


PROVINCE OF BRITISH COLUMBIA

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 159

, Approved and Ordered

April 2, 2020

  
\_\_\_\_\_  
Lieutenant Governor

**Executive Council Chambers, Victoria**

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that the attached Direction to the British Columbia Utilities Commission Respecting COVID-19 Relief is made.



\_\_\_\_\_  
Minister of Energy, Mines and Petroleum Resources



\_\_\_\_\_  
Presiding Member of the Executive Council

\_\_\_\_\_  
*(This part is for administrative purposes only and is not part of the Order.)*

**Authority under which Order is made:**

Act and section: *Utilities Commission Act, R.S.B.C. 1996, c. 473, s. 3*

Other: \_\_\_\_\_  
\_\_\_\_\_

R20405516

# DIRECTION TO THE BRITISH COLUMBIA UTILITIES COMMISSION RESPECTING COVID-19 RELIEF

## *Contents*

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## **Definitions**

### **1** In this direction:

“**Act**” means the *Utilities Commission Act*;

“**COVID-19 emergency**” means the emergency that is the subject of the declaration of a state of emergency made on March 18, 2020, or any extension of that declaration, under section 9 of the *Emergency Program Act*;

“**customer crisis fund rate rider**” means the rate rider established in relation to the customer crisis fund in Rate Schedule 1903, as approved by commission order G-166-17;

“**customer crisis fund regulatory account**” means the regulatory account of the authority established under commission order G-166-17;

“**date of closure**”, in relation to an eligible commercial customer, means the date on which the eligible commercial customer stopped operating a business;

“**eligible commercial customer**” means a customer of the authority who

- (a) receives electricity service from the authority under the authority’s Rate Schedule 1205, 1234, 1300, 1301, 1310 or 1311, and
- (b) has stopped operating a business, in relation to which the customer receives electricity service from the authority, for a reason related to the COVID-19 emergency;

“**eligible industrial customer**” means a customer of the authority

- (a) who, after the Electric Tariff of the authority is amended under section 3, is eligible to request that one of the following supplements apply respecting amounts payable by the customer:
  - (i) Tariff Supplement No. 90;
  - (ii) Tariff Supplement No. 97;
  - (iii) Tariff Supplement No. 98;
  - (iv) Tariff Supplement No. 99, and
- (b) to whom, after the Electric Tariff of the authority is amended under section 3, one or more of the supplements referred to in paragraph (a) applies;

“**emergency program for eligible commercial customers**” means a program established by the authority in accordance with the consent given by the commission under section 63 of the Act and section 3 (2) of this direction;

**“emergency program for eligible industrial customers”** means a program established by the authority in accordance with the amendments referred to in section 3 (1) (b);

**“emergency program for residential customers”** means a program established by the authority in accordance with the amendments referred to in section 3 (1) (a);

**“mining customer payment plan regulatory account”** means the regulatory account of the authority approved by commission order G-34-16.

### **Application**

- 2 This direction is issued to the commission under section 3 of the Act.

### **Orders**

- 3 (1) Within 5 days of the date of an application by the authority for the purposes of this section, the commission must issue final orders
- (a) so that the authority’s Electric Tariff is amended as set out in Appendix A to this direction, and
  - (b) so that the authority’s Electric Tariff is amended by amending Tariff Supplement No. 90 and adding Tariff Supplement No. 97, Tariff Supplement No. 98 and Tariff Supplement No. 99, as set out in Appendix B to this direction.
- (2) The commission must consent under section 63 of the Act to the authority’s request to waive the amount payable by an eligible commercial customer in relation to electricity service provided by the authority to the eligible commercial customer during the period
- (a) beginning on April 1, 2020 or the eligible commercial customer’s date of closure, whichever is later, and
  - (b) ending on June 30, 2020.
- (3) The commission must allow the authority to do the following:
- (a) defer to the customer crisis fund regulatory account the following amounts:
    - (i) the amounts credited to customers in accordance with the emergency program for residential customers;
    - (ii) the costs incurred by the authority in administering the emergency program for residential customers;
    - (iii) in relation to the balance in the customer crisis fund regulatory account, interest determined in a fiscal year at a rate equal to the authority’s weighted average cost of debt in that fiscal year;
  - (b) reduce the customer crisis fund regulatory account by amounts paid to the authority under the customer crisis fund rate rider;
  - (c) defer to the mining customer payment plan regulatory account the following amounts:
    - (i) the account balances of eligible industrial customers, if those account balances are impaired and have not already been deferred under section 3 of the Direction to the British Columbia Utilities Commission Respecting Mining Customers;

- (ii) any other amounts that are payable to the authority by eligible industrial customers, if those amounts are impaired;
  - (iii) any taxes paid by the authority on behalf of eligible industrial customers on the account balances referred to in subparagraph (i) and the amounts referred to in subparagraph (ii);
  - (iv) the costs incurred by the authority in administering the emergency program for eligible industrial customers and the emergency program for eligible commercial customers;
  - (v) the amounts payable by eligible commercial customers and waived by the authority in accordance with the terms and conditions consented to by the commission under subsection (2);
  - (vi) in relation to the amounts referred to in subparagraphs (i) to (v), interest determined in a fiscal year at a rate equal to the authority's weighted average cost of debt in that fiscal year;
- (d) reduce the amounts deferred to the mining customer payment plan regulatory account under paragraph (c) by amounts paid to the authority by eligible industrial customers for the purpose of reducing the account balances referred to in paragraph (c) (i).
- (4) The commission may not amend, cancel or suspend the rates set out in the amendments referred to in subsection (1) (a) and (b), except on application by the authority.

**Cost recovery**

- 4** In setting rates for the authority, the commission
- (a) must allow the authority to recover, over a period determined by the authority, from all persons in British Columbia who receive or may receive service from the authority, the following amounts:
    - (i) the balance of the customer crisis fund regulatory account;
    - (ii) despite section 3 (3) of the Direction to the British Columbia Utilities Commission Respecting Mining Customers, the balance of the mining customer payment plan regulatory account, and
  - (b) must not disallow for any reason the recovery in rates of the amounts referred to in paragraph (a).

**Customer crisis fund rate rider**

- 5** The commission may not exercise its powers under the Act to amend, cancel or suspend the customer crisis fund rate rider, except on application by the authority.

