

**AGREEMENT FOR NEW TRANSMISSION SERVICE CUSTOMERS WITH AN  
INDIRECT INTERCONNECTION TO THE BC HYDRO SYSTEM**

**THIS FACILITIES AGREEMENT** made as of

the \_\_\_\_ day of \_\_\_\_\_, 20\_\_  
for \_\_\_\_\_.

**BETWEEN:**

**BRITISH COLUMBIA HYDRO AND POWER AUTHORITY,**  
having its head office at 333 Dunsmuir Street,  
Vancouver, British Columbia V6B 5R3  
(herein called "**BC Hydro**")

OF THE FIRST PART

**AND:**

\_\_\_\_\_  
having an office in British Columbia at

\_\_\_\_\_  
(herein called the "**Customer**")

OF THE SECOND PART

**WITNESSES THAT** the parties declare and agree as follows:

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ACCEPTED: March 30, 2016

ORDER NO. G-25-16



\_\_\_\_\_  
ACTING COMMISSION SECRETARY

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**APPENDIX 1 SYSTEM REINFORCEMENT AND TRANSMISSION EXTENSION  
POLICIES FOR PERMANENT SERVICE**

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APPENDIX 2 PLANT DESCRIPTION

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**1.0 TARIFF SUPPLEMENT PROVISIONS**

- (a) In addition to the provisions contained herein, the parties also have the rights and obligations described in Appendix 1 of Electric Tariff Supplement No. 88 provisions respecting “System Reinforcement and Transmission Extension Policies for Permanent Service” attached hereto as Appendix 1 to this Agreement. Further, the words which are defined in the aforesaid Electric Tariff Supplement No. 88 provisions shall have the same meaning in this agreement. BC Hydro will supply to the Customer a copy of all amendments or replacements to the aforesaid Electric Tariff Supplement provisions. To the extent of any inconsistency between BC Hydro’s rights and obligations under the terms of this Agreement and its rights and obligations under an Agreement with a Customer under Electric Tariff Supplement No. 6, or a generator under an interconnection or other similar agreement governing the connection of the Shared Facilities to the BC Hydro System at the Point of Delivery, the rights and obligations specified under this Agreement will prevail. For greater certainty, nothing in this Agreement is intended to interfere with any contractual rights and obligations among the owner or operator of the Shared Facilities, the Customer and other users of the Shared Facilities, provided that those contractual obligations do not purport to modify BC Hydro’s rights, obligations or liabilities under this Agreement or under any other agreement with a Customer or generator using the Shared Facilities or with the owner or operator of the Shared Facilities.

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- (b) BC Hydro and the Customer will ensure that the owners and operators of the Shared Facilities are provided with copies of Electric Tariff Supplement No. 87 and Electric Tariff Supplement No. 88, as filed with the British Columbia Utilities Commission, at least 30 days prior to execution of this Agreement or as soon as reasonably practical thereafter.

## **2.0 FACILITIES DESCRIPTION**

- (a) The System Reinforcement, the Basic Transmission Extension and Customer Facilities required to be installed by each party to facilitate the supply of Electricity to the Customer at the Point of Delivery to supply the Customer's Plant are generally described in Appendix 2 to this Agreement. The Shared Facilities are also as generally described in Appendix 2.

## **3.0 FREQUENCY, VOLTAGE, CONTRACT DEMAND, POWER FACTOR, FAULT CONTRIBUTION**

- (a) The Electricity to be supplied by BC Hydro pursuant to an Electricity Supply Agreement and to be transmitted over BC Hydro Facilities to the Point of Delivery, as shown in Appendix 2, shall be three-phase alternating current, at a frequency of 60 Hz +/- 0.1 Hz. If and when the Power Factor required pursuant to subclause 3.0(c) of this Agreement is being maintained and the Customer's Plant is operating at or above 75 per cent of Contract Demand then the service voltage shall be within +/- \_\_\_\_ per cent of \_\_\_\_ volts under BC Hydro system normal operating conditions.
- (b) The Contract Demand shall be \_\_\_\_ kV.A.

