

## WORKER ACCOMMODATION

### SCHEDULE 1

#### DEFINITIONS AND INTERPRETATION

##### 1 DEFINITIONS

In this Agreement:

**"72 Hour Forecast"** has the meaning set out in Schedule 21 [Services Protocols and Specifications];

**"Aboriginal"** has the meaning set out in Schedule 16 [Aboriginal Inclusion and Reporting Requirements];

**"Aboriginal Business"** has the meaning set out in Schedule 16 [Aboriginal Inclusion and Reporting Requirements];

**"Aboriginal Inclusion Performance Report"** has the meaning set out in Schedule 16 [Aboriginal Inclusion and Reporting Requirements];

**"Aboriginal Inclusion Plan"** has the meaning set out in Schedule 16 [Aboriginal Inclusion and Reporting Requirements];

**"Aboriginal Opportunities Coordinator"** or **"AOC"** has the meaning set out in Schedule 16 [Aboriginal Inclusion and Reporting Requirements];

**"Accepted"** has the meaning set out in Schedule 5 [Submittals Procedure];

**"Access License"** has the meaning set out in Schedule 20 [Land Matters];

**"Accommodation Building"** has the meaning set out in Schedule 2 [Design and Construction Protocols];

**"Accommodation Complex"** means the Accommodation Buildings and related accommodation improvements, services and infrastructure of the Facility to be constructed by Project Co on the Worker Accommodation Area in accordance with the requirements of Schedule 6 [Specifications and Drawings];

**"Actual Residual Value Amount"** has the meaning set out in Schedule 11 [Prices, Payment and Security];

**"Additional Insurance"** has the meaning set out in Schedule 13 [Insurance];

**"Additional Irrecoverable Tax"** means GST and PST incurred by Project Co, a Project Contractor or a Subcontractor in respect of the supply of any good or service to BC Hydro, Project Co, such Project Contractor or such Subcontractor which is consumed, used or supplied, or to be consumed, used or supplied, exclusively in the course of carrying out the Design or Construction or performing the Services to the extent that Project Co, such Project Contractor or such Subcontractor is unable to recover or be credited with input tax credits, refunds, rebates or exemptions for such GST or PST that Project Co, such Project Contractor or such Subcontractor would not have been required to pay or would have recovered or been credited with prior to the applicable Change in Law;

**"Additional Recoverable Tax"** means GST or PST incurred by Project Co, a Project Contractor or a Subcontractor in respect of the supply of any good or service to BC Hydro, Project Co, such Project Contractor or such Subcontractor which is consumed, used or supplied, or to be consumed, used or supplied, exclusively in the course of carrying out the Design or Construction or performing the Services to the extent that Project Co, such Project Contractor or such Subcontractor is able to recover or be

credited with input tax credits, refunds, rebates or exemptions for such GST or PST that Project Co, such Project Contractor or such Subcontractor would have been required to pay or would not have recovered or been credited with prior to the applicable Change in Law;

“**Adjusted Estimated Market Value**” has the meaning set out in Schedule 22 [Compensation on Termination];

“**Adjusted Highest Compliant Bid Price**” has the meaning set out in Schedule 22 [Compensation on Termination];

“**Administrative Correspondence**” has the meaning set out in Section 2.13(a)(ii) of this Agreement;

“**Administrative Services**” has the meaning set out in Appendix 21C [Administrative and Help Desk Services];

“**Affiliate**” means, with respect to any Person, any other Person directly or indirectly controlling, controlled by, or under direct or indirect common control of, such Person, and a Person will be deemed to control another Person if such Person possesses, directly or indirectly, the power to direct or determine the direction of the management and policies of such other Person, whether through ownership of voting securities, by contract or otherwise;

“**Agreement**” means this agreement, including any recitals, schedules, appendices and attachments to this agreement, as amended or restated from time to time;

“**Allowable Capital Expenditure**” means the Capital Expenditure incurred by Project Co as a direct consequence of a Relevant Works Change in Law;

“**Alteration Permit**” has the meaning set out in Schedule 7 [Environmental Obligations];

“**Annual Service Plan**” has the meaning set out in Schedule 21 [Services Protocols and Specifications];

“**Annual Service Plan (BCHO)**” has the meaning set out in Schedule 30 [BC Hydro Offices – Services Protocols and Specifications];

“**Applicant**” has the meaning set out in Section 9.1 of this Agreement;

“**ASL**” means [REDACTED]

[REDACTED]

[REDACTED]

“**ATCO**” means [REDACTED]

“**Attended**” has the meaning set out in Schedule 21 [Services Protocols and Specifications];

“**Availability Condition**” has the meaning set out in Schedule 11 [Prices, Payment and Security];

“**Avoidable Costs**”, when used in relation to an event or circumstance, means all costs and expenditures which:

- (a) are saved or avoided as a result of the event or circumstance or its effects; or

- (b) if Project Co acted reasonably and in accordance with this Agreement (including Section 2.10 of this Agreement), would have been saved or avoided as a result of the event or circumstance or its effects;

**“Base Capacity”** has the meaning set out in Schedule 2 [Design and Construction Protocols];

**“Base Case Project IRR”** means [REDACTED] being the Nominal internal rate of return for the WA Project calculated on an after tax basis at the level of Project Co in accordance with the Financial Model as shown in Cell D59 of the Outputs Summary Sheet;

**“Base Date”** means the date from which any applicable indexation is calculated in the Financial Model;

**“BC Building Code”** has the meaning set out in Schedule 6 [Specifications and Drawings];

**“BC Hydro”** means the entity identified as “BC Hydro” on the first page of this Agreement;

**“BC Hydro Activities”** means any activities carried on or to be carried on by BC Hydro, or other Persons permitted by BC Hydro, on the Site in connection with the Project;

**“BC Hydro Documents”** means the documents described in Schedule 27 [Completion Documents];

**“BC Hydro Event of Default”** has the meaning set out in Section 14.1 of this Agreement;

**“BC Hydro Indemnified Person”** means:

- (a) any contractor or subcontractor (of any tier) of BC Hydro;
- (b) any representative, agent or advisor (including legal and financial advisors) of BC Hydro or any Person referred to in (a) above, in each case acting in such capacity; and
- (c) any director, officer or employee of BC Hydro or of any Person referred to in (a) or (b) above, in each case acting in such capacity;

**“BC Hydro Offices”** means the BC Hydro offices being constructed on the Worker Accommodation Area as part of the Facilities as more particularly set out in Schedule 29 [BC Hydro Offices – Specifications and Drawings];

**“BC Hydro Offices Plans”** has the meaning set out in Schedule 30 [BC Hydro Offices – Services Protocols and Specifications];

**“BC Hydro Offices Proposal Extracts”** has the meaning set out in Schedule 30 [BC Hydro Offices – Services Protocols and Specifications];

**“BC Hydro Offices SOPs”** has the meaning set out in Appendix 30C [BC Hydro Offices – Housekeeping and Waste Management Services];

**“BC Hydro Person”** means:

- (a) any director, officer, employee or agent of BC Hydro;
- (b) any representative, advisor (including any legal and financial advisor), contractor or subcontractor (of any tier) of BC Hydro in any such Person's capacity as a provider of services directly or indirectly to BC Hydro in connection with the WA Project, other than Project Co, Project Contractors or Subcontractors;

- (c) any invitee of BC Hydro or any of BC Hydro Persons referred to in (a) or (b) above who enters upon the Worker Accommodation Area; or
- (d) any lessee or tenant of BC Hydro at the Facility;

**"BC Hydro Policies"** has the meaning set out in Schedule 21 [Services Protocols and Specifications];

**"BC Hydro's Operating Policy"** has the meaning set out in Schedule 13 [Insurance];

**"BCIAC"** has the meaning set out in Schedule 14 [Dispute Resolution Procedure];

**"BCHO Users"** has the meaning set out in has the meaning set out in Schedule 29 [BC Hydro Offices – Specifications and Drawings];

**"Beneficiary"** has the meaning set out in Section 10.2 of this Agreement;

**"Bid Residual Value Amount"** has the meaning set out in Schedule 11 [Prices, Payment and Security];

**"Building Systems"** has the meaning set out in Appendix 21F [Facility Maintenance, Repair and Utility Services];

**"Building Systems (BCHO)"** has the meaning set out in Appendix 30D [BC Hydro Offices – Maintenance, Repair and Utility Services];

**"Business Day"** means a day other than a Saturday, Sunday or statutory holiday in British Columbia;

**"Capital Expenditure"** means an expenditure related to the WA Project which is treated as a capital expenditure in accordance with IFRS;

**"CEMP"** has the meaning set out in Schedule 7 [Environmental Obligations];

**"Certificate of Service Commencement"** has the meaning set out in Schedule 2 [Design and Construction Protocols];

**"Certificate of Substantial Completion"** has the meaning set out in Schedule 2 [Design and Construction Protocols];

**"Certified Professional"** has the meaning set out in Schedule 2 [Design and Construction Protocols];

**"Change"** has the meaning set out in Schedule 12 [Changes];

**"Change Directive"** has the meaning set out in Schedule 12 [Changes];

**"Change in Control"** means with respect to a relevant Person:

- (a) any direct or indirect change by contract or otherwise (other than as set out in (b) immediately below) which results in a Person or group of Persons having the ability to direct or cause the direction of the management, actions or policies of the relevant Person; or
- (b) any direct or indirect change in the ownership or control of any legal, beneficial or equitable interest in any or all of the shares, units or equity in the relevant Person (including the control over the exercise of voting rights conferred on equity share capital, unit interests or equity interests or the control over the right to appoint or remove directors, a general partner or other managers), including changes arising from assignment or transfer of existing shares, units or equity, issuance of new shares, units or equity or amalgamation, merger consolidation,

amendment of a limited partnership certificate or other reorganization, or any other direct or indirect change which results in a Person or group of Persons, other than the equity holders of the relevant Person immediately prior to the change, directly or indirectly:

- (i) controlling the composition of the majority of the board of directors of the relevant Person or of a general partner or manager of the relevant Person;
- (ii) controlling the decisions made by or on behalf of the relevant Person, including by controlling the voting power of the board of directors or by controlling the voting power of any class of shareholders or equity holders of any of the relevant Person, a general partner of the relevant Person or a manager of the relevant Person or otherwise;
- (iii) holding equity (either beneficially or otherwise) of the relevant Person with a subscribed value (taking into account contributions to be made in the case of a limited partnership) of more than one half of the subscribed value (taking into account contributions to be made in the case of a limited partnership) or equity (either beneficially or otherwise) of the relevant Person with more than one half of the voting rights; or
- (iv) having the ability to direct or cause the direction of the management, actions or policies of the relevant Person;

**“Change in Law”** means the coming into effect in Canada after the Financial Submission Date of:

- (a) any new Law; or
- (b) any modification (including repeal) of any Law existing on such date,

which is binding on Project Co or BC Hydro, but excluding in each such case:

- (c) any lawful requirements of any Governmental Authority (unless resulting from a Change in Law);
- (d) any change in the interpretation of any legislation other than a judgment of a relevant court which changes binding precedent in British Columbia;
- (e) any new Law or modification arising from or in any way connected to or having substantially the same effect as any Law which as of the Financial Submission Date:
  - (i) had been introduced as a Bill in the Legislative Assembly of British Columbia or the Parliament of Canada or in a draft statutory instrument published or issued by a Governmental Authority; or
  - (ii) had been published in the Canada Gazette or in a draft bill as part of a Governmental Authority discussion or consultation paper;

**“Change Order”** has the meaning set out in Schedule 12 [Changes];

**“Change Report”** has the meaning set out in Schedule 12 [Changes];

**“Charge”** has the meaning set out in Schedule 20 [Lands];

**“Closing”** means the delivery of the documents described in Section 2.3 of this Agreement;

**“Closing Date”** means the Business Day which is the Business Day after the last of the conditions to Closing set out in Section 2.5 of this Agreement have been satisfied or waived by the relevant party;

**“Closing Protocol”** means such protocol for achieving Closing as the parties and their legal counsel shall agree;

**“CMMS”** has the meaning set out in Schedule 21 [Services Protocols and Specifications];

**“Code 1”** has the meaning set out in Schedule 5 [Submittals Procedure];

**“Code 2”** has the meaning set out in Schedule 5 [Submittals Procedure];

**“Code 3”** has the meaning set out in Schedule 5 [Submittals Procedure];

**“Code 4”** has the meaning set out in Schedule 5 [Submittals Procedure];

**“Commissioning”** has the meanings set out in Schedule 2 [Design and Construction Protocol];

**“Commissioning and Start-Up Plan”** has the meaning set out in Schedule 2 [Design and Construction Protocols];

**“Common Areas”** has the meaning set out in Schedule 21 [Services Protocols and Specifications];

**“Communications Manager”** has the meaning set out in Schedule 9 [Communications Roles];

**“Communications Overview”** has the meaning set out in Schedule 29 [BC Hydro Offices – Specifications and Drawings];

**“Community Liaison Committee”** has the meaning set out in Schedule 9 [Communications Roles];

**“Compensation Event”** means any of the following events or circumstances if and to the extent that it interferes adversely with, or causes a failure of, the carrying out of the Design, the Construction or the Services, causes an Unavailability Event or causes Direct Losses to Project Co or any Project Co Person:

