **[MA 11.7(f)]**
- (b) If:

- (i) BCTC terminates this Agreement in accordance with Section 12.1(d); or
- (ii) BC Hydro terminates this Agreement in accordance with Section 12.2(a),

BC Hydro will not be responsible for any material costs and expenses associated with any stranded assets or personnel of BCTC. [MA 11.7(g), (h)]

- (c) If the Parties terminate this Agreement by mutual agreement in accordance with Section 12.2(c), BC Hydro's responsibility, if any, for costs and expenses associated with any stranded assets or personnel of BCTC will be as determined by the Parties in connection with such termination.

12.4. **Orderly Transition**

If this Agreement is terminated pursuant to this ARTICLE 12:

- (a) by no later than 90 days following notice of termination or the Parties mutual decision to terminate, as the case may be, the Parties will negotiate and reach agreement on a reasonable transition process and period to facilitate the orderly transfer of the DO Services to BC Hydro; failing agreement either Party may submit the matter in dispute for dispute resolution in accordance with ARTICLE 14; and [MA 11.7(e), (g)]
- (b) BCTC will provide to BC Hydro such reasonable cooperation, assistance and services to allow the operation of the Distribution System to continue without interruption or adverse effect and to facilitate the orderly transition to BC Hydro.

12.5. **Continued Control of Certain Distribution Assets**

- (a) If either Party terminates this Agreement, BCTC will nevertheless retain direct or indirect operational control over any assets included within the definition of Substation Distribution Assets as may be necessary to ensure the safety of workers and the public and reliability of the Transmission System. Upon either Party giving notice of termination, the Parties will determine, on a substation by substation basis, any Substation Distribution Assets that BCTC will retain operational control over. In the event the Parties are unable to agree, either Party may submit the matter in dispute for dispute resolution in accordance with ARTICLE 14; and
- (b) BCTC will bear the cost of providing direct or indirect operational control over any assets included within the definition of Substation Distribution Assets as may be necessary to ensure the safety of workers and the public and reliability of the Transmission System. [MA 11.9]

12.6. **Survival on Termination**

Notwithstanding any other provision of this Agreement, if this Agreement is terminated, the provisions of this Agreement setting out rights and obligations relating to confidentiality, indemnification, limitation of liability, audit rights and dispute resolution

will survive such termination or expiry and remain in full force and effect with respect to any matter arising prior to such termination or expiry. [MA 3.2]

12.7. **Intellectual Property Rights upon Termination**

If this Agreement is terminated, the rights of the Parties with respect to intellectual property shall be as set out in the Supplemental Intellectual Property Agreement dated April 1, 2005 made between the Parties.

ARTICLE 13. LIABILITIES AND INDEMNITIES

13.1. **Definitions**

For the purposes of this ARTICLE 13, the following terms shall have the following meanings:

- (a) **“BC Hydro Indemnitees”** means BC Hydro and its partners, shareholders, agents, directors, officers, employees, affiliates, successors and assigns, but does not include BCTC or its partners, shareholders, agents, directors, officers, employees, affiliates, successors and assigns.
- (b) **“BCTC Contractor”** means any Third Party engaged directly or indirectly by BCTC to provide services to or on behalf of BCTC in connection with the DO Services; for further certainty, “BCTC Contractor” specifically excludes any subcontractors engaged directly or indirectly by BC Hydro when BC Hydro has itself been engaged by BCTC.
- (c) **“Claim”** means any claim, action, suit, litigation, investigation, arbitration, proceeding or other matter, whether in contract or tort (including, without limitation, in negligence or in any tort imposing strict liability) or otherwise, that is threatened, made, commenced or brought by a Third Party against any of the BC Hydro Indemnitees and in respect of which BC Hydro intends to seek indemnification from BCTC pursuant to Section 13.2.
- (d) **“Losses”** means any and all losses, liabilities, damages, actions, claims, costs and expenses of any nature or kind (including reasonable legal fees and disbursements).

13.2. **BCTC Indemnity**

In addition to the indemnity provided by BCTC to BC Hydro pursuant to Section 23.3 of the Master Agreement, BCTC will, subject to Section 13.3, indemnify and save the BC Hydro Indemnitees harmless from and against any Losses suffered or incurred by the BC Hydro Indemnitees arising out of or in connection with any of the following:

- (a) any Claim arising out of or in connection with any act or omission of BCTC or any BCTC Contractor in the course of providing the DO Services to BC Hydro pursuant to this Agreement; and [MA 23.3(a)(ii)]

- (b) any damage to the Distribution System caused by or arising out of or related to any negligence or wilful misconduct by BCTC or any BCTC Contractor, in the course of providing the DO Services to BC Hydro pursuant to this Agreement;

provided that BCTC will not be required to indemnify any of the BC Hydro Indemnitees in respect of the Losses specified in this Section 13.2 to the extent BC Hydro receives insurance proceeds relating to such Losses.