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- (c) The Power Factor at the Point of Delivery measured over an interval of five minutes, shall be \_\_\_\_\_.
- (d) The initial three-phase symmetrical fault contribution at \_\_\_\_\_ kV from BC Hydro plant, when operating normally, at the Point of Delivery shall be not less than \_\_\_\_\_ MV.A. The ultimate three-phase symmetrical fault contribution from BC Hydro Facilities shall be not more than \_\_\_\_\_ MV.A.
- (e) BC Hydro is entering into this Agreement to facilitate the provision of Indirect Interconnection Service to the Customer. The Customer acknowledges and agrees that BC Hydro will have no obligation to enter into an Electricity Supply Agreement or to deliver Electricity to the Customer for the Customer's Plant until:
- (i) Commercial and regulatory arrangements among BC Hydro and all owners and operators (as applicable) of the Shared Facilities have been finalized to BC Hydro's reasonable satisfaction; and
  - (ii) All relevant regulatory approvals, including without limitation any specific regulatory approvals listed in Appendix 2, have been received,
- in both cases to accommodate the provision of Indirect Interconnection Service to the Customer.
- (f) For greater certainty, the Customer's obligations under this Agreement will not be conditional upon or subject to:
- (i) The arrangements referred to in subclause 3.0(e) being finalized to BC Hydro's reasonable satisfaction; or
  - (ii) The Customer having entered into commercial arrangements with the owners or operators (as applicable) of the Shared Facilities,

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and, accordingly, the Customer acknowledges that the costs and expenses incurred by the Customer under this Agreement may not ultimately result in the provision of Electricity under an Electricity Supply Agreement to supply the Customer's Plant.

**4.0 COMPLETION DATE**

- (a) The completion date for the work to be undertaken by BC Hydro, as described in Appendix 2, shall be \_\_\_\_\_, unless otherwise agreed or suspended by Force Majeure.

**5.0 AMOUNTS PAYABLE**

- (a) [This section will identify the amounts to be paid by the Customer to BC Hydro. The types of costs will be dependent on the options chosen by the Customer in respect of estimates and the amounts of the costs will vary in accordance with site specific circumstances.]

**6.0 TERM OF AGREEMENT**

- (a) Unless terminated or extended in accordance with this Agreement, this Agreement shall be in force from the date it is made until all potential payments and repayments, including returns of security deposits, prescribed in this Agreement, or in the Tariff Supplement Provisions attached as Appendix 1, have been made and until the parties have reached an agreement to deal with any ongoing obligations and rights.

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**7.0 SUCCESSORS, ASSIGNS**

- (a) This agreement shall enure to the benefit of and be binding upon the parties and their respective successors and assigns provided, however, that this agreement shall not be transferred or assigned by the Customer without prior written consent of BC Hydro, which consent shall not be unreasonably withheld.

**8.0 NOTICE**

- (a) Unless otherwise provided for by this Agreement, a notice, consent, request, demand, statement or bill that either party may be required or may desire to give to the other party shall be in writing and shall be deemed to be given to and received by the addressee on the business day next following when it is delivered by hand, by courier, by telex, or by facsimile copier, and is deemed to be given when received if delivered by prepaid mail at the address that each party shall give notice of from time to time.
- (b) The address that BC Hydro gives notice of is:

\_\_\_\_\_

- (c) The address that the Customer gives notice of is:

\_\_\_\_\_

**9.0 LAW**

- (a) This Agreement shall be construed in accordance with the laws of the Province of British Columbia.

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- (b) BC Hydro and the Customer will promptly comply with all relevant laws and regulations and the relevant orders, rules and requirements of all lawful authorities having jurisdiction.

