

APPENDIX A – GENERAL CONDITIONS (CONSTRUCTION)

TABLE OF CONTENTS

| | | |
|-------------|--|-----------|
| GC.1 | INTERPRETATION | 1 |
| 1.1 | Definitions | 1 |
| 1.2 | Interpretation | 5 |
| 1.3 | Priority of Contract Documents | 6 |
| GC.2 | CONTRACTOR'S REPRESENTATIVE | 7 |
| 2.1 | Appointment of Contractor's Representative | 7 |
| 2.2 | Authority of Contractor's Representative | 7 |
| 2.3 | Delegation of Contractor's Representative's Authority | 7 |
| GC.3 | HYDRO'S REPRESENTATIVE | 7 |
| 3.1 | Appointment of Hydro's Representative | 7 |
| 3.2 | Authority of Hydro's Representative | 8 |
| 3.3 | Delegation of Hydro's Representative's Authority | 8 |
| 3.4 | Role of Hydro's Representative | 8 |
| 3.5 | Contract Interpretation | 9 |
| GC.4 | EXECUTION OF THE WORK | 9 |
| 4.1 | Control of Work | 9 |
| 4.2 | Standard of Work | 9 |
| 4.3 | Site Conditions | 10 |
| 4.4 | Documents at Site | 10 |
| 4.5 | Monuments and Controls | 10 |
| 4.6 | Permits | 10 |
| 4.7 | Work by Other Contractors or BC Hydro | 10 |
| 4.8 | Removal, Disposal and Replacement of BC Hydro's Existing Facilities and Property | 11 |
| 4.9 | Temporary Structures | 11 |
| 4.10 | Errors in Contract Documents | 11 |
| 4.11 | Quality | 11 |
| 4.12 | Work Program and Schedule | 12 |
| 4.13 | Supervision | 14 |
| 4.14 | Subcontractors | 14 |
| 4.15 | Key Personnel | 15 |
| 4.16 | Not Used | 15 |
| 4.17 | Not Used | 15 |
| 4.18 | Aboriginal Inclusion and Reporting Requirements | 16 |
| 4.19 | BC Hydro Property | 16 |
| 4.20 | Tests and Inspections | 16 |
| 4.21 | Submittals | 17 |
| 4.22 | Issued for Construction Drawings | 19 |
| 4.23 | Record Drawings | 19 |
| 4.24 | Tidy Site | 20 |
| 4.25 | Potable Water and Wastewater | 20 |
| 4.26 | Electronic Data Site | 20 |
| GC.5 | CONTRACT PRICE AND PAYMENT | 20 |
| 5.1 | Breakdown of Contract Price | 20 |
| 5.2 | Direct Deposit Application Form | 20 |
| 5.3 | Application for Payment | 21 |
| 5.4 | Materials on Site | 22 |

| | | |
|--------------|---|-----------|
| 5.5 | Application for Payment Not a Waiver | 22 |
| 5.6 | Payment | 22 |
| 5.7 | Payment Not a Waiver | 22 |
| 5.8 | Performance Security Holdback | 22 |
| 5.9 | Performance Security Holdback Release | 23 |
| 5.10 | Right of Set-off | 23 |
| 5.11 | Application for Substantial Completion | 23 |
| 5.12 | Substantial Completion | 23 |
| 5.13 | Deficiencies Holdback..... | 24 |
| 5.14 | Application for Total Completion | 24 |
| 5.15 | Total Completion | 24 |
| 5.16 | Limitation of Certificates..... | 24 |
| 5.17 | Waiver of Claims | 24 |
| 5.18 | Provisional Sums | 25 |
| GC.6 | CHANGES | 25 |
| 6.1 | Changes | 25 |
| 6.2 | Change Directive..... | 25 |
| 6.3 | Contemplated Change | 26 |
| 6.4 | Claim for a Change | 27 |
| 6.5 | Valuation of a Change | 27 |
| 6.6 | Quantity Variation..... | 29 |
| 6.7 | Net Valuation of Cost of a Change | 30 |
| 6.8 | Adjustments to Time for the Performance of Work..... | 30 |
| 6.9 | No Change Without Written Order | 30 |
| 6.10 | Emergency | 30 |
| 6.11 | Optional Work | 30 |
| GC.7 | DELAYS AND ACCELERATION | 31 |
| 7.1 | Delay by BC Hydro..... | 31 |
| 7.2 | Delay by Contractor | 31 |
| 7.3 | Labour Disputes | 31 |
| 7.4 | Project Delay..... | 31 |
| 7.5 | Force Majeure | 31 |
| 7.6 | Concurrent Delay | 32 |
| 7.7 | Notice of Delay..... | 32 |
| 7.8 | Acceleration to Recover Contractor Delays | 33 |
| 7.9 | Acceleration for BC Hydro's Convenience..... | 33 |
| GC.8 | BONDING | 33 |
| 8.1 | Performance and Payment Security | 33 |
| GC.9 | CONTRACTOR DEFAULT..... | 33 |
| 9.1 | Failure to Perform | 33 |
| 9.2 | Bankruptcy | 34 |
| 9.3 | Termination for Cause..... | 35 |
| GC.10 | BC HYDRO DEFAULT | 35 |
| 10.1 | Failure to Perform | 35 |
| 10.2 | Termination for Cause..... | 36 |
| GC.11 | SUSPENSION OR TERMINATION OF CONTRACT OTHER THAN FOR DEFAULT | 36 |
| 11.1 | Suspension or Termination for Convenience..... | 36 |
| 11.2 | Rights upon Termination for Convenience | 37 |
| 11.3 | Obligations During Suspension..... | 37 |

| | | |
|--------------|--|-----------|
| 11.4 | Termination for Force Majeure..... | 37 |
| GC.12 | DISPUTES | 38 |
| 12.1 | Dispute Resolution..... | 38 |
| GC.13 | PROTECTION OF PERSONS, PROPERTY AND THE ENVIRONMENT | 38 |
| 13.1 | Site Safety..... | 38 |
| 13.2 | Protection of Work and Property..... | 38 |
| 13.3 | Hazardous Substances..... | 39 |
| 13.4 | Discovery of Hazardous Substances..... | 39 |
| 13.5 | Protection of the Environment..... | 39 |
| 13.6 | Heritage Resources | 39 |
| 13.7 | Dangerous Goods..... | 40 |
| 13.8 | Dangerous Goods Occurrence | 40 |
| GC.14 | CONFIDENTIALITY | 40 |
| 14.1 | Confidential Information | 40 |
| 14.2 | Exceptions to Confidentiality Obligations..... | 41 |
| GC.15 | RECORDS AND AUDIT | 41 |
| 15.1 | Retention of Documents | 41 |
| 15.2 | Audit..... | 41 |
| 15.3 | Audit Not a Waiver | 41 |
| GC.16 | INSURANCE..... | 41 |
| 16.1 | Contractor Provided Insurance Coverage | 41 |
| 16.2 | BC Hydro Provided Insurance Coverage..... | 42 |
| GC.17 | INDEMNIFICATION | 42 |
| 17.1 | Contractor Indemnity..... | 42 |
| 17.2 | Conduct of Claims..... | 42 |
| 17.3 | Separate Counsel | 42 |
| 17.4 | Limitation on Settlement | 42 |
| 17.5 | Intellectual Property Indemnification | 42 |
| GC.18 | LIMITATION OF LIABILITY | 43 |
| 18.1 | Limitation of Liability..... | 43 |
| 18.2 | Consequential Damages..... | 43 |
| 18.3 | Exceptions to Limitation of Liability..... | 44 |
| GC.19 | WARRANTY | 44 |
| 19.1 | Warranty..... | 44 |
| 19.2 | Quality of Equipment, Products and Materials..... | 45 |
| 19.3 | Length of Warranty..... | 45 |
| 19.4 | Partial Take Over | 45 |
| 19.5 | Assignment | 45 |
| 19.6 | Defects | 46 |
| 19.7 | Failure to Remedy Defects | 46 |
| 19.8 | Removal of Defective Work | 46 |
| 19.9 | BC Hydro Correction in Emergency..... | 46 |
| GC.20 | COMPLIANCE WITH LAWS AND BC HYDRO'S POLICIES AND PROCEDURES | 47 |
| 20.1 | Compliance with Laws | 47 |
| 20.2 | Compliance with BC Hydro's Policies and Procedures | 47 |

| | | |
|--------------|---|-----------|
| GC.21 | PRIVACY | 47 |
| 21.1 | Compliance with FOIPPA | 47 |
| 21.2 | Default | 47 |
| GC.22 | TAXES AND DUTIES | 47 |
| 22.1 | Tax Included in Contract Price | 47 |
| 22.2 | GST | 47 |
| 22.3 | Input Tax Credits | 47 |
| 22.4 | Payment of Taxes | 48 |
| 22.5 | Tax Indemnity | 48 |
| 22.6 | Non-Resident | 48 |
| 22.7 | Tax Exemptions and Refunds | 48 |
| GC.23 | CONTRACTOR'S REPRESENTATIONS AND WARRANTIES | 49 |
| 23.1 | Contractor's Corporate Representations and Warranties | 49 |
| 23.2 | Contractor's Performance Representations and Warranties | 49 |
| GC.24 | INTELLECTUAL PROPERTY | 49 |
| 24.1 | Grant of License | 49 |
| 24.2 | Third Party Intellectual Property | 50 |
| 24.3 | Royalty and Patent Fees | 50 |
| 24.4 | Moral Rights | 50 |
| GC.25 | MISCELLANEOUS | 50 |
| 25.1 | International Sale of Goods | 50 |
| 25.2 | Duty to Mitigate | 50 |
| 25.3 | Change of Law | 50 |
| 25.4 | Severability | 50 |
| 25.5 | Joint and Several Liability | 51 |
| 25.6 | Independent Contractor | 51 |
| 25.7 | Third Persons | 51 |
| 25.8 | Public Communications | 51 |
| 25.9 | Attornment | 52 |
| 25.10 | Rights and Remedies Cumulative | 52 |
| 25.11 | Survival | 52 |

APPENDIX A – GENERAL CONDITIONS (CONSTRUCTION)

GC.1 INTERPRETATION

1.1 Definitions

In the Contract, unless the context requires otherwise:

“**Aboriginal**” means Indian (as defined in the *Indian Act* (Canada)), Metis or Inuit;

“**Aboriginal Business**” means:

- (a) a sole proprietorship, wholly owned by an Aboriginal person;
- (b) a corporation with at least 51% of the equity, including common or voting shares, directly owned by one or more Aboriginal Businesses or Aboriginal persons;
- (c) a partnership or joint venture (between two or more Aboriginal Businesses or between one or more Aboriginal Business(es) and one or more non-Aboriginal Business(es)) with at least 51% of the ownership rights, including any voting rights, directly owned by one or more Aboriginal Businesses or Aboriginal persons; or
- (d) any other business with a substantial amount of ownership rights held by one or more Aboriginal Businesses or Aboriginal persons, as determined by BC Hydro, acting reasonably;

“**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 the form of agreement which is signed by the parties and included in the Contract Documents;

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

“**BC Hydro Property**” means any design, facilities, property, equipment, including construction equipment and small tools, replacement parts, furnishings, materials and supplies of any kind provided to the Contractor by BC Hydro or by a third party at the direction of BC Hydro for the performance of the Work and whether or not incorporated into the Work;

“**BCICAC**” has the meaning set out in Appendix M – Dispute Resolution Procedure;

“**Business Day**” or “**business day**” means any day other than a Saturday, Sunday or statutory holiday observed in British Columbia;

“**CEMP**” has the meaning set out in Appendix I – Environmental Obligations;

“**Change**” has the meaning set out in GC.6.1;

“**Change Directive**” has the meaning set out in GC.6.2;

“**Change Order**” has the meaning set out in GC.6.1;

“Claim” means any claim, demand, action, cause of action, suit or proceeding, whether for damages, contribution, indemnity or any other relief;

“Claim Costs” means any and all losses, damages, costs, penalties and expenses arising from or related to a Claim, including actual legal (on a solicitor and his own client basis), accounting and expert costs and expenses incurred in the investigation, defence or settlement of a Claim;

“Confidential Information” has the meaning set out in GC.14.1;

“Consequential Damages” has the meaning set out in GC.18.2;

“Contemplated Change” has the meaning set out in GC.6.3;

“Contract” means the agreement between BC Hydro and the Contractor as defined and described in the Contract Documents, as may be amended, supplemented or restated from time to time;

“Contract Documents” means the documents listed and described in Section 2.2 of the Agreement;

“Contract Price” has the meaning set out in Section 3.1 of the Agreement;

“Contractor” means the entity identified as “Contractor” on the first page of the Agreement;

“Contractor Duties” has the meaning set out in GC.22.4;

“Contractor Taxes” has the meaning set out in GC.22.4;

“Contractor’s Representative” has the meaning set out in GC.2.1;

“Dangerous Goods” has the meaning set out in the *Transportation of Dangerous Goods Act* (Canada);

“Default Costs” has the meaning set out in GC.9.3(c)(i);

“Deposit Application” has the meaning set out in GC.5.2;

“Dispute” has the meaning set out in Appendix M – Dispute Resolution Procedure;

“Dispute Notice” has the meaning set out in Appendix M – Dispute Resolution Procedure;

“Dispute Resolution Procedure” has the meaning set out in Appendix M – Dispute Resolution Procedure;

“Effective Date” means the effective date of the Contract as set out on the first page of the Agreement;

“Environmental Incident” has the meaning set out in Appendix I – Environmental Obligations;

“Environmental Monitor” has the meaning set out in Appendix I – Environmental Obligations;

“Environmental Protection Plan” or **“EPP”** has the meaning set out in Appendix I – Environmental Obligations;

“Environmental Requirements” has the meaning set out in Appendix I – Environmental Obligations;

“Environmentally Sensitive Area” has the meaning set out in Appendix I – Environmental Obligations;

“Environmental Specifications” has the meaning set out in Appendix I – Environmental Obligations;

“Environmental Tailboard Meeting” has the meaning set out in Appendix I – Environmental Obligations;

“FOIPPA” means the Freedom of Information and Protection of Privacy Act (British Columbia);

“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) that is not described by GC.7.3, 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 the Contract, 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 the Contract, 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;

“Good Industry Practice” means the standards, practices, methods and procedures to a good professional and commercial standard, conforming to Laws and exercising that degree of skill, 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 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 the Contract or the Project;

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

“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;

“Hydro’s Representative” has the meaning set out in GC.3.1;

“Indemnified Parties” has the meaning set out in GC.17.1;

“Indemnified Party” has the meaning set out in GC.17.1;

“Independent Environmental Monitor” has the meaning set out in Appendix I – Environmental Obligations;

“Key Personnel” means those individuals expressly identified in the Contract Documents, if any;

“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 the Contract Documents, including the performance of the Work;

“Optional Work” means Work which may be described in Appendix D – Scope of Work and Appendix E – Schedule of Quantities and Prices that will be undertaken and included in the Work at the election of BC Hydro;

“Other Contractor” has the meaning set out in GC.4.7;

“Performance Security Holdback” has the meaning set out in GC.5.8;

“Permits” means all permissions, consents, approvals, registrations, certificates, permits, licences, statutory agreements and authorizations required from any Governmental Authority, and all necessary consents and agreements from any third parties, needed to carry out the Work in accordance with the Contract Documents;

“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 the Contractor as a result of the Contract or any previous agreement between BC Hydro and the Contractor dealing with the same subject matter as the Contract;

“Pre-Work Orientation” has the meaning set out in Appendix I – Environmental Obligations;

“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”;

“Professional Engineer” means a person who is registered or licensed as a professional engineer under the *Engineers and Geoscientists Act* (British Columbia);

“Progress Payment Estimate” has the meaning set out in GC.5.3(a);

“Project” has the meaning set out in Recital A of the Agreement, of which the Work is a part;

“Project Related Permits” means those Permits, if any, as expressly set out in the Appendix B – Supplementary General Conditions;

“Qualified Environmental Professional” has the meaning set out in Appendix I – Environmental Obligations;

“Quotation” has the meaning set out in GC.6.3;

“Referee” has the meaning set out in Appendix M – Dispute Resolution Procedure;

“Referee Agreement” has the meaning set out in Appendix M – Dispute Resolution Procedure;

“Referee Notice” has the meaning set out in Appendix M – Dispute Resolution Procedure;

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

“Settlement Agreement” has the meaning set out in Appendix M – Dispute Resolution Procedure;

“Settlement Meeting” has the meaning set out in Appendix M – Dispute Resolution Procedure;

“Site” means the location where the constructed Work is to be finally or permanently located or installed;

“Stop Work Procedure” has the meaning set out in Appendix I – Environmental Obligations;

“Subcontractor” has the meaning set out in GC.4.14;

“Submittal” has the meaning set out in GC.4.21;

“Submittal Schedule” has the meaning set out in GC.4.21;

“Substantial Completion” has the meaning set out in GC.5.12;

“Total Completion” has the meaning set out in GC.5.15;

“Warranty Period” has the meaning set out in GC.19.3;

“Work” means and includes anything and everything required to be done for the fulfilment and completion of the Contract; and

“Work Program and Schedule” has the meaning set out in GC.4.12(a).