- (a) breach by BC Hydro of any of its obligations under this Agreement;
- (b) breach of any representation or warranty by BC Hydro under this Agreement;
- (c) misconduct of BC Hydro, a BC Hydro Person, a Guest or a Visitor;
- (d) a negligent act or omission of BC Hydro, a BC Hydro Person, a Guest or a Visitor;
- (e) the existence of Undisclosed Environmental Liabilities;
- (f) a Project Related Permit is declared invalid, or defective, or changed or amended by a court of competent jurisdiction, to the extent that such invalidity, defect, change or amendment is not caused or contributed to by Project Co or a Project Co Person;
- (g) the existence as at the Effective Date of any encumbrance enforceable against or affecting the Lands or the Facility other than the Encumbrances;
- (h) the discovery of any human remains, relics or other articles or structures of historical, antiquarian or archaeological interest on or adjacent to the Lands;
- (i) a claim asserting infringement of treaty and Aboriginal rights including Aboriginal title;
- (j) a Protest Action;

- (k) lawful or unlawful strike, lockout, work-to-rule or other dispute by Public Sector Employees or by the employees of any contractor (other than Project Co) engaged by BC Hydro to provide services in the Facility;
- (l) the actions referred to in Section 12.5 of this Agreement as constituting a Compensation Event;
- (m) the event referred to in Section 9.4(e)(ii) of this Agreement;
- (n) the event referred to in Section 9.6(d)(ii) of this Agreement;
- (o) the adequacy of rights referred to in Section 6.11(a) of Schedule 2 [Design and Construction Protocols];
- (p) Project Co's compliance with a direction from BC Hydro under Section 3.4 of Schedule 14 [Dispute Resolution Procedure] when the matter in dispute is subsequently resolved, or settled, in Project Co's favour;
- (q) the execution of works, other than usual or reasonably expected works, on the Site or in respect of the Facility not forming part of this Agreement by BC Hydro or any person permitted to execute such works by BC Hydro or any BC Hydro Person;
- (r) if part of the Facility or part of the portion of the Lands on which the Facility are situated or any interest of Project Co or any Partner is expropriated by any Governmental Authority and such expropriation is not a BC Hydro Event of Default as set out in Section 14.1(c) of this Agreement;
- (s) if BC Hydro fails to provide access to the Worker Accommodation Area for Construction on or before the day that is 30 days following the date set out in Appendix 4A [BC Hydro Project Schedule] for access to the Worker Accommodation Area;
- (t) the unavailability of hydroelectric service to the Worker Accommodation Area on or before the date that is 30 days prior to the Target Service Commencement Date;
- (u) if all or part of the Facility or all or part of the Lands or any interest of Project Co is expropriated by any Governmental Authority and such expropriation is not a BC Hydro Event of Default;
- (v) the unavailability of any road access across the Site during the Construction Period to and from the Worker Accommodation Area;
- (w) if Project Co is delayed in the performance of the Design, Construction or the Services as a result of a direction from a Governmental Authority given for the purpose of suspending the Project as a whole, including an order from a court pursuant to an application from any person to suspend the Project as a whole;
- (x) any outbreak, infestation, epidemic, or pandemic not resulting from a breach by Project Co of any of its obligations under this Agreement and to the extent not caused or contributed to by Project Co, and any resulting public health orders or comparable emergency order or directive that may be imposed on Project Co or Guests; or
- (y) any other event which is expressly stated in this Agreement to constitute a Compensation Event,

except to the extent that any of such events arise or are contributed to, directly or indirectly, as a result of any wilful misconduct, negligent act or omission or non-compliance with the terms of this Agreement by Project Co or any Project Co Person;

**“Completion Documents”** means any of the BC Hydro Documents, the Project Co Documents, or both the BC Hydro Documents and the Project Co Documents as the context requires.

**“Compliant Bid”** has the meaning set out in Schedule 22 [Compensation on Termination];

**“Confidential Information”** means Personal Information, and information of a party that the party has designated as confidential at the time of disclosure and which is supplied, or to which access is granted, to or on behalf of the other party (whether before or after the Effective Date), either in writing, or in any other form, directly or indirectly pursuant to discussions with the other party and includes all analyses, compilations, studies and other documents whether prepared by or on behalf of a party which contain or otherwise reflect or are derived from such designated information;

**“Consent”** has the meaning set out in Schedule 5 [Submittals Procedure];

**“Construction”** means everything (other than Design) required to achieve Service Commencement, Substantial Completion of Phase 2 and Substantial Completion of the completed Facility, including the construction of the Facility, temporary works and the supply of all labour, materials, equipment, construction equipment, management, supervision and support of any kind or nature whatsoever required for the construction of the Facility, provided that “Construction” does not include Decommissioning;

**“Construction CGL Policy”** has the meaning set out in Schedule 13 [Insurance];

**“Construction Communications Plan”** has the meaning set out in Schedule 9 [Communications Roles];

**“Construction Payment”** has the meaning set out in Schedule 11 [Prices, Payment and Security];

**“Construction Period”** means the period commencing on the Closing Date and ending on the Substantial Completion Date for the completed Facility;

**“Construction Property Policy”** has the meaning set out in Schedule 13 [Insurance];

**“Construction Safety Officer”** has the meaning set out in Schedule 10 [Safety];

**“Contingent Funding Liabilities”** means direct or indirect liabilities or contingent liabilities, if any, of the Partners in respect of financial obligations owed to Project Co or to the General Partner, such as, for example, the amount a Partner has agreed to contribute to Project Co, promissory notes, obligations to fund reserve accounts, guarantees, letters of credit in respect of deferred equity or equity bridge loans;

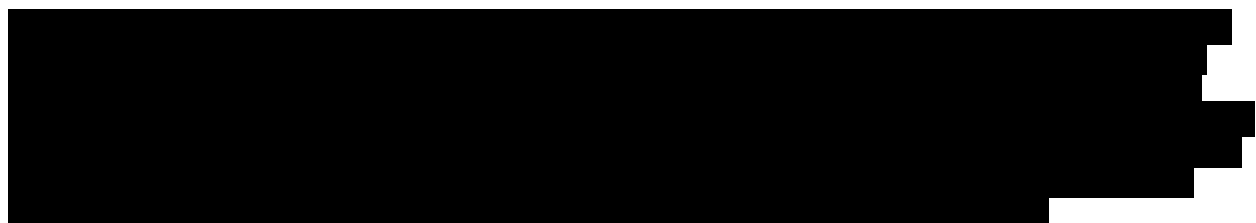
**“Contract Month”** has the meaning set out in Schedule 11 [Prices, Payment and Security];

**“Contract Number”** has the meaning set out in Schedule 5 [Submittals Procedure];

**“Contract Records”** has the meaning set out in Section 2.13(a) of this Agreement;

**“Contract Year”** has the meaning set out in Schedule 11 [Prices, Payment and Security];

**“Core Functions”** has the meaning set out in Schedule 2 [Design and Construction Protocols];





[REDACTED]

[REDACTED]

[REDACTED]

“**CPI**” has the meaning set out in Schedule 11 [Prices, Payment and Security];

“**CPI All**” has the meaning set out in Schedule 11 [Prices, Payment and Security];

“**CPI Food**” has the meaning set out in Schedule 11 [Prices, Payment and Security];

“**CPI Indexation Factor**” has the meaning set out in Schedule 11 [Prices, Payment and Security];

“**Cumulative Allowable Capital Expenditure**” means the cumulative amount of all the Allowable Capital Expenditures from time to time during the Term;

“**Customer Satisfaction Survey**” has the meaning set out in Schedule 21 [Services Protocols and Specifications];

“**Customer Satisfaction Survey (BCHO)**” has the meaning set out in Schedule 30 [BC Hydro Offices – Services Protocols and Specifications];

“**dBA**” is a weighted sound pressure level within a space adjusted based on human hearing systems;

“**Dark Fibre**” has the meaning set out in Schedule 6 [Specifications and Drawings];

“**Dark Skies**” has the meaning set out in Schedule 6 [Specifications and Drawings];

“**Debt**” of any Person at any date means, without duplication:

- (a) all obligations of such Person for borrowed money;
- (b) all obligations of such person evidenced by bonds, debentures, notes or other similar instruments;
- (c) all obligations of such person to pay the deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of business;
- (d) all obligations of such person under leases which are or should be, in accordance with IFRS, recorded as capital leases in respect of which such person is liable, except leases arising in the ordinary course of business;
- (e) all obligations of such Person to purchase securities (or other property) which arise out of or in connection with the sale of the same or substantially similar securities (or property);

- (f) all deferred obligations of such Person to reimburse any bank or other Person in respect of amounts paid or advanced under a letter of credit or other similar instrument;
- (g) all Debt (as otherwise defined in this definition) of others secured by a Charge on any asset of such Person, provided such Debt (as otherwise defined in this definition) is assumed by such Person; and
- (h) all Debt (as otherwise defined in this definition) of others guaranteed directly or indirectly by such Person or as to which such Person has an obligation substantially the economic equivalent of a guarantee;

**“Decommissioning”** has the meaning set out in Schedule 2 [Design and Construction Protocols];

**“Decommissioning Amount”** has the meaning set out in Schedule 11 [Prices, Payment and Security];

**“Decommissioning Certificate”** has the meaning set out Schedule 2 [Design and Construction Protocols];

**“Decommissioning Index Factor”** has the meaning set out in Schedule 11 [Prices, Payment and Security];

**“Decommissioning Longstop Date”** means the date which is two years following the Expiry Date, as adjusted in accordance with this Agreement;

**“Decommissioning Payment”** has the meaning set out in Schedule 11 [Prices, Payment and Security];

**“Deduction”** has the meaning set out in Schedule 11 [Prices, Payment and Security];

**“Deemed Corporate Project Co”** has the meaning set out in Schedule 22 [Compensation on Termination];

**“Default Rate”** on any day means [REDACTED] over the Prime Rate;

**“Defect”** has the meaning set out in Schedule 2 [Design and Construction Protocols];

**“Defect Deadline”** has the meaning set out in Schedule 2 [Design and Construction Protocols];

**“Demand Maintenance”** has the meaning set out in Appendix 21F [Facility Maintenance, Repair and Utility Services];

**“Demand Maintenance (BCHO)”** has the meaning set out in Appendix 30D [BC Hydro Offices – Maintenance, Repair And Utility Services];

**“Demand Requisition”** has the meaning set out in Schedule 21 [Services Protocols and Specifications];

**“Demobilization Requirements”** has the meaning set out in Schedule 11 [Prices, Payment and Security];

**“Design”** means everything required for the design of the Facility except for any design that is expressly excluded from Project Co’s responsibility under this Agreement;

**“Design and Construction Protocols”** means the provisions of Schedule 2 [Design and Construction Protocols];

**“Design-Build Agreement”** means the design and construction agreement between Project Co and the Design-Builder, a certified copy of which has been delivered by Project Co to BC Hydro, as amended or replaced from time to time in accordance with this Agreement;

**“Design-Builder”** means ATCO Two Rivers Lodging Construction Limited Partnership or any assignee or replacement permitted under this Agreement;

**“Design Professionals”** means an architect, any architect’s subconsultants and any design consultants engaged directly by the Design-Builder or Project Co, including engineers and technical experts, who provide services with respect to the Design;

**“Direct Losses”** means in respect of a condition, event or omission, without duplication, all damages, losses, liabilities, penalties, fines, assessments, claims (including by third parties), actions, costs (including increased Capital Expenditures), expenses (including the reasonable cost of legal or professional services), proceedings, demands and charges, whether arising under statute, contract or at common law, which result directly from such condition, event or omission:

- (a) net of related Insurance Proceeds and Insurance Receivables and any amount which the relevant party would have recovered (in respect of such condition, event or omission) if it had complied with the requirements of this Agreement or any policy of insurance maintained or required to be maintained under this Agreement;
- (b) excluding any Indirect Losses, except to the extent included in a third party claim; and
- (c) in the case of Project Co, without limiting the foregoing:
  - (i) including the full amount of the related loss or reduction of any Service Payments; and
  - (ii) net of Avoidable Costs related to such condition, event or omission,

and in calculating any amount of any additional Capital Expenditure, labour or similar cost claimed by Project Co under this definition of “Direct Losses”, Project Co will be entitled to add to such amounts the mark-ups referred to in Schedule 12 [Changes];

**“Disclosed Data”** means any information, data and documents made available or issued to Project Co or any Project Contractor or Subcontractor in connection with the WA Project by or on behalf of BC Hydro, including the Geotechnical Information and any information relating to the Lands or the requirements of any Governmental Authority, whether before or after the execution of this Agreement;