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IN WITNESS WHEREOF the duly authorized representative of each party has executed this Agreement. [If the Customer is a joint venture or partnership then this Agreement shall be executed and sealed by all joint ventures or partners and all declarations and agreements of the Customer shall be deemed to be joint and several].

BRITISH COLUMBIA HYDRO AND  
POWER AUTHORITY

Per:

\_\_\_\_\_

THE CORPORATE SEAL of the Customer, )  
 \_\_\_\_\_ )  
 \_\_\_\_\_ )  
 was hereunto affixed in the presence of: )  
 \_\_\_\_\_ )  
 Authorized Signatory )  
 \_\_\_\_\_ )  
 Authorized Signatory )

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**APPENDIX 1**  
**TO THE FACILITIES AGREEMENT**  
**MADE AS OF THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_**  
**ELECTRIC TARIFF SUPPLEMENT NO. 88 PROVISIONS RESPECTING SYSTEM**  
**REINFORCEMENT AND TRANSMISSION EXTENSION POLICIES FOR PERMANENT**  
**SERVICE**

**1 APPLICATION AND OVERVIEW**

- (a) The provision of Indirect Interconnection Service will normally require the Customer to have made arrangements for access to Shared Facilities. There may also be a necessity for System Reinforcement and a Basic Transmission Extension.
- (b) Clauses 2 through 13 of this Section of Electric Tariff Supplement No. 88 set out the specific rights and obligations of BC Hydro and the Customer. The following generally describes, solely for the purpose of providing an overview, some of the basic concepts in this Section of Electric Tariff Supplement No. 88:
- (i) System Reinforcement is the responsibility of BC Hydro, who shall undertake the required work and provide an offset for the expense;
  - (ii) The Basic Transmission Extension is the responsibility of BC Hydro, who shall undertake the required work at the Customer's expense;
  - (iii) The Customer will be solely responsible to make arrangements for use of, and pay any costs arising from its connection to, the Shared Facilities;

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- (iv) The Transmission Facilities will be owned by a party or parties other than BC Hydro, and BC Hydro will have no responsibility to the Customer to own or operate the Transmission Facilities or to ensure that the Customer has access to or can use the Transmission Facilities or receives at the Customer's Plant Electricity delivered by BC Hydro to the Point of Delivery as required by an Electricity Supply Agreement; and
- (v) It is the responsibility of the Customer to establish that the provision of electrical service by BC Hydro to the Point of Delivery to supply Customer's Plant is in the public interest.

## 2 DEFINITIONS

The following definitions apply only to this Section of Electric Tariff Supplement No. 88:

- (a) **Actual Cost:** A cost that is reasonably incurred in acquiring Right-of-Way, doing work or providing service.
- (b) **Agreed Maximum Cost:** This term is defined in clause 4 of this Section of Electric Tariff Supplement No. 88.
- (c) **Applicable Rate Schedule:** The Schedule to the BC Hydro Electric Tariff under which the Customer takes or proposes to take Electricity from BC Hydro pursuant to an Electricity Supply Agreement, being one of Schedule 1823, Transmission Service – Stepped Rate, Schedule 1825, Transmission Service – Time-Of-Use (TOU) Rate, or Schedule 1827, Transmission Service – Rate for Exempt Customers, of the BC Hydro Electric Tariff as amended or replaced from time to time, filed as required by the *Utilities Commission Act*, S.B.C. 1980, c. 60.