13.3. **No Consequential Damages**

Neither Party nor any of its affiliates, officers, directors or employees will be liable in contract or tort (including, without limitation, in negligence or in any tort imposing strict liability) or otherwise for indirect, special, incidental, consequential, exemplary or punitive damages or damages for loss of use, loss of work in process, down time or loss of profits of the other Party, and such limitation on damages will survive failure of any exclusive remedy and will survive termination of this Agreement, including by reason of a fundamental breach; provided, however, that the foregoing provisions will not limit compensation for goods sold, services rendered or other compensation specifically provided for under this Agreement. The foregoing limitation on liability of a Party, its affiliates, officers, directors or employees, is not intended to apply to the extent that the Losses for which BC Hydro seeks indemnification hereunder are indirect, special, incidental, consequential, exemplary or punitive damages or damages for loss of use, loss of work in process, down time or loss of profits claimed against any of the BC Hydro Indemnitees by a Third Party resulting from an action or failure to act by BCTC that is indemnified under Section 13.2. [MA 23.6]

13.4. **Indemnification Process**

The process set out in Section 23.8 of the Master Agreement will apply to any Claims for which BC Hydro seeks indemnification from BCTC under Section 13.2.

13.5. **Insurance**

BCTC will ensure that all Third Party contractors and subcontractors that are contracted to provide any part of the DO Services in any capacity carry appropriate insurance coverage on a basis which meets the requirements of BC Hydro's procurement policies from time to time and with BC Hydro named as a loss payee. During the Term, BCTC will be responsible for managing any insurance claims as requested by BC Hydro.

ARTICLE 14. DISPUTE RESOLUTION

14.1. **Dispute Resolution**

Except as and to the extent otherwise expressly provided for in this Agreement, all disputes between the Parties which may arise under, out of, in connection with or in relation to this Agreement (a "**Dispute**") will be resolved strictly and exclusively in accordance with this ARTICLE 14, including Disputes arising in connection with any provision of this Agreement which provides (regardless of the actual words used) that:

- (a) the Parties will reach agreement on a particular matter and the time specified for reaching agreement has passed or, if no time is specified, the Parties have failed to reach agreement on the matter; and
- (b) either Party may submit a failure to reach agreement on the particular matter to dispute resolution pursuant to this ARTICLE 14.

14.2. **Notice of Internal Escalation**

- (a) In the event of a Dispute that cannot be resolved by the respective responsible managers of the Parties, either Party may at any time provide the other Party with written notice of its intention to formally invoke the internal escalation provisions of Section 14.3 (a “**Notice of Internal Escalation**”).
- (b) The Party issuing a Notice of Internal Escalation pursuant to paragraph (a) above will also deliver a copy thereof to each Party’s Contract Representative.

14.3. **Internal Escalation of Dispute**

- (a) Following the delivery of a Notice of Internal Escalation pursuant to Section 14.2, the Parties will use commercially reasonable efforts to resolve the Dispute by good faith discussions between the respective Contract Representatives of the Parties within 15 days of the delivery of the Notice of Internal Escalation.
- (b) If the discussions between the Parties’ Contract Representatives pursuant to paragraph (a) above are not successful in resolving the Dispute, the Parties will use commercially reasonable efforts to resolve the Dispute by good faith discussions between the Parties’ responsible Vice Presidents within a further 15 day period.
- (c) Each of the Parties will provide full, candid and timely disclosure of all relevant facts, information and documents to facilitate any such discussions.

14.4. **Notice of Dispute**

In the event of a Dispute that has not been resolved to the satisfaction of the Parties under Section 14.3, either Party may at any time following the expiration of the time periods set out in Section 14.3 provide the other Party with written notice of its intention to formally invoke the external dispute resolution provisions of this ARTICLE 14 (a “**Notice of Dispute**”). [MA 25.2]

14.5. **Recommendations by Independent Expert**

Following the issuance of a Notice of Dispute pursuant to Section 14.4, the Parties may, by mutual agreement, elect to have an independent expert review and submit written recommendations as to the resolution of the Dispute on a non-binding basis. The costs of such an expert will be shared equally between the Parties. [MA 25.4]