**“Discriminatory Change in Tax Law”** means a Change in Law which results in the imposition of Taxes or a change in Taxes which specifically apply to discriminate against:

- (a) the WA Project or worker camp projects whose design, construction, financing, maintenance and service provision are procured and contracted on a public-private partnership basis similar to that of the WA Project;
- (b) Project Co, its Partners or Project Contractors or Persons that have contracted on similar worker camp projects procured and contracted with BC Hydro or other statutory or public body on a public-private partnership basis similar to the WA Project;
- (c) the design, provision, operation or maintenance of worker camp projects or facilities and not to other types of facilities; or

- (d) Persons holding shares or other evidences of ownership in Persons whose principal business is contracting on other similar worker camp projects procured and contracted on a public-private partnership basis similar to the WA Project and not other Persons;

**“Dispute”** has the meaning set out in Schedule 14 [Dispute Resolution Procedure];

**“Dispute Notice”** has the meaning set out in Schedule 14 [Dispute Resolution Procedure];

**“Dispute Resolution Procedure”** means the dispute resolution procedure set out in Schedule 14 [Dispute Resolution Procedure];

**“Distribution”** means, without duplication or double counting:

- (a) whether in cash or in kind, any:
- (i) distribution to Partners or other distribution in respect of equity interests in Project Co;
  - (ii) redemption or purchase of any equity interest in Project Co or reduction of partnership capital or the amount of a Partner’s contribution stated in the limited partnership certificate or any other reorganization or variation to partnership capital;
  - (iii) payment, loan, contractual arrangement, including any management agreement or payment in respect thereof, excepting any payment in respect of the Corporate Financing, or transfer of assets or rights, in each case to the extent made or entered into after the Closing Date and not in the ordinary course of business or not on commercially reasonable terms including to any current or former Partner, or any current or former Affiliate of any current or former Partner;
  - (iv) conferral of any other benefit which is not conferred and received in the ordinary course of business or is not conferred or received on commercially reasonable terms, including to any current or former Partner, any current or former Affiliate of any current or former Partner or Project Co; and
  - (v) other payment, excepting any payment in respect of the Corporate Financing, to any current or former Partner, any current or former Affiliate of any current or former Partner or Project Co howsoever arising and whether made pursuant to the terms of an agreement or otherwise or by way of gift or in respect of any equity interest in Project Co or other securities of or interests in Project Co if, in any such case, such payment would not have been made were it not for the occurrence of any Change in Control; or
- (b) the early release of any reserves or any Contingent Funding Liabilities,

and where any such Distribution is not in cash, the equivalent cash value of such Distribution will be calculated. A Distribution will be calculated in a manner that is consistent with the Financial Model;

**“Do Not Proceed – Re-Submit as Noted”** has the meaning set out in Schedule 5 [Submittals Procedure];

**“Document”** has the meaning set out in Section 2.13(b) of this Agreement;

**“Document Number”** has the meaning set out in Section 2.13(c) of this Agreement;

**“Draft Reinstatement Plan”** has the meaning set out in Section 7.4(a) of this Agreement;

**“Effective Date”** means the date of Closing;

**“Elective Insurance”** has the meaning set out in Schedule 13 [Insurance];

**“Eligible Change in Law Event”** means the occurrence of:

- (a) a Relevant Change in Law;
- (b) a Relevant Works Change in Law;
- (c) a Discriminatory Change in Tax Law; or
- (d) an Input Tax Recoverability Change in Law;

**“Emergency”** has the meaning set out in Schedule 21 [Services Protocols and Specifications];

**“Emergency Response Plan”** has the meaning set out in Schedule 10 [Safety];

**“Employee Information”** has the meaning set out in Schedule 22 [Compensation on Termination];

**“Employee Payments”** means any liability that has been reasonably incurred by Project Co arising as a result of termination of this Agreement under collective agreements, employment agreements or under any other agreements with employees of Project Co, including severance (whether accrued or not), vacation pay and sick pay accrued but excluding any Distribution;

**“Encumbrances”** has the meaning set out in Schedule 20 [Lands];

**“Energy Complex”** has the meaning set out in Schedule 6 [Specifications and Drawings];

**“Energy Management Plan”** has the meaning set out in Schedule 21 [Services Protocols and Specifications];

**“Energy Management Plan (BCHO)”** has the meaning set out in Schedule 30 [BC Hydro Offices – Services Protocols and Specifications];

**“Environmental Incident”** has the meaning set out in Schedule 7 [Environmental Obligations];

**“Environmental Monitor”** has the meaning set out in Schedule 7 [Environmental Obligations];

**“Environmental Protection Plan”** or **“EPP”** has the meaning set out in Schedule 7 [Environmental Obligations];

**“Environmental Requirements”** has the meaning set out in Schedule 7 [Environmental Obligations];

**“Environmental Specifications”** has the meaning set out in Schedule 7 [Environmental Obligations];

**“Environmental Tailboard Meeting”** has the meaning set out in Schedule 7 [Environmental Obligations];

**“Environmentally Sensitive Area”** has the meaning set out in Schedule 7 [Environmental Obligations];

**“Equity IRR”** means Project Co’s Nominal blended equity internal rate of return calculated on an after tax basis at the level of Project Co in accordance with the Financial Model as shown in Cell F282 of the Outputs Summary Sheet, having regard to Distributions made and projected to be made;

**“Estimated Market Value”** has the meaning set out in Schedule 22 [Compensation on Termination];

**“Event”** has the meaning set out in Schedule 11 [Prices, Payment and Security];

**“Evidence Based Design”** has the meaning set out in Schedule 6 [Specifications and Drawings];

**“Evidence Based Design (BCHO)”** has the meaning set out in Schedule 29 [BC Hydro Offices – Specifications and Drawings];

**“Excusing Event”** means any of the following events or circumstances if it occurs on or after the Service Commencement Date and interferes adversely with, or causes a failure of, the performance of the Services or causes an Unavailability Event:

- (a) Scheduled Maintenance performed in accordance with the Annual Service Plan, except that:
  - (i) improperly performed Scheduled Maintenance and the effects thereof will not constitute an Excusing Event; and
  - (ii) if the Scheduled Maintenance continues beyond the period or duration set out in the Annual Service Plan, the Excusing Event will terminate at the end of the period or duration set out in the Annual Service Plan;
- (b) the carrying out by Project Co of Minor Works required by BC Hydro in accordance with this Agreement;
- (c) failure by any utility company, local authority, telecommunications company or other like body to perform works or provide services required to be provided by them in a reasonably timely manner or any unreasonable interference with the Services by any such body as a result of maintenance or other work;
- (d) failure of the electrical service which BC Hydro is responsible for providing to the Worker Accommodation Area boundary;
- (e) compliance by Project Co with an order or direction by police, fire officials or any comparable public authority having the legal authority to make such order or give such direction and such reasonable period following the lifting of such order or direction as may be necessary to resume operations with such additional period to be approved by BC Hydro, acting reasonably;
- (f) a Change in Law;
- (g) without prejudice to any obligation of Project Co to provide stand-by power facilities in accordance with the Specifications and Drawings, failure or shortage of power;
- (h) the unavailability of any road access across the Site during the Operating Period to and from the Worker Accommodation Area; and
- (i) any other event which is expressly stated in this Agreement to constitute an Excusing Event,

except to the extent that any of such events arise or are contributed to, directly or indirectly, as a result of any wilful misconduct, negligent act or omission or non-compliance with the terms of this Agreement by Project Co or any Project Co Person;

**“Expiry Date”** means December 31, 2022 as may be extended pursuant to Section 2.2 of this Agreement;

**“Facility”** means all of the improvements Project Co is responsible to provide within the Worker Accommodation Area under this Agreement, including the Accommodation Complex, the Long Term Parking Lot, the BC Hydro Offices, and related structures, utilities and infrastructure (including the Core Functions) and landscaping, and including all elements as set out in Section 2.2 of Schedule 6 [Specifications and Drawings] and Section 2.2 of Schedule 29 [BC Hydro Offices – Specifications and Drawings];

**“Facility Change”** has the meaning set out in Schedule 12 [Changes];

**“Facility Maintenance, Repair and Utility Services Plan”** has the meaning set out in Appendix 21F [Facility Maintenance, Repair And Utility Services];

**“Facility Users”** has the meaning set out in Schedule 21 [Services Protocols and Specifications];

**“Fair Market Value”** means the amount at which an asset or a liability would be exchanged in an arm’s length transaction between informed and willing parties, other than in a forced or liquidation sale;

**“Field Sound Transmission Class (FSTC)”** has the meaning set out in Schedule 6 [Specifications and Drawings];

**“Financial Model”** means Project Co’s financial model for the WA Project attached as Schedule 26 [Financial Model], a copy of which is attached to this Agreement in electronic format, as updated or amended from time to time in accordance with the terms of this Agreement;

**“Financial Submission Date”** means April 2, 2015;

**“Food and Dining Services Plan”** has the meaning set out in Appendix 21D [Food and Dining Services];

**“Food Safe Certificate”** has the meaning set out in Schedule 21 [Services Protocols and Specifications];

**“Food Safety and Sanitation Plan”** has the meaning set out in Schedule 10 [Safety];

**“FOIPPA”** has the meaning set out in Schedule 17 [Privacy Protection];

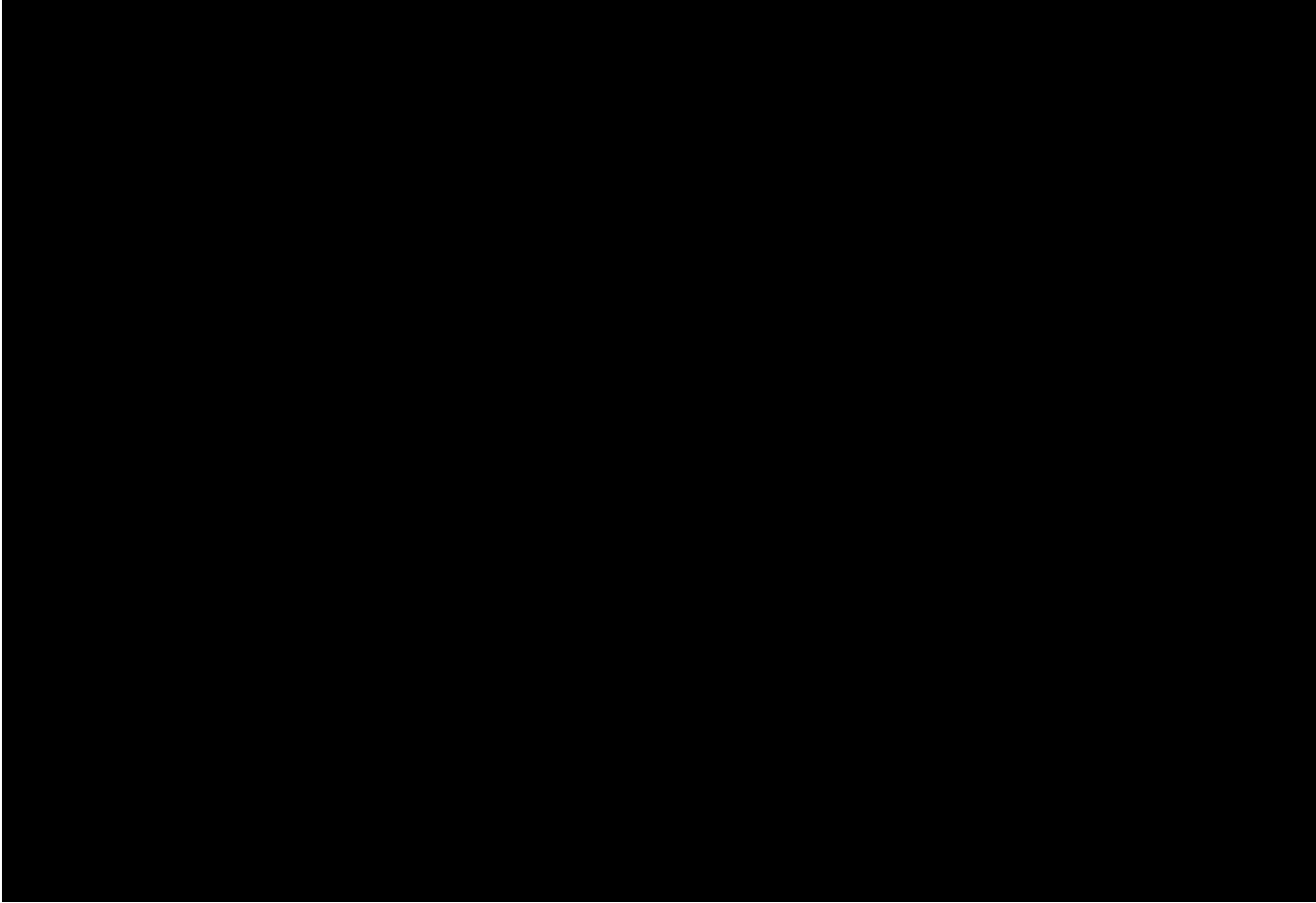
**“For Information Only”** has the meaning set out in Schedule 5 [Submittals Procedure];