**1. INTERPRETATION AND DEFINITIONS**

**1.1 Interpretation**

**1.1.1 Conflicts**

To the extent these Terms and Conditions conflict with any applicable Rate Schedule or Electric Tariff Supplement, the terms or conditions provided in such Rate Schedule or Electric Tariff Supplement will prevail. To the extent that an applicable Rate Schedule conflicts with an applicable Electric Tariff Supplement, the terms or conditions provided in the Electric Tariff Supplement will prevail.

**1.1.2 Statutes**

References to statutes in the Electric Tariff will include the statute and regulations issued pursuant to it, as amended and in force from time to time, and any superseding statute or regulation.

**1.1.3 Technical Terms**

Technical or industry-specific phrases, units of measure or words not otherwise defined in the Electric Tariff have the well-known meaning given to those terms in the electrical industry.

**1.1.4 Including**

In the Electric Tariff, the word “including” will in all cases be deemed to mean “including without limitation”, unless otherwise expressly provided.

**1.2 Definitions**

Unless the context otherwise requires, in the Electric Tariff the following words have the meanings set out below and alternate forms of the same words have corresponding meanings.

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<b>BC Hydro</b>	British Columbia Hydro and Power Authority.
<b>BC Hydro- Owned Street Lighting Service</b>	Service for lighting of public highways, streets, lanes and other similar public applications and displays, or for lighting of private property, where BC Hydro owns, installs and maintains the fixtures, conductors, controls and poles.
<b>Billing Demand</b>	Maximum Demand or, where permitted by the applicable Rate Schedule, estimated Demand, used to determine Demand charges under a Rate Schedule.
<b><u>COVID Relief Fund for Residential Customers</u></b>	<u>A temporary program established by BC Hydro, available until June 30, 2020, for the purpose of providing grants to qualifying Residential Service Customers who have lost their employment or become unable to work as a result of the COVID pandemic.</u>
<b><u>COVID Relief Fund for Residential Customers Grant</u></b>	<u>A credit issued by BC Hydro, in its discretion, to a qualifying Residential Service Customer to that Customer's BC Hydro Residential Service account.</u>
<b>Customer</b>	<p>Any Person whose application for Service has been accepted by BC Hydro or, in the absence of such an application, the Person with possession of the Premises to which Service is provided or the Owner or such other Person designated as the Customer pursuant to the Electric Tariff. If a Customer receives Service at more than one Premises, such Customer will be considered a separate Customer for each Premises.</p> <p>BC Hydro will determine the number of Premises for the purpose of this definition.</p>
<b>Customer Crisis Fund</b>	A pilot program established by BC Hydro with the revenue received pursuant to Rate Schedule 1903, for the purpose of providing crisis grants to qualifying Residential Service Customers.
<b>Customer Crisis Fund Grant</b>	A credit issued by, in its discretion, to a qualifying Residential Service Customer in respect of arrears owing to BC Hydro.

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<b>Customer Crisis Fund Return</b>	The return of a Customer Crisis Fund Grant that BC Hydro determined should not have been granted.
<b>Customer-Owned Street Lighting Service</b>	Service for lighting of public highways, streets, lanes, traffic signals, traffic signs and other similar public applications and displays where the Customer owns, installs and maintains the fixtures, conductors and controls.
<b>Demand</b>	The rate at which electric energy is used in any instant or averaged over any designated period of time, measured in kilowatts ( <b>kW</b> ) or kilovolt amperes ( <b>kVA</b> ).
<b>Disconnection</b>	A physical deactivation of a Service Connection, including through removal of Metering Equipment and / or other BC Hydro equipment used to provide Service, regardless of duration.
<b>Dwelling</b>	<p>A building or part of a building comprising private living quarters and containing sleeping quarters, a kitchen and bathroom, and in which the occupants have free access to all rooms, or alternative living quarters acceptable to BC Hydro, and including single-family homes, apartments, residential strata lots, townhouses, row-houses and duplexes.</p> <p>A Dwelling may include parking stalls, garage areas, storage areas and similar areas or spaces that are used in conjunction with the living quarters of the Customer.</p>
<b>Electric Tariff</b>	These Terms and Conditions, the Rate Schedules and all Electric Tariff Supplements.
<b>Electric Tariff Supplement</b>	A form of agreement for Service entered into by a Customer and BC Hydro pursuant to section 2.2 (Electric Tariff Supplements) of these Terms and Conditions, as filed with the British Columbia Utilities Commission from time to time.
<b>Electricity</b>	Both Demand and Energy or either, as the context requires.
<b>Energy</b>	Electric consumption, measured in kilowatt hours ( <b>kWh</b> ).

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<b>Estimated Construction Cost</b>	The cost estimated by BC Hydro to construct an Extension, a Service Connection or Optional Facilities pursuant to section 8.3 (Extension Fee for Rate Zone I), as the context requires.
<b>Extension</b>	An addition to or an increase in the capacity of BC Hydro’s distribution system required to meet new or increased Service requirements, but excluding Service Connections.
<b>Extension Fee</b>	A contribution-in-aid of construction of an Extension, calculated as set out in section 8.3 (Extension Fee for Rate Zone I).
<b>Financing Agreement</b>	An agreement under which BC Hydro provides financing to a Customer for improving the energy efficiency of a Premises.
<b>General Service</b>	<p>Service for business, commercial, institutional or industrial use, including use in nursing homes, boarding houses, rooming houses, common areas of multiple occupancy buildings, recreational establishments, marinas and yacht clubs, hotels, motels, mobile home parks and similar establishments or parts thereof, or for any other use not specifically provided for in the Electric Tariff.</p> <p>For greater certainty, General Service is not available for use in circumstances where Transmission Service or Street Lighting Service is available for use, and is available as an alternative to Residential Service only in the circumstances described in section 6.1.3 (General Service Election – Residential Customers) and as an alternative to Irrigation Service only in the circumstances described in section 6.1.4 (General Service Election – Irrigation Customers).</p>
<b>Guarantor</b>	A BC Hydro Customer who agrees to be responsible for another Customer’s security deposit amount as required by section 2.6.3 (Security) and who meets BC Hydro’s requirements for acting as a Guarantor.
<b>Irrigation Service</b>	Except where General Service is requested pursuant to section 6.1.4 (General Service Election – Irrigation Customers), Service for irrigation and outdoor sprinkling use where associated motor loads are 746 watts ( <b>W</b> ) or more.