Any words or phrases defined elsewhere in the Contract will have the particular meaning assigned to such words or phrases.

1.2 Interpretation

Except as expressly set out otherwise in the Contract Documents or the context otherwise requires, the following will apply to the interpretation of the Contract:

- (a) where there is a reference in any Contract Document to:
 - (i) “Supplier”, it will be read as a reference to “the Contractor”; and
 - (ii) “Services”, it will be read as a reference to “the Work” as a whole or the applicable portion of the Work, as the context requires;
- (b) headings are for convenience and reference only and will not affect the interpretation of the Contract;
- (c) all dollar figures will mean Canadian dollars;
- (d) any notice or communication required or permitted to be given under the Contract will be in writing;
- (e) words importing the singular include the plural, and vice versa;
- (f) words importing gender include all genders;

- (g) where a reference is made to a “day”, “week”, “month” or “year”, the reference is to the calendar period;
- (h) where the date for any delivery or response falls on a Saturday, Sunday or statutory holiday observed in British Columbia, the date for such delivery or response will be extended to the next following day which is not a Saturday, Sunday or statutory holiday observed in British Columbia;
- (i) in the calculation of time, the first day will be excluded and the last day will be included;
- (j) the words in the Contract Documents will bear their natural or defined meaning;
- (k) the word “including” is deemed to be followed by “without limitation”;
- (l) any reference to a statute will include such statute and its corresponding regulations, together with all amendments made to such statute and regulations and in force from time to time, and any statute or regulation that may be passed which has the effect of amending, supplementing or superseding the statute referred to or such statute’s corresponding regulations; and
- (m) the parties confirm that they each have obtained independent legal advice, or elected not to obtain such advice, and accordingly agree that any rule of construction to the effect that any ambiguity is to be resolved against the drafting party will not be applicable in the interpretation of the Contract.

1.3 Priority of Contract Documents

If there is any inconsistency or conflict between provisions of the Contract Documents, then:

- (a) the order of priority between the Contract Documents, from highest to lowest with the Agreement having the highest priority, is as follows:
 - (i) the Agreement;
 - (ii) Appendix B – Supplementary General Conditions;
 - (iii) Appendix A – General Conditions (Construction);
 - (iv) Appendix D – Scope of Work;
 - (v) Appendix E – Schedule of Quantities and Prices;
 - (vi) Appendix F – Work Program and Schedule;
 - (vii) Appendix K – Drawings and Plans;
 - (viii) Appendix G – Specifications;
 - (ix) Appendix H – Safety;
 - (x) Appendix I – Environmental Obligations;
 - (xi) Appendix J – Quality Management;
 - (xii) Appendix L – Aboriginal Inclusion and Reporting Requirements;

- (xiii) Appendix C – BC Hydro’s Policies and Procedures;
 - (xiv) Appendix M – Dispute Resolution Procedure; and
 - (xv) Appendix N – Insurance Requirements;
- (b) drawings of a larger scale have priority over drawings of a smaller scale;
 - (c) figured dimensions on a drawing will govern over scaled measurements on the same drawing; and
 - (d) documents of a later date will always supersede a similar type of document of an earlier date.

GC.2 CONTRACTOR’S REPRESENTATIVE

2.1 Appointment of Contractor’s Representative

The Contractor will, upon executing the Agreement, designate in writing an individual (the “**Contractor’s Representative**”) to be the Contractor’s representative and single point of contact with respect to the Contract. The Contractor will give prompt written notice of such appointment to Hydro’s Representative. If, for any reason, the appointed Contractor’s Representative’s appointment is discontinued, then the Contractor will, as soon as practicable, appoint a replacement and give prompt written notice to Hydro’s Representative of such replacement. If, at any time, Hydro’s Representative, acting reasonably, objects to the Contractor’s Representative, then the Contractor will give consideration to replacing the Contractor’s Representative with a Person acceptable to Hydro’s Representative. The Contractor’s Representative may, at the Contractor’s election, be an employee of the Contractor, or be a consultant or other third party.

2.2 Authority of Contractor’s Representative

The Contractor’s Representative will have full authority to act on behalf of and bind the Contractor under the Contract and be the Contractor’s representative and agent to protect the Contractor’s interests under the Contract. The Contractor’s Representative may consult with other representatives of the Contractor before giving any response, direction or consent as may be required under the Contract.

2.3 Delegation of Contractor’s Representative’s Authority

The Contractor’s Representative may, by written notice to Hydro’s Representative with details of the nature and extent of the delegation, delegate to others some or all of the Contractor’s Representative’s authority under the Contract.

GC.3 HYDRO’S REPRESENTATIVE

3.1 Appointment of Hydro’s Representative

BC Hydro will appoint an individual (“**Hydro’s Representative**”) to be BC Hydro’s single point of contact with respect to the Contract. BC Hydro will give prompt written notice of such appointment to the Contractor. If, for any reason, the appointed Hydro’s Representative’s appointment is discontinued, then BC Hydro will, as soon as practicable, appoint a replacement and give prompt written notice to the Contractor of such replacement. If, at any time, the Contractor’s Representative, acting reasonably, objects to Hydro’s Representative, then BC Hydro will give consideration to replacing Hydro’s Representative with a Person acceptable to the Contractor’s Representative. Hydro’s Representative may, at BC Hydro’s election, be an employee of BC Hydro, or be a consultant or other third party.

3.2 Authority of Hydro's Representative

Hydro's Representative will have authority to act on behalf of BC Hydro only to the extent expressly set out in the Contract Documents, including as described in GC.3.4, but otherwise Hydro's Representative will not have the authority to execute or agree to any amendments to the Contract or to waive any of BC Hydro's rights under the Contract. Hydro's Representative's authority, as set out in the Contract Documents, will not relieve the Contractor of any of its duties, obligations or responsibilities under the Contract to perform the Work in accordance with the requirements of the Contract Documents, and Hydro's Representative will not be responsible for or have control of the performance of the Work. Hydro's Representative will not be responsible for or have control over the acts or omissions of the Contractor, Subcontractors, or their employees or other Persons engaged by or through them.

3.3 Delegation of Hydro's Representative's Authority

Hydro's Representative may, by written notice to the Contractor with details of the nature and extent of the delegation, delegate to others some or all of Hydro's Representative's authority under the Contract.

3.4 Role of Hydro's Representative

The role of Hydro's Representative will be to:

- (a) provide administration of the Contract as described in the Contract Documents;
- (b) provide the Contractor with additional instructions in the form of specifications, drawings, samples, models or other written instructions, to supplement the previously issued Contract Documents, as may be necessary for the performance of the Work;
- (c) without derogating from or negating any of Hydro's Representative's other obligations set out in the Contract, act as BC Hydro's representative and agent to protect BC Hydro's interests under the Contract;
- (d) make all commercially reasonable efforts to respond promptly to the Contractor's requests for additional instructions, and, if it becomes apparent that a number of additional instructions will be required, then cooperate with the Contractor to establish a schedule for the issuance of such additional instructions;
- (e) in accordance with the requirements of the Contract Documents, review and take appropriate action upon receiving Submittals, including:
 - (i) shop drawings, product data and samples; and
 - (ii) written guarantees, warranties and manuals to be provided by the Contractor;
- (f) except as expressly set out otherwise in the Contract Documents, when required, set out or cause to be set out survey monuments or control points at the Site, sufficient to enable the Contractor to determine the required lines and grades for the performance of the Work;
- (g) prepare, sign and issue Change Orders, Change Directives and Contemplated Changes in accordance with the requirements of GC.6;
- (h) review supporting documentation as required to determine the amounts owing to the Contractor under the Contract and perform the tasks relating to payment as required under GC.5;
- (i) perform inspections of the Work and the performance of the Work; and

- (j) undertake all other duties of Hydro's Representative as described in the Contract Documents.

3.5 Contract Interpretation

Hydro's Representative will be, in the first instance, the interpreter of the Contract Documents and the judge of the performance of BC Hydro and the Contractor. Hydro's Representative's interpretations and judgments will be consistent with the Contract Documents and, in making such interpretations and judgments, Hydro's Representative will not show partiality to either party. With respect to interpretation of the Contract Documents:

- (a) either party may, at any time, by written request, refer any question relating to the Contract, including questions regarding claims relating to the performance of the Work or questions regarding the interpretation of the Contract Documents, to Hydro's Representative for a written interpretation;
- (b) Hydro's Representative will, within ten days of a written request, or such other period of time (longer or shorter) as reasonably required in the circumstances, deliver a written interpretation to each of BC Hydro and the Contractor's Representative; and
- (c) if a party disputes an interpretation of Hydro's Representative, then the disputing party may deliver a Dispute Notice to have the matter dealt with as a Dispute pursuant to Appendix M – Dispute Resolution Procedure.

The Contractor will proceed with the performance of the Work without delay in accordance with any written direction, instruction or decision given by Hydro's Representative with respect to a requested interpretation, without prejudice to the Contractor's rights to dispute the interpretation or the written direction, instruction or decision, pursuant to GC.3.5(c).

GC.4 EXECUTION OF THE WORK

4.1 Control of Work

Except as expressly set out otherwise in the Contract Documents, including GC.4.22, the Contractor will:

- (a) have complete control of the Work and will effectively direct and supervise the Work so that it conforms to the Contract Documents; and
- (b) be solely responsible for construction means, methods, techniques, sequences and procedures and for coordinating the various parts of the Work.

4.2 Standard of Work

The Contractor will perform the Work in accordance with:

- (a) the Contract Documents;
- (b) Laws and Permits; and
- (c) Good Industry Practice.

If more than one standard, including building codes, other governmental requirements, work practices and procedures, and specifications, applies to the performance of the Work, then the strictest of such will apply.

4.3 Site Conditions

The Contractor is deemed to have examined the Site and the local conditions related to the Work and to be knowledgeable of the Site and of all such conditions as would be apparent to a qualified and experienced contractor upon review of the Contract Documents and inspection of the Site, including, as applicable, geotechnical and subsurface conditions, Site drainage, Site access, local weather, availability of labour, equipment and materials and any other relevant matters. Except as provided by the following paragraph, the Contractor will not be entitled to, nor will the Contractor make any claim for, an adjustment to the Contract Price or the time for the performance of the Work on the basis that the actual Site or actual local conditions related to the Work are different than anticipated by the Contractor.

To the extent the actual Site or actual local conditions related to the Work or both would not be apparent to a qualified and experienced contractor upon review of the Contract Documents and inspection of the Site as of the date the Contractor submitted its competitive tender or proposal for the Work to BC Hydro, the Contractor will be entitled to claim a Change pursuant to the provisions of GC.6.4, except that the Contractor's notice obligation under GC.6.4(a)(i) will be to give written notice of such claim to Hydro's Representative promptly upon the Contractor becoming aware of any impact on the Contract Price or the time for the performance of the Work, or, in any event, promptly after the date when the Contractor should reasonably have become aware of the impact on the Contract Price or the time for the performance of the Work.

4.4 Documents at Site

BC Hydro will provide the Contractor, without charge, one copy of the Contract Documents. The Contractor will, at all times, keep and maintain one copy of a complete set of the current Contract Documents and all Issued for Construction drawings, record drawings, accepted shop drawings, revised or supplementary drawings or specifications and other design details, that have been issued by Hydro's Representative, the Contractor or any Subcontractor, at the Site and at all other locations other than the Site where the Work or its components are being fabricated or manufactured, in good order and available for review by Hydro's Representative.

4.5 Monuments and Controls

The Contractor will protect and preserve all survey monuments and control points, if any, installed by or on behalf of BC Hydro at the Site and will, at the Contractor's sole cost and expense, replace or re-establish any such monument or control point as may be destroyed or disturbed by the Contractor or any Subcontractor.

4.6 Permits

BC Hydro will obtain all Project Related Permits, if any. The Contractor will, as part of the Work, provide all assistance reasonably requested by BC Hydro to obtain all Project Related Permits. The Contractor will, as part of the Work, obtain all Permits required for the performance of the Work, except for Project Related Permits.

4.7 Work by Other Contractors or BC Hydro

BC Hydro reserves the right to engage other contractors (each, an "**Other Contractor**") and to use BC Hydro's own forces to perform work at the Site during the time for the performance of the Work. With respect to any work performed, or to be performed, at the Site by Other Contractors or BC Hydro's own forces:

- (a) the Contractor will coordinate the performance of the Work with the work of all Other Contractors and BC Hydro's own forces, and perform the Work to connect to such other work as specified or shown in the Contract Documents. If such coordination and connection directly causes the

Contractor to incur costs or delays or both that could not have been reasonably anticipated by the Contractor as of the Effective Date, then the Contractor will be entitled to claim a Change pursuant to the provisions of GC.6.4, except that the Contractor's notice obligation under GC.6.4(a)(i) will be to give written notice of such claim to Hydro's Representative promptly upon the Contractor becoming aware of such circumstances, or, in any event, promptly after the date when the Contractor should reasonably have become aware of such circumstances; and

- (b) if the Contractor discovers any deficiencies in the work of an Other Contractor or BC Hydro's own forces that may affect the Work, then the Contractor will immediately, and before proceeding with the affected Work, report such deficiencies to Hydro's Representative and then confirm such report in writing if the initial report was not in writing.

4.8 Removal, Disposal and Replacement of BC Hydro's Existing Facilities and Property

Except as may be expressly provided otherwise in the Contract Documents, the Contractor will, as part of the performance of the Work, remove, dispose of and replace any existing BC Hydro facilities and property necessary for the Contractor to perform the Work in accordance with the Contract Documents and to fulfill the Contractor's obligations under the Contract, including with respect to the Contractor's obligations under GC.19.2(d).

4.9 Temporary Structures

The Contractor will have the sole responsibility for the design, erection, operation, use, maintenance and removal of temporary supports, structures, facilities, services and other temporary items required by the Contractor for the performance of the Work. The Contractor will, as part of the Work, engage and pay for registered Professional Engineers skilled and knowledgeable in the appropriate disciplines to provide professional engineering services with respect to such temporary supports, structures, facilities, services and other temporary items where required by Law or by the Contract Documents and, in any event, in all cases where such temporary supports, structures, facilities, services and other temporary items are of such a nature, including with respect to their method of construction, that safety or Good Industry Practice requires the skill and knowledge of a qualified Professional Engineer.

4.10 Errors in Contract Documents

The Contractor will review the Contract Documents and promptly report to Hydro's Representative any discovered error, inconsistency or omission. If the Contractor discovers any error, inconsistency or omission in the Contract Documents, then the Contractor will not proceed with the Work affected by such error, inconsistency or omission without first receiving directions or clarifications from Hydro's Representative. If the Contractor proceeds with such affected Work after becoming aware of an error, inconsistency or omission, or, in any event, after the time when a qualified and experienced contractor should reasonably have become aware of the error, inconsistency or omission, without first receiving directions or clarifications from Hydro's Representative, then the Contractor will, at the Contractor's sole cost and expense, remove, replace or make good any Work which fails to meet the requirements of the Contract Documents. Subject to the above provisions of this GC.4.10, in conducting such review, the Contractor will not be responsible or liable to BC Hydro to discover all errors, inconsistencies or omissions.

4.11 Quality

The Contractor will perform all Work in compliance with Appendix J – Quality Management.