**“Force Majeure”** means an event beyond the reasonable control of a party and includes any work stoppage (including strike, lock-out, picket or other labour dispute), war, invasion, insurrection, civil or social unrest, riot, armed conflict, act of foreign enemy, revolution, terrorist act, interference by military authorities, nuclear explosion, contamination by ionizing radiation, epidemic or quarantine restriction, earthquake, tidal wave or other natural calamities, that prevents, delays or interrupts the performance of any obligation under this Agreement, provided such event does not occur by reason of: (i) the negligence of the party claiming Force Majeure (or those for whom it is in law responsible); or (ii) any act or omission of the party claiming Force Majeure (or those for whom it is in law responsible) that is in breach of the provisions of this Agreement, but Force Majeure does not include: (x) a party’s lack of funds; (y) the bankruptcy or insolvency of any Subcontractor; or (z) a shortage or unavailability of labour, equipment or materials unless such shortage or unavailability is caused by a Force Majeure;

**“Functional Program”** has the meaning set out in Schedule 6 [Specifications and Drawings];

**“Functional Program (BCHO)”** has the meaning set out in Schedule 29 [BC Hydro Offices – Specifications and Drawings];

**“Functional Unit”** has the meaning set out in Schedule 11 [Prices, Payment and Security];



**“Gas Payment”** has the meaning set out in Schedule 11 [Prices, Payment and Security];

**“General Partner”** means ATCO Two Rivers Lodging Group GP Ltd.;

**“Geotechnical Information”** has the meaning set out in Schedule 2 [Design and Construction Protocols];

**“Good Industry Practice”** means the standards, practices, methods and procedures to a good commercial standard, conforming to Law and exercising that degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a qualified, skilled and experienced person engaged in a similar type of undertaking under the same or similar circumstances;

**“Governmental Authority”** means any federal, provincial, territorial, regional, municipal or local governmental authority, quasi-governmental authority, court, government or self-regulatory organization, commission, board, tribunal, organization, or any regulatory, administrative or other agency, or any political or other subdivision, department or branch of any of the foregoing, having jurisdiction in any way over or in respect of any aspect of the performance of this Agreement, the Project or the WA Project;

**“GST”** means the tax imposed in Canada pursuant to Part IX of the *Excise Tax Act* (Canada);

**“Guest”** has the meaning set out in Schedule 21 [Services Protocols and Specifications];



**“Has Knowledge”, “Have Knowledge” or “Having Knowledge”** means:

- (a) for an individual, when information is acquired by the individual;
- (b) for a corporation, when information has come to the attention of:
  - (i) a director or officer of the corporation; or
  - (ii) a senior employee of the corporation with responsibility for matters to which the information relates,
- (c) for a partnership other than a limited partnership, when any partner Has Knowledge under the other Sections of this definition or under this Section (c) or Section (d) below for any partner that is itself a partnership or when any member of a director-level or officer-level or similar position of the partnerships or a senior employee of the partnership with responsibility for matters to which the information relates; or
- (d) for a limited partnership, when any general partner Has Knowledge under the other Sections of this definition or under this Section (d) or Section (c) above for any partner that is itself a partnership or when any member of a director-level or officer-level or similar position of the partnerships or a senior employee of the partnership with responsibility for matters to which the information relates;
- (e) for BC Hydro, when information has come to the attention of:
  - (i) a director or officer of BC Hydro; or
  - (ii) a senior employee of BC Hydro with responsibility for matters to which the information relates,

under circumstances in which a reasonable person would take cognizance of it;

**“Hazard Analysis and Critical Control Points Plan” or “HAACP”** has the meaning set out in Appendix 21D [Food and Dining Services];

**“Hazardous Material”** has the meaning set out in Schedule 10 [Safety];

**“Hazardous Substance”** means any substance, mixture of substances, product, waste, organism, pollutant, material, chemical, contaminant, dangerous good, constituent or other material which is or becomes listed, regulated or addressed under any Law respecting the use, manufacture, importation, handling, transportation, storage, disposal and treatment of the substance, mixture of substances, product, waste, organism, pollutant, material, chemical, contaminant, dangerous good, constituent or other material;

**“Healthy Choice”** has the meaning set out in Schedule 21 [Services Protocols and Specifications];

**“Help Desk”** has the meaning set out in Appendix 21C [Administrative and Help Desk Services];

**“Heritage Specialist”** has the meaning set out in Schedule 7 [Environmental Obligations];

**“High Service Failure”** has the meaning set out in Schedule 11 [Prices, Payment and Security];

**“Highest Compliant Bid Price”** has the meaning set out in Schedule 22 [Compensation on Termination];

**“Hoteling”** has the meaning set out in Schedule 21 [Services Protocols and Specifications];

**“Housekeeping, Laundry and Waste Management Services Plan”** has the meaning set out in Appendix 21E [Housekeeping, Laundry and Waste Management Services];

**“Housekeeping, Laundry and Waste Management Services (BCHO)”** has the meaning set out in Appendix 30C [BC Hydro Offices – Housekeeping and Waste Management Services];

**“Housekeeping and Waste Management Services (BCHO) Plan”** has the meaning set out in Appendix 30C [BC Hydro Offices – Housekeeping and Waste Management Services];

**“Housekeeping Services (BCHO)”** has the meaning set out in Appendix 30C [BC Hydro Offices – Housekeeping and Waste Management Services];

**“Waste Management Services (BCHO)”** has the meaning set out in Appendix 30C [BC Hydro Offices – Housekeeping and Waste Management Services];

**“Hydro’s Representative”** has the meaning set out in Schedule 3 [Roles and Representatives];

**“Ice Free Zone”** has the meaning set out in Schedule 21 [Services Protocols and Specifications];

**“IFRS”** means International Financial Reporting Standards;

**“Immunity Direction”** has the meaning set out in Section 4.15(b) of this Agreement;

**“Incident, Learning and Prevention”** or **“ILP”** has the meaning set out in Schedule 21 [Services Protocols and Specifications];

**“Income Tax”** means any tax imposed on the income of a Person by any Canadian (whether federal, provincial or otherwise) Governmental Authority;

**“Indemnifier”** has the meaning set out in Section 10.2 of this Agreement;

**“Independent Certifier”** has the meaning set out in Schedule 2 [Design and Construction Protocols];

**“Independent Environmental Monitor”** has the meaning set out in Schedule 7 [Environmental Obligations];

**“Index Linked”**, with respect to an amount at any time, means that the amount is adjusted as at April 1<sup>st</sup> of each year of the Term, commencing April 1, 2015 by:

- (a) multiplying it by the Inflation Index as at the immediately preceding January 1<sup>st</sup>; and
- (b) dividing it by the Inflation Index as at the January 1<sup>st</sup> immediately preceding the Base Date;

**“Indicative Designs”** has the meaning set out in Schedule 6 [Drawings and Specifications];

**“Indicative Designs (BCHO)”** has the meaning set out in Schedule 29 [BC Hydro Offices – Drawings and Specifications];

**“Indirect Losses”** means any loss of revenue, loss of profits, loss of use, loss of contract, loss of goodwill, loss of production, loss of business, loss of business opportunity or any exemplary, punitive or special damages or any consequential or indirect loss or damages of any nature claimed, suffered or allegedly suffered by:

- (a) Project Co or any Project Co Person (other than a Person who is a Project Co Person solely by virtue of being an invitee of Project Co or any Project Co Person); or

- (b) BC Hydro or any BC Hydro Person (other than a Person who is a BC Hydro Person solely by virtue of being an invitee of BC Hydro or any of BC Hydro Persons) or a BC Hydro Indemnified Person,

and shall be deemed not to include any loss of Service Payments or other amounts expressly payable by BC Hydro to Project Co under this Agreement;

**"Inflation Index"** means CPI All;

**"Innovation Proposal"** has the meaning set out in Schedule 12 [Changes];

**"Input Tax Recoverability Change in Law"** means a Change in Law, other than a Discriminatory Change in Tax Law, which results in Additional Irrecoverable Tax or Additional Recoverable Tax;

**"Insurance Account"** means, the account established pursuant to Schedule 13 [Insurance] or the account established under the Insurance Trust Agreement, in either case for insurance proceeds;

**"Insurance Premium Adjustment"** has the meaning set out in Schedule 13 [Insurance];

**"Insurance Premium Credit"** has the meaning set out in Schedule 13 [Insurance];

**"Insurance Premium Increase"** has the meaning set out in Schedule 13 [Insurance];

**"Insurance Premium Index"** has the meaning set out in Schedule 13 [Insurance];

**"Insurance Proceeds"** means the amount of any insurance proceeds received by a Person in respect of a claim made under any policy of insurance required to be maintained under this Agreement other than:

- (a) any policy of insurance maintained by BC Hydro solely for the benefit of BC Hydro;
- (b) for the purposes of Sections 7.7, 7.9 and 7.10 of this Agreement, insurance proceeds received by Project Co from:
  - (i) the delay in start-up insurance described in Schedule 13 [Insurance]; or
  - (ii) the business interruption insurance described in Schedule 13 [Insurance];

**"Insurance Receivables"** means the amount of any insurance proceeds which a Person is entitled to receive pursuant to policies of insurance required to be maintained under this Agreement other than:

- (a) any policy of insurance maintained by BC Hydro solely for the benefit of BC Hydro;
- (b) for the purposes of Sections 7.7, 7.9 and 7.10 of this Agreement, insurance proceeds received by Project Co from:
  - (i) the delay in start-up insurance described in Schedule 13 [Insurance]; or
  - (ii) the business interruption insurance described in Schedule 13 [Insurance];

**"Insurance Trustee"** means the Insurance Trustee appointed by the parties as set out in Schedule 13 [Insurance];

**"Insuring Party"** has the meaning set out in Schedule 13 [Insurance];

**“Intellectual Property”** means any or all of the following and all rights, arising out of or associated therewith:

- (a) national, international and foreign patents, utility models, mask works, and applications therefor and all reissues, divisions, renewals, extensions, provisionals, continuations and continuations-in-part thereof;
- (b) inventions (whether patentable or not), invention disclosures, improvements, trade secrets, proprietary information, know-how, technology, technical data and customer lists, product formulations and specifications, and all documentation relating to any of the foregoing throughout the world;
- (c) copyrights, copyright registrations and applications therefor, and all other rights corresponding thereto throughout the world;
- (d) industrial designs and any registrations and applications therefor throughout the world;
- (e) rights in any internet uniform resource locators (URLs), domain names, trade names, logos, slogans, designs, common law trade-marks and service marks, trade-mark and service mark registrations and applications therefor throughout the world;
- (f) data bases and data collections and all rights therein throughout the world;
- (g) moral and economic rights of authors and inventors, however denominated, throughout the world; and
- (h) any similar or equivalent rights to any of the foregoing anywhere in the world;

**“Interim Standard”** has the meaning set out in Schedule 2 [Design and Construction Protocols];

**“Invasive Plant Infestation Area”** has the meaning set out in Schedule 6 [Specifications and Drawings];

**“Key Individuals”** has the meaning set out in Section 2.15 of this Agreement;

**“Labour Disruption”** has the meaning set out in Section 5.4(b) of this Agreement;

**“Labour & Material Payment Bond”** has the meaning set out in Schedule 11 [Prices, Payment and Security];

**“Lands”** has the meaning set out in Schedule 20 [Lands];

**“Laws”** means all valid laws, including common law, federal, provincial, and municipal statutes, bylaws, and other local laws, orders, rules, regulations, approvals and policies of any Governmental Authority, including those related to occupational health and safety, fire, employment insurance, workers’ compensation, the transportation and handling of Hazardous Substances, the transportation and handling of dangerous goods, environmental protection, standards, building codes and other governmental requirements, work practices and procedures, that are applicable to the discharge of obligations set out in this Agreement, including the performance of the Design, Construction and Services;

**“Lean”** has the meaning set out in Schedule 6 [Specifications and Drawings];

**“Letter of Credit (CP)”** has the meaning set out in Schedule 11 [Prices, Payment and Security];

**“Letter of Credit (Decommissioning)”** has the meaning set out in Schedule 11 [Prices, Payment and Security];

**“Letter of Credit (OP)”** has the meaning set out in Schedule 11 [Prices, Payment and Security];

**“Letter of Credit (Performance Security Term)”** has the meaning set out in Schedule 11 [Prices, Payment and Security];