14.6. **Mediation**

Following the issuance of a Notice of Dispute pursuant to Section 14.4, either Party may, at any time after 14 days following the date that a Notice of Dispute is given in respect of the Dispute, refer the Dispute, including a Dispute which is under review or subject to a recommendation under Section 14.5, to mediation which, unless otherwise agreed between the Parties, will be commenced and carried out in accordance with the mediation rules of procedure of the British Columbia International Commercial Arbitration Centre in effect at the time of the mediation. [MA 25.5]

14.7. **External Arbitration**

- (a) If a Dispute is not resolved by mediation within 14 days of a mediator being appointed or agreed to by the Parties or at any time after written notice to the Parties by the mediator that the Dispute is not likely to be resolved through mediation, then either Party may, by notice to the other Party, require the Dispute to be settled by arbitration under this Section 14.7. In the event that a dispute is not referred to mediation under Section 14.6, then either Party may, at any time after 14 days following the date that a Notice of Dispute is given in respect of the Dispute, require the Dispute to be settled by arbitration under this Section 14.7.
- (b) The following provisions will apply to any arbitration initiated pursuant to this Section 14.7:
 - (i) The arbitration will be conducted in British Columbia in accordance with the *Commercial Arbitration Act* (British Columbia).
 - (ii) The Parties will use commercially reasonable efforts to agree on and appoint a single arbitrator.
 - (iii) If the Parties fail to agree upon a single arbitrator within 10 days of the referral of the dispute to arbitration, each Party will choose one arbitrator who will sit on a three-member arbitration panel. The two arbitrators so chosen will within 20 days of their selection, select a third arbitrator to chair the arbitration panel.
 - (iv) The arbitrator(s) appointed under paragraph (ii) or (iii) above will be knowledgeable in electric utility matters, including electric transmission and bulk power issues, and, unless the Parties otherwise agree, will be neutral and not have any current or past substantial business or financial relationships with either Party (except through prior arbitrations).
 - (v) Where the Parties have failed to agree on a matter referred to in Section 14.1(a), each Party expressly authorizes and directs the arbitrator(s) to establish the terms of the agreement between the Parties addressing the matter on which the Parties were unable to reach agreement and such agreement will be binding on the Parties.

- (vi) Unless otherwise agreed, the arbitrator(s) will render a decision within 90 days of appointment and will notify the Parties in writing of the decision and the reasons for the decision.
- (vii) Any decision of the arbitrator(s) must comply with any order or other requirement of the Workers' Compensation Board or other regulatory agency having jurisdiction over occupational health and safety.
- (viii) If the decision of the arbitrator(s) will affect the rates, terms and conditions of service or facilities of BCTC or BC Hydro or any other matter under the WTS Tariff or the OATT (each as defined in the Master Agreement), as the case may be, such decision must also be filed with the Commission.
- (ix) Subject to any award of costs by the arbitrator(s), each Party will be responsible for its own costs incurred during the arbitration process and for the following costs, if applicable:
 - A. the cost of the arbitrator chosen by the Party to sit on the three member panel and one half of the cost of the third arbitrator chosen; or
 - B. one half of the cost of the single arbitrator jointly chosen by the Parties. [MA 25.6]

14.8. Confidentiality in Respect of Disputes

Unless otherwise agreed by the Parties, all hearings, meetings and communications in connection with Disputes under this ARTICLE 14 and, subject to Section 14.7(b)(viii), all decisions of the arbitrator(s) will be treated as strictly private and confidential, and will not be disclosed except as may be required by applicable Laws. [MA 25.7]

ARTICLE 15. CONTRACT REPRESENTATIVES

15.1. Contract Representatives

Each of the Parties shall, by notice in writing to the other Party, appoint an individual as its Contract Representative under this Agreement to be responsible for the relationship between the Parties under this Agreement. Either Party may replace such Contract Representative by notice in writing to the other Party from time to time.

15.2. Designates

Each Contract Representative may designate in writing a reasonable number of additional employees of such Party to be points of contact for the other Party in respect to particular subject matters under this Agreement.

15.3. Scope of Authority

- (a) Each Contract Representative and its designates will have the authority to make decisions with respect to actions to be taken by its Party in the ordinary course of day-to-day management of the obligations of such Party under this Agreement, including acting as each Party's point of contact for all matters related to the development, management and amendment of DO Services Plans pursuant to this Agreement.
- (b) The Contract Representatives and their respective designates will have no authority, expressly or by course of conduct, to agree to amend this Agreement.