4.12 Work Program and Schedule

The Contractor will:

- (a) within seven days of the Effective Date, or by such later date as Hydro's Representative may agree to in writing, prepare and submit to Hydro's Representative a revised and expanded work schedule (the "**Work Program and Schedule**"), satisfactory to Hydro's Representative, acting reasonably, that is based on the attached Appendix F – Work Program and Schedule and complies with the milestone dates, if any, as set out in the Contract Documents, and that includes:
 - (i) the planned order and duration of the major activities of the Work, including all critical path activities; and
 - (ii) resource (manpower (staffing requirements) and equipment) loading that will be utilized by the Contractor for the performance of the Work.
- (b) prepare the Work Program and Schedule:
 - (i) so that it at a minimum includes:
 - (A) key milestone events, including key dates for decisions;
 - (B) critical path(s) for the following:
 - (I) the Work as a whole;
 - (II) each of the major elements of the Work so as to comply with GC.4.12(b); and
 - (III) longest path for the Total Completion of the Work;
 - (C) the level of detail, grouping and arranging of Work activities as called for in Appendix F-1 – Operations List;
 - (D) the key BC Hydro review points, including the inspections and holdpoints required under the Contract Documents and the acceptance points in the BC Ministry of Transportation and Infrastructure's 2012 Standard Specifications for Highway Construction and the Special Provision Amendments to the 2012 Standard Specifications for Highway Construction, and BC Ministry of Transportation and Infrastructure's 2013 Design Build Standard Specifications for Highway Construction;
 - (E) all submissions, drawings or other information that the Contractor is required under the Contract Documents to submit to BC Hydro;
 - (F) the procurement, delivery, construction, installation, training and commissioning schedules for all material components of the Work that will be performed by Subcontractors;
 - (G) the resource (labour and equipment) requirement for installation and commissioning at the Site including all Subcontractors;

- (H) a resource histogram for the total performance of the Work at the Site, showing weekly and monthly requirements;
 - (I) anticipated Contractor cash flow throughout the performance of the Work. The cash flow schedule shall structure consistent with the payment items listed in Appendix E – Schedule of Quantities and Prices; and
 - (J) contain sufficient detail to permit Hydro's Representative to be able to understand and monitor the progress of the Work;
- (ii) in Primavera P6 software and provide sufficient detail to enable Hydro's Representative to monitor the progress of all elements and aspects of the Work, including:
 - (A) all design activities related to the Work;
 - (B) all supply and manufacture activities related to the Work, wherever such supply or manufacture will occur such as at the Contractor's own facilities or a Subcontractor's facilities;
 - (C) all installation activities at the Site; and
 - (D) all commissioning activities, at the Site or other location;
 - (iii) in accordance with Good Industry Practice for a large complex project similar to the Project; and
 - (iv) so that it does not include:
 - (A) loose-end activities;
 - (B) activities with negative float; and
 - (C) unjustified constraints;
- (c) update the Work Program and Schedule to the satisfaction of Hydro's Representative, acting reasonably, on no less than a monthly basis so as to incorporate any time adjustments as permitted under the Contract Documents;
 - (d) within 7 days of commencing any Work at the Site, and thereafter every calendar week until the Total Completion of the Work, deliver to Hydro's Representative a short term look-ahead schedule describing the planned Work that the Contractor will perform in next-occurring three calendar week period; and
 - (e) perform the Work in compliance with the then current Work Program and Schedule, as may be updated under GC.4.12(b)(ii). If, for any reason, the performance of the Work falls behind the schedule for the Work set out in the then current Work Program and Schedule, then:
 - (i) if, in accordance with the Contract Documents, the delay entitles the Contractor to an extension of the time for the performance of the Work, then the Contractor will, as part of the Work, include such extension in the next update to the Work Program and Schedule as provided under GC.4.12(b)(ii); or
 - (ii) if, in accordance with the Contract Documents, the delay does not entitle the Contractor to an extension of the time for the performance of the Work, then the Contractor will, as

part of the Work, take all such steps as are required to bring the Work back into conformity with the then current Work Program and Schedule.

Failure to comply with the requirements of this GC.4.12 will be deemed to be a default under the Contract to which the provisions of GC.9.1 will apply.

4.13 Supervision

The Contractor will provide all necessary supervision on the Site and appoint a competent representative(s) who will be in attendance on the Site while Work is being performed. Such representative(s) may be the same as the Contractor's Representative.

4.14 Subcontractors

The following will apply with respect to all subcontractors, sub-consultants, suppliers, manufacturers and vendors (each, a "**Subcontractor**" and the term "Subcontractor" will be deemed to include all further subcontractors, sub-consultants, suppliers, manufacturers and vendors engaged below a Subcontractor) engaged to perform a portion of the Work:

- (a) the Contractor will not, in the aggregate, subcontract more than 75% of the Work (such that no more than 75% of the Contract Price will be in payment for Work performed by Subcontractor(s)) without the prior written consent of Hydro's Representative, which consent may be arbitrarily withheld;
- (b) unless the Contract Documents identify a specific Subcontractor, the Contractor will not directly or indirectly engage or permit the engagement of a Subcontractor to perform a material portion of the Work without the prior written consent of Hydro's Representative, which consent may be arbitrarily withheld;
- (c) if and to the extent the Contract Documents identify a specific Subcontractor, then the Contractor will not change any such specified Subcontractor without the prior written consent of Hydro's Representative, which consent may be arbitrarily withheld;
- (d) notwithstanding any approval or consent given by Hydro's Representative to the engagement of a Subcontractor, if any event occurs or circumstance arises in relation to a Subcontractor that would, if it occurred or arose with respect to the Contractor, entitle BC Hydro to terminate the rights of the Contractor pursuant to the Contract, then Hydro's Representative may, by written notice to the Contractor's Representative, require the Contractor to discharge or cause to be discharged the Subcontractor and to cancel and terminate or cause to be cancelled and terminated the applicable agreement with the Subcontractor, all without liability to BC Hydro;
- (e) notwithstanding any other provision in the Contract, and in addition to BC Hydro's rights described in GC.4.14(d), Hydro's Representative may, by written notice to the Contractor's Representative, object to any Subcontractor engaged to perform a portion of the Work for any reason. Upon receipt of any such notice, the Contractor will immediately cause such Subcontractor to be removed from the Site, if applicable, and the Project and promptly replaced by a Subcontractor with suitable qualifications and experience. If Hydro's Representative exercises its authority under this GC.4.14(e), the Contractor will be entitled to claim a Change pursuant to the provisions of GC.6.4, except that the Contractor's notice obligation under GC.6.4(a)(i) will be to give written notice of such claim to Hydro's Representative promptly upon the Contractor becoming aware of the identity of the replacement Subcontractor. Notwithstanding any other provision in this GC.4.14(e), the Contractor will retain all authority and control over its Subcontractors;

- (f) the Contractor will:
- (i) require all first tier Subcontractors to perform their work in accordance with the Contract Documents;
 - (ii) incorporate the terms and conditions of the Contract Documents into all agreements with first tier Subcontractors, including GC.4.14(d);
 - (iii) make commercially reasonable efforts to have the terms and conditions of the Contract Documents incorporated into all agreements with Subcontractors below the first tier to the extent the terms and conditions of the Contract Documents are applicable to the Work being undertaken by such Subcontractors; and
 - (iv) the Contractor will be fully responsible for the acts, omissions, errors and defaults of a Subcontractor, its employees or other Persons engaged by or through that Subcontractor as if such acts, omissions, errors and defaults were those of the Contractor, and neither the engagement of a Subcontractor by the Contractor nor the approval or consent by Hydro's Representative of or to a Subcontractor will in any way reduce or amend or otherwise alter the Contractor's responsibility for the performance of the Work as set out in the Contract Documents; and
- (g) nothing in the Contract will be construed as creating any contractual relationship between BC Hydro and any Subcontractor or any other Persons engaged by or through a Subcontractor.

4.15 Key Personnel

If Key Personnel are expressly identified in the Contract Documents, then:

- (a) the Contractor will provide the Key Personnel;
- (b) the Contractor will ensure that the Key Personnel will be available to provide the commitment specified in respect of the Key Personnel and will give the performance of the Work sufficient priority over other work, tasks and assignments that they may otherwise have assigned to them in order to ensure performance of the Work in compliance with the Contract;
- (c) none of the Key Personnel will be changed without Hydro's Representative's prior written consent, not to be unreasonably withheld but which consent may be subject to the Contractor satisfying Hydro's Representative, acting reasonably, that the proposed replacement personnel have comparable or superior qualifications and experience to the personnel whom they are proposed to replace;
- (d) if any of the Key Personnel are unable to perform their role due to illness, death or their own voluntary termination of employment or engagement (not induced or requested by their employer or client), the Contractor will immediately replace such personnel with other personnel who have comparable or superior qualifications and experience and who are acceptable to Hydro's Representative, acting reasonably; and
- (e) any changes to Key Personnel made pursuant to GC.4.15 will be at no extra cost or expense to BC Hydro.

4.16 Not Used.

4.17 Not Used.

4.18 Aboriginal Inclusion and Reporting Requirements

The Contractor will perform the Work in accordance and in compliance with Appendix L – Aboriginal Inclusion and Reporting Requirements.

Failure to comply with the requirements of this GC.4.18 will be deemed to be a default under the Contract to which the provisions of GC.9.1 will apply.

4.19 BC Hydro Property

If BC Hydro provides any BC Hydro Property to the Contractor, then:

- (a) Hydro's Representative will, within seven days of providing such BC Hydro Property to the Contractor, provide the Contractor with a schedule of values showing the replacement value of such BC Hydro Property;
- (b) the Contractor will have care, custody and control of all such BC Hydro Property, but BC Hydro will retain ownership of all BC Hydro Property;
- (c) the Contractor will, at all times, maintain, and make available to Hydro's Representative upon request, a current inventory of all such BC Hydro Property and a description and the location of all such BC Hydro Property, in sufficient detail to permit Hydro's Representative to readily identify and verify the location and condition of all such BC Hydro Property;
- (d) the Contractor will use such BC Hydro Property only for the performance of the Work, and only for the purposes expressly set out in the Contract Documents or for the purposes such BC Hydro Property is typically used; and
- (e) each time BC Hydro provides any BC Hydro Property to the Contractor, the Contractor will promptly update the Broad Form Builders Risk Insurance policy obtained and maintained under Section 1.1(c) of Appendix N – Insurance Requirements to the replacement value of all the BC Hydro Property as provided by Hydro's Representative, and submit a revised certificate of insurance for such policy to Hydro's Representative.

4.20 Tests and Inspections

Hydro's Representative and Hydro's Representative's delegates will have access to the Work at all times, including Work being performed at a location other than the Site, for the purpose of testing and inspecting the Work so as to remain familiar with the progress and quality of all aspects of the Work, and to be able to determine that the Work is proceeding in conformance with the requirements of the Contract Documents. With respect to all such tests and inspections:

- (a) the Contractor will incorporate or cause to be incorporated all such testing and inspection rights in all applicable agreements with Subcontractors, and will take all necessary steps to facilitate such testing and inspection, including maintaining easy access to the Site;
- (b) Hydro's Representative will conduct, in a timely manner, any testing or inspections of the Work, equipment and materials that the Contract Documents require Hydro's Representative to conduct;
- (c) if testing or inspections of the Work, equipment or materials are required by the Contract Documents to be conducted by Hydro's Representative or are required by Law to be conducted by a Governmental Authority, the Contractor will, in accordance with the then current Work Program and Schedule but, in any event, with no less than 14 days' notice, notify Hydro's Representative and the applicable Governmental Authority in writing of the date on and the place at which any such testing or inspections can be conducted;

- (d) Hydro's Representative will be entitled to observe all quality tests and inspections, results and data pertaining to the Work, including factory or other tests performed at a location other than the Site, and the Contractor will give written notice to Hydro's Representative of such tests and inspections, results and data in accordance with GC.4.20(b);
- (e) the Contractor will submit to Hydro's Representative copies of all certificates, inspection reports, test reports and quality documentation (all in a format agreed by Hydro's Representative in writing) relating to the Work, promptly after receiving or preparing such certificates, reports and quality documentation;
- (f) Hydro's Representative has the authority to reject any Work that does not conform to the requirements of the Contract Documents, and the Contractor will, at its sole cost and expense, correct such non-compliant Work, subject to the Contractor's rights to dispute under Appendix M – Dispute Resolution Procedure;
- (g) Hydro's Representative has the authority to stop Work where such Work is not being performed in accordance with the Contract Documents, or where there is a threat, whether or not imminent, to the safety of anyone or anything at the affected area or to the environment;
- (h) Hydro's Representative's authority to order testing, inspect, reject, or otherwise review the Work will be for the benefit of BC Hydro, and such authority will not give rise to any duty or responsibility on Hydro's Representative or BC Hydro to the Contractor, Subcontractors, or their agents, employees or other Persons performing any of the Work, to order testing, inspect, reject, or otherwise review the Work;
- (i) the Contractor will pay for the cost of making any test or inspection, including the cost of samples, if the test or inspection is designated in the Contract Documents to be performed by the Contractor or is required by Law; and
- (j) if the Contractor covers or permits to be covered Work that has been designated in the Contract Documents or by Law for tests, inspections or approvals, before such tests, inspections or approvals are made, given or completed, then Hydro's Representative may direct the Contractor to uncover such Work, as required, so that such tests, inspections or approvals may be completed or given to the satisfaction of Hydro's Representative, acting reasonably. The Contractor will uncover and make good such Work and any other removed or damaged property at the Contractor's sole cost and expense.

The Contractor will perform or cause to be performed all tests and inspections as are called for or required under the Contract Documents, including any tests and inspections required by Law, for the performance of the Work. The tests and inspections required by the Contract Documents or by Law are for BC Hydro's benefit and acceptable test and inspection results will not relieve the Contractor of any of its duties, obligations or responsibilities under the Contract to perform the Work and to correct defects or deficiencies in the Work, all in accordance with the requirements of the Contract Documents.

4.21 Submittals

If the Contractor is required under the Contract Documents to submit drawings or other documents (each, a "**Submittal**") to Hydro's Representative, then:

- (a) the Contractor will prepare and submit a schedule (the "**Submittal Schedule**") satisfactory to Hydro's Representative, acting reasonably, setting out and describing:
 - (i) all submissions, drawings or other information that the Contractor is required under the Contract Documents to submit to BC Hydro, including:

- (A) the subject matter and scope of information to be addressed in each Submittal;
 - (B) the background information, including information that may be proprietary to the Contractor or a Subcontractor, required in order for Hydro's Representative to understand and review the Submittal; and
 - (C) the form of each Submittal (such as a drawing or specification); and
- (ii) the order and scheduling requirements of each Submittal in relation to the then current Work Program and Schedule, including reasonable times for review and comment on a Submittal by Hydro's Representative, such review times to be no less than 14 days after Hydro's Representative receives a Submittal, or shorter time as agreed by Hydro's Representative in writing;
- (b) either party's Representative may from time to time recommend to the other party's Representative that adjustments are required to update the Submittal Schedule so that it is consistent with the then current Work Program and Schedule, and the Representatives will cooperate to reach agreement on such adjustments. Upon such agreement, the Contractor will provide an updated Submittal Schedule;
 - (c) Hydro's Representative will review a Submittal within the times described in the Submittal Schedule, or such other period of time (longer or shorter) as reasonably required in the circumstances, and return the Submittal to the Contractor stamped with one of the following four endorsements:
 - (i) "Accepted", which will be deemed to mean that Hydro's Representative did not observe any aspect or element of the Submittal that did not comply with the Contract Documents;
 - (ii) "Proceed Except As Noted and Re-Submit", which will be deemed to mean that, subject to the amendments or corrections as noted in writing by Hydro's Representative, Hydro's Representative did not observe any aspect or element of the Submittal that did not comply with the Contract Documents;
 - (iii) "Do Not Proceed - Re-Submit as Noted" which will mean that, except for the noted portions of the Submittal, Hydro's Representative is of the opinion that the Submittal does not comply with the Contract Documents; or
 - (iv) "Rejected", together with the BC Hydro's comments, which will be deemed to mean that Hydro's Representative is of the opinion that the Submittal does not comply with the Contract Documents.