**“Liability Payment”** has the meaning set out in Section 10.3 of this Agreement;

**“Licence”** has the meaning set out in Schedule 20 [Lands];

**“Limited Notice to Proceed”** has the meaning set out in Recital C of this Agreement;

**“Liquid Market”** has the meaning set out in Schedule 22 [Compensation on Termination];

**“LMS”** has the meaning set out in Schedule 21 [Services Protocols and Specifications];

**“Long Term Parking Lot”** has the meaning set out in Schedule 6 [Specifications and Drawings];

**“Longstop Date”** means [REDACTED], as adjusted in accordance with this Agreement;

**“Low Service Failure”** has the meaning set out in Schedule 11 [Prices, Payment and Security];

**“Maintained Elements”** has the meaning set out in Appendix 21F [Facility Maintenance, Repair And Utility Services];

**“Maintained Elements (BCHO)”** has the meaning set out in Appendix 30D [BC Hydro Offices – Maintenance, Repair And Utility Services];

**“Maintenance”** has the meaning set out in Appendix 21F [Facility Maintenance, Repair And Utility Services];

**“Maintenance (BCHO)”** has the meaning set out in Appendix 30D [BC Hydro Offices – Maintenance, Repair And Utility Services];

**“Maintenance Access Times”** has the meaning set out in Appendix 21F [Facility Maintenance, Repair And Utility Services];

**“Maintenance Access Times (BCHO)”** has the meaning set out in Appendix 30D [BC Hydro Offices – Maintenance, Repair And Utility Services];

**“Maintenance, Repair and Utility Services Plan (BCHO)”** has the meaning set out in Appendix 30D [BC Hydro Offices – Maintenance Repair and Utility Services];

**“Maintenance Services”** has the meaning set out in Appendix 21F [Facility Maintenance, Repair And Utility Services];

**“Maintenance Services (BCHO)”** has the meaning set out in Appendix 30D [BC Hydro Offices – Maintenance, Repair And Utility Services];

**“Material Contract Party”** means a party to a Material Contract, other than Project Co;

**“Material Contracts”** means:

- (a) the Project Contracts; and

- (b) any agreement for products, services or management to Project Co between Project Co and a current or former Affiliate of Project Co or a current or former Partner of Project Co;

**“Material Project Contractor Collateral Agreement”** means the agreement to be entered into between BC Hydro, a Material Contract Party and Project Co in the form set out in Schedule 24 [Material Project Contractor Collateral Agreement], as amended or replaced from time to time in accordance with this Agreement;

**“Medium Service Failure”** has the meaning set out in Schedule 11 [Prices, Payment and Security];

**“Minor Works”** has the meaning set out in Schedule 12 [Changes];

**“Minor Works Rates”** has the meaning set out in Schedule 12 [Changes];

**“Mobilization”** has the meaning set out in Schedule 21 [Services Protocols and Specifications];

**“Mobilization (BCHO)”** has the meaning set out in Schedule 30 [BC Hydro Offices – Services Protocols and Specifications];

**“Mobilization and Start-up Plan”** has the meaning set out in Schedule 21 [Services Protocols and Specifications];

**“Mobilization and Start-up Plan (BCHO)”** has the meaning set out in Schedule 30 [BC Hydro Offices – Services Protocols and Specifications];

**“Monthly Capital Payment”** has the meaning set out in Schedule 11 [Prices, Payment and Security];

**“Monthly Fixed Operating Payment”** has the meaning set out in Schedule 11 [Prices, Payment and Security];

**“Monthly Service Payment”** has the meaning set out in Schedule 11 [Prices, Payment and Security];

**“Monthly Variable Operating Payment”** has the meaning set out in Schedule 11 [Prices, Payment and Security];

**“Multiple Employer Workplace”** has the meaning set out in Schedule 10 [Safety];

**“New Project Agreement”** means an agreement on substantially the same terms and conditions as this Agreement (including any agreements entered into pursuant to this Agreement as at the Termination Date) but with the following amendments:

- (a) if this Agreement is terminated prior to the Service Commencement Date, the extension of the Target Service Commencement Date and the Longstop Date by such reasonable period as is agreed by BC Hydro and the New Project Co to meet such extended Target Service Commencement Date and Longstop Date;
- (b) any accrued Deductions pursuant to Schedule 11 [Prices, Payment and Security] will be cancelled;
- (c) the term of such agreement will be equal in length to the term from the Termination Date until the date on which the Operating Period would otherwise have expired;
- (d) BC Hydro may not terminate such agreement for reasons which arose prior to the Termination Date so long as the New Project Co is using all reasonable efforts to remedy any breach of this Agreement that arose prior to the Termination Date and which is capable of being remedied;

- (e) if the parties interested in entering into a New Project Agreement propose to finance the transaction on a project finance basis only, any amendments that the parties propose to enable the obligations under the New Project Agreement to be financed on a project finance basis, provided that such amendments are consistent with similar transaction documents and that any such amendments are acceptable to BC Hydro in its sole discretion; and
- (f) any other amendments as may be specified by BC Hydro that do not adversely affect any compensation which would otherwise be payable to Project Co pursuant to Schedule 22 [Compensation on Termination];

**“New Project Co”** means the Person who has entered into or who will enter into the New Project Agreement with BC Hydro;

**“Nominal”** means calculated in nominal terms at current prices recognizing adjustment for indexation in respect of forecast inflation;

**“Non-Insuring Party”** has the meaning set out in Schedule 13 [Insurance];

**“Notice of Failure to Comply”** has the meaning set out in Schedule 10 [Safety];

**“Notifying Party”** has the meaning set out in Schedule 13 [Insurance];

**“Occupational Health & Safety Management Program (OHSMP)”** has the meaning set out in Schedule 10 [Safety];

**“OHSR”** has the meaning set out in Schedule 10 [Safety];

**“Operating Period”** means the period between the Service Commencement Date and the Termination Date;

**“Operating Period Joint Committee”** has the meaning set out in Schedule 21 [Services Protocols and Specifications];

**“Operating Period Representative”** has the meaning set out in Schedule 21 [Services Protocols and Specifications];

**“Orders”** has the meaning set out in Schedule 17 [Privacy Protection];

**“Other Prime Contractor”** has the meaning set out in Schedule 10 [Safety];

**“Outputs Summary Sheet”** means the sheet labelled “TR Output” in the Financial Model;

**“Parent Company Guarantee (CP)”** has the meaning set out in Schedule 11 [Prices, Payment and Security];

**“Parent Company Guarantee (OP)”** has the meaning set out in Schedule 11 [Prices, Payment and Security];

**“Partner”** means ASL as to a [REDACTED] and General Partner as to an [REDACTED];

**“Partner Loan”** means any funds contributed to Project Co by a Partner or an Affiliate of a Partner in relation to the WA Project;

**“Paying Party”** has the meaning set out in Section 10.3 of this Agreement;

**“Performance Indicators”** means the performance indicators identified as such in Schedule 21 [Services Protocols and Specifications];

**“Performance Indicators (BCHO)”** has the meaning set out in Schedule 30 [BC Hydro Offices – Services Protocols and Specifications];

**“Performance Monitoring Program”** has the meaning set out in Schedule 21 [Services Protocols and Specifications];

**“Performance Monitoring Program (BCHO)”** has the meaning set out in Schedule 30 [BC Hydro Offices – Services Protocols and Specifications];

**“Performance Monitoring Report”** has the meaning set out in Schedule 21 [Services Protocols and Specifications];

**“Performance Monitoring Report (BCHO)”** has the meaning set out in Schedule 30 [BC Hydro Offices – Services Protocols and Specifications];

**“Performance Security (Term) Holdback”** has the meaning set out in Schedule 11 [Prices, Payment and Security];

**“Permanent Repair”** has the meaning set out in Schedule 11 [Prices, Payment and Security];

**“Permanent Repair Deadline”** has the meaning set out in Schedule 11 [Prices, Payment and Security];

**“Permits”** means all permissions, consents, approvals, registrations, certificates, permits, licenses, statutory agreements and authorizations required from any Governmental Authority, and all necessary consents and agreements from any third parties, needed to carry out the Design, Construction and the Services in accordance with this Agreement, and includes Project Related Permits and Permits to be obtained by Project Co;

**“Permitted Debt”** means:

- (a) trade or other similar indebtedness incurred in the ordinary course of business (unless being contested in good faith and with appropriate proceedings with an adequate reserve therefor in accordance with IFRS having been placed on Project Co’s books and records);
- (b) Taxes and governmental charges, salaries, related employee payments and trade payables;
- (c) contingent liabilities relating to the endorsement of negotiable instruments received in the normal course of business or incurred with respect to any Permit, Project Contract or this Agreement; and
- (d) Debt incurred by way of Partner Loans; and
- (e) to extent not included in (d) above, the loan arrangements pursuant to the Corporate Financing Agreements provided however that the amount of principal and interest outstanding at any time under the Corporate Financing Agreements shall not exceed the maximum amount of principal and interest which was contemplated by and set out in the Financial Model;

**“Persistent Breach”** means a breach or series of breaches by Project Co of any term, covenant or undertaking to BC Hydro (other than a breach for which Deduction could be made) which, due to the fact that such breach has:

- (a) continued for 60 days or more after notice thereof from BC Hydro to Project Co; or



(b) occurred 3 or more times in the previous 12 months,

demonstrates either a persistent inability, or a persistent unwillingness, to comply with its obligations under this Agreement;

**“Person”** means any individual, sole proprietorship, corporation, company, partnership, unincorporated association, association, institution, entity, party, trust, joint venture, estate, cooperative or other judicial entity;

**“Personal Information”** means recorded information about an identifiable individual, other than contact information (as defined in FOIPPA), collected, created or otherwise acquired by Project Co as a result of this Agreement or any previous agreement between BC Hydro and Project Co dealing with the same subject matter as this Agreement;

**“Personnel Management and Human Resources Plan”** has the meaning set out in Schedule 21 [Services Protocols and Specifications];

**“Phase”** has the meaning set out in Schedule 2 [Design and Construction Protocols];

**“Phase 1”** has the meaning set out in Schedule 2 [Design and Construction Protocols];

**“Phase 2”** has the meaning set out in Schedule 2 [Design and Construction Protocols];

**“Plans”** means collectively, Plans (WA) and BC Hydro Offices Plans or either as the context may require;

**“Plans (WA)”** has the meaning has the meaning set out in Schedule 21 [Services Protocols and Specifications];

**“Preliminary Change Instruction”** has the meaning set out in Schedule 12 [Changes];

**“Pre-Work Orientation”** has the meaning set out in Schedule 7 [Environmental Obligations];

**“Prime Contractor”** has the meaning set out in Schedule 10 [Safety];

**“Prime Rate”** means the floating annual rate of interest established by the Bank of Montreal from time to time as its reference rate of interest, to determine the interest rate it will charge for loans in Canadian dollars to its customers in Canada and designated as its “Prime Rate”;

**“Principal Insured Risk”** means a risk that would be insured against by policies for the insurance referred to in any of Sections 2 and 3 of Schedule 13 [Insurance];

**“Proceed Except As Noted and Re-Submit”** has the meaning set out in Schedule 5 [Submittals Procedure];

**“Professional of Record”** or **“PoR”** has the meaning set out in Schedule 5 [Submittals Procedure];

**“Project”** has the meaning set out in Recital A of this Agreement;

**“Project Co”** means the entity identified as “Project Co” on the first page of this Agreement;

**“Project Co Duties”** has the meaning set out in Schedule 11 [Prices, Payment and Security];

**“Project Co Documents”** means the documents described in Schedule 27 [Completion Documents];

**“Project Co Event of Default”** has the meaning set out in Section 13.1 of this Agreement;

**“Project Co Hazardous Substances”** means those Hazardous Substances for which Project Co is responsible pursuant to Schedule 20 [Lands];

**“Project Co Insolvency Event”** means any of the following events:

- (a) a receiver, receiver manager or other encumbrance holder taking possession of or being appointed over, or any distress, execution or other process being levied or enforced upon, the whole or any material part of the assets of Project Co; or
- (b) any proceedings with respect to Project Co being commenced under the *Companies’ Creditors Arrangement Act* (Canada) and if such proceedings are commenced against Project Co and are disputed by Project Co, such proceedings are not discontinued, withdrawn, dismissed or otherwise remedied within 30 Business Days; or
- (c) Project Co making an assignment for the benefit of its creditors, being declared bankrupt or committing an act of bankruptcy, becoming insolvent, making a proposal or otherwise taking advantage of provisions for relief under the *Bankruptcy and Insolvency Act* (Canada) or similar legislation in any jurisdiction, or any other type of insolvency proceedings being commenced by or against Project Co under the *Bankruptcy and Insolvency Act* (Canada) or similar legislation in any jurisdiction and, if proceedings are commenced against Project Co and are disputed by Project Co, such proceedings are not stayed, dismissed or otherwise remedied within 30 Business Days; or
- (d) Project Co ceasing to carry on business;

