

High Load Move Support Agreement

This agreement is dated for reference _____, 20____ (the “Effective Date”).

BETWEEN:

BRITISH COLUMBIA HYDRO AND POWER AUTHORITY,
333 Dunsmuir Street, Vancouver, B.C. V6B 5R3

(“BC Hydro”)

AND:

Name: _____

Address: _____

(the “Customer”)

WHEREAS:

a. BC Hydro owns certain electrical transmission and distribution system assets in British Columbia.

b. The Customer will be conducting a high load move of

<detailed description of move, including what is being moved, location, purpose, timeline, etc.>

(the “High Load Move”) and requires the Work (as defined below) to be performed.

c. BC Hydro is willing to perform, or to have performed, the Work on the terms and conditions set out in this Agreement.

NOW THEREFORE, in consideration of the mutual covenants contained in this Agreement, the parties agree as follows:

BC HYDRO’S RESPONSIBILITIES

1. BC Hydro will perform, or cause to be performed, the following work:

<Description of modification, relocation, reinstallation work and engineering services>

(collectively, the “Work”).

BC Hydro may, in its sole discretion, amend or modify the scope of the Work for any reason by giving at least 10 days’ written notice to the Customer.

2. Subject to section 3, BC Hydro will use commercially reasonable efforts to achieve, but is not obligated to achieve, substantial completion of the Work on or before _____

(the “Substantial Completion Date”).

3. BC Hydro may extend the Substantial Completion Date for the following:

a. any delay affecting BC Hydro’s performance under this Agreement caused or contributed to by the Customer, or by any person for whom the Customer is responsible, including but not limited to, any delays associated with section 4;

b. any delay caused or contributed to by any subcontractors or third parties;

c. any Force Majeure Event as provided under section 20; and

d. any other extension required by BC Hydro in its sole discretion, including in connection with BC Hydro’s priorities in operating, planning, managing, and maintaining the electrical transmission and distribution systems.

CUSTOMER'S RESPONSIBILITIES

4. The Customer will cooperate (and will ensure that its contractors and agents cooperate) with BC Hydro in the performance of the Work, including providing all requested information and assistance and obtain all approvals, permits, rights and licenses, unless expressly identified as being the responsibility of BC Hydro in the description of the Work.
5. The Customer will take reasonable measures (and will ensure that its contractors and agents take reasonable measures) to protect and prevent loss or damage to the property of BC Hydro and third parties due to the Customer's (or the Customer's contractor(s)' or agent(s)') actions or omissions during the High Load Move. The Customer will be responsible for promptly making good any such loss or damage at the Customer's expense, if requested by BC Hydro, or alternatively, BC Hydro may recover such cost of making good from the Customer.

TERM AND TERMINATION

6. This Agreement commences on the Effective Date and ends on the earlier of completion of the High Load Move, or as terminated in accordance with the terms of this Agreement (the "**Term**").
7. Either party may terminate this Agreement for any reason by giving at least 30 days prior written notice to the other party. If this Agreement is terminated prior to completion of the High Load Move, the Customer will pay BC Hydro for all amounts accrued or committed to be paid for any and all Work performed by BC Hydro up to and including the termination date.

FEES AND PAYMENT

8. The Customer will pay to BC Hydro a fee that includes BC Hydro's costs for contractors, agents, consultants, other third parties, labour, materials, trucking and other transportation, equipment, approvals, permits, rights, and licenses, as well as all other fees, costs and expenses incurred to third parties and internal costs allocated by BC Hydro associated with or related to the Work (the "**Fee**"). The Customer must pay all applicable taxes in addition to the Fee.
9. BC Hydro will provide the Customer with a fee estimate for the Work (the "**Fee Estimate**"). The Customer acknowledges and agrees that BC Hydro has not made, nor makes any representation or guarantee that the Fee will be equal to or less than the Fee Estimate. BC Hydro may, in its sole discretion, increase the amount of the Fee Estimate from time to time as required. Upon completion of the Work, BC Hydro will issue an invoice to the Customer representing the full amount of the Fee (the "**Invoice**"). The Customer will pay to BC Hydro the full amount of the Fee in accordance with the Invoice.