If a Submittal is noted as "Proceed Except As Noted and Re-Submit" or "Do Not Proceed - Re-Submit as Noted" or "Rejected", then Hydro's Representative will provide written justification for such endorsement;
 - (d) if a Submittal is returned to the Contractor with the endorsement "Proceed Except As Noted and Re-Submit" or "Do Not Proceed - Re-Submit as Noted" or "Rejected", then, subject to the Contractor's rights under Appendix M – Dispute Resolution Procedure, the Contractor will promptly revise such Submittal, taking into account the comments provided by Hydro's Representative, and resubmit the revised Submittal to Hydro's Representative for further review;
 - (e) any revised Submittal submitted to Hydro's Representative pursuant to GC.4.21(d) will be reviewed by Hydro's Representative in accordance with GC.4.21 within a further period of time equal to the original time Hydro's Representative had for review and comment of the initial Submittal;

- (f) if Hydro's Representative, for any reason, fails to return a Submittal to the Contractor within the times described in GC.4.21(c) and GC.4.21(e), as applicable, then such Submittal will be deemed to have been given the endorsement "Accepted";
- (g) Hydro's Representative may require a Submittal be stamped by a qualified Professional Engineer with appropriate skill, qualification and knowledge indicating that the Submittal has been prepared in compliance with Laws, Permits, applicable design standards and Good Industry Practice;
- (h) except as expressly set out otherwise in the Contract Documents, Hydro's Representative's authority to review a Submittal will be for the benefit of BC Hydro, and such authority will not give rise to any duty or responsibility on Hydro's Representative or BC Hydro to the Contractor, Subcontractors, or their agents, employees or other Persons performing any of the Work, to review the Work, and no such review, or authority to perform such review, will relieve the Contractor of any of its duties, obligations or responsibilities under the Contract to perform the Work and to correct any defects or deficiencies in the Work, all in accordance with the requirements of the Contract Documents; and
- (i) the Contractor will not proceed with the performance of any Work for which a Submittal was made unless and until the Submittal is returned to the Contractor with the endorsement "Accepted" or the Submittal is deemed to have been given the endorsement "Accepted". If the Contractor proceeds with such Work prior to receiving the "Accepted" endorsement and such Work is covered, then Hydro's Representative may direct the Contractor to uncover and make good such Work at the Contractor's sole cost and expense and the provisions of GC.4.20(j) will apply.

4.22 Issued for Construction Drawings

Without limiting the Contractor's obligations under GC.4.21 to permit BC Hydro the opportunity to review all Submittals, the Contractor will perform Work which will form part of the permanent construction in accordance with drawings which have been stamped "Issued for Construction" by the party (the Contractor, or BC Hydro, or third party) that is primarily responsible for such construction and for which the relevant Submittal(s) have been returned to the Contractor with the endorsement "Accepted" or the Submittal(s) are deemed to have been given the endorsement "Accepted" under GC.4.21(f).

The Contractor will not proceed with any such Work for which the Contractor has not received Issued for Construction drawings. If the Contractor proceeds with such Work prior to receiving Issued for Construction drawings and such construction and related Work is covered, then Hydro's Representative may direct the Contractor to uncover and make good such construction and related Work at the Contractor's sole cost and expense and the provisions of GC.4.20(j) will apply.

4.23 Record Drawings

During the course of the Work, the Contractor will prepare a complete set of "record" drawings of the execution of the Work showing the actual as-built locations, sizes and details of the Work as performed. These record drawings will not be mark-ups of the Issued for Construction drawings or other construction documents, but will be complete revisions of such drawings or documents. Except as expressly set out otherwise in the Contract Documents, the Contractor will update such record drawings, with complete revisions and no mark-ups, no less than monthly, except that, in any event, the Contractor will be responsible to accurately and completely record all as-built details of the Work performed by the Contractor. The Contractor will keep an up-to-date copy of the record drawings at the Site and available for review upon the request of Hydro's Representative during the performance of the Work. As part of the Work, the Contractor will deliver to Hydro's Representative two copies of a complete set of record drawings current as of the date of Substantial Completion. Failure to provide such record drawings with the application for Substantial Completion will be deemed a deficiency.

4.24 Tidy Site

The Contractor will maintain the Work in a tidy condition, free from the accumulation of waste products and debris generated by the performance of the Work.

4.25 Potable Water and Wastewater

The Contractor will not, directly or indirectly, use potable water or wastewater services that are provided by a local municipal or regional government except as follows:

- (a) prior to the development of potable water and wastewater systems at the Site;
- (b) potable water or wastewater services during times of peak demand on the Site systems for a period of no more than four months; or
- (c) with the prior approval of the local municipal or regional government.

The Contractor will notify BC Hydro in writing if the Contractor uses a local municipal or regional government's potable water or wastewater services or both or enters into an agreement with a local municipal or regional government for such services.

4.26 Electronic Data Site

If:

- (a) BC Hydro establishes an electronic data site to contain information relating to the Work; and
- (b) BC Hydro gives notice to the Contractor of such electronic data site and provides the Contractor with access to such electronic data site,

then the Contractor will be deemed to have received all such electronic information when posted, and, as part of the Work, during the performance of the Work, the Contractor will monitor the electronic data site.

GC.5 CONTRACT PRICE AND PAYMENT

5.1 Breakdown of Contract Price

The Contractor will submit to Hydro's Representative, at least 14 days before the first application for payment, a schedule of values of the various parts of the Work based on the attached Appendix E – Schedule of Quantities and Prices, aggregating the total amount of the Contract Price and reasonably dividing it so as to facilitate evaluation of applications for payment during the performance of the Work. The schedule of values will be prepared in such form and supported by such evidence as to its correctness as Hydro's Representative may reasonably direct, and, when approved by Hydro's Representative, will be used as the basis for all applications from the Contractor for payment.

5.2 Direct Deposit Application Form

The Contractor will submit to Hydro's Representative, concurrently with the delivery of the Agreement, a completed Direct Deposit Application Form in the form provided by Hydro's Representative (the "**Deposit Application**"). The following will apply to the information contained on the Deposit Application:

- (a) BC Hydro will be entitled to rely on such information without further enquiry or investigation;

- (b) BC Hydro reserves the right (but not the obligation), in its sole discretion, to require the Contractor's Representative to provide evidence as to the accuracy of such information; and
- (c) the Contractor will, at no cost to BC Hydro, promptly provide such evidence to Hydro's Representative.

If, at any time, the Contractor requires to change any information contained on its completed Deposit Application, the Contractor's Representative must submit to Hydro's Representative a revised Deposit Application.

5.3 Application for Payment

The Contractor will make application for payment as follows:

- (a) upon achieving a payment milestone if the Contract Documents define a milestone payment regime, or otherwise within ten days before the end of a month, the Contractor's Representative will submit to Hydro's Representative a payment estimate (the "**Progress Payment Estimate**") in the form provided by Hydro's Representative with:
 - (i) all supporting documents as expressly required by the Contract Documents;
 - (ii) a copy of the updated Work Program and Schedule prepared in accordance with GC.4.12(b)(ii);
 - (iii) a copy of the Aboriginal Inclusion Performance Report as required by Appendix L – Aboriginal Inclusion and Reporting Requirements; and
 - (iv) other documents required by Hydro's Representative, acting reasonably;
- (b) within seven days after receipt of such material, Hydro's Representative will, in consultation with the Contractor's Representative, review the Progress Payment Estimate and either:
 - (i) if Hydro's Representative agrees with the amount claimed by the Contractor on a Progress Payment Estimate, then Hydro's Representative will return the Progress Payment Estimate to the Contractor's Representative with a written notice confirming such agreement; or
 - (ii) if Hydro's Representative disagrees with any amount claimed by the Contractor on a Progress Payment Estimate, then Hydro's Representative will return the Progress Payment Estimate to the Contractor's Representative with a written notice setting out:
 - (A) the amount, if any, Hydro's Representative agrees is payable; and
 - (B) the reasons for the disagreement and, if available, the amount disputed; and
- (c) within ten days after receipt of the Progress Payment Estimate under GC.5.3(b)(i) or GC.5.3(b)(ii), as the case may be, the Contractor's Representative will submit to BC Hydro an original invoice in the amount that Hydro's Representative has indicated under GC.5.3(b) is payable dated the date the Progress Payment Estimate was returned by Hydro's Representative under GC.5.3(b), with a copy of the invoice to Hydro's Representative. The original invoice will be submitted as follows:
 - (i) if the Contractor is set up to do so, to BC Hydro's third party invoice processing provider. The Contractor will, at BC Hydro's request and at no cost to BC Hydro, implement the

necessary invoice processing system to transact all orders and invoicing with respect to the Contract; or

- (ii) otherwise, by email to BCH-InvoicesforPayment@absu.accenture.com, or by hard copy to BC Hydro Accounts Payable, 6911 Southpoint Drive, Burnaby, BC V3N 4X8, both in accordance with any additional invoicing instructions provided by Hydro's Representative.

5.4 Materials on Site

Unless otherwise specifically agreed in writing by Hydro's Representative, the Contractor will not be entitled to apply for payment for material delivered to the Site but not yet incorporated into the Work.

5.5 Application for Payment Not a Waiver

The Contractor's application for payment under GC.5.3 will be without prejudice to the Contractor's rights to dispute under Appendix M – Dispute Resolution Procedure.

5.6 Payment

Payment will be made to the Contractor as follows:

- (a) BC Hydro will pay the Contractor the amount of each invoice prepared and submitted in accordance with GC.5.3(c), less any holdbacks, 30 days after receipt of the invoice; and
- (b) all amounts due and owing as determined in accordance with GC.5.6(a) will be paid:
 - (i) if the Contract Price is in Canadian dollars and the Contractor has designated an account at a Canadian financial institution in its then current Deposit Application, by direct deposit using an Electronic Funds Transfer to that account; or
 - (ii) in any other case, either by wire transfer to the account the Contractor has designated in its then current Deposit Application or by cheque or bank draft, in BC Hydro's sole discretion.

Any fees charged by the receiving or any intermediary institution(s) related to accepting or processing an Electronic Funds Transfer or a wire transfer will be the responsibility of the Contractor.

5.7 Payment Not a Waiver

No payment made to the Contractor by BC Hydro will at any time constitute approval or acceptance of any Work under the Contract, nor be considered a waiver by BC Hydro of any of the terms of the Contract, nor relieve the Contractor of any of its duties, obligations or responsibilities under the Contract to perform the Work in accordance with the requirements of the Contract Documents.

5.8 Performance Security Holdback

BC Hydro will retain 5% of the amount of any payment due to the Contractor (the "**Performance Security Holdback**") as security for the performance of the Work in accordance with the Contract Documents. BC Hydro may, from time to time, draw upon (in whole or in part) the Performance Security Holdback to pay for the correction of any defaults pursuant to GC.9.1(g) and GC.9.1(h).

5.9 Performance Security Holdback Release

Subject to BC Hydro's right to retain any amounts due to the Contractor, BC Hydro will pay to the Contractor the amount remaining, if any, of the Performance Security Holdback upon Substantial Completion.

5.10 Right of Set-off

BC Hydro may set-off, as against any amounts due to the Contractor, any amount owing from the Contractor to BC Hydro, including liquidated damages and other amounts as payable under the Contract Documents.

5.11 Application for Substantial Completion

When the Contractor judges that the Work is sufficiently complete, the Contractor may apply to Hydro's Representative for a certificate of Substantial Completion. The application will be in writing and will include the following:

- (a) a comprehensive list of all items of Work to be completed or corrected, including an estimated cost to complete or correct each item, and a schedule for completion and correction of all such items through to Total Completion, prepared in consultation with Hydro's Representative;
- (b) all manufacturer's inspections, certifications, guarantees and warranties specified in the Contract Documents or otherwise applicable to the Work;
- (c) evidence that all required Permits, except for Project Related Permits, and approvals from testing or inspection agencies, if any, have been obtained;
- (d) evidence from the Workers' Compensation Board of British Columbia that the Contractor is in good standing; and
- (e) a statement as to the status of amounts owing to first tier Subcontractors and as to any unresolved claims made by Subcontractors against the Contractor or another Subcontractor.

5.12 Substantial Completion

"Substantial Completion" means the stage in the progress of the Work, as certified by Hydro's Representative in accordance with this GC.5.12, when:

- (a) the Work is capable of completion or correction at a cost of not more than:
 - (i) 5% of the first \$1,000,000 of the Contract Price; and
 - (ii) 2% of the balance of the Contract Price;
- (b) any other conditions specified in the Contract Documents to be satisfied on or before Substantial Completion, including the submission of all information and documents required by GC.5.11, have been satisfied, or waived by BC Hydro; and
- (c) Hydro's Representative has issued the certificate of Substantial Completion.

Hydro's Representative will, no later than 14 days after the receipt of an application under GC.5.11, inspect the Work to verify the validity and accuracy of the application. Hydro's Representative will, no later than a further seven days after the inspection, notify the Contractor in writing of approval, or the reasons

for refusal, of the application. If the application is refused, then the Contractor will continue with the performance of the Work and address the reasons for refusal and may re-apply for a certificate of Substantial Completion pursuant to GC.5.11. The provisions of this GC.5.12 will apply to any such subsequent application.

When Hydro's Representative, acting reasonably, determines that the requirements for Substantial Completion have been achieved (other than the issuance of the certificate of Substantial Completion), Hydro's Representative will issue a certificate of Substantial Completion that includes the date of Substantial Completion. Concurrently with the issuance of such certificate, Hydro's Representative will prepare a written list of items of the Work to be completed or corrected that were apparent to Hydro's Representative in the inspection of the Work. The issuance of such list will not relieve the Contractor of any of its duties, obligations or responsibilities under the Contract to perform the Work, complete the performance of the Work and correct all defects and deficiencies in the Work, all in accordance with the requirements of the Contract Documents.

5.13 Deficiencies Holdback

BC Hydro may retain, out of the amount due and owing to the Contractor upon Substantial Completion, an amount equal to two times the value of the estimated cost to complete or correct the items set out in the list provided pursuant to GC.5.11(a). If the total amount due and owing to the Contractor upon Substantial Completion is less than two times the value of the estimated cost to complete or correct the items set out in the list provided pursuant to GC.5.11(a), then such difference will be immediately due and owing by the Contractor to BC Hydro upon receipt of an invoice from BC Hydro for such difference.

5.14 Application for Total Completion

When the Contractor judges that all deficiencies in the Work have been corrected and that the Work is fully complete, the Contractor may apply to Hydro's Representative for a certificate of Total Completion. The application will be in writing and will include the following:

- (a) evidence that all deficiencies have been corrected and approved by Hydro's Representative;
- (b) evidence from the Workers' Compensation Board of British Columbia that the Contractor is in good standing; and
- (c) a statement as to the status of amounts owing to first tier Subcontractors and as to any unresolved claims made by Subcontractors against the Contractor or another Subcontractor.

5.15 Total Completion

Hydro's Representative will, as soon as practicable after receipt of an application under GC.5.14, inspect the Work to verify the validity of the application and, when all Work is complete in accordance with the requirements of the Contract Documents ("**Total Completion**"), issue the certificate of Total Completion.

5.16 Limitation of Certificates

Neither Hydro's Representative nor BC Hydro, by issuing any certificate, including a certificate of Substantial Completion or Total Completion, guarantees, or otherwise becomes liable or responsible in any way for, the completeness or correctness of the Work, and no certificate will make Hydro's Representative or BC Hydro in any way responsible or liable for the performance of the Work.

5.17 Waiver of Claims

As of the dates of the Contractor's application for Substantial Completion and Total Completion, the Contractor expressly waives and releases the Indemnified Parties from any and all Claims which, as of

the date of the applicable application, the Contractor has or reasonably ought to have known the Contractor has against the Indemnified Parties, or any one of them, with respect to the Work or with respect to the Contract, including those arising from the negligence of or breach of the Contract by an Indemnified Party, or any other representative of BC Hydro, except for Claims set out in writing and delivered to Hydro's Representative prior to the delivery by the Contractor of the applicable application and still unsettled.

5.18 Provisional Sums

If BC Hydro has included a provisional sum on Appendix E – Schedule of Quantities and Prices, then BC Hydro will pay any such sum or portion of such sum pursuant to a Change Order agreed by BC Hydro and the Contractor under GC.6.1

GC.6 CHANGES

6.1 Changes

BC Hydro may, without invalidating the Contract, make changes to the Work by altering, adding to, or deducting from the Work (a **"Change"**), with adjustments, if any, to the Contract Price or the time for the performance of the Work or both as set out in GC.6. When the adjustments, if any, to the Contract Price or the time for the performance of the Work or both are agreed by BC Hydro and the Contractor, Hydro's Representative will issue a written approval (a **"Change Order"**) setting out:

- (a) a description of the Work covered by the Change;
- (b) the price or method of valuation for such Work;
- (c) the total adjustment, if any, to the Contract Price (excluding only GST) on account of the Change and, for certainty, will be deemed to include all claims for compensation on account of all related costs, including all direct, indirect or "impact", overhead, and all other costs, and all markups and profits, even if the Change Order does not specifically mention such items; and
- (d) the net effect on the time for the performance of the Work on account of the Change and, for certainty, will be deemed to include all effects on the time for the performance of the Work, and if there is no mention in the Change Order of a required adjustment to the time for the performance of the Work, then the Change Order will be interpreted to mean that the Contractor will complete the Work covered by the Change Order without any adjustment to the time for the performance of the Work.