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- (d) **Basic Transmission Extension:** Additions and alterations to existing BC Hydro Facilities (including additions and alterations to an existing Basic Transmission Extension as defined in Electric Tariff Supplement No. 6), including switches and circuit breakers, as shown in Appendix 2.
- (e) **BC Hydro Facilities.** Facilities owned by BC Hydro that are directly connected to the BC Hydro system.
- (f) **BC Hydro's Guide:** The guide prepared by BC Hydro and titled "Guide & Requirements for Service at 69,000 to 287,000 volts", as amended or replaced from time to time.
- (g) **Customer:** A Customer who takes or is proposing to take Electricity from BC Hydro at the Point of Delivery to supply the Customer's Plant pursuant to an Electricity Supply Agreement on the terms and conditions of an Applicable Rate Schedule (or any predecessor), as amended or replaced from time to time.
- (h) **Customer's Facilities:** All Facilities owned by the Customer required for the supply of Electricity to the Customer's Plant, as shown in Appendix 2.
- (i) **Customer's Plant:** The manufacturing or other plant owned by the Customer, other than the Customer's Facilities.
- (j) **Detailed Estimate:** This term is defined in clause 4 of this Section of Electric Tariff Supplement No. 88.
- (k) **Electricity:** Electrical power and electrical energy. Power is measured and expressed in kilowatts (**kW**) or kilovolt-amperes (**kV.A**) and energy is measured and expressed in kilowatt-hours (**kW.h**).

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- (l) **Electricity Supply Agreement:** The agreement to be entered into between BC Hydro and the Customer for the supply of Electricity to the Customer's Plant or the agreement existing between BC Hydro and the Customer, as an existing Customer, for the same purpose.
- (m) **Facilities:** Transmission, distribution and substation equipment.
- (n) **Facilities Agreement:** The agreement between BC Hydro and the Customer for the construction and installation of Facilities.
- (o) **Force Majeure:** This term is defined in clause 13 of this Section of Electric Tariff Supplement No. 88.
- (p) **Indirect Interconnection Service:** The provision by BC Hydro of Electricity to a Customer where the Customer uses Shared Facilities to facilitate the supply of Electricity to the Customer's Plant.
- (q) **Nominal Capacity:** The kV.A capacity of a Basic Transmission Extension, as determined by BC Hydro, from nominal voltage and rated current.
- (r) **Point of Delivery:** The point of connection, at the relevant time during the term of this Agreement, between the Transmission Facilities and BC Hydro Facilities. The Point of Delivery on the effective date of this Agreement is as shown in Appendix 2.
- (s) **Point of Load Interconnection:** The point of connection between the Shared Facilities and the Customer's Facilities, as shown in Appendix 2.
- (t) **Power Factor:** The ratio, expressed as a percentage, of kW to kV.A when both are measured simultaneously over a specified time interval.

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- (u) **Preliminary Estimate:** This term is defined in clause 4 of this Section of Electric Tariff Supplement No. 88.
- (v) **Right-of-Way:** The real property, or an interest in such property, required for the purpose of locating, constructing, operating and maintaining the Facilities of BC Hydro or the Customer, as the situation requires.
- (w) **Shared Facilities:** The Facilities owned and operated by a party or parties, identified in Appendix 2, other than BC Hydro and located between the Point of Delivery and the Point of Load Interconnection, as shown in Appendix 2.
- (x) **System Reinforcement:** Additions and alterations to existing BC Hydro Facilities required to supply the Electricity to the Point of Delivery. Where an existing Basic Transmission Extension or other point of interconnection with BC Hydro Facilities supplies at least one other Customer, or other BC Hydro customers whose combined power demand exceeds five per cent of the Nominal Capacity of the Basic Transmission Extension or other point of interconnection to BC Hydro Facilities, any additions and alterations shall be considered System Reinforcement. System Reinforcement shall not include any additions or alterations to generation plant and associated transmission, or transmission lines at 500 kV and over, unless the new or incremental loads exceed 150 MV.A.
- (y) **Transmission Facilities:** The Shared Facilities and the Customer's Facilities, including for greater certainty any equipment or Facilities required to connect the Shared Facilities and the Customer's Facilities at the Point of Load Interconnection, considered as a whole, as shown in Appendix 2. For greater certainty, Transmission Facilities shall not include any metering or other equipment owned by BC Hydro.