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<b>Legacy Meter</b>	An Electricity meter, other than a Smart Meter or a Radio-off Meter, that is of a type in use by BC Hydro.
<b>Maximum Demand</b>	The highest Demand averaged over a time interval of not more than 32 consecutive minutes that is registered during a specified period by a meter with Demand measurement capability.
<b>Metering Equipment</b>	An assembly of metering and ancillary equipment, including one or more Legacy Meters, Radio-off Meters and / or Smart Meters, auxiliary control units, cabling, communication links, range extenders and any other devices owned and used by BC Hydro in connection with metering Electricity for a Premises, providing remote access to the metered data and / or monitoring the condition of the installed equipment, as applicable.
<b>Month</b>	A period of from 27 to 33 consecutive days.
<b>Owner</b>	The legal or beneficial owner(s) of a building or Premises or an agent or other authorized representative of such owner(s), such as a property manager, strata corporation or developer, as the context requires.
<b>Permanent Service</b>	Service that is not Temporary Service.
<b>Person</b>	A natural person, partnership, corporation, society, unincorporated entity or body politic.
<b>Point of Delivery</b>	The location at which the Service Connection is connected to the Metering Equipment or the Customer's electrical facilities, whichever comes first.
<b>Power Factor</b>	<p>The ratio determined by the following formula and based on monthly measurements of kilowatt hours (<b>kWh</b>) and lagging kilovolt-ampere reactive hours (<b>kVarh</b>) or at BC Hydro's discretion by random checks from time to time.</p> $\text{Power Factor} = \frac{kWh}{\sqrt{kWh^2 + kVarh^2}}$
<b>Premises</b>	A building, a separate unit of a building, a Dwelling or machinery, together with the surrounding land.

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<b>Primary Voltage</b>	A voltage of 750 volts ( <b>V</b> ) or more measured phase to phase.
<b>Radio-off Meter</b>	A Smart Meter adjusted so that the meter’s components that transmit and receive data by radio are deactivated.
<b>Rate Schedule</b>	A schedule that sets out rates for Service and other terms and conditions, as filed with the British Columbia Utilities Commission from time to time.
<b>Rate Zone I</b>	All distribution areas served by BC Hydro within the limits from time to time outlined in Rate Map A included in these Terms and Conditions, as well as the Districts of Kingsgate-Yahk and Lardeau-Shutty Bench.
<b>Rate Zone IB</b>	Bella Bella.
<b>Rate Zone II</b>	Anahim Lake, Atlin, Bella Coola, Dease Lake, Elhlateese, Fort Ware, Good Hope Lake, Haida Gwaii, Hartley Bay, Jade City, Telegraph Creek District, Toad River and Tsay Keh Dene.
<b>Residential Service</b>	<p>Except as otherwise provided in section 6.1.3 (General Service Election – Residential Customers), Service for use:</p> <ol style="list-style-type: none"> <li>1. In Dwellings, including Dwellings where a portion is used to carry on a business;</li> <li>2. In the common areas of multiple occupancy buildings if such common areas are used only for the common benefit of Dwellings in that building; and</li> <li>3. At farms, in the circumstances described in section 6.1.2 (Eligibility of Farms for Residential Service).</li> </ol>
<b>Secondary Voltage</b>	A voltage of less than 750 volts ( <b>V</b> ) measured phase to phase.
<b>Service</b>	The provision by BC Hydro of Electricity to a Premises.

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<b>Service Agreement</b>	The agreement setting out the rights and responsibilities of BC Hydro and a Customer for Service, including the application for Service accepted by BC Hydro (if any), all applicable provisions of the Terms and Conditions and applicable Rate Schedule(s), and any additional terms and conditions of Service as agreed by BC Hydro and the Customer in an Electric Tariff Supplement or otherwise.
<b>Service Connection</b>	That part of the BC Hydro distribution system extending between a Point of Delivery and the first point of attachment to the rest of the BC Hydro distribution system.
<b>Smart Meter</b>	An Electricity meter that: <ol style="list-style-type: none"> <li>1. Meets the requirements set out in section 2 of the <i>Smart Meters and Smart Grid Regulation</i>, B.C. Reg. 368/2010, and</li> <li>2. Has components that transmit data by radio and those components are activated.</li> </ol>
<b>Street Lighting Service</b>	BC Hydro-Owned Street Lighting Service or Customer-Owned Street Lighting Service or both, as the context requires.
<b>System Improvement Costs</b>	The incremental cost of work on BC Hydro’s distribution system, including substations, attributed to new or increased Service requirements, as estimated by BC Hydro.
<b>Temporary Service</b>	Service that will or, in BC Hydro’s determination, is likely to be taken temporarily.
<b>Termination</b>	Cessation of Service to a Premises under any applicable Rate Schedule(s) or termination of the Service Agreement with a Customer, as the context requires.
<b>Terms and Conditions</b>	These terms and conditions of Service, as filed with the British Columbia Utilities Commission from time to time.
<b>Transformation</b>	The transformation of Primary Voltage to Secondary Voltage, including all associated labour, equipment and materials.

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<b>Transmission Service</b>	Service for commercial, industrial and institutional Customers, provided at 60 kilovolts ( <b>kV</b> ) or more.
<b>Two Months</b>	A period of from 54 to 66 consecutive days.