CUSTOMER'S REPRESENTATIONS AND WARRANTIES

10. The Customer represents and warrants that it has submitted the following forms to the respective parties:
 - a. Commercial Vehicle Safety and Enforcement Form 1052, as amended or replaced from time to time, to the British Columbia Ministry of Transportation and Infrastructure;
 - b. Authorization for Design and Construction Payment Account form to BC Hydro;
 - c. online High Load Move application form to BC Hydro.

NO GUARANTEES BY BC HYDRO

RELEASE, INDEMNIFICATION, AND LIMITATION OF LIABILITY

11. The Customer acknowledges and agrees that BC Hydro makes no guarantees that the Work completed by BC Hydro will mitigate the risk of the Customer incurring any and all losses, damages or injuries to any property or persons with respect to the High Load Move. The Customer must inspect the affected and surrounding areas with due inquiry after the completion of the Work prior to undertaking the High Load Move, and proceeds with the High Load Move at its sole risk.
12. The Customer acknowledges and agrees that BC Hydro has no liability whatsoever with respect to the Work and High Load Move. The Customer hereby releases each of BC Hydro, its affiliates and their respective directors, officers, employees, contractors, consultants, representatives, agents, and those for whom BC Hydro is responsible in law (collectively, "BC Hydro Parties"), jointly or severally, from and against any and all demands, claims, causes of action, complaints, costs, expenses, losses, damages, penalties, fines, orders, actions, suits, proceedings, interest, and compensation of whatsoever kind and howsoever arising, whether in law or equity, contract, or tort law, whether known or unknown, including without limitation interest and all expenses of litigation, court costs, and legal fees, claims for property damage, loss of use of any property,

bodily injury, personal injury, illness or death brought by on or behalf of any third party person or entity (collectively, the “Claims”) arising directly or indirectly in connection with, or related to, any event, circumstance, occurrence, matter or situation as a result of the Work, the High Load Move, or this Agreement.

13. The Customer will indemnify and save harmless BC Hydro Parties from and against any or all Claims arising out of, from or in connection with, whether directly or indirectly, the Work, the High Load Move, or breach of this Agreement, to the extent not caused or contributed to by any act, negligence, or omission on the part of the BC Hydro Parties.
14. The foregoing release and indemnity will survive the completion of the Work, the High Load Move, and expiry, cancellation, or termination of this Agreement.
15. Despite any provisions of this Agreement, the BC Hydro Parties are not liable to the Customer and its officers, directors, employees contractors or agents for any special, indirect, incidental, consequential, punitive or exemplary damages of any nature whatsoever, including any arising from performance or non-performance of the Work, performance or non-performance of this Agreement, or any other matter related to this Agreement, and whether based in contract, warranty, indemnity, tort (including negligence) strict liability or otherwise and including damages or loss resulting from inability to use the work, loss of revenues or profits, increased operating costs, loss of production, loss of use of equipment, loss of opportunity, cost of capital or financing or decontamination expenses.
16. The maximum amount of the total aggregate liability of BC Hydro to the Customer arising from any cause whatsoever, whether based in contract, warranty, indemnity, tort (including negligence) strict liability or otherwise, is the total amount paid by the Customer under this Agreement. The limits on BC Hydro’s liability in this section do not apply in respect of liability for BC Hydro’s gross negligence or wilful, intentional, fraudulent or criminal misconduct.

FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

17. The Customer acknowledges that BC Hydro is subject to the *British Columbia Freedom of Information and Protection of Privacy Act* and associated regulations.
18. The Customer acknowledges and agrees to the collection, use and disclosure by BC Hydro of the Customer’s contact information, including: the Customer’s business name, business address, business email address and business phone number. The Customer’s contact information will be collected, used, and disclosed for the purposes of facilitating the High Load Move and for processing payment for the Work. If required, BC Hydro may disclose the Customer’s contact information to municipal, provincial, and federal governments, Telus Corporation, Technical Safety BC, and other utilities in British Columbia.