15.4. Meetings of Contract Representatives

The Contract Representatives and their designates will meet quarterly (or more or less frequently as determined by the Parties) to review the effectiveness of this Agreement and the relationship between the Parties under this Agreement.

**ARTICLE 16.
NOTICES**

16.1. Notices

All notices to be given pursuant to this Agreement will be in writing and will be given by delivery or facsimile of the same to the address or facsimile number designated hereunder or to such other address or facsimile number as may be substituted therefor from time to time for the proper notice to a Party hereunder. Where a notice is sent by facsimile, if it is received by a Party prior to 4:00 p.m. local time on a Business Day, it will be deemed to have been received on that Business Day, and otherwise such notice will be deemed to be received on the Business Day next following its actual receipt. A Party may change its address or facsimile number from time to time by giving written notice of such change to the other Party in accordance with this Section 16.1. The respective addresses and facsimile numbers of the Parties are as follows:

To BC Hydro: British Columbia Hydro and Power Authority
333 Dunsmuir Street
Vancouver, B.C.
V6B 5R3

Attention: Vice-President Distribution
Facsimile: (604) 623-4430

Attention: Vice-President & General Counsel
Facsimile: (604) 623-4323

Attention: Director, Business Partnerships
Facsimile: (604) 623-4545

To BCTC: British Columbia Transmission Corporation
Suite 1100, Four Bentall Centre
1055 Dunsmuir Street
P.O. Box 49260
Vancouver, B.C.
V7X 1V5

Attention: Vice President Legal & General Counsel
Facsimile: (604) 699-7471

16.2. Routine Communication

Notwithstanding Section 16.1, any notices or other communications between the Parties that relate to operating procedures are not required to be in writing and will be made as set out in this Agreement, by industry practice or as otherwise agreed by the Parties.

**ARTICLE 17.
ASSIGNMENT AND SUBCONTRACTING**

17.1. Successors and Assigns

All covenants and provisions of this Agreement by and for the benefit of the Parties will bind and enure to the benefit of their respective successors and permitted assigns, but no permitted assignment or transfer will relieve the assignor or transferor of its obligations except to the extent specifically provided in this Agreement or any of the Key Agreements.

17.2. Assignment

Subject only to Section 17.3, neither Party will assign, pledge or transfer all or any part of, or any right or obligation under, this Agreement except in accordance with Article 28 of Master Agreement, as if this Agreement was one of the Key Agreements.

17.3. Subcontracting

BCTC may not subcontract to any Third Party all or substantially all of the DO Services and may not subcontract the distribution operations components of the DO Services that were carried out by BCTC's control room staff as at April 1, 2005, in either case without the prior written consent of BC Hydro not to be unreasonably withheld or delayed. BC Hydro's consent thereto will not relieve BCTC from any of its responsibilities or obligations under this Agreement. Notwithstanding the foregoing, BCTC may subcontract minor items of work included in the distribution operations component of the DO Services to a Third Party or to BC Hydro where those items of work may be more conveniently and efficiently carried out by subcontractors; provided that BCTC will not be relieved of any of its responsibilities or obligations under this Agreement.

ARTICLE 18. FORCE MAJEURE

18.1. Definitions

In this ARTICLE 18, “**Force Majeure**” means acts of God; acts of the public enemy; wars; sabotage; terrorism; riots; strikes; lockouts; vandalism; blockages; labour disputes; fires; explosions; natural disasters; floods; perils of the sea; lightning; wind; actions of a court or public authority (including the denial, revocation or non-renewal of a permit or licence); accidents or failure of equipment or machinery; inability to obtain or maintain any transmission property right; or allocation or failure of normal sources of supply of materials, transportation, energy or utilities or other causes of a similar nature which are beyond the reasonable control of the Party affected and could not have been avoided by the exercise of due diligence and that wholly or partly prevent, alter or delay the performance by such Party of its obligations or responsibilities under this Agreement. Economic hardship will not constitute a Force Majeure under this Agreement. [MA 27.1]

18.2. Excuse From Performance

Neither Party will be considered in default as to any of its obligations under this Agreement to the extent it is prevented from fulfilling the obligation due to an event of Force Majeure. However, a Party whose performance under this Agreement is hindered by an event of Force Majeure will use commercially reasonable efforts to perform its obligations under this Agreement and use commercially reasonable efforts to remedy the Force Majeure with reasonable dispatch and it will have the right to suspend performance of such obligations only to the extent and for the duration that the Force Majeure actually and reasonably prevents the performance of such obligations. Both Parties will use commercially reasonable efforts to mitigate or overcome the effects of any event of Force Majeure; provided that settlement of strikes, lockouts and other labour disturbances will be wholly within the discretion of the Party involved. [MA 27.2]