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**3 APPROVALS**

- (a) The Customer shall, on all relevant applications, have the prime responsibility for demonstrating that the provision of electrical service by BC Hydro to the Customer at the Point of Delivery to supply the Customer's Plant is in the public interest.
- (b) A party to this Agreement responsible for the installation and construction of any Facilities shall use all reasonable efforts to obtain all required approvals, permits, licenses, easements, and Right-of-Way. The other party to the Agreement shall provide all reasonable assistance.

**4 ESTIMATES AND AGREED MAXIMUM COST**

- (a) On request, BC Hydro shall provide preliminary information, the cost portion of which shall be known as the Preliminary Estimate, as to the method and cost of supply. This information shall normally be provided at no cost, but a charge may result if more than two sites are to be reviewed.

Where requested, BC Hydro shall also provide, normally at no cost, preliminary information as to the costs of undertaking the detailed studies referenced in subclause 4(c).

- (b) BC Hydro makes no representations as to the accuracy of the Preliminary Estimate and the Customer's reliance on this Preliminary Estimate shall not limit the Customer's responsibility for the payment of the Actual Costs incurred by BC Hydro.

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- (c) BC Hydro shall also undertake and provide, upon request, detailed studies to determine the method, cost and timing of System Reinforcement and the Basic Transmission Extension to be constructed under this Agreement, which studies shall be at the Customer's cost, paid in advance. Further, based on such studies, BC Hydro shall provide an estimate, known as the Detailed Estimate, within a specified accuracy, as desired by the Customer.
- (d) If a Customer has paid for a Detailed Estimate, as described in subclause 4(c), then the Agreed Maximum Cost shall be the lesser of the Actual Costs and the Detailed Estimate.
- (e) If a Customer elects not to pay for an estimate as described in subclause 4(c), the Customer shall pay BC Hydro's Actual Costs and the Agreed Maximum Cost shall be the Actual Cost or the estimated Actual Cost where final costs are not available.
- (f) The Customer will provide to BC Hydro, from time to time upon request, any information regarding the Transmission Facilities, including the Shared Facilities, that BC Hydro reasonably requires to satisfy its commitments under this clause 4, subject to the Customer's obligations of confidentiality to third parties.

## **5 SYSTEM REINFORCEMENT**

- (a) BC Hydro shall construct, own, operate and maintain all System Reinforcement.
- (b) Prior to BC Hydro undertaking the required System Reinforcement, the Customer shall:

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- (i) pay BC Hydro any amount by which the Detailed Estimate or, in its absence, the Preliminary Estimate of System Reinforcement exceeds the maximum BC Hydro offset determined pursuant to subclause 5(c); and
- (ii) provide security, in the form specified in clause 12, to BC Hydro in an amount equal to the BC Hydro offset determined pursuant to subclause 5(c), until the Customer's Plant is in normal commercial operation.
- (c) For permanent loads, BC Hydro shall provide an offset towards the cost of System Reinforcement, in an amount equal to the lesser of:
- (i) the Detailed Estimate or, in its absence, the Preliminary Estimate of System Reinforcement as determined pursuant to subclause 5(b); and
- (ii) the BC Hydro maximum offset as calculated in the following manner:

$$I = \frac{(R-E)}{.135} + B + D$$

Where:

- I = BC Hydro's maximum offset towards the cost of System Reinforcement;
- R = the incremental revenue as calculated by BC Hydro from the estimated incremental load during the first year of normal operations;
- E = the estimated incremental operating and maintenance expense of supplying the incremental load during the first year of normal operations;

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- D = one-half the annual depreciation associated with the estimated total costs of System Reinforcement; and
- B = other benefits to the BC Hydro system, as determined by BC Hydro.