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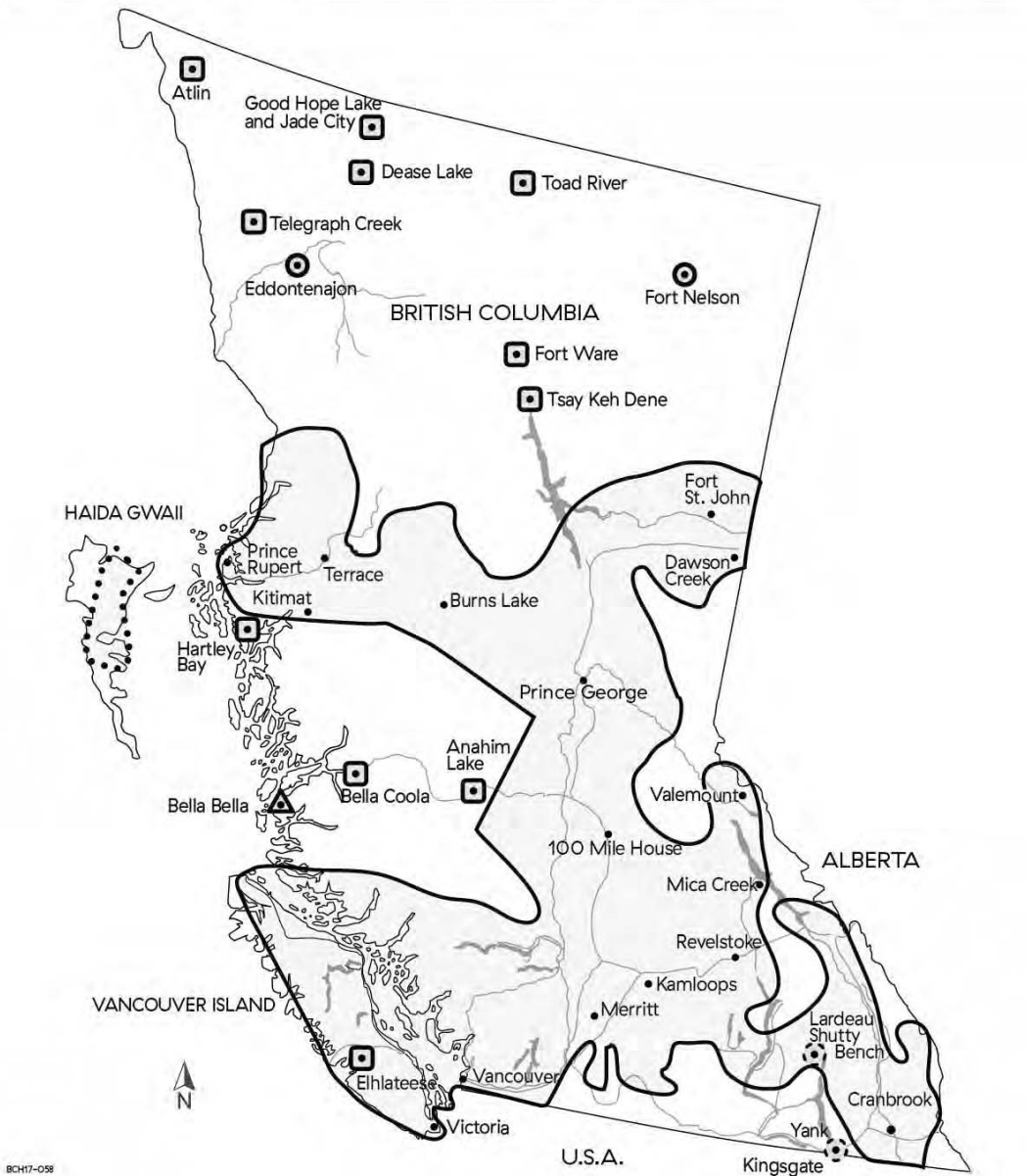
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**1.3 Map of Rate Zones**

**Rate map**  
RATE ZONE LIMITS

ZONE I	ZONE IB	ZONE II
— Integrated Service Area Districts of: ● Fort Nelson ● Eddontenajon ● Kingsgate – Yahk ● Lardeau – Shutty Bench	District of: ▲ Bella Bella	Districts of: ●●●● Haida Gwaii ■ Anahim Lake ■ Atlin ■ Bella Coola ■ Dease Lake ■ Elhlateese ■ Fort Ware ■ Good Hope Lake ■ Hartley Bay ■ Jade City ■ Telegraph Creek ■ Toad River ■ Tsay Keh Dene



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**2. APPLICATION FOR SERVICE AND SERVICE AGREEMENT**

**2.1 Application for Service and Service Agreement**

A Person requesting new or modified Service must apply to BC Hydro online at [www.bchydro.com](http://www.bchydro.com), by telephone, or in person. Applicants may be required to complete and sign an application and agreement for Service in the form provided by BC Hydro and to provide information and identification acceptable to BC Hydro.

BC Hydro may refuse to accept an application for Service for any of the reasons listed in section 2.4 (BC Hydro Refusal to Provide Service and Termination).

The Service Agreement between a Customer and BC Hydro will comprise, to the extent applicable, the application for Service, as accepted by BC Hydro, the provisions of the Terms and Conditions and Rate Schedules, and any additional terms and conditions of Service agreed by BC Hydro and the Customer in an Electric Tariff Supplement or otherwise.

~~Customer Crisis Fund Grants and COVID Relief Fund for Residential Customers Grants, and Customer Crisis Fund Returns~~ are deemed to be, for the purpose of section 2.4 (Refusal to Provide Service and Termination by BC Hydro) and section 5.2.1(5) (Regular Billing) of the Electric Tariff, amounts owing to Customers ~~and amounts owing to BC Hydro, respectively,~~ in respect of Service provided by BC Hydro to Customers pursuant to Service Agreements.

Customer Crisis Fund Returns are deemed to be, for the purpose of section 2.4 (Refusal to Provide Service and Termination by BC Hydro) and section 5.2.1(5) (Regular Billing) of the Electric Tariff, amounts owing to BC Hydro in respect of Service provided by BC Hydro to Customers pursuant to Service Agreements.

**2.2 Electric Tariff Supplements**

BC Hydro may provide Service under an Electric Tariff Supplement, subject to filing it with the British Columbia Utilities Commission.

**2.3 Commencement and Term of Service**

Except as otherwise provided in the Service Agreement, a Person becomes a Customer and Service commences when:

1. BC Hydro connects or re-connects the Premises to BC Hydro’s electrical system; or

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2. The Person’s right to possession of the Premises commences,

whichever is later and regardless of whether such Person has completed and signed an application or any contract for Service, and Service will continue until Terminated by BC Hydro or the Customer.