Hydro's Representative and the Contractor's Representative will sign the Change Order to confirm agreement and, upon receipt of a signed Change Order, the Contractor will proceed with the Change without delay.

6.2 Change Directive

If BC Hydro determines that the Contractor is to proceed with a Change prior to the issuance of a Change Order, then Hydro's Representative may, without invalidating the Contract, sign and issue a written order (a **"Change Directive"**) instructing the Contractor to proceed with a defined Change. Notwithstanding that the parties have not reached agreement on any adjustment to the Contract Price or the time for the performance of the Work or both, upon receipt of a Change Directive, the Contractor will proceed with the Change without delay, without prejudice to the Contractor's right to claim such adjustments. Any disputes relating to such adjustments will be resolved in accordance with Appendix M – Dispute Resolution Procedure, having regard to the provisions of GC.6.

6.3 Contemplated Change

Hydro's Representative may, at any time, give the Contractor's Representative a written request to provide price and schedule information (collectively, a "**Quotation**") relating to a potential Change being considered by BC Hydro (a "**Contemplated Change**"), and the following will apply:

- (a) Quotation: Within seven days of a written request for a Quotation (or such longer time as is reasonable in the circumstances), the Contractor will, as part of the Work, prepare and deliver a written Quotation for a Contemplated Change to Hydro's Representative;
- (b) Quotation to Cover all Costs and Time: Any Quotation submitted by the Contractor's Representative for a Contemplated Change will, except as expressly set out otherwise in the Quotation, be interpreted to represent the proposed total adjustment to the Contract Price (excluding only GST) and the net effect on the time for the performance of the Work on account of such Contemplated Change, and, for certainty, will be deemed to include:
 - (i) all claims for compensation on account of all related costs, including all direct, indirect or "impact", overhead, and all other costs, and all markups and profits, even if the Quotation does not specifically mention such items; and
 - (ii) all effects on the time for the performance of the Work, and if there is no mention in the Quotation of a required adjustment to the time for the performance of the Work, then the Quotation will be interpreted to mean that the Contractor will complete the Work covered by the Quotation without any adjustment to the time for the performance of the Work.

If Hydro's Representative accepts the Quotation in response to a Contemplated Change, or the parties otherwise agree to proceed with the Contemplated Change on terms different from those in the Quotation, then the Quotation or such other agreed to terms will be recorded in a Change Order, signed by the parties and issued pursuant to GC.6.1;

- (c) Third Party Costs to Prepare Quotation: If the Contractor requires third party consultants or contractors to prepare a Quotation, and if the Contractor wishes to be reimbursed for the costs of such third parties pursuant to GC.6.3(d), then the Contractor will only be entitled to make a claim for such costs if the Contractor obtains Hydro's Representative's prior written approval to retain such third parties;
- (d) Contractor's Costs to Prepare Quotation: If, following receipt of a Quotation:
 - (i) BC Hydro elects to proceed with the Contemplated Change, then all costs incurred by the Contractor to prepare the Quotation will be paid by the Contractor, and the Change Order issued with respect to the Contemplated Change will be deemed to be the entire compensation payable by BC Hydro for such Change; or
 - (ii) BC Hydro, for any reason, elects not to proceed with a Contemplated Change, then:
 - (A) if the Contractor retained third parties pursuant to GC.6.3(c), then BC Hydro will pay the Contractor for the reasonable and substantiated direct costs paid to all such third parties who were approved in advance by Hydro's Representative; and
 - (B) the Contractor will bear all other costs incurred by the Contractor to prepare the Quotation.

6.4 Claim for a Change

The following applies where the Contractor wishes to claim that a Change has occurred:

- (a) if the Contractor receives a direction, instruction or decision from Hydro's Representative for which a Change Order or Change Directive was not given, then the Contractor may only claim an adjustment to the Contract Price or the time for the performance of the Work or both as follows:
 - (i) prior to proceeding with such direction, instruction or decision, the Contractor will give written notice to Hydro's Representative of its intention to make such a claim with sufficient detail to permit Hydro's Representative to be able to understand the basis for the claim as well as the anticipated impact on the Contract Price, if any, and the time for the performance of the Work, if any; and
 - (ii) the Contractor will maintain daily records of the resources used in connection with the claimed Change, including labour, equipment and materials, prepared contemporaneously with the performance of the affected Work, and submit such records, together with the amount claimed for such Work, to Hydro's Representative on a rolling two business day basis;
- (b) upon receipt of a notice under GC.6.4(a)(i) from the Contractor, Hydro's Representative will promptly investigate the conditions giving rise to the claimed Change;
- (c) in no event will the Contractor be entitled to, nor will the Contractor make any claim for, an adjustment to the Contract Price or the time for the performance of the Work on account of any circumstance, condition or event that entitles the Contractor to make a claim under GC.6.4:
 - (i) that occurs more than seven days prior to the notice delivered by the Contractor to Hydro's Representative as provided by GC.6.4(a)(i); or
 - (ii) notwithstanding GC.6.4(c)(i), to the extent BC Hydro is materially prejudiced by any delay in the Contractor complying with its obligations under GC.6.4(a)(i); and
- (d) in no event will the Contractor be entitled to, nor will the Contractor make any claim for, an adjustment to the Contract Price on account of any circumstance, condition or event that entitles the Contractor to make a claim under GC.6.4 for which the Contractor has not kept, nor made available to Hydro's Representative, the records as required under GC.6.4(a)(ii).

If Hydro's Representative refuses the Contractor's request for a Change Order or Change Directive, then the Contractor may dispute such refusal under Appendix M – Dispute Resolution Procedure.

6.5 Valuation of a Change

The adjustment to the Contract Price on account of any Change will be determined by one or more of the following methods:

- (a) as set out in a Quotation and accepted by Hydro's Representative pursuant to GC.6.3;
- (b) by a lump sum as agreed by the parties;
- (c) subject to GC.6.6, by applicable unit prices; or

- (d) to the extent not agreed by the parties, by cost plus, being the Contractor's reasonable and substantiated direct costs arising from the performance of the Change plus markups, only as follows:
- (i) with respect to labour, the total of:
- (A) the reasonable and substantiated wages and salaries, including payroll burden and statutory assessments, paid directly by the Contractor for labour directly and actively engaged in the performance of such Change, including a proper proportion of the time of Site supervisors directly supervising the performance of such Change; plus
 - (B) the reasonable and substantiated food, lodging and additional transportation costs for labour and supervisory personnel directly and actively engaged in the performance of such Change, to the extent the Contractor actually pays such costs; plus
 - (C) a markup of [REDACTED] on the total of the amounts for straight time wages and the straight time portion only of any overtime wages determined under GC.6.5(d)(i)(A); plus
 - (D) a markup of [REDACTED] on the total of the amounts paid under GC.6.5(d)(i)(B);
- (ii) with respect to materials, the total of:
- (A) the reasonable and substantiated direct costs of all materials reasonably and necessarily used by the Contractor for or incorporated into the Work on account of such Change, including extraordinary freight and shipping costs, if any; plus
 - (B) a markup of [REDACTED] on the total of the costs incurred under GC.6.5(d)(ii)(A);
- (iii) with respect to equipment (other than small tools) the total of the reasonable and substantiated rental charges for such equipment used directly in the performance of such Change, including equipment owned by the Contractor, at the rates established in the most recently published edition of the book entitled "Equipment Rental Rate Guide" and "The Blue Book" as published by the B.C. Road Builders & Heavy Construction Association on the date when such Change is performed plus the following premiums or markups only:
- (A) northern allowance and Peace District premium for local equipment hired;
 - (B) trucks, trailers and attachments – dump trucks, gas or diesel – combined [REDACTED] and
 - (C) all other equipment hired on an 'all-found basis' – northern allowance only – [REDACTED].
- Such rates will be without an operator and the cost of the operator of such equipment may be included in the amount permitted for labour under GC.6.5(d)(i)(A);
- (iv) with respect to first tier Subcontractors performing some or all of such Change, BC Hydro will pay the amounts as determined under GC.6.5(d)(i), GC.6.5(d)(ii) and GC.6.5(d)(iii) as incurred by such first tier Subcontractors plus a markup of [REDACTED] on the aggregate of the amounts in GC.6.5(d)(i) and GC.6.5(d)(ii). For greater certainty, no markup will be paid for Subcontractors below the first tier;

- (v) the markup under GC.6.5(d)(i)(C) is deemed to include:
 - (A) the cost of small tools and protective clothing;
 - (B) all wages and salaries of supervisory personnel, office staff, engineers, surveyors, timekeepers, warehousemen and similar support personnel not employed exclusively for the performance of such Change;
 - (C) all overheads and profits; and
 - (D) any other expenses relating to or arising out of the provision of the labour for the performance of such Change;
- (vi) the markup under GC.6.5(d)(i)(D) is deemed to include the cost of all overheads and profits;
- (vii) the markup under GC.6.5(d)(ii)(B) is deemed to include the cost of:
 - (A) all incidental freight and handling charges;
 - (B) all management and supervision;
 - (C) all overheads and profits; and
 - (D) any other expenses relating to or arising out of the provision of the materials for the performance of such Change; and
- (viii) the markup under GC.6.5(d)(iv) is deemed to include the cost of:
 - (A) all management and supervision;
 - (B) all overheads and profits; and
 - (C) any other expense relating to or arising out of the supervision of Subcontractors performing the Change.

6.6 Quantity Variation

If, for any reason, including an addition or deletion to the scope of the Work under GC.6.1, the actual quantity of a unit price item varies by more than plus or minus [REDACTED] from the estimated quantity for that unit price item as listed in the attached Appendix E – Schedule of Quantities and Prices, or as otherwise agreed to pursuant to the Contract Documents, then either BC Hydro or the Contractor may, by written notice to the other party, request the other party to agree to a revised unit price, to take account of the variation in quantity and prevent either party from obtaining a windfall or suffering a loss as a result of the quantity variation. A party will make a request for a revised unit price as soon as reasonably practicable after it becomes aware of the quantity variation. Upon a request under this GC.6.6, the Contractor's Representative will deliver to Hydro's Representative all documentation reasonably required by Hydro's Representative to evaluate and substantiate the calculation of the applicable unit price(s).

If the parties agree to a revised unit price, then the revised unit price will be recorded in a Change Order, signed by the parties and issued pursuant to GC.6.1.

6.7 Net Valuation of Cost of a Change

In determining any adjustment to the Contract Price resulting from a Change, such adjustment will be determined on the basis of the Contractor's reasonable and substantiated direct costs and savings attributable to the Change. If the Change results in a net increase in the Contractor's reasonable and substantiated direct costs, then the Contract Price will be increased by an amount equal to the net increase in such costs. If the Change results in a net decrease in the Contractor's reasonable and substantiated direct costs, then the Contract Price will be decreased by an amount equal to the net decrease in such costs. For certainty, a Change Order issued pursuant to GC.6.1 will be deemed to be a net adjustment as required by this GC.6.7.

6.8 Adjustments to Time for the Performance of Work

Subject always to the Contractor's duties under GC.25.2, the time for the performance of the Work will be adjusted on account of a Change by the net amount of time reasonably required by the Contractor to accommodate and perform the Change, taking account of any impacts that require more time, and any impacts, including deletions of Work, that result in time savings, as follows:

- (a) as set out in a Quotation and accepted by Hydro's Representative pursuant to GC.6.3;
- (b) as otherwise agreed in writing by the parties; or
- (c) in the absence of an agreement, in accordance with Appendix M – Dispute Resolution Procedure.

6.9 No Change Without Written Order

Subject to GC.6.4 and except as expressly set out otherwise in the Contract Documents, the Contractor will not proceed with any Change prior to the receipt of a written Change Order or Change Directive. No claim for an adjustment to the Contract Price or the time for the performance of the Work may be made without such written order. The Contractor will not be entitled to, nor will the Contractor rely on any oral representation (except in an emergency), Site meeting discussion or minutes, or other communication as approval for a Change.

6.10 Emergency

Notwithstanding any other provision in the Contract, Hydro's Representative may, in the event of an emergency, issue oral orders to the Contractor for any Change required by reason of an emergency. The Contractor will proceed with such Change without delay, without prejudice to the Contractor's right to claim an adjustment to the Contract Price or the time for the performance of the Work or both. Hydro's Representative will confirm such orders in the form of a Change Order or Change Directive as soon as practicable.

6.11 Optional Work

Optional Work may be included in the Work at the sole election of BC Hydro. Optional Work will only be included in the Work if Hydro's Representative so directs in writing delivered to the Contractor's Representative, and in such event:

- (a) Hydro's Representative will issue a Change Order for the Optional Work; and
- (b) the Contractor will perform the Optional Work as part of the Work.

GC.7 DELAYS AND ACCELERATION

7.1 Delay by BC Hydro

If the Contractor is delayed in the performance of the Work by an act or omission of Hydro's Representative, BC Hydro, or a Person for whom BC Hydro is in law responsible (other than the Contractor and those engaged by or through the Contractor, including Subcontractors), contrary to the provisions of the Contract Documents, then, on written notice as required by GC.7.7 and subject to the Contractor's duties to mitigate under GC.25.2, the Contractor will be entitled to:

- (a) an extension of the time for the performance of the Work equal to the impact of such delay; and
- (b) reimbursement from BC Hydro for directly related out of pocket additional costs reasonably and necessarily incurred by the Contractor as a result of such delay. No payment will be owed by BC Hydro to the Contractor for Consequential Damages.

7.2 Delay by Contractor

If the Contractor is delayed in the performance of the Work by its own acts or omissions, or by a Person for whom the Contractor is in law responsible, then the Contractor will not be entitled to, nor will the Contractor make any claim for, an adjustment to the Contract Price or the time for the performance of the Work, in either case, on account of such delay.

7.3 Labour Disputes

Any work stoppage, strike, lock-out, picket or other labour dispute by any personnel engaged by BC Hydro or any Other Contractor will be deemed to be a delay under GC.7.1. Any work stoppage, strike, lock-out, picket or other labour dispute by any personnel engaged by the Contractor or any Subcontractor, including any financial and jurisdictional disputes involving unionized and non-unionized workers, will be deemed to be a delay under GC.7.2 and will be subject to the terms of Appendix B – Supplementary General Conditions.

7.4 Project Delay

If the Contractor is delayed in the performance of the Work 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, such delay will be considered a suspension by BC Hydro under GC.11.1.

7.5 Force Majeure

If either the Contractor or BC Hydro is delayed in the performance of any of their obligations under the Contract as a result of an event of Force Majeure, then the party claiming the delay will be excused from performance of such obligations, provided that party gives written notice in accordance with GC.7.7, and mitigates the effect of the delay in accordance with GC.25.2, as applicable. The party delayed by an event of Force Majeure will be entitled to an extension of the time for the performance of the affected obligations equal to the impact of the delay caused by the event of Force Majeure, but will not be entitled to, nor will such party make any claim for, reimbursement or the payment of any costs suffered by that party as a result of the event of Force Majeure.

7.6 Concurrent Delay

With respect to concurrent delays:

- (a) if two or more events occur concurrently that each entitle the Contractor to an extension of the time for the performance of the Work under the Contract Documents, then for the period of any concurrency the Contractor will be entitled to claim an extension with respect to only one of the concurrent events;
- (b) if an event as described in GC.7.1 occurs concurrently with an event as described in GC.7.4, then during the period of any concurrency the Contractor will be entitled to claim an extension with respect only to the event described in GC.7.4;
- (c) if an event as described in GC.7.1 occurs concurrently with an event as described in GC.7.2, then during the period of any concurrency the Contractor will not be entitled to claim, nor will the Contractor make any claim for, an extension with respect to the event described in GC.7.1; and
- (d) if an event as described in GC.7.4 occurs concurrently with an event as described in GC.7.2, then during the period of any concurrency the Contractor will not be entitled to claim, nor will the Contractor make any claim for, an extension with respect to the event described in GC.7.4.