(d) Once the Customer's Plant is in normal operation:

- (i) BC Hydro shall re-evaluate its offset and any required Customer contribution, based on the Agreed Maximum Cost, together with new forecasts of both the incremental revenues (R) and the benefits (B), whereupon BC Hydro shall return any excess security or the Customer shall provide any additional security or contribution, as necessary; and
- (ii) BC Hydro shall thereafter return all remaining security annually, in accordance with the following formula:

$$S_R = \frac{S_O}{8} \times \frac{R_A}{R_E}$$

where:

- SR = the amount of security released in any given year following the commencement of normal operation of the Customer's Plant;
- SO = the amount of security provided after re-evaluation;
- RA = the actual revenue received during the year in question from the Customer and other Customers using the same System Reinforcement; for loads which are incremental to those loads projected at the time the security was taken; and

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RE = the minimum annual revenue which is required to make the BC Hydro offset equal to the Actual Cost, to be calculated as follows:

$$RE = .135 ( IA - B - D ) + E$$

where IA is equal to the BC Hydro offset after adjustments as determined pursuant to subclause 5(d)(i) and B, D and E have the meanings given in subclause 5(c)(ii).

- (e) Where a Customer has made a payment towards System Reinforcement, pursuant to subclause 5(b)(i) and 5(d)(i), and BC Hydro determines that a subsequent Customer will make use of the System Reinforcement during the first five years following commencement of service, BC Hydro shall recalculate the Customer's payment based on the combined loads and refund the appropriate amount to the first Customer. In this recalculation, the incremental revenue from the new Customer shall be used to increase the incremental revenue ( $R_A$ ) in subclause 5(d).
- (f) If the Customer's project is abandoned or the Customer's Plant is closed with no reasonable prospects for re-opening in the foreseeable future or if any portion of the security remains in place twelve years after commencement of operations, then the remaining security deposit shall become the property of BC Hydro.

## **6 BASIC TRANSMISSION EXTENSION**

- (a) BC Hydro shall construct, own, operate and maintain the Basic Transmission Extension.

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- (b) The Customer shall pay the cost of the Basic Transmission Extension to be constructed under this Agreement by:
- (i) Providing security to BC Hydro for the amount of the Detailed Estimate or, in its absence, the Preliminary Estimate, determined pursuant to clause 4; and
  - (ii) Paying the Actual Costs as incurred by BC Hydro for the Basic Transmission Extension, up to a maximum amount equal to the Agreed Maximum Costs, determined pursuant to clause 4, in accordance with periodic billings, as set out in a Facilities Agreement.

## **7 TRANSMISSION FACILITIES**

- (a) BC Hydro will have no obligation, or responsibility for costs, to ensure that the Transmission Facilities are operational or meet any particular standards of operation or to ensure that the Customer can access or use the Transmission Facilities to transport electricity received at the Point of Delivery. For greater certainty, the Customer and the owners, operators and other users of the Shared Facilities will be responsible to obtain all regulatory approvals required in respect of the development, if applicable, and use of the Transmission Facilities to facilitate the supply of Electricity to the Customer's Plant.

## **8 RIGHT-OF-WAY**

- (a) For System Reinforcement and the Basic Transmission Extension to be constructed under this Agreement:

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- (i) BC Hydro will, at a cost to be included as part of the Actual Cost of the System Reinforcement, make all reasonable efforts to obtain the Right-of-Way for any System Reinforcement; and
- (ii) BC Hydro shall, at a cost to be included as part of the Actual Cost of the Basic Transmission Extension, make all reasonable efforts to obtain the Right-of-Way for the Basic Transmission Extension.
- (b) Right-of-Way shall consist of common-law easements or statutory rights-of-way pursuant to Section 214 of the *Land Title Act* R.S.B.C. 1979, c 218, as amended.

**9 SUBSEQUENT CUSTOMERS CONNECTED TO A BASIC TRANSMISSION EXTENSION OWNED BY BC HYDRO**

This clause applies where BC Hydro owns, operates and maintains a Basic Transmission Extension.

- (a) BC Hydro may use excess capacity on the Basic Transmission Extension to supply Electricity to one or more subsequent Customers.

During the first seven years following completion of the Basic Transmission Extension, capacity shall not be considered to be excess if the Customer that paid for the Basic Transmission Extension demonstrates that it will require the use of part or all of such capacity within three years.