**2.4 Refusal to Provide Service and Termination by BC Hydro**

BC Hydro may, without liability of any kind, refuse to provide Service to any Person or may without notice Terminate Service to any Customer (whether by Disconnection or otherwise) who:

1. Fails to pay for Service;
2. Fails to pay an amount due as a result of that Customer acting as a Guarantor for another BC Hydro Customer under section 2.6.3 (Security);
3. Fails to apply for Service or fails to provide information or identification acceptable to BC Hydro when applying for Service or at any subsequent time on request by BC Hydro;
4. Occupies the Premises with another occupant who has an amount outstanding under a Service Agreement or Financing Agreement in respect of the current Premises or another Premises previously occupied by the Person or Customer and such other occupant at the same time;
5. Fails to provide access as required by section 9.3 (Access to Premises);
6. Fails to pay any amount owing under a Financing Agreement; or
7. Otherwise fails to comply with the Service Agreement.

**2.5 No Assignment**

A Customer may not assign a Service Agreement to another Person.

**2.6 Security for Payment of Bills**

**2.6.1 Security for Payment of Bills**

An applicant for Service who has not established credit satisfactory to BC Hydro will be required to:

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1. Provide security in accordance with section 2.6.3 (Security), or
2. Participate in Pay As You Go Billing as set out in section 2.6.2 (Pay As You Go Billing), with no security.

A Customer who has not maintained credit satisfactory to BC Hydro will be required to provide security or to increase the amount of existing security in accordance with section 2.6.3 (Security).

**2.6.2 Pay As You Go Billing**

Customers participating in Pay As You Go Billing will be billed by BC Hydro at the beginning of each month based either on an estimated average monthly bill or one-twelfth of the estimated annual bill for Service, subject to amendment by BC Hydro from time to time. Pay As You Go bills have the same force and effect as bills based on actual meter readings and must be paid in accordance with section 5.3 (Payment of Bills).

Any Customer participating in Pay As You Go Billing who has paid in full all amounts when due during the immediately preceding year may terminate Pay As You Go Billing and elect any other billing option then available to that Customer under the Service Agreement.

**2.6.3 Security**

The amount of security required will in each case be determined by BC Hydro in its discretion based on factors such as Energy consumption at the Premises and Customer account and credit history, provided that the security required by BC Hydro will not in any case exceed:

1. If the account is billed monthly, two times the average monthly bill of the Customer or, in the case of an applicant, two times the estimated average monthly bill;
2. If the account is billed bi-monthly, three times the average monthly bill of the Customer or, in the case of an applicant, three times the estimated average monthly bill; or

This security obligation may be satisfied by providing to BC Hydro a security deposit or, for a Customer taking Residential Service, a guarantee from a Guarantor. A security deposit must be in the form of cash or an equivalent form of security acceptable to BC Hydro and a guarantee must be in a form acceptable to BC Hydro.

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**2.6.4 Application and Return of Security**

1. A security deposit may be returned to the Customer, or in the case of a guarantee provided by a Guarantor cancelled, at any time if, according to the records of BC Hydro, the Customer has at all times during the immediately preceding one year period maintained an account with BC Hydro and paid in full all amounts when due in accordance with the Service Agreement.
2. BC Hydro may apply the whole or any part of the Customer's security deposit and earned interest, if any, toward payment of any amount not paid by the Customer to BC Hydro on the due date shown on the bill. No application of the security deposit under this section will restrict BC Hydro's right to Terminate Service for the Customer's failure to pay for Service. The Customer will promptly replenish the security deposit upon request by BC Hydro.
3. A cash security deposit and interest, if any, may be applied by BC Hydro in whole or in part toward payment of the final bill of the Customer on the billing date of the final bill.
4. A security deposit in a form other than cash may be applied by BC Hydro in whole or in part toward payment of the final bill of the Customer if all amounts owing are not paid on the due date shown on the bill.
5. If a Customer's account is closed and a guarantee has been provided, BC Hydro may transfer to the Guarantor's account any outstanding balance, up to the maximum amounts specified in section 2.6.3 (Security), within one year of the date on which the account was closed.
6. Any part of a security deposit, including interest, if any, on a cash security deposit, that has not been applied in accordance with this section will be refunded or returned to the Customer.
7. BC Hydro will pay interest on cash security deposits at a rate equal to BC Hydro's weighted average cost of debt, calculated for BC Hydro's most recent fiscal year.
8. Payment of interest on a cash security deposit held by BC Hydro will be made in the form of a credit to the Customer's account each time the account is billed or added to the amount of the cash deposit when a refund is made as provided in paragraph 5 above.
9. BC Hydro will not pay interest on security deposits held by it in a form other than cash.

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- 10. No interest will accrue on any security deposit after the billing date of the final bill for the account secured by the deposit.

**2.7 Termination of Service by Customer**

Except as otherwise provided in the Service Agreement, a Customer may Terminate Service by giving to BC Hydro at least 24 hours' notice. The Customer continues to be subject to all applicable terms and conditions of the Service Agreement, including the obligation to pay for all Electricity provided to the Premises and all damage to and loss of wires, Metering Equipment or other apparatus of BC Hydro until the Termination date specified in the notice or 24 hours after BC Hydro receives such notice, whichever is later.

In cases where the Customer is a tenant and fails to provide notice of Termination in accordance with this section, the Owner will, pursuant to section 2.3 (Commencement and Term of Service) but subject to the terms of any rental premises agreement in effect pursuant to section 9.2 (Rental Premises Agreements), become the new Customer for the Premises on the day that its right to possession of the Premises commences and therefore assume responsibility for payment of Electricity used on the Premises from that date.

**2.8 No Release of Customer Obligations**

No Termination of Service will release a Customer from any previously existing obligations to BC Hydro under a Service Agreement or Financing Agreement or any other agreement with BC Hydro.

**2.9 Customer Request for Disconnection**

Upon receipt of a Customer request, BC Hydro will Disconnect the Customer's Premises. The Customer will be responsible to pay for all Electricity used at the Premises until Disconnection in accordance with this section, unless Service is earlier Terminated by either the Customer or BC Hydro.