**“Project Co Material Breach”** means:

- (a) a failure by Project Co to pay any amount due and owing to BC Hydro under this Agreement on the due date (which amount is not being disputed in good faith) and Project Co has not remedied such failure to pay within 10 Business Days following notice from BC Hydro;
- (b) a failure by Project Co to:
  - (i) maintain the policies of insurance required to be maintained by Project Co under this Agreement;
  - (ii) maintain such policies on the terms required under this Agreement (including a failure to comply with its obligation under Schedule 13 [Insurance] to name BC Hydro as an insured party); or
  - (iii) provide evidence to BC Hydro as required by the terms of this Agreement that such policies have been taken out, maintained, paid for and renewed in accordance with the terms of this Agreement;
- (c) a Persistent Breach;
- (d) except as provided for in (a) through (c) above, a breach, or series of breaches, by Project Co of any agreement, covenant or undertaking made to BC Hydro (other than a breach for which a Deduction could be made), or any representation or warranty made by Project Co to BC Hydro in this Agreement (or any ancillary certificate, statement or notice issued hereto) being incorrect when made, the consequence of which is:
  - (i) a risk to the safety of the public;
  - (ii) a risk of material liability of BC Hydro to third Persons;

- (iii) an adverse effect on the performance of the Design, the Construction or the Services and as a result thereof that BC Hydro is reasonably likely to be materially deprived of the benefit of this Agreement; or
- (iv) any material provision of this Agreement being unenforceable against Project Co; or
- (e) a breach by Project Co of Sections 6.1 or 6.2 of this Agreement, other than a breach described in Section 13.1(i) of this Agreement; or
- (f) any other fact or circumstance designated as a “Project Co Material Breach” under this Agreement, including those specified in Section 9.3 of Schedule 2 [Design and Construction Protocols];

“**Project Co Operating CGL Policy**” has the meaning set out in Schedule 13 [Insurance];

“**Project Co Operating Property Policy**” has the meaning set out in Schedule 13 [Insurance];

“**Project Co Person**” means:

- (a) any director, officer, employee or agent of Project Co in each case acting as such;
- (b) any Project Contractor, any Subcontractor and any representative, advisor (including any legal and financial advisor) or contractor of Project Co, in any such Person’s capacity as a provider of services, work or materials, directly or indirectly to Project Co in connection with the WA Project; or
- (c) any invitee of Project Co or any of the Project Co Persons referred to in (a) or (b) above who enters upon the Worker Accommodation Area;

“**Project Co Taxes**” has the meaning set out in Schedule 11 [Prices, Payment and Security];

“**Project Co’s Quality Manager**” has the meaning set out in Schedule 8 [Quality Management];

“**Project Co’s Representative**” has the meaning set out in Schedule 3 [Roles and Representatives];

“**Project Co’s Rights**” has the meaning set out in Section 9.13 of this Agreement;

“**Project Co’s Work Area**” has the meaning set out in Schedule 10 [Safety];

“**Project Contractor**” means the Design-Builder or any Service Provider and “**Project Contractors**” means any 2 or more of them;

“**Project Contractor Breakage Costs**” means the amount payable by Project Co to a Project Contractor under the terms of a Project Contract as a direct result of the termination of such Project Contract as a consequence of the termination of this Agreement but reduced (without duplication) to the extent that:

- (a) Project Co, the Project Contractors and any Subcontractors fail to take all reasonable steps to mitigate such amount;
- (b) such amount relates to any agreements or arrangements entered into by Project Co, the Project Contractors or the Subcontractors other than in the ordinary course of business and on commercial arm’s length terms;
- (c) such amount is a Distribution or a payment in respect of the Corporate Financing; and

- (d) such amount includes any loss of overhead or profit of the Service Providers or their Subcontractors relating to any period or costs after the Termination Date (except to the extent they are properly included in any reasonable commercial breakage fee set out in the applicable Project Contract or Subcontract);

**“Project Contracts”** means the Design-Build Agreement and the Services Contract;

**“Project Design Principles”** has the meaning set out in Schedule 6 [Specifications and Drawings];

**“Project Design Principles (BCHO)”** has the meaning set out in Schedule 29 [BC Hydro Offices – Specifications and Drawings];

**“Project Finance Conversion”** means any finance, credit, security or other arrangement proposed to be entered into by Project Co in respect of the Project, whereby Project Co is:

- (a) incurring, creating, assuming or permitting to exist any Debt other than Permitted Debt; or
- (b) any transaction in which BC Hydro, with the consent or at the request or agreement of Project Co, will be asked to grant rights to any Person under an agreement that provides for step-in rights or similar rights to such Person;

in respect of the Project, which is intended to be secured in whole or in part on the Project itself or on the Project’s revenue streams;

**“Project Finance Conversion Gain”** means an amount equal to the greater of zero and  $[(A - B) - C]$ , where:

[REDACTED]

[REDACTED]

[REDACTED]

**“Project Intellectual Property”** means the Intellectual Property which is created, brought into existence, acquired, licensed or used by Project Co, any Project Contractor, any Subcontractor or any other third party, directly or indirectly, for the purposes of the Design or Construction of the Facility, or required for the operation, maintenance, improvement, testing or commissioning of the Facility or the performance of the Services as required by this Agreement, but does not include the Financial Model;

**“Project Related Permits”** means those Permits set forth in Appendix 2C [Project Related Permits];

**“Protest Action”** means any civil disobedience, protest action, riot, civil commotion, blockade or embargo, including any action taken or threatened to be taken, by any Person or Persons protesting or demonstrating against:

- (a) the carrying out of any part of the Project or the WA Project (including the construction of the Facility); or
- (b) the construction or operation of public worker camp projects in general, occurring after the Effective Date,

but excluding any lawful or unlawful strike, lockout, go-slow or labour or other industrial relations dispute or job action;

**“Province”** means Her Majesty the Queen in right of the Province of British Columbia;

**“PSSP”** has the meaning set out in Schedule 10 [Safety];

**“PST”** means the retail sales tax imposed in British Columbia pursuant to the *Provincial Sales Tax Act* (British Columbia);

**“Public”** or **“public”** means local and regional governments, communities, stakeholders, property owners, businesses, the general public and Aboriginal groups;

**“Public Hazards”** has the meaning set out in Schedule 10 [Safety];

**“Public Safety Management Plan”** has the meaning set out in Schedule 10 [Safety];

**“Public Sector Employees”** means Persons employed by the Province or Ministry of the Province;

**“Qualified”** has the meaning set out in Schedule 10 [Safety];

**“Qualified Site Safety Coordinator”** has the meaning set out in Schedule 10 [Safety];

**“Qualified Environmental Professional”** has the meaning set out in Schedule 7 [Environmental Obligations];

**“Qualified Insurers”** means reputable insurers of good standing in Canada, the United States, the United Kingdom, Europe or Australia having a credit rating of (1) A- or better with AM BEST or (2) the equivalent thereof by any other recognized insurance rating agency;

**“Qualified Person”** means the Province of British Columbia or another governmental organization, including a subsidiary of BC Hydro, that has:

- (a) the power and capacity to carry out the transactions contemplated by this Agreement to be carried out by BC Hydro and to duly observe and perform all of the obligations contained in this Agreement to be observed and performed by BC Hydro;
- (b) the rights and interest in and to the Worker Accommodation Area, in each case free and clear of all encumbrances, restrictions or limitations, except the Encumbrances that are registered against title as of the Effective Date or which are modified or added pursuant to Section 3.2 of Schedule 20 [Land Matters], sufficient to permit Project Co to conduct the Design and Construction and provide the Services; and

- (c) whose obligations under this Agreement are guaranteed by either the Province of British Columbia or BC Hydro or has creditworthiness comparable to that of BC Hydro;

**“Qualifying Institution”** means any of the following, provided it is not a Restricted Person, and provided none of its Affiliates is a Restricted Person for any reason other than by reason of Section (d) of the definition of Restricted Person:

- (a) a bank listed in Schedule I, II or III of the *Bank Act* (Canada);
- (b) a Canadian trust company, insurance company, investment company, pension fund or other institution which manages at least \$500 million in securities, including entities wholly owned by any of the foregoing;
- (c) a bank regulated by the Board of Governors of the Federal Reserve System of the United States, a U.S. bank, saving and loan institution, insurance company, investment company, employee benefit plan or other institution that has or manages at least \$500 million in assets and would be a “qualified institutional buyer” under U.S. securities legislation, including entities wholly owned by any of the foregoing;
- (d) an institution which is recognized or permitted under the law of any member state of the European Economic Area (“**EEA**”) to carry on the business of a credit institution pursuant to Council Directive 2000/12/EC relating to the taking up and pursuit of the business of credit institutions or which is otherwise permitted to accept deposits in the United Kingdom or any other EEA member state;
- (e) an institution which is recognized or permitted under the law of any member state of the Organization for Economic Cooperation and Development (in this definition, the **OECD**) to carry on within the OECD member states the business of a credit institution, insurance company, investment company or pension fund and which has or manages at least \$500 million in assets, including entities wholly owned by any such institution; or
- (f) any other institution consented to in writing by BC Hydro as a “Qualifying Institution”;

**“Quality Assurance Plan”** has the meaning set out in Schedule 8 [Quality Management];

**“Quality Management Program”** has the meaning set out in Schedule 8 [Quality Management];

**“Quality System”** has the meaning set out in Schedule 8 [Quality Management];

**“Re-Bidding Costs”** has the meaning set out in Schedule 22 [Compensation on Termination];

**“Re-Bidding Process”** has the meaning set out in Schedule 22 [Compensation on Termination];

**“Re-Bidding Process Monitor”** has the meaning set out in Schedule 22 [Compensation on Termination];

**“Receiving Party”** has the meaning set out in Section 10.3 of this Agreement;

**“Records”** has the meaning set out in Schedule 15 [Records];

**“Recreation, Leisure, Sports and Other Guest Services Plan”** has the meaning set out in Appendix 21H [Recreation, Leisure, Sports and Other Guest Services];

**“Rectification”** has the meaning set out in Schedule 21 [Services Protocols and Specifications];

**“Rectification Period”** has the meaning set out in Schedule 11 [Prices, Payment and Security];

**"Referee"** has the meaning set out in Schedule 14 [Dispute Resolution Procedure];

**"Referee Agreement"** has the meaning set out in Schedule 14 [Dispute Resolution Procedure];

**"Referee Notice"** has the meaning set out in Schedule 14 [Dispute Resolution Procedure];

**"Reinstatement Plan"** has the meaning set out in Section 7.4(c) of this Agreement;

**"Reinstatement Works"** has the meaning set out in Section 7.4(a) of this Agreement;

**"Rejected"** has the meaning set out in Schedule 5 [Submittals Procedure];

**"Relevant Change in Law"** means a Change in Law during the Operating Period (other than a Discriminatory Change in Tax Law):

(a) which specifically applies to:

- (i) the WA Project or worker camp projects whose design, construction, financing, maintenance and service provision are procured and contracted on a public-private partnership basis similar to that of the WA Project;
- (ii) Project Co, its Partners or Project Contractors or Persons that have contracted on similar worker camp projects procured and contracted with BC Hydro or other statutory or public body on a public-private partnership basis similar to the WA Project; or
- (iii) Persons holding shares or other evidences of ownership in Persons whose principal business is contracting on other similar worker camp projects procured and contracted on a public-private partnership basis similar to the WA Project and not other Persons; or

(b) which principally affects or principally relates to the provision or operation of worker camps,

and compliance with which would require a variation (as applicable) in the design, quality, scope, methodology or cost of the Design, the Construction or the Services;

**"Relevant Works Change in Law"** means a Change in Law during the Operating Period (other than a Relevant Change in Law or a Discriminatory Change in Tax Law) which causes Project Co to incur Capital Expenditures to perform works affecting the Facility (being any work of alteration, addition, demolition or extension or variation in the quality or function of the Facility, but not including the construction of a Phase) which is not work which Project Co would otherwise be required to perform under this Agreement;

**"Relief Event"** means any of the following events or circumstances if and to the extent it interferes adversely with, or causes a failure of, the carrying out of the Design, the Construction or the Services or causes an Unavailability Event:

- (a) fire, explosion, lightning, storm (including snow storm), flood, bursting or overflowing of water tanks, apparatus or pipes, ionising radiation, earthquake or any act of God similar to the foregoing, in each case to the extent it does not constitute a Force Majeure Event;
- (b) during the Construction Period and to the extent not captured in the Relief Event described in paragraph (a) above, any weather event or series or combination of weather events more severe or of longer duration than the most severe or longest duration such event or series or combination of such events statistically predicted to occur in a 20 year period;