- (b) The sharing of the cost of a common Basic Transmission Extension shall be, subject to subclause 9(c), as follows:

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- (i) subsequent Customers shall contribute a share of the replacement cost, as estimated by BC Hydro, of common portions of the Basic Transmission Extension in the proportion of their Contract Demands to the total of the Contract Demands;
- (ii) the contributions from subsequent Customers shall be paid to BC Hydro;
- (iii) the original Customer or Customers that paid for the Basic Transmission Extension shall be compensated as follows:
- The compensation in respect of Facilities shall be based on the depreciated value of those Facilities, with the original cost being depreciated at 3 per cent per year; and
  - The compensation in respect of Right-of-Way shall be based on:
    - The then current market value for Right-of-Way on the Customer's own property; and
    - The original cost for all other Right-of-Way; and
- (iv) BC Hydro shall retain the difference between the replacement cost and the depreciated cost of Facilities.
- (c) A payment made by BC Hydro to prior Customers shall be proportional to their respective Contract Demands.
- (d) No payment shall be made to a Customer when BC Hydro has added load for any purpose in an amount not exceeding in aggregate 5 per cent of the Nominal Capacity of the Basic Transmission Extension.

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- (e) No payment shall be made to a Customer if the Customer has reduced its take of Electricity below 30 per cent of its Contract Demand for thirty-six consecutive months or more, unless the operating, maintenance and taxes associated with the Basic Transmission Extension are paid by the Customer during the period of reduced take. These costs are an addition to the bill for Electricity consumption.
- (f) When the Basic Transmission Extension is subsequently:
- (i) Used to provide permanent service to significant other customer load; or
  - (ii) Is extended to provide a significant interconnection of BC Hydro Facilities; or
  - (iii) Is extended to attach significant BC Hydro generation; or
  - (iv) Used in a situation where, if the Basic Transmission Extension did not exist, BC Hydro would have constructed and paid for similar Facilities; or
  - (v) Is otherwise used for purposes which could reasonably be considered to be providing a significant benefit, in relation to the costs of the Basic Transmission Extension, to the BC Hydro system; then

BC Hydro shall pay the appropriate Customers an amount equal to the original cost of the Basic Transmission Extension less depreciation and an amount for the Right-of-Way as described in subclause 9(b)(iii).

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**10 ACCESS TO TRANSMISSION FACILITIES AND CUSTOMER'S PLANT**

- (a) To the extent that it may be necessary, the Customer shall grant to BC Hydro, its servants or agents, or make all reasonable efforts to ensure that BC Hydro, its servants or agents will have, for the duration of the Facilities Agreement, and for a reasonable time thereafter, the free and uninterrupted right to access the Transmission Facilities and to enter onto the Customer's Plant for any purpose related to the Facilities Agreement.
- (b) The rights granted to BC Hydro under this clause 10 shall be exercised subject to prior notification and to any reasonable requirement of the Customer necessary for the safety or security of the Transmission Facilities, the Customer's Plant and the Customer's employees and for continuity of the Customer's operations.

**11 BILLING, PAYMENT**

- (a) BC Hydro shall provide bills monthly to the Customer for any amount as it becomes owing to BC Hydro under the Facilities Agreement but failure to provide a bill, or a correct bill, shall not release the Customer from liability for payment of any amount.
- (b) Each bill shall become due when delivered to the Customer and overdue if it is unpaid, in whole or in part, by the Customer 15 days from the day the bill is due.
- (c) The Customer shall, by electronic funds transfer or other method as agreed to in advance by BC Hydro, pay to BC Hydro's general bank account the amount shown on each bill, without setoff or withholding, at par in Canadian funds, before such bill becomes overdue.