18.3. Notification

If there is a Force Majeure event affecting a Party's ability to perform its obligations under this Agreement, the affected Party will promptly notify the other Party of the occurrence of the Force Majeure event, identifying the nature of the event, its expected duration and the particular obligations affected. The affected Party will furnish to the other Party reports with respect to the Force Majeure event at such intervals as the other Party may reasonably request during the continuance of the Force Majeure event. [MA 27.3]

ARTICLE 19. GENERAL PROVISIONS

19.1. Entire Agreement and Amendment

This Agreement, together with the Master Agreement and any agreements or provisions thereof referred to in this Agreement, constitutes the entire agreement between the Parties

and supersede all previous agreements and understandings, whether oral or written, relating to the subject matter of this Agreement. Section 15.2(i) of the Master Agreement applies to this Agreement as if incorporated herein.

19.2. **Amendment of Agreement**

- (a) This Agreement may not be changed or modified orally and neither Party will be liable or bound to the other Party in any manner by any warranties, representations, covenants or agreements except as specifically set forth in the this Agreement or expressly required to be made or delivered pursuant hereto. **[MA 31.1]**
- (b) In the event that a Party wishes to raise and discuss with the other Party any matter relating to this Agreement due to the fact that, in the Party's opinion, there has been a change in circumstances or a particular provision of this Agreement is giving rise to unintended consequences, both Parties will enter into good faith negotiations to attempt to resolve the matter and amend or modify this Agreement accordingly. **[MA 31.4]**
- (c) If the Parties are unable to resolve any matter raised by a Party pursuant to paragraph (b) above, either Party may submit the matter to dispute resolution in accordance with ARTICLE 14.

19.3. **Construction of Agreement**

Ambiguities or uncertainties in the wording of this Agreement will not be construed for or against either Party, but will be construed in a manner that most accurately reflects the purpose of such agreement and the nature of the rights and obligations of the Parties with respect to the matter being construed. **[MA 31.2]**

19.4. **Governing Law and Attornment**

This Agreement will be interpreted in accordance with and governed by the laws of the Province of British Columbia and the laws of Canada applicable in British Columbia. Each Party irrevocably attorns to the jurisdiction of the Courts of British Columbia.

19.5. **Severability**

In the event that any one or more of the provisions of this Agreement is held invalid, illegal or unenforceable under any applicable law, the remainder of this Agreement or the application of the provisions of this Agreement to Persons or circumstances other than those as to which it is held invalid or unenforceable, will not be affected thereby. If a court of competent jurisdiction determines that any part of this Agreement is invalid, illegal or unenforceable, and, as a result of such determination and this Section 19.5, the basic intentions of the Parties in this Agreement are frustrated, the Parties will use commercially reasonable efforts to amend, supplement or otherwise vary this Agreement to give effect to their intentions in entering into this Agreement. **[MA 31.7]**

19.6. Waiver

The waiver by either Party of any intended or unintended breach, default or misrepresentation under this Agreement will not be deemed to extend to any prior or subsequent breach, default or misrepresentation under this Agreement, whether of a like or different character and will not affect in any way any rights arising by virtue of any such prior or subsequent occurrence, and any such waiver will only be valid if provided in writing, signed by the Party providing such waiver. [MA 31.8]

19.7. Preparation

The drafting and negotiation of this Agreement have been participated in by both Parties, and not by either Party to the exclusion of the other, and for all purposes this Agreement will be deemed to have been drafted jointly by the Parties. [MA 31.9]

19.8. Counterparts

This Agreement may be executed in counterparts and by electronic facsimile transmission, each of which will be deemed to be originals and all of which counterparts will constitute one and the same document.

19.9. Relationship of the Parties

Nothing contained in this Agreement will be construed to create an association, joint venture, trust, partnership, leasehold or other property interest or to impose a trust or partnership covenant, obligation or liability on or with regard to either of the Parties. [MA 31.11]

19.10. Further Assurances

Each Party will execute and deliver such further documents and do such further and other things as may be necessary to carry out and give effect to the intent of this Agreement and the transactions contemplated hereby.

19.11. Time of Essence

Time will be of the essence of this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the date first written above.

**BRITISH COLUMBIA HYDRO AND
POWER AUTHORITY**

By: _____

Title: _____

**BRITISH COLUMBIA TRANSMISSION
CORPORATION**

By: _____

Title: _____

By: _____

Title: _____