**2.10 Re-Application for Service**

Where a Customer Terminates Service to a Premises and that Person, or a co-occupant, representative or agent of that Person, applies for Service to the same Premises within 12 months of such Termination on the same Rate Schedule as previously applied, and regardless of whether Disconnection occurred, the applicant will pay the sum of:

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1. The greater of the Minimum Reconnection Charge, as set out in section 11.3 (Minimum Reconnection Charges), or BC Hydro's estimated cost to restore Service; and
2. The sum of the minimum charges the Customer would have paid between the time of Termination and the time that Service is restored, under this section.

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## **5. METER READING AND BILLING**

### **5.1 Meter Reading**

The interval between consecutive meter readings will be at the sole discretion of BC Hydro.

Where the Rate Schedule under which the Customer takes Service does not require measurement of the Customer's Demand, the meter will normally be read once every two months; otherwise meters will normally be read once per month.

### **5.2 Billing**

#### **5.2.1 Regular Billing**

Bills will be rendered on the basis of actual Energy consumed and, where applicable, Demand, as registered by a meter or meters and in accordance with the Rate Schedule under which the Customer takes Service, except:

1. Where the Service is not metered;
2. To the extent that section 6.3 (Late Payment Charge) applies;
3. Where the bill is being rendered in accordance with section 2.6.2 (Pay As You Go Billing), or section 5.6 (Monthly Equal Payments);
4. Where section 5.2.2 (Change in Rate Schedule) applies; or
5. Where a Customer Crisis Fund Grant or a COVID Relief Fund for Residential Customers Grant has been issued, or a Customer Crisis Fund Return has been requested, by BC Hydro.

If meter readings cannot be obtained for any reason, including where the meter fails to register or registers incorrectly, the Demand or Energy consumption or both may be estimated by BC Hydro for billing purposes and the next bill for which actual meter readings are available will be adjusted for the difference between estimated and actual use over the interval between meter readings. Estimated bills are deemed to have the same force and effect under the Electric Tariff as bills that are based on actual meter readings.

If meters are read at longer or shorter intervals than the period set out in the Rate Schedule under which the Customer takes Service, the minimum charge, the service charge, the

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number of kilowatt hours in each step and, if applicable, the Demand charge set out in such Rate Schedule will be prorated before the bill is calculated based on a 365-day year.

### **5.2.2 Change in Rate Schedule**

In circumstances where a Rate Schedule is changed and the effective date of the change falls between the dates of two successive meter readings, BC Hydro will render a bill determined upon a prorated basis.

### **5.3 Payment of Bills**

Bills will be rendered as often as deemed necessary by BC Hydro. The amount payable as shown on a bill is owed to BC Hydro on the billing date. To avoid a Late Payment Charge under section 6.3 (Late Payment Charge), the amount payable must be paid in full on or before the due date shown on the bill, which will be:

1. The first business day after the 21st calendar day following the billing date; or
2. Such other period as may be defined in an Electric Tariff Supplement or otherwise agreed by the Customer and BC Hydro.

Bills may be paid by any payment method set out at [www.bchydro.com/payments](http://www.bchydro.com/payments). Information on bill payment options can also be obtained by contacting the customer service department of BC Hydro.

### **5.4 Billing of Fractional Demand**

A Billing Demand that includes a fraction will be deemed to be the nearest whole unit of Demand below that fraction.

The minimum Billing Demand will, except where the context otherwise requires, be deemed to be 1 kW or 1 kVA, whichever is applicable.

### **5.5 Waiver of Minimum Charges**

Where the Owner of a motel or mobile home park is the Residential Service Customer for any separately metered unit of accommodation in the motel or mobile home park, whether pursuant to BC Hydro requirements or otherwise, and if no Electricity is consumed in such unit during an interval between meter readings, the minimum charge otherwise applicable to such interval will be waived.

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In multi-unit residential buildings where separate meters for the units are installed during construction of the building, minimum charges will apply only after Service to the relevant unit is energized.

**5.6 Monthly Equal Payments**

On application by a Customer, BC Hydro will, provided the Customer's credit is established to the satisfaction of BC Hydro, permit the Customer to pay fixed monthly installments on account of Electricity consumed by the Customer during all or any part of a 12-month period commencing with an actual meter reading at the Customer's Premises (the Budget Period). Monthly installments will be fixed so that the sum of the installments to be paid during the Budget Period equals the amount BC Hydro estimates will be payable under the applicable Rate Schedule for Electricity consumed during the Budget Period. BC Hydro may at any time revise its estimate of a Customer's consumption and increase or decrease the amount of monthly installments payable by the Customer accordingly.

Payment of monthly installments pursuant to this section may be terminated by the Customer at any time by giving five days' notice of termination to BC Hydro, or by BC Hydro without notice if the Customer has not maintained credit to the satisfaction of BC Hydro.

At the end of each Budget Period or upon its earlier termination the amount payable by the Customer to BC Hydro for Electricity actually used during the Budget Period will be compared against the sum of the monthly installments paid by the Customer during that period, and any deficit will be paid by the Customer to BC Hydro, and any excess will be paid or credited by BC Hydro to the Customer on the next bill.

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**5.7 Back-Billing**

Pursuant to the *Utilities Commission Act*, this Electric Tariff constitutes the consent of the British Columbia Utilities Commission to allow BC Hydro, in the circumstances herein specified, to charge, demand, collect and receive from its Customers in respect of a regulated service rendered a greater or lesser compensation than that specified in the Terms and Conditions or applicable Rate Schedules.

1. Back-billing means the re-billing by BC Hydro for services rendered to a Customer because the original billings were discovered to be either too high (over-billed) or too low (under-billed). The discovery may be made by either the Customer or BC Hydro, including as a result of an inspection under the *Electricity and Gas Inspection Act (Canada)*. The cause of the billing error may include any one or more of the following non-exhaustive reasons:
  - (a) Stopped meter
  - (b) Metering Equipment failure
  - (c) Missing meter now found
  - (d) Switched meters
  - (e) Double metering
  - (f) Incorrect meter connections
  - (g) Incorrect use of any prescribed apparatus respecting the registration of a meter
  - (h) Incorrect meter multiplier
  - (i) Application of an incorrect rate
  - (j) Incorrect reading of meters or data processing, and
  - (k) Tampering, fraud, theft or any other criminal act.
  