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- (d) Any unpaid amount of any overdue bill shall be subject to interest at the rate of interest which is equal to the annual rate of interest declared from time to time by the lead chartered bank in Canada used by BC Hydro as the rate of interest charged by such bank to its most creditworthy commercial borrowers for loans in Canadian dollars payable on demand and commonly referred to as its prime rate, plus:
- (i) 2 per cent from the date when the bill is due for the first 30 days that the payment remains unpaid and 5 per cent thereafter until the same is paid where the Customer has not, during the immediately preceding six months failed to make any payment when due; or
  - (ii) 5 per cent from the date when the bill is due until the payment is made where the Customer has, during the immediately preceding six months, failed to make any payment when due.
- (e) Ten days after giving the Customer notice that a bill is overdue, BC Hydro, in lieu of or in addition to any other remedy provided by the Facilities Agreement, may refuse to connect the Basic Transmission Extension to the Shared Facilities or may disconnect the same until the bill is paid in full. No such action by BC Hydro shall relieve the Customer from any provision of the Facilities Agreement, including the payment of any amount payable, nor shall such action be deemed to be a termination of the Facilities Agreement and the validity or duration of the Facilities Agreement shall be otherwise unaffected.

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- (f) BC Hydro may appropriate an amount equal to any overdue amount of any bill from a security for costs established by the Customer with BC Hydro pursuant to clauses 5 or 6 if and when any bill or part thereof becomes overdue and thereupon the Customer's right to the portion of the security so appropriated shall terminate.

## **12 SECURITY FOR COSTS**

- (a) The security for costs pursuant to clauses 5 or 6 shall be in a form which has the prior approval of BC Hydro, which may include:
- (i) Irrevocable letter of credit;
  - (ii) Contract bond;
  - (iii) Guarantee by a corporation other than the Customer;
  - (iv) Bank term deposit, to be deposited in trust for BC Hydro;
  - (v) Negotiable bearer bond, that is government guaranteed at face value; or
  - (vi) Prepayment on account.
- (b) Unless otherwise provided, security for costs shall be returned to the Customer, or released to the guarantor, to the extent payment is received for such costs, at the time each payment is received.
- (c) BC Hydro shall not pay interest on any security for costs held by it. The Customer may arrange with its bank to pay any interest earned on a bank term deposit, deposited in trust for BC Hydro, directly to the Customer's account.

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**13 FORCE MAJEURE**

- (a) The term Force Majeure includes but is not limited to Strikes, legal lockouts, other labour disturbances (including exercises of non-affiliation rights but excluding illegal lockouts), fire, flood, accidents, tempest or acts of God, sabotage or acts of the Queen's enemies, acts or failure to act by lawful authority or any other cause whatsoever beyond the reasonable control of the parties, provided that in no event shall lack of finances, loss of markets or inability to perform due to the financial condition of either party constitute Force Majeure.
- (b) If either party is or was wholly or partly unable, because of a Force Majeure, to perform an obligation and claims that a Force Majeure is occurring or has occurred and reasonably establishes that fact then the performance of the obligation shall be deemed to be suspended, provided always that:
- (i) The suspension shall be of no greater scope and no longer duration than the Force Majeure, and
  - (ii) The non-performing party shall use all reasonable efforts to counter the Force Majeure or to otherwise remedy its inability to perform the obligation.
- (c) For greater certainty, the Customer will not be entitled under any circumstances to claim that a Force Majeure is occurring or has occurred in respect of an event caused by any action or failure to act by:
- (i) Any owners, operators or other users (as applicable) of the Shared Facilities, or their respective affiliates, agents or contractors; or
  - (ii) Any other parties other than BC Hydro directly or indirectly connected to the Transmission Facilities.

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**APPENDIX 2**  
**TO THE**  
**FACILITIES AGREEMENT**  
**MADE AS OF THE \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_**  
**PLANT DESCRIPTION**

- I FACILITIES TO BE CONSTRUCTED OR INSTALLED BY BC HYDRO
- II FACILITIES TO BE CONSTRUCTED OR INSTALLED BY CUSTOMER

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