- (c) during the Construction Period, and with respect to a Phase during the Construction of that Phase, failure by any utility company, local authority or other like body to perform works or provide services required to be provided by them in a reasonably timely manner or any unreasonable interference with the Construction by any such body as a result of maintenance and other work;
- (d) lawful or unlawful strike, lockout, work-to-rule, job action or other labour dispute generally affecting the construction, building maintenance or facilities management industry or a significant sector thereof;
- (e) any delay of more than three days in respect or any critical path matter in the Work Program and Schedule caused by compliance by Project Co with an order or direction by police, fire officials, medical health officer or any comparable public authority having the legal authority to make such order or give such direction;
- (f) a Change in Law during the Construction Period, and with respect to a Phase during the Construction of that Phase;
- (g) unreasonable delay in the payment of any Insurance Receivables;
- (h) accidental loss or damage to the Facility or any roads servicing the Site;
- (i) blockade or embargo to the extent it does not constitute a Force Majeure Event;
- (j) failure or shortage of fuel or transport; and
- (k) any other event which is stated in this Agreement to constitute a Relief Event,

except to the extent that any of such events arise or are contributed to, directly or indirectly, as a result of any wilful misconduct, negligent act or omission or non-compliance with the terms of this Agreement by Project Co or any Project Co Person;

**“Reporting Error”** has the meaning set out in Schedule 21 [Services Protocols and Specifications];

**“Reporting Error (BCHO)”** has the meaning set out in Schedule 30 [BC Hydro Offices – Services Protocols and Specifications];

**“Reporting Failure”** has the meaning set out in Schedule 11 [Prices, Payment and Security];

**“Representative”** means either Hydro’s Representative or Project Co’s Representative, as the case may be;

**“Residual Value Payment”** has the meaning set out in Schedule 11 [Prices, Payment and Security];

**“Respond”** and **“Response”** has the meaning set out in Schedule 21 [Services Protocols and Specifications];

**“Response Time”** has the meaning set out in Schedule 21 [Services Protocols and Specifications];

**“Restricted Person”** means any person who (or any member of a group of persons acting together, any one of which):

- (a) has, directly or indirectly, its principal or controlling office in a country that is subject to any economic or political sanctions imposed by Canada for reasons other than its trade or economic policies;



- (b) has as any part of its business the illegal manufacture, sale, distribution or promotion of narcotic substances or arms, or is or has been involved in the promotion, support or carrying out of terrorism;
- (c) in the case of an individual, he or she (or in the case of a legal entity, any of the members of the board of directors or its senior executive managers) has been sentenced to imprisonment or otherwise given a custodial sentence (other than a suspended sentence) for any criminal offence (other than minor traffic offences or misdemeanours) less than five years prior to the date at which the determination of whether the person falls within this definition is being made;
- (d) has as its primary business the acquisition of distressed assets or investments in companies or organizations which are or are believed to be insolvent or in a financial standstill situation or potentially insolvent;
- (e) is subject to any material claim of BC Hydro or the Province of British Columbia in any proceedings (including regulatory proceedings) which have been concluded or are pending at the time at which the determination of whether the person falls within this definition is being made and which (in respect of any such pending claim, if it were to be successful) would, in BC Hydro's view, in either case, be reasonably likely to materially affect the ability of Project Co to perform its obligations under this Agreement;
- (f) has been convicted of an offence under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada), or has been convicted of the commission of a money laundering offence or a terrorist activity financing offence under the *Criminal Code* (Canada); or
- (g) whose standing or activities are inconsistent with or may compromise the reputation or integrity of BC Hydro or the delivery of public services in British Columbia so as to affect public confidence in those services;

**"Review"** has the meaning set out in Schedule 5 [Submittals Procedure];

**"RLSS"** has the meaning set out in Appendix 21H [Recreation, Leisure, Sports and Other Guest Services];

**"Roads, Grounds and Worker Accommodation Area Maintenance Services Plan"** has the meaning set out in Appendix 21G [Roads, Grounds and Worker Accommodation Area Maintenance Services];

**"Room"** has the meaning set out in Schedule 21 [Services Protocols and Specifications];

**"Room Status-Actively Occupied"** or **"Actively Occupied"** has the meaning set out in Schedule 21 [Services Protocols and Specifications];

**"Room Status-Vacant"** or **"Vacant"** has the meaning set out in Schedule 21 [Services Protocols and Specifications];

**"Routine"** has the meaning set out in Schedule 21 [Services Protocols and Specifications];

**"Safe Work Procedures"** has the meaning set out in Schedule 10 [Safety];

**"Safety Area"** has the meaning set out in Schedule 10 [Safety];

**"Safety Audits and Inspections"** has the meaning set out in Schedule 10 [Safety];

**"Safety Laws"** has the meaning set out in Schedule 10 [Safety];

“**Safety Minimum Requirements**” has the meaning set out in Schedule 10 [Safety];

“**Safety Order**” has the meaning set out in Schedule 10 [Safety];

“**Scheduled Maintenance**” has the meaning set out in Appendix 21F [Facility Maintenance, Repair and Utility Services];

“**Scheduled Maintenance (BCHO)**” has the meaning set out in Appendix 30D [BC Hydro Offices – Maintenance, Repair And Utility Services];

“**Scheduled Maintenance Plan**” has the meaning set out in Appendix 21F [Facility Maintenance, Repair and Utility Services];

“**Scheduled Maintenance Plan (BCHO)**” has the meaning set out in Appendix 30D [BC Hydro Offices – Maintenance, Repair And Utility Services];

“**Schematic Design Phase Documents**” has the meaning set out in Schedule 2 [Design and Construction Protocols];

“**Security and Surveillance Services Plan**” has the meaning set out in Appendix 21I [Security and Surveillance Services];

“**Security Plan**” has the meaning set out in Schedule 10 [Safety];

“**Security Post Orders**” has the meaning set out in Appendix 21I [Security and Surveillance Services];

“**Security Response Time**” has the meaning set out in Appendix 21I [Security and Surveillance Services];

“**Served**” has the meaning set out in Schedule 21 [Service Protocols and Specifications];

“**Service Commencement**” means that the following have been achieved with respect to Phase 1 in relation to the Facility:

- (a) the Independent Certifier has certified that Project Co has “substantially performed”, as defined in the *Builders Lien Act* (British Columbia), Phase 1 to the Interim Standard as if the Construction of Phase 1 to the Interim Standard was carried out as a separate contract;
- (b) all necessary Permits, either permanent or temporary, has been received as required by applicable Laws for the occupancy of the Facility, or other written permission that is sufficient for occupancy and use of the Facility by Guests;
- (c) Project Co has delivered to BC Hydro a Mobilization and Start-up Plan as required by Section 4.1 of Schedule 21 [Services Protocols and Specifications] with such modifications as are necessary to reflect that Phase 1 is being delivered to the Interim Standard, and a Mobilization and Start-up Plan (BCHO) as required by Section 4.1 of Schedule 30 [BC Hydro Offices – Services Protocols and Specifications]; and
- (d) with respect to the BC Hydro Offices:
  - (i) the Independent Certifier has certified that all Construction required in connection with the BC Hydro Offices has been “substantially performed”, as defined in the *Builders Lien Act* (British Columbia), as if the Construction in connection with the BC Hydro Offices was carried out as a separate contract; and

- (ii) Project Co has delivered written confirmation that Project Co has complied with the requirements of Part 3 of the BC Building Code, together with all related schedules, reports and submittals;

**“Service Commencement Date”** means the later of:

- (a) the date when all criteria for Service Commencement that have not been waived have been satisfied as certified by the Independent Certifier in accordance with Schedule 2 [Design and Construction Protocols]; and
- (b) the last Target Service Commencement Date;

**“Service Failure”** has the meaning set out in Schedule 11 [Prices, Payment and Security];

**“Service Failure Deduction Amount”** has the meaning set out in Schedule 11 [Prices, Payment and Security];

**“Service Payment”** means the aggregate of the Monthly Service Payments;

**“Service Provider”** means ATCO Two Rivers Camp Services Ltd. or any assignee or replacement permitted under this Agreement;

**“Services”** means everything other than:

- (a) Design and Construction;
- (b) Decommissioning; and
- (c) financing obligations,

that Project Co is required to do to satisfy its obligations under this Agreement, including operation and maintenance obligations as described in Schedule 21 [Services Protocols and Specifications] and in Schedule 30 [BC Hydro Offices – Services Protocols and Specifications], including the supply of all labour, materials, equipment, management, supervision and support of any kind or nature whatsoever required for the performance of the Services;

**“Services Change”** has the meaning set out in Schedule 12 [Changes];

**“Services Contract”** means the agreement between Project Co and the Service Provider, a certified copy of which has been delivered by Project Co to BC Hydro, as amended or replaced from time to time in accordance with this Agreement;

**“Services Personnel”** has the meaning set out in Schedule 21 [Services Protocols and Specifications];

**“Services Protocols and Specifications”** means the provisions of Schedule 21 [Services Protocols and Specifications] and Schedule 30 [BC Hydro Offices – Services Protocols and Specifications];

**“Services Quality Plan”** has the meaning set out in Schedule 21 [Services Protocols and Specifications];

**“Services Quality Plan (BCHO)”** has the meaning set out in Schedule 30 [BC Hydro Offices – Services Protocols and Specifications];

**“Settlement Agreement”** has the meaning set out in Schedule 14 [Dispute Resolution Procedure];

**“Settlement Meeting”** has the meaning set out in Schedule 14 [Dispute Resolution Procedure];

**“Shower Room”** has the meaning set out in Schedule 21 [Services Protocols and Specifications];

**“Site”** unless otherwise specifically defined means the site of the Project, including all areas covered by the Environmental Assessment Certificate issued in respect of the Project;

**“Site C Document Control”** has the meaning set out in Section 2.13 of this Agreement;

**“Site Safety Management Plan”** has the meaning set out in Schedule 10 [Safety];

**“Small Wares”** has the meaning set out in Schedule 21 [Services Protocols and Specifications];

**“SOP”** has the meaning set out in Appendix 21D [Food and Dining Services];

**“Specified Area”** has the meaning set out in Schedule 10 [Safety];

**“Start-up Plan”** has the meaning set out in Schedule 21 [Services Protocols and Specifications];

**“Stop Work Procedure”** has the meaning set out in Schedule 7 [Environmental Obligations];

**“Subcontract”** means any contract entered into by a Project Contractor (except Project Contracts), or a subcontractor of a Project Contractor of any tier, with one or more Persons in connection with the carrying out of Project Co’s obligations under this Agreement, as amended or replaced from time to time;

**“Subcontractor”** means any Person that enters into a Subcontract;

**“Subcontractor Termination Notice”** has the meaning set out in Schedule 21 [Services Protocols and Specifications];

**“Submittal”** has the meaning set out in Schedule 5 [Submittals Procedure];

**“Submittal Item”** has the meaning set out in Schedule 5 [Submittals Procedure];

**“Submittal Schedule”** has the meaning set out in Schedule 5 [Submittals Procedure];

**“Substantial Completion”** has the meaning set out in Schedule 2 [Design and Construction Protocols];

**“Substantial Completion Date”** means the date when all criteria for Substantial Completion that have not been waived have been satisfied as certified by the Independent Certifier in accordance with Schedule 2 [Design and Construction Protocols];

**“Supervening Event”** means any of a Compensation Event, Relief Event, Excusing Event, Force Majeure Event or Eligible Change in Law Event;

**“Supervening Event Notice”** has the meaning set out in Section 9.2(a) of this Agreement;

**“Supplemental Insurance”** has the meaning set out in Schedule 13 [Insurance];

**“Supporting Role Construction Communications Plan”** has the meaning set out in Schedule 9 [Communications Roles];

**“Target Service Commencement Date”** means the date, as set out in the Work Program and Schedule (as updated from time to time in accordance with Schedule 2 [Design and Construction Protocols]), that Project Co estimates Service Commencement will occur;

**“Tax” or “Taxes”** means, from time to time, all taxes, surtaxes, duties, levies, imposts, rates, payments, assessments, withholdings, dues and other charges of any nature imposed by any Governmental Authority (including income, capital (including large corporations), withholding, consumption, sales, use, transfer, goods and services or other value-added, excise, customs, anti-dumping, countervail, net worth, stamp, registration, franchise, payroll, employment, health, education, business, school, property, local improvement, development, education development and occupation taxes, surtaxes, duties, levies, imposts, rates, payments, assessments, withholdings, dues and charges) together with all fines, interest, penalties on or in respect of, or in lieu of or for non-collection of, those taxes, surtaxes, duties, levies, imposts, rates, payments, assessments, withholdings, dues and other charges;

**“Taxable Shareholder Portion”** has the meaning set out in Schedule 22 [Compensation on Termination];

**“Telecom”** has the meaning set out in Schedule 29 [BCHO – Services Protocols and Specifications];

**“Temporary Alternative Accommodation”** has the meaning set out in Schedule 11 [Prices, Payment and Security];

**“Temporary Alternative Accommodation Proposal”** has the meaning set out in Schedule 11 [Prices, Payment and Security];