2. Whenever the dispute procedure of the *Electricity and Gas Inspection Act (Canada)* is invoked, the provisions of that Act will apply, except insofar as they purport to determine the nature or extent of legal liability flowing from metering or billing errors.

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3. Where metering or billing errors occur and the dispute procedure under the *Electricity and Gas Inspection Act (Canada)* is not invoked, Energy consumption and Demand for billing purposes will be determined based on the records of BC Hydro or, to the extent they are available and accurate, the records of the Customer, or if no such records are available, based on BC Hydro's reasonable and fair estimates made consistently within each Customer class or according to the agreement for Service with the Customer, if applicable.
  4. In every case of under-billing or over-billing, the cause of the error will be remedied without delay, and the Customer will be promptly notified of the error and of the effect upon the Customer's ongoing bill.
  5. The provisions of paragraph 7 below do not apply and, subject to the applicable limitation period provided by law, back-billing may be applied for the whole period of under-billing or over-billing if:
    - (a) There are reasonable grounds to believe that the Customer has tampered with or otherwise used BC Hydro's Service in an unauthorized way, or evidence of fraud, theft or another criminal act exists, or if a reasonable Customer should have known of an under-billing and failed to promptly bring it to the attention of BC Hydro; or
    - (b) The required adjustment to the Customer's bill is minor, such as in the case of an estimated bill under section 5.2.1 (Regular Billing) or section 5.6 (Monthly Equal Payments); or
    - (c) The required adjustment to the Customer's bill relates to the under-billing or over-billing of a standard charge set out in section 11 (Schedule Standard Charges), except Legacy Meter Charges and Radio-off Meter Charges under section 11.4 (Miscellaneous Standard Charges).

In addition, the Customer is liable for the direct (unburdened) administrative costs incurred by BC Hydro in the investigation of any incident of tampering, unauthorized use or criminal activity, including the direct costs of repair and replacement of equipment.

Under-billing resulting from circumstances described in this paragraph 5 will bear interest at the rate normally charged by BC Hydro on unpaid accounts from the date of the original under-billed invoice until the amount under-billed is paid in full.

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6. In every case of over-billing, BC Hydro will refund to the Customer all money incorrectly collected for the duration of the error, except that if the date the error first occurred cannot be determined with reasonable certainty, the maximum refund period will be two years back from the date the error was discovered. Interest will be paid to the Customer at a rate equal to BC Hydro's weighted average cost of debt, calculated for BC Hydro's most recent fiscal year.
7. Subject to paragraph 5 above, in every case of under-billing, BC Hydro will back-bill the Customer for the duration of the error up to a maximum of:
- (a) Six months for Residential Service, small General Service (commercial) or Irrigation Service Customers; and
  - (b) One year for all other Customers or such other time period as is set out in a special or individually negotiated contract with BC Hydro.

BC Hydro will offer under-billed Customers reasonable terms of payment for the under-billed amount; if requested by the Customer, the payment term will be equivalent in length to the back-billing period. All under-billed amounts will be interest free and be billed and paid in equal installments corresponding to the normal billing cycle. Delinquency in payment of such installments will, however, be subject to the usual Late Payment Charges pursuant to section 6.3 (Late Payment Charge).

If a Customer disputes BC Hydro's assessment of an under-billed amount based on Energy consumption or Demand or duration of the error, BC Hydro will not threaten or cause Termination as a result of Customer's failure to pay the disputed portion of the back-billing, unless there are no reasonable grounds for the Customer to dispute same. The undisputed portion of the bill will be paid by the Customer and BC Hydro may threaten or cause Termination if such undisputed portion of the bill is not paid.

8. Subject to paragraph 5 above, in all instances of back-billing where changes of occupancy have occurred, BC Hydro will make a reasonable attempt to locate the former Customer. If, after a period of one year, such Customer cannot be located, the over- or under-billing applicable to that Customer will be cancelled.

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**MINING CUSTOMER PAYMENT PLAN**

- A. The Lieutenant Governor in Council issued a Direction to the British Columbia Utilities Commission Respecting Mining Customers, pursuant to section 3 of the *Utilities Commission Act* (British Columbia), dated effective February 29, 2016 (the “**Direction**”);
- B. Pursuant to the Direction, Eligible Customers (as defined below) shall be permitted, upon admission to the Mining Customer Payment Plan, to defer payment of a portion of their account with BC Hydro for electricity service respecting an Applicable Mine (as defined below) when the average daily settlement price of copper or coal, as applicable, falls below a reference settlement price (as outlined below); and
- C. The terms and conditions of participation in the Mining Customer Payment Plan, as provided in the Direction, are incorporated into this Supplement to Electric Tariff Supplement No. 5<sub>7</sub>.

**1.0 INTERPRETATION**

**1.1 Definitions**

In this Supplement:

- (a) - “**Account Balance**” means, in relation to an Applicable Mine of a Mining Customer, an amount determined by BC Hydro prior to issuing each bill during the Application Period, as follows:

$$\text{Account Balance} = (\text{TSA} + \text{I} + \text{T}) - (\text{TAA} + \text{A})$$

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Where:

(i) **"TSA"** means the total amount that would have been payable by the Mining Customer under Rate Schedule 1823, but for the application of this Supplement, during the period beginning on the date the Supplement begins to apply to the Mining Customer and ending on the date BC Hydro makes a determination of the Account Balance;

(ii) **"I"** means the interest accumulated on the Account Balance as of the last day of the most recent Billing Period prior to the determination of the Account Balance, calculated in accordance with section 2.6;

(iii) **"TAA"** means the sum of all Adjusted Amounts paid by the Mining Customer;  
~~and~~

(iv) **"A"** means any payments made by the Mining Customer in addition to an Adjusted Amount, including payments made on account of the Account Balance, in accordance with sections 2.4(a)(i), 2.4(b), 2.4(c) and 2.5; and

~~(iv)~~ (v) **"T"** means, if applicable, any Mining Customer's balance of payments owing transferred in accordance with Tariff Supplement No. 99;

(b) **"Act"** means the *Utilities Commission Act* (British Columbia);

(c) **"Adjusted Amount"** has the meaning given to that term in section 2.2;

(d) **"Applicable Mine"** means any of the following mines:

(i) Coal Mountain;

(ii) Copper Mountain;

(iii) Elkview;

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- (iv) Fording River;
- (v) Gibraltar;
- (vi) Greenhills;
- (vii) Highland Valley;
- (viii) Huckleberry;
- (ix) Line Creek;
- (x) Mount Milligan;
- (xi) Mount Polley;
- (xii) New Afton; ~~and~~
- (xiii) Red Chris; and
- ~~(xiii)~~ (xiv) Brule.