7.7 Notice of Delay

With respect to any event of delay:

- (a) regardless of the cause of a delay, the party claiming delay will give written notice of the delay to the other party's Representative with sufficient detail to permit the other party's Representative to be able to understand the basis for the claim as well as the anticipated impact on the Contract Price, if any, and the time for the performance of the Work, if any. Such notice will be given promptly after the party claiming delay is aware of an impact on the Contract Price or the time for the performance of the Work, or, in any event, promptly after the time when the party claiming delay should reasonably have become aware of the impact on the Contract Price or the time for the performance of the Work, provided, however, that in the case of a continuing cause of delay only one written notice of delay will be necessary;
- (b) if the Contractor gives notice of delay in accordance with GC.7.7(a), then, as part of the Work, the Contractor will keep and provide to Hydro's Representative records in the same detail and manner as described in GC.6.4(a)(ii);
- (c) upon receipt of a notice of delay from the Contractor, Hydro's Representative will promptly investigate the conditions giving rise to the claimed delay in order to satisfy himself as to the validity of the claimed delay;
- (d) in no event will the Contractor be entitled to, nor will the Contractor make any claim for, an adjustment to the Contract Price or the time for the performance of the Work on account of any delay or portion of a delay:
 - (i) that occurs more than seven days prior to the notice delivered by the Contractor to Hydro's Representative as provided by GC.7.7(a); or
 - (ii) notwithstanding GC.7.7(d)(i), to the extent BC Hydro is materially prejudiced by any delay in the Contractor complying with its obligations under GC.7.7(a); and
- (e) in no event will the Contractor be entitled to, nor will the Contractor make any claim for, an adjustment to the Contract Price on account of any delay costs for any delay or portion of a delay

for which the Contractor has not kept, nor made available to Hydro's Representative, the records as required under GC.7.7(b).

7.8 Acceleration to Recover Contractor Delays

If, at any time, Hydro's Representative, acting reasonably, determines that the then current Work Program and Schedule is not being met due to an act, error or omission of the Contractor or any Subcontractor, then Hydro's Representative may deliver written notice to the Contractor directing the Contractor to accelerate the performance of the Work, at the Contractor's sole cost and expense, so as to bring the Work back into conformity with the then current Work Program and Schedule.

7.9 Acceleration for BC Hydro's Convenience

Hydro's Representative may, at any time, deliver written notice to the Contractor to accelerate the performance of the Work at BC Hydro's convenience and any such acceleration will be a Change under GC.6.

GC.8 BONDING

8.1 Performance and Payment Security

Within ten Business Days of the Effective Date, or by such later date as Hydro's Representative may agree to in writing, and in addition to, and not in substitution for, the Performance Security Holdback, the Contractor will provide to BC Hydro a performance bond and a labour and material payment bond, each in the amount of [REDACTED] of the Contract Price, in the form and on the terms provided by BC Hydro. If approved by BC Hydro, in its sole discretion, then the Contractor may provide to BC Hydro a letter of credit in the form and on the terms provided by BC Hydro and in an amount satisfactory to Hydro's Representative in substitution for the performance bond or the labour and material payment bond or both.

Notwithstanding the foregoing, the performance bond required by this GC.8.1 will secure the Contractor's obligation to pay liquidated damages as specified in the Contract Documents, if any.

GC.9 CONTRACTOR DEFAULT

9.1 Failure to Perform

If:

- (a) the Contractor should fail or neglect to undertake the performance of the Work properly and expeditiously;
- (b) the Contractor should otherwise fail to comply with the requirements of the Contract to a substantial degree; or
- (c) the aggregate liability of the Contractor to BC Hydro exceeds the maximum aggregate liability as set out in GC.18.1,

then Hydro's Representative may provide the Contractor with written notice stating the nature of the Contractor's default and instructing the Contractor to correct the default within seven days after receipt of such notice. If the Contractor cannot correct the default in such seven days, then the Contractor will be in compliance with Hydro's Representative's instructions if the Contractor:

- (d) takes all reasonable steps to begin to correct the default within such seven days;

- (e) provides Hydro's Representative with a schedule reasonably acceptable to Hydro's Representative for such correction; and
- (f) completes the correction in accordance with such schedule.

If the Contractor fails to correct the default in the time specified or subsequently agreed in writing, or, if, for any reason, the default cannot be corrected, including if the default is as described in GC.9.1(c) and no new agreement is reached between the parties regarding the Contractor's maximum aggregate liability, then BC Hydro may, without prejudice to any of its other rights or remedies:

- (g) correct such default to the extent BC Hydro is able to correct the default and set-off from any payment then or thereafter due to the Contractor all additional costs reasonably incurred by BC Hydro to correct the default, including the cost of other contractors and BC Hydro's own forces;
- (h) deduct any portion of the outstanding Work from the Contract as BC Hydro may, in its sole discretion, decide and adjust the Contract Price on account of such deduction and set-off from any payment then or thereafter due to the Contractor all additional costs reasonably incurred by BC Hydro to complete the Work, including increased costs of construction, the costs of other contractors, any administrative costs, the cost of BC Hydro's own forces and resources and the cost to BC Hydro of Hydro's Representative; or
- (i) terminate the Contract.

9.2 Bankruptcy

BC Hydro may, without prejudice to any of its other rights or remedies, terminate the Contract by giving written notice to the Contractor or any other applicable Person, if:

- (a) the Contractor makes an assignment for the benefit of its creditors, is declared bankrupt or commits an act of bankruptcy, becomes insolvent, makes a proposal for relief under the *Bankruptcy and Insolvency Act (Canada)* or similar legislation in any jurisdiction, or becomes involved in any other type of insolvency proceedings being commenced by or against the Contractor under the *Bankruptcy and Insolvency Act (Canada)* or otherwise;
- (b) a receiver, receiver manager or other encumbrance holder takes possession of or is appointed over, or any distress, execution or other process is levied or enforced upon, the whole or any material part of the assets of the Contractor;
- (c) any arrangement or composition with or for the benefit of creditors is entered into by or in relation to the Contractor;
- (d) any proceedings with respect to the Contractor is commenced under the *Companies' Creditors Arrangement Act (Canada)*;
- (e) the Contractor ceases to carry on business; or
- (f) a petition is filed (and not being contested in good faith, using all commercially reasonable efforts), or a resolution is passed or an order is made for the winding up, liquidation or dissolution of the Contractor.

9.3 Termination for Cause

If BC Hydro terminates the Contract under GC.9.1 or GC.9.2, then BC Hydro will, while making all commercially reasonable efforts to mitigate costs and delays:

- (a) be entitled to take possession of the equipment and materials, including any BC Hydro Property, located at the Site or elsewhere and intended for incorporation into or use in the performance of the Work, and to utilize such equipment and materials, subject to the rights of third parties, and complete the Work by whatever method BC Hydro may consider expedient;
- (b) be entitled to withhold any amounts owing to the Contractor;
- (c) upon Total Completion, be entitled to retain from any amounts withheld from the Contractor:
 - (i) the total of any additional costs (the “**Default Costs**”) in excess of the Contract Price BC Hydro incurred to achieve Total Completion because of the Contractor’s default, including the costs of other contractors, any administrative costs, the cost of BC Hydro’s own forces and resources and the cost to BC Hydro of Hydro’s Representative; plus
 - (ii) a reasonable allowance to cover the cost to BC Hydro of undertaking such completion,

and pay the balance of any amounts withheld from the Contractor, if any, to the Contractor. If the total of the Default Costs and the costs to cover corrections during the Warranty Period exceeds the total of the amounts BC Hydro has withheld, then such excess will be immediately due and owing by the Contractor to BC Hydro upon receipt of an invoice from BC Hydro for such excess; and
- (d) on expiry of the Warranty Period retain, from any holdback, the cost of any corrections made to the Work during the Warranty Period and pay the balance, if any, to the Contractor. If the total of the costs of such corrections exceeds the holdback, then such excess will be immediately due and owing by the Contractor to BC Hydro upon receipt of an invoice from BC Hydro for such excess.

If the Contract is terminated for any reason, including pursuant to GC.11.1, the Contractor’s obligations described in the Contract Documents as to quality, correction and warranty will continue in full force and effect after such termination with respect to the Work performed by the Contractor up to the time of termination.

GC.10 BC HYDRO DEFAULT

10.1 Failure to Perform

If BC Hydro fails to:

- (a) pay the Contractor payments when due in accordance with the provisions of the Contract;
- (b) provide the Contractor with adequate directions or instructions so as to prevent the Contractor from performing any of the Work in accordance with the Contract; or
- (c) resume the Contract, in whole or in part, within one year of the effective date of the suspension of the Contract under GC.11.1,

then the Contractor may provide Hydro’s Representative with written notice stating the nature of BC Hydro’s default and instructing BC Hydro to correct the default within 30 days after receipt of such

notice. If BC Hydro cannot correct the default in such 30 days, then BC Hydro will be in compliance with the Contractor's instructions if BC Hydro:

- (d) takes all reasonable steps to begin to correct the default within such 30 days;
- (e) provides the Contractor with a schedule acceptable to the Contractor, acting reasonably, for such correction; and
- (f) completes the correction in accordance with such schedule.

If BC Hydro fails to correct the default in the time specified or subsequently agreed in writing, then the Contractor may, without prejudice to any of its other rights or remedies, terminate the Contract.

10.2 Termination for Cause

If the Contractor terminates the Contract under GC.10.1, then BC Hydro will, in full satisfaction of all claims the Contractor may have, pay the Contractor:

- (a) all compensation owed in accordance with the Contract for all Work completed in accordance with the Contract Documents up to the date of the termination;
- (b) all third party cancellation charges, if any, incurred by the Contractor to the date of termination, provided such charges could not have been reasonably avoided or mitigated by the Contractor; and
- (c) the Contractor's reasonable and substantiated direct Site demobilization costs.

For greater certainty, the Contractor will not be entitled to, nor will the Contractor make a claim for, Consequential Damages.

GC.11 SUSPENSION OR TERMINATION OF CONTRACT OTHER THAN FOR DEFAULT

11.1 Suspension or Termination for Convenience

BC Hydro may, by written notice to the Contractor's Representative, at any time at BC Hydro's convenience and in its sole discretion, suspend or terminate the Contract, in whole or in part, stating the extent and effective date of such suspension or termination, and, upon receipt of such written notice, the Contractor will:

- (a) wind down all suspended or terminated Work in a manner such that BC Hydro receives the benefit of all completed Work;
- (b) with respect to the terminated portions of the Work, if any, on the written direction of Hydro's Representative:
 - (i) assign to BC Hydro, in the manner and to the extent directed, all of the Contractor's rights under purchase orders and agreements with any first tier Subcontractors as identified by BC Hydro; and
 - (ii) terminate purchase orders and agreements with first tier Subcontractors, to the extent that they are not assigned to BC Hydro;
- (c) take any necessary action, including re-possession, to protect property in the Contractor's possession in which BC Hydro has or may acquire an interest, including any BC Hydro Property;

- (d) continue and complete performance of the continuing portion of the Work, if any, in accordance with the Contract Documents;
- (e) provide suggestions to BC Hydro as to the best methods of mitigating any Claims, costs or delays arising from the termination of portions of the Work;
- (f) provide all records and documents, as required by the Contract, to BC Hydro relating to the terminated portion of the Work; and
- (g) take any other action in relation to the termination of the Work which BC Hydro may reasonably direct.

11.2 Rights upon Termination for Convenience

In the event of termination under GC.11.1, BC Hydro will, in full satisfaction of all claims the Contractor may have, pay the Contractor:

- (a) all compensation owed in accordance with the Contract for all Work performed in accordance with the Contract Documents up to the date of the termination;
- (b) all third party cancellation charges, if any, incurred by the Contractor to the date of termination, provided such charges could not have been reasonably avoided or mitigated by the Contractor; and
- (c) the Contractor's reasonable and substantiated direct Site demobilization costs, plus 10% on such costs on account of overhead and profit.

For greater certainty, the Contractor will not be entitled to, nor will the Contractor make any claim for, Consequential Damages.

11.3 Obligations During Suspension

During any period of suspension, the Contractor will not remove any Work or any equipment and materials, including BC Hydro Property, from the Site without the prior written consent of Hydro's Representative, and will take all commercially reasonable steps to secure and make safe all Work and all such equipment and materials at the Site. At any time after the commencement of a period of suspension, BC Hydro may give written direction to the Contractor to resume performance of the suspended Work, and, upon receipt of such direction, the Contractor will resume the Work within the time specified in such direction by Hydro's Representative, acting reasonably. In the event of suspension under GC.11.1, and provided that such suspension is not due to a default of the Contractor, BC Hydro will, in full satisfaction of all claims the Contractor may have, reimburse the Contractor for the Contractor's reasonable and substantiated direct costs, including reasonable stand-by equipment rental rates, personnel demobilization and remobilization costs and extended overhead costs, incurred in complying with the requirements of this GC.11.3, provided such costs could not have been reasonably avoided or mitigated by the Contractor, plus █████ on such costs on account of overhead and profit.

For greater certainty, the Contractor will not be entitled to, nor will the Contractor make any claim for, Consequential Damages.

11.4 Termination for Force Majeure

Either party may, on 14 days written notice to the other party, terminate the Contract if an event of Force Majeure has caused a suspension of the Contract for a period greater than two years. Any termination pursuant to this GC.11.4 will be deemed to be a termination under GC.11.1.

GC.12 DISPUTES12.1 Dispute Resolution

All Disputes will be resolved in accordance with Appendix M – Dispute Resolution Procedure.

GC.13 PROTECTION OF PERSONS, PROPERTY AND THE ENVIRONMENT13.1 Site Safety

The Contractor will perform all Work in compliance with Appendix H – Safety.

13.2 Protection of Work and Property

With respect to protection of the Work, other work and property:

- (a) except as expressly set out otherwise in the Contract Documents, in performing the Work, the Contractor will be responsible:
 - (i) for the care, custody, control and security of all parts of the Work until Substantial Completion, and the Contractor will, at the Contractor's sole cost and expense, make good any loss or damage to any part of the Work until Substantial Completion;
 - (ii) to protect BC Hydro's and other Person's work and property, including BC Hydro Property, from loss or damage, and the Contractor will, at the Contractor's sole cost and expense, make good any such loss or damage to BC Hydro's or other Person's work and property, including BC Hydro Property; and
 - (iii) for the care, custody, control, maintenance and security of the Work and all equipment, materials and other items used or provided to or by the Contractor or any Subcontractor in connection with the Work, including BC Hydro Property, whether in transit to or from the Site or in storage on or off the Site by the Contractor or any Subcontractor, and the Contractor will, at the Contractor's sole cost and expense, make good any loss or damage to any such Work, equipment, materials and other items;
- (b) notwithstanding GC.13.2(a), the Contractor will not be responsible for loss or damage described in GC.13.2(a):
 - (i) to the extent the Contractor, in the performance of the Work, could not reasonably have avoided such loss or damage; or
 - (ii) to the extent BC Hydro, Hydro's Representative, Other Contractors or others for whom BC Hydro is in law responsible (other than the Contractor and those engaged by or through the Contractor, including Subcontractors) contributed in causing such loss or damage; and
- (c) for certainty, if the loss or damage described in GC.13.2(a) would have been covered by or recoverable against the insurance required to be obtained and maintained under the Contract but for GC.13.2(b), then GC.13.2(b) will be inoperative and considered as deleted from the Contract so as to permit the recovery under such insurance. In such event, BC Hydro will pay the applicable deductible or reimburse the Contractor for the payment of the applicable deductible and the insurance proceeds will be used by the parties to make good the loss or damage.

13.3 Hazardous Substances

The Contractor will not, and will ensure that the Subcontractors will not, use, store, transport, remove, dispose of or destroy any Hazardous Substances on the Site, except with the prior written approval of Hydro's Representative. All Hazardous Substances used, stored, transported, removed, disposed of or destroyed will be dealt with in accordance with Law and the Contract Documents.

13.4 Discovery of Hazardous Substances

If, in the performance of the Work, the Contractor discovers or encounters material on the Site which is, or which appears to be, a Hazardous Substance that has not been identified in the Contract Documents, or is in receipt of information, which a reasonable person would consider reliable, that a Hazardous Substance may be encountered in the performance of the Work, then the Contractor will:

- (a) immediately stop Work in the affected area and give written notice to Hydro's Representative; and
- (b) cooperate with Hydro's Representative to determine the steps that should be taken to confirm whether the material is a Hazardous Substance, and, if necessary, the steps required to deal with the Hazardous Substance in a way that minimizes the risks to health and safety, the environment and delay to the Work, and upon the determination of such steps, the Contractor will, as part of the Work, proceed to carry out such steps in compliance with Hydro's Representative's directions.