**“Temporary Availability Condition”** has the meaning set out in Schedule 11 [Prices, Payment and Security];

**“Temporary Foreign Workers”** has the meaning set out in Section 5.19(a)(vi) of this Agreement;

**“Temporary Repair”** has the meaning set out in Schedule 11 [Prices, Payment and Security];

**“Temporary Repair Proposal”** has the meaning set out in Schedule 11 [Prices, Payment and Security];

**“Term”** has the meaning set out in Section 2.1 of this Agreement;

**“Termination Date”** means the date this Agreement terminates in accordance with Section 2.1 of this Agreement;

**“Termination Date Discount Rate”** has the meaning set out in Schedule 22 [Compensation on Termination];

**“Termination Payment”** means the amount owing by BC Hydro to Project Co or by Project Co to BC Hydro pursuant to Schedule 22 [Compensation on Termination];

**“Termination Payment Date”** means the date on which BC Hydro must make the Termination Payment as provided for in Schedule 22 [Compensation on Termination];

**“Threshold Equity IRR”** means [REDACTED], being the [REDACTED] as set out in the Financial Model;

**“Tier 1 First Response”** has the meaning set out in Schedule 21 [Services Protocols and Specifications];

**“Total Construction Payment”** has the meaning set out in Schedule 11 [Prices, Payment and Security];

**“Transition”** has the meaning set out in Schedule 11 [Prices, Payment and Security];

**“Transmittal”** has the meaning set out in Section 2.13(e) of this Agreement;

**“Ultimate Capacity”** has the meaning set out in Schedule 2 [Design and Construction Protocols];

**“Unavailable”** and **“Unavailability”** have the meanings set out in Schedule 11 [Prices, Payment and Security];

**“Undisclosed Environmental Liabilities”** means all Hazardous Substances located in, on, below or adjacent to the Lands, other than Project Co Hazardous Substances;

**“Uninsurable”** means, in relation to a risk:

- (a) insurance as required under this Agreement is not available in respect of the WA Project with Qualified Insurers; or
- (b) the insurance premium payable or the terms and conditions for insuring such risk at the levels and on the terms required by this Agreement are such that contractors, concessionaires, owners or others having a substantially similar interest in a project such as the WA Project in Canada are not generally insuring against such risk with Qualified Insurers;

**“Uninsurable Risk”** has the meaning set out in Section 7.14 of this Agreement;

**“Unit Deduction Amount”** has the meaning set out in Schedule 11 [Prices, Payment and Security];

**“Units”** means units or other equity interests of any class in the capital of Project Co;

**“Updated Work Program and Schedule”** has the meaning set out in Schedule 2 [Design and Construction Protocols];

**“Urgent”** has the meaning set out in Schedule 21 [Services Protocols and Specifications];

**“Valuator”** means a firm of chartered accountants as represented by a fully qualified member of the Canadian Institute of Chartered Business Valuators;

**“Variable Operating Payment”** has the meaning set out in Schedule 11 [Prices, Payment and Security];

**“Visitor”** has the meaning set out in Schedule 21 [Services Protocols and Specifications];

**“Visitor (BCHO)”** has the meaning set out in Schedule 30 [BC Hydro Offices – Services Protocols and Specifications];

**“Visitor Meal Payment”** has the meaning set out in Schedule 11 [Prices, Payment and Security];

**“WA Project”** means the design, construction, partial financing, testing, commissioning, operation and maintenance of the Facility and all other works and ancillary services in accordance with this Agreement;

**“Waste Wood”** has the meaning set out in Schedule 6 [Specifications and Drawings];

**“Work Area”** has the meaning set out in Schedule 10 [Safety];

**“Work Plan”** has the meaning set out in Schedule 2 [Design and Construction Protocols];

**“Work Program and Schedule”** has the meaning set out in Schedule 4 [Work Program and Schedule];

**“Worker Accommodation Area”** has the meaning set out in Schedule 2 [Design and Construction Protocols];

**“Worker Accommodation Area Plan”** has the meaning set out in Schedule 6 [Specifications and Drawings];

**“Worker Accommodation Code of Conduct”** has the meaning set out in Schedule 21 [Services Protocols and Specifications];

**“Worker Accommodation Committee”** or **“WAC”** has the meaning set out in Schedule 21 [Services Protocols and Specifications];

**“Worker Accommodation Disciplinary Committee”** or **“WADC”** has the meaning set out in Schedule 21 [Services Protocols and Specifications];

**“WorkSafe BC”** has the meaning set out in Schedule 10 [Safety]; and

**“WPP”** has the meaning set out in Schedule 10 [Safety].

## **2 INTERPRETATION**

This Agreement will be interpreted according to the following provisions, except to the extent the context or the express provisions of this Agreement otherwise require:

- (a) the parties waive the application of any rule of law which otherwise would be applicable in connection with the construction of this Agreement that ambiguous or conflicting terms or provisions should be construed against the party who (or whose counsel) prepared the executed agreement or any earlier draft of the same;
- (b) the table of contents, headings and sub-headings, marginal notes and references to them in this Agreement are for convenience of reference only, do not constitute a part of this Agreement, and will not be taken into consideration in the interpretation or construction of, or affect the meaning of, this Agreement;
- (c) each reference to a Section, Schedule, Appendix or Attachments is a reference to a Section of, Schedule to, Appendix to a Schedule to this Agreement; or each Attachment to an Appendix, and each Appendix is uniquely designated by using the number of the Schedule to which the Appendix is attached following by an alphabetical designator in sequence (for example, Appendix 21A [Proposal Extracts] means the first Appendix attached to Schedule 21 [Services Protocols and Specifications]). A Schedule includes all of the Appendices attached to that Schedule. An Appendix includes all the Attachments attached to that Appendix;
- (d) each reference to an agreement, document, standard, principle or other instrument includes (subject to all relevant approvals and any other provision of this Agreement expressly concerning such agreement, document, standard, principle or other instrument) a reference to that agreement, document, standard, principle or instrument as amended, replaced, novated or assigned, and a reference to an “amendment” and similar terms (including “amend” and “amended”) include a reference to supplement, alteration, substitute, variation, change and any other modification and similar terms;
- (e) each reference to a statute or statutory provision (including any subordinate legislation) includes any statute or statutory provision which amends, extends, consolidates or replaces the statute or statutory provision or which has been amended, extended, consolidated or replaced by the statute or statutory provision and includes any orders, regulations, by-laws, ordinances, orders, codes of practice, instruments or other subordinate legislation made under the relevant statute;
- (f) each reference to time of day is a reference to Pacific Standard time or Pacific Daylight Saving time, as the case may be;
- (g) words importing the singular include the plural and vice versa;

- (h) words importing a particular gender include all genders;
- (i) each reference to a public organization is deemed to include a reference to any successor(s) to such public organization or any organization or entity or organizations or entities which has or have taken over the functions or responsibilities of such public organization;
- (j) unless the context otherwise requires, each reference to “parties” means the parties to this Agreement and each reference to a “party” means any one of the parties to this Agreement, provided however that a reference to a third party does not mean a party to this Agreement;
- (k) all monetary amounts are expressed in Canadian Dollars;
- (l) whenever this Agreement obliges a party (the “**Payor**”) to pay any amount to the other party (the “**Payee**”) in respect of any costs, expenses, fees, charges, liabilities, losses, claims or other sums incurred by the Payee:
  - (i) such obligation will be construed as applying only to so much of such sums as have been properly incurred on an arm’s length commercial basis or, where not incurred on an arm’s length commercial basis (including when the payment is made to an Affiliate of the Payee), so much of them as are proper and reasonable; and
  - (ii) the Payee will, when requested by the Payor, provide supporting evidence of such costs, expenses, fees, charges, liabilities, losses, claims or other sums;
- (m) BC Hydro will not be imputed with knowledge of any fact, matter or thing unless that fact, matter or thing is within the actual knowledge of those of its employees or agents (including Hydro’s Representative) who have responsibilities in connection with the conduct of the Services or the WA Project;
- (n) without limiting the extent of its actual knowledge, Project Co will for all purposes of this Agreement be deemed to have such knowledge in respect of the Design, the Construction and the Services as is held (or ought reasonably to be held) by those employees or agents of Project Co, or any Project Contractor or Subcontractor, who have responsibilities in connection with the carrying out of the Design, the Construction or the Services to which the fact, matter or thing relates or is applicable;
- (o) each requirement for a thing or action to be “in accordance with” or “in compliance with” any standard, code or specification or other requirement or stipulation means that such thing or action is to exceed or at least equal that standard, code, specification or other requirement or stipulation;
- (p) the words “include”, “includes” and “including” are to be construed as meaning “include without limitation”, “includes without limitation” and “including without limitation”, respectively;
- (q) when a party has “discretion”, it means that party has the sole, absolute and unfettered discretion, with no requirement to act reasonably or provide reasons unless specifically required under the provisions of this Agreement;
- (r) any consent contemplated to be given under this Agreement must be in writing;
- (s) general words are not given a restrictive meaning:
  - (i) if they are introduced by the word “other”, by reason of the fact that they are preceded by words indicating a particular class of act, matter or thing; or



- (ii) by reason of the fact that they are followed by particular examples intended to be embraced by those general words;
- (t) words or abbreviations which have well-known trade meanings are used in accordance with those meanings;
- (u) the expression “all reasonable efforts” and expressions of like import, when used in connection with an obligation of either party, means taking in good faith and with due diligence all commercially reasonable steps to achieve the objective and to perform the obligation, including doing all that can reasonably be done in the circumstances taking into account each party’s obligations hereunder to mitigate delays and additional costs to the other party, and in any event taking no less steps and efforts than those that would be taken by a commercially reasonable and prudent Person in comparable circumstances but where the whole of the benefit of the obligation and where all the results of taking such steps and efforts accrued solely to that Person’s own benefit, provided that the foregoing will not require BC Hydro to:
  - (i) take any action which is contrary to the public interest, as determined by BC Hydro in its discretion; or
  - (ii) undertake any mitigation measure that might be available arising out of its status as a public body that would not normally be available to a private commercial party;
- (v) the expressions “by Project Co” and “by or through Project Co” and expressions of like import are synonymous and mean by Project Co or by anyone employed by or through Project Co, including Project Co and all contractors, subcontractors and suppliers of any tier and their respective officers, employees, consultants and agents;
- (w) all accounting and financial terms used herein are, unless otherwise indicated, to be interpreted and applied in accordance with IFRS, consistently applied;
- (x) where this Agreement requires the calculation of something that is calculated in the Financial Model, but not including any Deductions, the calculation will be done in a manner consistent with the calculation methodology in the Financial Model;
- (y) if the time for doing an act falls or expires on a day that is not a Business Day, the time for doing such act will be extended to the next Business Day;
- (z) each provision of this Agreement will be valid and enforceable to the fullest extent permitted by law. If any provision of this Agreement is held to be invalid, unenforceable or illegal to any extent, such provision may be severed and such invalidity, unenforceability or illegality will not prejudice or affect the validity, enforceability and legality of the remaining provisions of this Agreement. If any such provision of this Agreement is held to be invalid, unenforceable or illegal, the Parties will promptly endeavour in good faith to negotiate new provisions to eliminate such invalidity, unenforceability or illegality and to restore this Agreement as nearly as possible to its original intent and effect; and
- (aa) each release, waiver of liability and indemnity in this Agreement expressed to be given in favour of a party is and will be interpreted as having been given in favour of and may be enforced by that party and, in the case of BC Hydro, by BC Hydro Indemnified Persons, and, in the case of Project Co, by Project Co Persons.

### **3 PRIORITY OF AGREEMENTS AND SCHEDULES**

In the event of ambiguities, conflicts or inconsistencies between or among any of the provisions of this Agreement, the provisions will prevail in the following order of precedence with each taking precedence over those listed subsequently:

- (a) the provisions establishing the higher quality, manner or method of performing the Design, Construction or Services, using the more stringent standards, will prevail, with the intent that the provisions which produce the higher quality with the higher levels of safety, reliability, durability, performance and service will prevail;
- (b) the provisions of the main body of this Agreement will prevail over any of the Schedules hereto other than Schedule 24 [Material Project Contractor Collateral Agreement];
- (c) the provisions of Appendix 2A [Proposal Extracts (Design and Construction)], Appendix 21A [Proposal Extracts (Services)] and Appendix 30A [BC Hydro Offices – Proposal Extracts]) will prevail over this Agreement, provided however to the extent that Appendix 2A [Proposal Extracts (Design and Construction)], Appendix 21A [Proposal Extracts (Services)] and Appendix 30A [BC Hydro Offices – Proposal Extracts] include additional requirements for higher standards of quality or performance or additional requirements for more extensive scope of Design, Construction or Services than otherwise required, Project Co will be required to perform its obligations under this Agreement in accordance with those higher standards of quality or performance or additional requirements for more extensive scope of Design, Construction or Services; and
- (d) if the ambiguity, conflict or inconsistency is between a provision of general application and a provision that applies only to a specific part of the Design, Construction or Services, the provision that applies to the specific part of the Design, Construction or Services shall prevail for that specific part of the Design, Construction or Services.

### **4 FINANCIAL MODEL**

Except where expressly referred to, the Financial Model and its contents will not be used to interpret, and will not affect the meaning of, this Agreement.