COMPLIANCE WITH APPLICABLE LAWS AND POLICIES

19. In the performance of the Customer’s obligations under this Agreement, the Customer must comply with all applicable laws, regulations, and any policies communicated by BC Hydro regarding high load moves. For greater certainty, the Customer must ensure that all of its employees, agents, contractors and subcontractors comply with all such laws and policies in their performance of any obligations under this Agreement.

FORCE MAJEURE

20. A party is excused from performance under the Agreement if and to the extent and for the time that performance is prevented or materially hindered by events or circumstances, including any unreasonable acts or omissions of the other party and its agents, contractors, customers and its and their employees, (collectively, “Force Majeure Events”) beyond the reasonable control of that party and which by the exercise of reasonable diligence by such party could not have been prevented (except lack of financial capability or lack of labour, material or utilities must not be Force Majeure Events hereunder unless caused by an event or circumstance that would otherwise excuse a party from performance of its obligations), provided that prompt notice is given to the other party. If either party gives notice of a Force Majeure Event, each party must exercise reasonable efforts to avoid or minimize any delay occasioned thereby. The party prevented or delayed in the performance or observance of its obligations under the Agreement will promptly resume the performance and observance of those obligations after cessation of the particular Force Majeure Event unless the Agreement has been terminated.

NOTICES

21. Any notice required or permitted to be given under this Agreement must be in writing and may be delivered by registered mail, by hand or by email,

if to BC Hydro, Attention: _____, at _____, and
[insert name] [insert mailing address and email address]
if to the Customer, Attention: _____ at _____.
[insert name] [insert mailing address and email address]

Notices given: (i) by registered mail or by hand are deemed effective upon actual receipt; and (ii) by email are deemed received upon actual receipt, if received during recipient's normal business hours, or at the beginning of the recipient's next business day if not received during recipient's normal business hours.

GENERAL

- 22.** All rights, obligations and remedies of the parties which accrued prior to the time of expiry or earlier termination of the Agreement, or which are by their nature continuing and all other provisions necessary for the interpretation or enforcement of such provisions will survive expiry or earlier termination of the Agreement. For greater certainty, the parties' obligations under sections 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 22, 23, 24, 25, 26, 28 and 30 will survive the expiration or termination of this Agreement.
- 23.** The Agreement is governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein, excluding conflict of laws principles that would impose a law of another jurisdiction for the construction of the Agreement. The parties hereby irrevocably and unconditionally attorn to the nonexclusive jurisdiction of the courts of the Province of British Columbia and all courts competent to hear appeals therefrom.
- 24.** A waiver of any breach of the Agreement is not a waiver of any continuing or subsequent breach. A waiver must be written and signed by the party against whom enforcement thereof is sought.
- 25.** If any provision of the Agreement is illegal or unenforceable, it must be severed, and the balance of the Agreement enforced.
- 26.** The Agreement enures to the benefit of and binds the parties and their respective successors and permitted assigns.
- 27.** The Agreement may be amended only by written agreement between the parties.
- 28.** This Agreement constitutes the entire agreement between the parties with respect to the High Load Move and supersedes and replaces any and all prior agreements, negotiations, understandings, or representations with respect to the subject matter of this Agreement.
- 29.** The Agreement may be executed in counterparts, which when taken together constitutes one and the same document. The Agreement may be executed by the exchange of signed counterparts by facsimile transmission or electronically in PDF or similar secure format.
- 30.** If the Customer is not an individual,
- a.** the Customer has the power and capacity to enter into this Agreement and to observe, perform and comply with the terms of this Agreement and all necessary corporate or other proceedings have been taken and done to authorize the execution and delivery of this Agreement by, or on behalf of, the Customer, and
 - b.** this Agreement has been legally and properly executed by, or on behalf of, the Customer and is legally binding upon and enforceable against the Customer in accordance with its terms.

The parties have signed this Agreement as of the Effective Date.

British Columbia Hydro And Power Authority

Signature

Print name

Print title

Customer

Signature

Print name

Print title