When encountered by the Contractor, the circumstances described in this GC.13.4 will entitle the Contractor to claim a Change pursuant to the provisions of GC.6.4, except that the Contractor's notice obligation under GC.6.4(a)(i) will be to give written notice of such claim to Hydro's Representative promptly upon the Contractor becoming aware of such Site conditions, or, in any event, promptly after the date when the Contractor should reasonably have become aware of such Site conditions.

13.5 Protection of the Environment

The Contractor will perform all Work in compliance with Appendix I – Environmental Obligations.

13.6 Heritage Resources

All remains or things of palaeontological, historical or archaeological interest or value the Contractor discovers or encounters at the Site will, as between BC Hydro and the Contractor, be deemed to be the property of BC Hydro.

In respect of those remains or things of palaeontological, historical or archaeological interest or value that the Contractor discovers or encounters on the Site, including on the historical sites shown on the environmental features drawings, the Contractor will take all reasonable precautions to prevent removal of or damage to such remains or things

With respect to remains or things of palaeontological, historical or archaeological interest or value at the Site that are not shown on the environmental features drawings:

- (a) if the Contractor receives any information from any source, either written or oral, suggesting that such remains or things might be present at the Site and might be encountered in the performance of the Work, then the Contractor will:
 - (i) make all reasonable efforts, through further enquiry and Site investigations, to assess whether such information is credible or may reasonably be discounted; and
 - (ii) without delaying or interrupting the Work, proceed cautiously in performing the Work until the enquiry and investigations described in GC.13.6(a)(i) are complete; and

- (b) if the Contractor confirms the existence of remains or things of palaeontological, historical or archaeological interest or value at the Site, either through the enquiry and investigations described in GC.13.6(a)(i) or in the performance of the Work, then the Contractor will immediately:
- (i) take all reasonable precautions to prevent removal of or damage to such remains or things;
 - (ii) notify Hydro's Representative in writing; and
 - (iii) comply with any directions given by Hydro's Representative.

When encountered by the Contractor, the circumstances described in GC.13.6(b) will entitle the Contractor to claim a Change pursuant to the provisions of GC.6.4, except that the Contractor's notice obligation under GC.6.4(a)(i) will be to give written notice of such claim to Hydro's Representative promptly upon the Contractor becoming aware of such remains or things, or, in any event, promptly after the date when the Contractor should reasonably have become aware of such remains or things.

13.7 Dangerous Goods

All Dangerous Goods used, stored, transported, removed, disposed of or destroyed will be dealt with in accordance with Law and the Contract Documents. The Contractor will bring on to the Site only those Dangerous Goods that are required for the performance of the Work on the Site. Dangerous Goods will not be brought on to, used or stored on the Site without the prior written approval of Hydro's Representative. The Contractor will make material safety data sheets for such goods immediately accessible by Subcontractors and Hydro's Representative on the Site at all times.

13.8 Dangerous Goods Occurrence

If, during the performance of the Work or in the course of transporting Dangerous Goods to or from the Site, the Contractor is involved in a Dangerous Goods Occurrence, as defined in the *Transportation of Dangerous Goods Act (Canada)*, the Contractor will immediately notify Hydro's Representative in writing.

GC.14 CONFIDENTIALITY

14.1 Confidential Information

Each party will keep confidential all matters respecting technical, commercial, financial and legal issues relating to or arising out of the Contract or the performance of the Work (the "**Confidential Information**") and will not disclose Confidential Information. Notwithstanding the preceding sentence, disclosure of Confidential Information may be made:

- (a) with the prior written consent of the applicable Representative;
- (b) in strict confidence to the party's professional advisors;
- (c) in the case of the Contractor, to Subcontractors, or, in the case of BC Hydro, to Other Contractors or other contractors, who, in each case, need to know the applicable Confidential Information for the purposes of performing the Work or performing work on the Project; or
- (d) as otherwise required by Law or permitted by the Contract Documents.

The Contractor will require all Subcontractors to enter into an agreement with the Contractor containing provisions in the same form as those found in GC.14.

14.2 Exceptions to Confidentiality Obligations

The obligations of confidentiality described in GC.14.1 will not apply to:

- (a) information that is, or subsequently becomes, publicly available other than through a breach of the Contract or through a breach of a confidentiality agreement which another Person has entered into concerning the Confidential Information;
- (b) information which the party already possessed before commencing to participate in the Project;
- (c) information which is rightfully received from a third party without breach of any obligation of confidence by such third party; or
- (d) information which is independently developed without the use of the Confidential Information.

GC.15 RECORDS AND AUDIT

15.1 Retention of Documents

The Contractor will, during the performance of the Work and for a period of ten years after termination of the Contract, keep and maintain proper and accurate accounts and records, including all agreements with Subcontractors, invoices, statements, Permits, manifests, receipts, vouchers, calculations, reports, data, time and material costing records with respect to the Work undertaken on a time and materials or cost-plus basis, drawings, plans and other documents, including substantiation of any engagement of Aboriginal Businesses or Aboriginal persons in the Work and statements made on any Vendor Aboriginal Inclusion Reporting Form – Spend Forecast or Actual Commitment, and verification of the status of any Aboriginal Business or Aboriginal person engaged in the Work, in hard or electronic form, in respect of the Project and the Work, in accordance with Good Industry Practice.

15.2 Audit

The Contractor will, upon reasonable written notice, make all information described in GC.15.1 available to Hydro's Representative and any of his or her nominees during the performance of the Work and for the ten year period described in GC.15.1 for review and audit. The Contractor will, upon written request from Hydro's Representative within such time period, and in any event prior to disposal of such information, provide Hydro's Representative with a copy of any such information in a form satisfactory to Hydro's Representative, acting reasonably.

15.3 Audit Not a Waiver

No audit conducted by Hydro's Representative or BC Hydro or any of their nominees will at any time constitute approval or acceptance of any Work under the Contract, nor be considered a waiver by BC Hydro of any of the terms of the Contract, nor relieve the Contractor of any of its duties, obligations or responsibilities under the Contract to perform the Work in accordance with the requirements of the Contract Documents.

GC.16 INSURANCE

16.1 Contractor Provided Insurance Coverage

The Contractor will obtain and maintain all policies of insurance as set out in Appendix N – Insurance Requirements.

16.2 BC Hydro Provided Insurance Coverage

BC Hydro will obtain and maintain all policies of insurance as set out in Appendix N – Insurance Requirements.

GC.17 INDEMNIFICATION

17.1 Contractor Indemnity

The Contractor will indemnify, save harmless and assume the defence of, BC Hydro, its directors, officers, employees, consultants and agents, including Hydro's Representative (each, an "**Indemnified Party**" and, together, the "**Indemnified Parties**") from and against all third party Claims, including Claim Costs, at any time suffered or incurred by, or brought or made against, the Indemnified Parties, or any one of them, relating to or arising out of the errors, omissions or negligent acts, willful misconduct, or fraudulent or criminal acts, or breach of the Contract, of or by the Contractor, the Contractor's Affiliates or any Subcontractor, or those for whom such Persons may in law be responsible, except for the portion of any Claim arising from the negligence or willful misconduct of an Indemnified Party.

17.2 Conduct of Claims

Without limiting GC.17.1, if an Indemnified Party becomes a party to a Claim for which indemnity may be sought under GC.17.1, then the Contractor will conduct the defence of such Claim, at the Contractor's sole cost and expense, and on such terms and conditions as BC Hydro may direct. Notwithstanding the preceding sentence, if the Contractor fails to commence or carry out such defence in a manner that is acceptable to BC Hydro, BC Hydro has the right, but not the obligation, upon prior written notice to the Contractor, to assume the defence of such Claim. BC Hydro may settle or resolve such Claim, without the prior consent or approval of the Contractor, and without relieving the Contractor of its obligations under GC.17. If BC Hydro exercises its rights under this GC.17.2, then the Contractor will reimburse BC Hydro all of BC Hydro's costs and expenses incurred as a result of such exercise.

17.3 Separate Counsel

Where the Contractor has conduct of the defence of a Claim under GC.17, each applicable Indemnified Party may retain its own counsel, at the Indemnified Party's sole cost and expense, for the purpose of monitoring the Contractor's conduct of the Claim.

17.4 Limitation on Settlement

Notwithstanding any other provision in the Contract, where the Contractor has conduct of the defence of a Claim, the Contractor will not conclude or agree to the settlement or resolution of such Claim without the prior written approval of Hydro's Representative. Where the Contractor concludes or agrees to the settlement or resolution of a Claim without the prior written approval of Hydro's Representative, the Contractor will be liable for the entire amount of such settlement or resolution, including any amount in excess of its indemnity obligations under the Contract, and will have no right to claim reimbursement, set-off or payment from BC Hydro, or any other Indemnified Party, with respect to any such excess amount.

17.5 Intellectual Property Indemnification

The following will apply with respect to any actual or alleged unauthorized disclosure, use or infringement of a third party's patent or intellectual, proprietary or industrial property rights:

- (a) the Contractor will indemnify, hold harmless and assume the defence of, the Indemnified Parties in accordance with the provisions of GC.17, from and against all third party Claims, including Claim Costs, at any time suffered or incurred by, or brought or made against, the Indemnified Parties, or any one of them, relating to or arising out of any actual or alleged unauthorized

disclosure, use or infringement of a third party's patent or intellectual, proprietary or industrial property rights relating to or arising out of the performance of the Work or the actions or omissions of the Contractor, the Contractor's Affiliates or Subcontractors, or those for whom such Persons may in law be responsible, or otherwise asserted against the Indemnified Parties, or any one of them, and for any other consequences arising out of the breach by the Contractor of GC.24;

- (b) without limiting the Contractor's obligations under GC.17.5(a), if any part of the Work uses any patent or intellectual, proprietary or industrial property rights or anything else which infringes the rights of others or which is alleged to infringe the rights of others, the Contractor will, at its own cost and expense, immediately:
 - (i) procure for BC Hydro an irrevocable, perpetual, nonexclusive, fee-free, royalty-free, assignable license for BC Hydro to use in and for the Project such patent or intellectual, proprietary or industrial property rights;
 - (ii) replace or alter the infringing or allegedly infringing parts with non-infringing parts of equal or better quality so as to meet or exceed the requirements of the Contract; or
 - (iii) if permitted by BC Hydro in writing, forthwith refund the amount paid by BC Hydro to the Contractor under the Contract with respect to the infringing or allegedly infringing parts.

GC.18 LIMITATION OF LIABILITY

18.1 Limitation of Liability

Notwithstanding any other provision in the Contract, but subject to GC.18.2 and GC.18.3, the Contractor's maximum aggregate liability to the Indemnified Parties for Claims relating to or arising out of the Contract, whether or not terminated, and whether arising in contract, tort (including negligence), indemnity, by statute, as matters of strict or absolute liability, or from any other cause, will be limited to an amount equal to the aggregate of:

- (a) the Contract Price; plus
- (b) any insurance proceeds received, recoverable or claimable (or which would have been received, recoverable or claimable but for the default or other failure, act or omission on the part of the Contractor, the Contractor's Affiliates or any Subcontractor, or those for whom such Persons may in law be responsible) under any insurance policy obtained and maintained or required to be obtained and maintained under the Contract, up to the minimum required amount of the applicable policy under the Contract.

18.2 Consequential Damages

Neither party is liable to the other party for that other party's own:

- (a) special, contingent, exemplary, punitive, indirect, incidental or consequential loss or damage;
- (b) loss of anticipated revenue, overhead or profit;
- (c) loss of production, business or contracts;
- (d) loss by reason of shutdowns, non-operation or increased costs of construction, manufacturing or operation; or
- (e) loss of business reputation or opportunities,

of any nature arising at any time or from any cause whatsoever relating to the Contract, and whether or not such losses or damages were foreseeable even if a party was advised of the possibility of them (collectively, “**Consequential Damages**”).

For certainty, nothing in this GC.18.2 will apply to, or be interpreted so as to, preclude, or otherwise limit:

- (f) recovery of liquidated damages specified as payable to BC Hydro pursuant to the Contract Documents, if any, and, any right of recovery for the Contractor’s delay in the performance of the Work contrary to the provisions of the Contract, or any breach of the Contract by the Contractor, including BC Hydro’s increased costs of construction, the costs of other contractors, any administrative costs, the cost of BC Hydro’s own forces and resources and the cost of Hydro’s Representative; or
- (g) recovery of any of the types of loss or damage described in GC.18.2(a) through GC.18.2(e), if such losses or damages would be receivable, recoverable or claimable (or which would have been receivable, recoverable or claimable but for the default or other failure, act or omission on the part of the Contractor, the Contractor’s Affiliates or any Subcontractor, or those for whom such Persons may in law be responsible) under any insurance policy obtained and maintained or required to be obtained and maintained under the Contract, up to the minimum required amount of the applicable policy under the Contract.

18.3 Exceptions to Limitation of Liability

Notwithstanding any other provision in the Contract, the limits on the Contractor’s liability under GC.18.1 and all other limitations of liability in favour of the Contractor specified in the Contract Documents will not apply to or limit the Contractor’s responsibility and liability for, and the Contractor will be fully liable for:

- (a) Claims and Claim Costs relating to or arising out of the gross negligence, recklessness or willful, fraudulent, criminal or intentional misconduct on the part of the Contractor, the Contractor’s Affiliates or any Subcontractor, or those for whom such Persons may in law be responsible;
- (b) third party Claims and Claim Costs relating to or arising out of personal injury, including death, property damage, or any actual or alleged unauthorized disclosure, use or infringement of intellectual property rights, howsoever caused (including by negligence) by the Contractor, the Contractor’s Affiliates or any Subcontractor, or those for whom such Persons may in law be responsible;
- (c) Claims and Claim Costs relating to or arising out of the breach of any confidentiality obligations under the Contract by the Contractor, the Contractor’s Affiliates or any Subcontractor, or those for whom such Persons may in law be responsible;
- (d) Claims and Claim Costs relating to or arising out of any breach of any Laws by the Contractor, the Contractor’s Affiliates or any Subcontractor, or those for whom such Persons may in law be responsible; and
- (e) liquidated damages specified as payable to BC Hydro pursuant to the Contract Documents.

GC.19 WARRANTY

19.1 Warranty

The Contractor warrants that all Work will be performed in accordance with the Contract Documents, free from defects in material, workmanship and any design or engineering furnished by or on behalf of the Contractor.

19.2 Quality of Equipment, Products and Materials

The Contractor warrants that the equipment, products and materials furnished by or on behalf of the Contractor for the Work will, except as expressly set out otherwise in the Contract Documents, be:

- (a) new and of recent manufacture;
- (b) first quality;
- (c) where such equipment and materials are not specified in the Contract Documents, fit for their intended purposes;
- (d) compatible with BC Hydro's existing facilities and property at the Site, and of a quality at least equivalent to the quality of the adjacent or connecting portions of the Work;
- (e) free from design defects, faults and faulty operation, including latent defects, provided that:
 - (i) if the Contractor obtains an equivalent warranty, including with respect to the Warranty Period described in GC.19.3, from the applicable third party manufacturer of the equipment and materials; and
 - (ii) the Contractor complies with GC.19.5 to assign the manufacturer's warranty to BC Hydro,
 then the Contractor will be deemed to have satisfied this GC.19.2(e);
- (f) compliant with the Contract Documents, including the specifications set out in Appendix G – Specifications; and
- (g) compliant with all Laws and Permits.

19.3 Length of Warranty

The warranty set out in GC.19.1 and GC.19.2 will expire (the "**Warranty Period**") 12 months after the date of Substantial Completion or earlier termination of the Contract, except with respect to any matters for which a warranty claim has been made during such period. If any warranty claim is made pursuant to GC.19 and any part of the Work is re-performed, repaired or replaced, a new Warranty Period will commence for such re-performed, repaired or replaced Work from the date such re-performed, repaired or replaced Work is completed, unless such warranty work required only minor adjustment to and not replacement of a piece of equipment or a component.

19.4 Partial Take Over

If the Contractor performs the Work in such a manner that portions of the Work may be used by BC Hydro before the date of Substantial Completion, then BC Hydro may, on written notice to the Contractor, take over and begin to use such portions even though a certificate of Substantial Completion has not been issued. If BC Hydro takes over and begins to use a portion of the Work before the date of Substantial Completion, then the Warranty Period with respect to such portion will commence to run from the date of the take over and use.

19.5 Assignment

Without limiting the generalities of GC.19.1, GC.19.2 or GC.19.3, the Contractor will assign to BC Hydro the guarantees and warranties (such that they may be enforceable directly by BC Hydro) provided by

Subcontractors and other Persons performing work for or on behalf of the Contractor with respect to the Work.

19.6 Defects

If defects, including latent defects, are discovered in the Work, including in any equipment and materials incorporated into the Work, then the Contractor will correct the defect or replace the equipment and materials promptly upon written notification from Hydro's Representative. The Contractor will be responsible for all costs associated with such corrections and replacements, including all costs incurred by BC Hydro in relation to the corrections and replacements (such as the costs to retain other contractors, costs of materials and equipment, administrative and supervisory costs and the cost of BC Hydro's own forces), and the Contractor will indemnify and save harmless the Indemnified Parties from any resulting damages. Other work removed or damaged due to such defects, or the corrections or replacements or making good such defects, will also be made good by the Contractor without additional payment by or cost to BC Hydro.

19.7 Failure to Remedy Defects

If the Contractor fails to remedy any defect or damage within a reasonable time, then a date may be fixed by Hydro's Representative on or by which the defect or damage is to be remedied. The Contractor will be given reasonable written notice of this date. If the Contractor fails to remedy the defect or damage by such date and the remedial work was to be executed at the cost of the Contractor under GC.19, then BC Hydro may, at its option:

- (a) carry out the work using BC Hydro's own forces or other contractors, in a reasonable manner and at the Contractor's sole cost and risk. The Contractor will pay to BC Hydro, within 30 days after receipt of an invoice, the costs reasonably incurred by BC Hydro in remedying the defect or damage;
- (b) require Hydro's Representative to determine a reasonable reduction in the Contract Price; or
- (c) if the defect or damage deprives BC Hydro of substantially the whole benefit of the Work or any major part of the Work, terminate the Contract as a whole, or in respect of such major part which cannot be put to the intended use. Without prejudice to any of its other rights and remedies under the Contract or otherwise, BC Hydro will then be entitled to recover all sums paid for the Work or for such part (as the case may be), plus financing costs and the cost of dismantling such Work or part, clearing the Site and returning equipment and materials to the Contractor.

19.8 Removal of Defective Work

If the defect or damage cannot be remedied expeditiously on the Site and Hydro's Representative gives its written consent, then the Contractor may remove from the Site for the purposes of repair such items as are defective or damaged. This consent may require the Contractor to increase the amount of the performance bond by the full replacement cost of these items, or to provide other appropriate security.

19.9 BC Hydro Correction in Emergency

Without limiting GC.6.10, in the event of an emergency, BC Hydro may correct any defect or damage and the Contractor will promptly reimburse BC Hydro for all costs reasonably incurred by BC Hydro to correct the defect or damage.

GC.20 COMPLIANCE WITH LAWS AND BC HYDRO'S POLICIES AND PROCEDURES

20.1 Compliance with Laws

The Contractor, its employees and agents, and the Subcontractors, and their employees and agents, will be fully knowledgeable of and comply with all Laws.

20.2 Compliance with BC Hydro's Policies and Procedures

The Contractor will, and will cause its employees, agents and Subcontractors to, comply with the attached Appendix C – BC Hydro's Policies and Procedures, including all documents and other material referred to in Appendix C – BC Hydro's Policies and Procedures, in performing the Work or any part of the Work.

GC.21 PRIVACY

21.1 Compliance with FOIPPA

BC Hydro is subject to FOIPPA and, accordingly, in order for BC Hydro to comply with the requirements of FOIPPA, the Contractor will, prior to or at the same time as providing BC Hydro or Hydro's Representative with copies of, or access to copies of, any records containing Personal Information of the Contractor's or any Subcontractor's employees, obtain the written consent of each affected individual to the indirect collection of his or her Personal Information by BC Hydro. Upon request, at any time, from Hydro's Representative, the Contractor will provide, within five days of such request, evidence satisfactory to Hydro's Representative, acting reasonably, that such consent has been obtained.

21.2 Default

The Contractor's failure to comply with its obligations under GC.21 will be deemed to be a default under the Contract to which the provisions of GC.9.1 will apply.

GC.22 TAXES AND DUTIES

22.1 Tax Included in Contract Price

The Contract Price (and any part of the Contract Price) paid or payable by BC Hydro to the Contractor includes all applicable taxes, duties, levies and charges (excluding only GST) payable in respect of the Contract Price (or any part of the Contract Price) assessed on any of the Contractor, Subcontractors, or their employees or other Persons engaged by or through them by any and all Governmental Authorities in connection with the Work and includes all customs duties with respect to all imported materials.

22.2 GST

GST will be identified as a separate line item on all invoices, and will be payable by BC Hydro to the Contractor as a separate item in addition to the Contract Price.

22.3 Input Tax Credits

Each party will provide to the other party at all times when any GST is required to be paid, such documents and particulars relating to the supply as may be required by either BC Hydro or the Contractor, as the case may be, to substantiate a claim for any input tax credits as may be permitted pursuant to the *Excise Tax Act* (Canada) in respect of GST.

22.4 Payment of Taxes

Except as expressly set out otherwise in the Contract Documents, the Contractor is solely responsible for and will pay all taxes, duties, levies and charges (excluding only GST) payable in respect of the Contract Price (or any part of the Contract Price) assessed on any of the Contractor, Subcontractors, or their employees or other Persons engaged by or through them by any Governmental Authorities in connection with the Work ("**Contractor Taxes**"). The Contractor will be solely responsible for and pay all customs duties with respect to all imported equipment and materials regardless of whether such equipment and materials are held in the name of the Contractor, a Subcontractor or BC Hydro at the time of import ("**Contractor Duties**").

22.5 Tax Indemnity

The Contractor will indemnify and hold harmless the Indemnified Parties, or any one of them, from and against any liability and costs incurred by them in respect of any Contractor Taxes or Contractor Duties, or any other related charges, including any related interest, fines, or penalties and any related reporting obligations and costs incurred as a consequence of such. The Contractor will be registered with all Governmental Authorities in accordance with Law and will comply with all of its obligations to collect and remit any such Contractor Taxes and Contractor Duties. Notwithstanding any other provision in the Contract, BC Hydro may, in its sole discretion, withhold from any monies owed to the Contractor, whether such monies are owed under and pursuant to the Contract or otherwise, such amounts as are payable by the Contractor in respect of Contractor Taxes or Contractor Duties for which BC Hydro becomes or may become liable.

22.6 Non-Resident

The Contractor represents and warrants that it is not a non-resident of Canada for purposes of the *Income Tax Act* (Canada). In the event that the Contractor becomes a non-resident of Canada for purposes of the *Income Tax Act* (Canada), the Contractor will provide Hydro's Representative with written notice of such circumstance.

If the Contractor:

- (a) is a "non-resident person" (as defined in the *Income Tax Act* (Canada));
- (b) provides or performs any part of the Work in Canada; and
- (c) has not received and provided Hydro's Representative with a copy of a written exemption from Revenue Canada,

then BC Hydro will deduct and withhold 15% of the value of the Work performed in Canada, or such other amount as may be specified by Revenue Canada from time to time, and remit such amount according to Laws. If Revenue Canada assesses BC Hydro for a failure to withhold pursuant to Laws, then the Contractor will indemnify the Indemnified Parties and each one of them against all taxes, penalties, fines, interest and costs resulting from such failure.

22.7 Tax Exemptions and Refunds

The Contractor will, where applicable, use all commercially reasonable efforts to obtain for the benefit of BC Hydro all available exemptions, deductions, rebates, remissions and refunds for all Contractor Taxes and Contractor Duties, including any other related charges, including any related interest, fines or penalties, and upon receipt of any amount in respect of any such exemption, deduction, rebate, remission or refund, the Contractor will promptly pay such amount to BC Hydro.

GC.23 CONTRACTOR'S REPRESENTATIONS AND WARRANTIES

23.1 Contractor's Corporate Representations and Warranties

The Contractor hereby covenants with, and represents and warrants to BC Hydro that, as of the Effective Date, the following representations and warranties are true:

- (a) that unless otherwise disclosed to BC Hydro in writing before the Effective Date and agreed by BC Hydro in writing, the Contractor's performance of the Work will not create any conflict of interest in relation to any services provided by the Contractor to any other party prior to, during or subsequent to Total Completion;
- (b) it is an entity duly created and organized, validly subsisting and in good standing under the Laws of the jurisdiction of its creation and is validly subsisting and in good standing under the Laws of the jurisdiction in which the Work will be performed, and, if different, where the Site is located, and has all requisite power and authority to execute, deliver and perform its obligations under the Contract; and
- (c) the Contract has been duly authorized, executed, and delivered by the Contractor and constitutes a legal, valid, and binding obligation of the Contractor, enforceable against the Contractor in accordance with its terms.

23.2 Contractor's Performance Representations and Warranties

The Contractor acknowledges that BC Hydro is relying on the Contractor's skill, knowledge and expertise in performing the Work in accordance with the Contract Documents. The Contractor hereby represents and warrants, with respect to the Work performed by the Contractor and the Subcontractors, that:

- (a) the Contractor and the Subcontractors have the necessary qualified personnel, with the skills and expertise, to perform and to complete the Work and are experienced, ready and willing to perform the Work in accordance with the Contract Documents; and
- (b) the Contractor has, or will obtain, all required permits, including all Permits, except for Project Related Permits, licences and authorizations necessary to carry on its business and to be obtained by it to perform the Work.

GC.24 INTELLECTUAL PROPERTY

24.1 Grant of License

The Contractor hereby grants to BC Hydro an irrevocable, perpetual, nonexclusive, fee-free, royalty-free, assignable license to use, practice, produce, reproduce, or publish (including in a future procurement process), and to permit others on behalf of BC Hydro to use, practice, produce, reproduce, or publish (including in a future procurement process), any intellectual property rights owned by, controlled by, licensed to or used by the Contractor to the extent such intellectual property rights are incorporated into the Submittals or the Work, in connection with:

- (a) the operation, maintenance, repair, refurbishment or alteration of the Work or any part of the Work;
- (b) in the circumstances where the Work is incomplete due to the default of the Contractor, the completion of the Work; and
- (c) any operation, maintenance, repair, refurbishment or alteration of work, equipment, products or materials that are adjacent to or connected to the Work.

24.2 Third Party Intellectual Property

The Contractor will make each third party with whom it deals and who may be affected by GC.24.1 aware of GC.24.1 and will cause each such third party to comply with such provision so as to enable the Contractor to fulfill its obligations under such provision, prior to or upon entering into any contract or agreement with such third party.

24.3 Royalty and Patent Fees

The Contractor will be solely responsible for and will pay all royalties, patent fees, license fees and other charges payable on the items or things furnished by or on behalf of the Contractor in connection with the Project or the Work.

24.4 Moral Rights

The Contractor waives in favour of BC Hydro all moral rights, and will cause all of the Contractor's personnel, Subcontractors and their personnel working on the performance of the Work to waive in favour of BC Hydro all such rights in and to any intellectual property incorporated into the Work. The Contractor will have each of its personnel or any third persons engaged in the performance of the Work do all such other things and execute all such documents as reasonably requested by Hydro's Representative in writing in order to confirm or give effect to any of the matters described in this GC.24.4.

GC.25 MISCELLANEOUS

25.1 International Sale of Goods

The parties expressly agree that the United Nations Convention on Contracts for the International Sale of Goods does not and will not apply to the Contract.

25.2 Duty to Mitigate

In all cases where the Contractor is entitled to receive from BC Hydro any additional compensation, damages, or extensions of time, the Contractor will use both all commercially reasonable efforts and all due diligence to mitigate and reduce the amount required under the Contract to be paid by BC Hydro to the Contractor or the amount of the extension of the time for the performance of the Work. This obligation will be taken into account in the determination of the Contractor's entitlement to an extension of time for the performance of the Work and reimbursement of costs or both.

25.3 Change of Law

If any Law that is directly applicable to the design or the manner of the performance of the Work is amended after the Effective Date and before Total Completion, and such amendment unavoidably results in a material increase or decrease in the costs incurred by the Contractor to perform the Work, then such amendment will entitle the Contractor to claim a Change pursuant to the provisions of GC.6.4, except that the Contractor's notice obligation under GC.6.4(a)(i) will be to give written notice of such claim to Hydro's Representative promptly upon the Contractor becoming aware of such amendment, or, in any event, promptly after the date when the Contractor should reasonably have become aware of such amendment.

25.4 Severability

Each provision of the Contract is severable. If any provision of the Contract is to any extent invalid or unenforceable, the remainder of the Contract will not be affected and each remaining provision of the Contract will be separately valid and will be enforceable.

25.5 Joint and Several Liability

Where the Contractor is a joint venture, partnership or consortium:

- (a) each member of such entity agrees to be jointly and severally liable for the obligations of the Contractor; and
- (b) the Contractor will not change its composition or legal status without the prior written consent of BC Hydro.

25.6 Independent Contractor

The relationship between BC Hydro and the Contractor under the Contract is that of the Contractor being an independent contractor, notwithstanding any other provision in the Contract or anything arising out of the actions of the parties. BC Hydro and the Contractor expressly deny that it is their intention to create any partnership, joint venture, agency, employment or other relationship. Unless otherwise agreed in writing, the Contractor is not the agent of BC Hydro in any capacity whatsoever under the Contract, and has no authority to act as an agent of BC Hydro.

25.7 Third Persons

Except as expressly set out otherwise in the Contract Documents, nothing in the Contract, expressed or implied, is intended or will be construed to confer upon or to give any Person which is not a party to the Contract any rights or remedies under or by reason of the Contract.

25.8 Public Communications

The Contractor acknowledges that BC Hydro will not provide any endorsement of the Contractor or the Work. The Contractor will not erect any sign or advertisement, use any BC Hydro trademark, logo or device in any sign or advertisement, or make any public announcement or disclosure, whether for publication in the press, radio, television, or any other medium, regarding the existence of the Contract, the Project or the Work without the prior written consent of BC Hydro, which consent may be arbitrarily withheld.

BC Hydro will, at its cost, take the lead role in conducting and implementing a construction information and notification program which will consist of community relations, public consultation, media relations and traffic management. This plan will include the following communications activities: public information bulletins, public displays, advertising, website, open houses, milestone announcements and celebrations, news releases and responses to media and public inquiries.

The Contractor will support BC Hydro's construction information and notification program by supplying timely and accurate information to BC Hydro, as reasonably requested by BC Hydro, including:

- (a) meeting with Hydro's Representative, as required by BC Hydro, to provide information to Hydro's Representative about scheduled and unscheduled Work activities to the extent that such activities may affect the public, and to confirm that the Contractor is acting consistently with BC Hydro's overall strategic approach and key messages;
- (b) attending community relations meetings and other public communications forums concerning the Work as required by BC Hydro;
- (c) providing information BC Hydro requires to respond to day-to-day enquiries and complaints from media, stakeholders, property owners and the general public on issues and concerns arising out of the Work; and

- (d) providing BC Hydro with advance notice of any anticipated or planned road closures or diversions.

25.9 Attornment

Subject to Appendix M – Dispute Resolution Procedure, for the purposes of any legal actions or proceedings brought by any party against the other party, the parties hereby irrevocably accept and submit to the exclusive jurisdiction of the courts of the Province of British Columbia and acknowledge such courts' competence and the convenience and propriety of the venue and agree to be bound by any judgment of such courts and not to seek, and hereby waive, review of its merits by the courts of any other jurisdiction.

25.10 Rights and Remedies Cumulative

All rights and remedies under the Contract (other than those which are expressly specified in the Contract Documents as exclusive rights and remedies) are cumulative and are in addition to and not in substitution for any other rights or remedies available under the Contract or Law or at equity.

25.11 Survival

All representations and warranties of the Contractor to BC Hydro and all provisions of:

- (a) Section 11 of the Agreement;
- (b) GC.14;
- (c) GC.15;
- (d) GC.17;
- (e) each other provision of the Contract providing for indemnification of a party by the other party;
- (f) GC.19;
- (g) GC.24;
- (h) GC.25, with the exception of GC.25.3, which will not survive the termination, suspension, cancellation or expiration of the Contract; and
- (i) each other provision of the Contract which either expressly in accordance with its terms or by its nature survives the termination, suspension, cancellation, completion or expiration of the Contract,

including each other provision necessary for the interpretation or enforcement of such provisions, will continue as valid and enforceable obligations of the parties notwithstanding any termination, suspension, cancellation, completion or expiration of the Contract.