- (e) **“Application Period”** means, in respect of an Applicable Mine, the period that begins on the date the Supplement begins to apply to the Mining Customer in respect of the Applicable Mine, and ends on the Closing Date or such earlier date on which the MCPP Agreement for the Mining Customer is terminated pursuant to section 3.2;
- (f) **“Billing Month”** means a month in which BC Hydro issues a bill to a Mining Customer for electricity service respecting an Applicable Mine;
- (g) **“Billing Period”** means a Mining Customer’s billing period determined pursuant to the Electricity Supply Agreement for electricity service respecting an Applicable Mine;

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- (h) **“Closing Date”** means ~~the date that is five years after the date this Supplement comes into effect~~ March 14, 2021;
- (i) **“Commission”** means the British Columbia Utilities Commission;
- (j) **“Direction”** means the Direction to the British Columbia Utilities Commission Respecting Mining Customers issued by the Lieutenant Governor in Council pursuant to section 3 of the *Act* and dated effective February 29, 2016;
- (k) **“Electricity Supply Agreement”** means the Electricity Supply Agreement (Electric Tariff Supplement No. 5) between a Mining Customer and BC Hydro for the supply of electricity to an Applicable Mine of the Mining Customer;
- (l) **“Eligible Customer”** means a customer of BC Hydro who, ~~immediately before the Direction comes into force, was~~ is receiving electricity service from BC Hydro respecting an Applicable Mine under Rate Schedule 1823;
- (m) **“Fixed Interest Rate”** means a nominal annual interest rate of 11.3866 per cent;
- (n) **“Floating Interest Rate”** means a nominal annual interest rate calculated as follows:
- $$\text{Floating Interest Rate} = (12 \times [(1+i)^{1/12} - 1]) \times 100$$
- Where:
- (i) **“i”** means the sum of Prime + 5 per cent; and
- (ii) **“Prime”** has the meaning given to that term in section 1.1(s);
- (o) **“MCPA Agreement”** means the Mining Customer Payment Plan Agreement attached as Appendix 1 to this Supplement;

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- (p) **“Mining Customer”** means an Eligible Customer whose request referred to in section 2.1(a)(i) has been accepted and to whom this Supplement applies;
- (q) **“Mining Customer Payment Plan”** means the Mining Customer Payment Plan offered by BC Hydro to Eligible Customers pursuant to this Supplement;
- (r) **“Party”** means either BC Hydro or a Mining Customer and **“Parties”** means both BC Hydro and the Mining Customer;
- (s) **“Prime”** means the published per annum prime lending rate on loans denominated in Canadian Dollars made in Canada charged by the principal banker of BC Hydro as at the date the interest is calculated in accordance with section 2.6;
- (t) **“Rate Schedule 1823”** means Rate Schedule 1823 – Transmission Service – Stepped Rate, as amended, supplemented or replaced from time to time;
- (u) **“Service Price”** means, in relation to a Mining Customer, the amount that would have been payable by the Mining Customer in accordance with the first two years of bills that would have been issued to the Mining Customer under Rate Schedule 1823 for electricity service respecting an Applicable Mine, but for the application of this Supplement, while the Supplement applies to the Mining Customer;
- (v) **“Settlement Price Period”** means, in relation to a Mining Customer, a period that
  - (i) begins 30 days before the day referred to in paragraph 1.1(v)(ii)(A) or (B), as applicable; and
  - (ii) ends on a day that is either:

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- A. The 15<sup>th</sup> day of the month that immediately precedes the Billing Month, if BC Hydro issues the bill on or before the 15<sup>th</sup> day of the Billing Month;  
or
  - B. The 15<sup>th</sup> day of the Billing Month, if BC Hydro issues the bill after that day;
- (w) **“Supplement”** means this supplement and includes the form of MCPP Agreement attached as Appendix 1; and
- (x) **“Term”** has the meaning given to that term in section 3.1.

## **1.2 Appendices**

Appendix 1 – form of ~~Mining Customer Payment Plan Agreement~~ Mining Customer Payment Plan Agreement attached to this Supplement is incorporated into and forms part of this Supplement.

## **1.3 Interpretation**

In this Supplement, except where otherwise expressly provided or the context otherwise requires:

- (a) Words importing the singular include the plural and vice versa, “or” is not exclusive, “including” is not limiting, whether or not non-limiting language (such as “without limitation”) is used with reference to it, a grammatical variation of a defined term shall have a corresponding meaning, and reference to any person includes such person’s successors and assigns but, if applicable, only if the succession or assignment is permitted under this Supplement;
- (b) The inclusion of headings in this Supplement is for convenience only and shall not affect the construction or interpretation of this Supplement;

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- (c) Any reference to a specific Section, subsection or other subdivision is to the designated Section, subsection or other subdivision of this Supplement, unless the context otherwise requires; and
- (d) All monetary amounts referred to in this Supplement are stated and shall be paid in Canadian currency.

**1.4 Obligations Supplemental**

- (a) BC Hydro's and a Mining Customer's obligations under this Supplement are supplemental to their respective obligations under the Electricity Supply Agreement.
- (b) Except as specifically supplemented by this Supplement, the Electricity Supply Agreement of a Mining Customer shall continue in full force and effect and, in particular, shall govern billing and payment for electricity service supplied by BC Hydro respecting an Applicable Mine. Nothing in this Supplement shall release a Mining Customer from liability for payment of any amounts owing pursuant to the Electricity Supply Agreement.

**2.0 MINING CUSTOMER PAYMENT PLAN**

**2.1 Application to Participate in the Mining Customer Payment Plan**

- (a) As a condition of participating in the Mining Customer Payment Plan in respect of an Applicable Mine:
  - (i) An Eligible Customer shall make a request to BC Hydro that this Supplement apply respecting amounts that will be payable by the Mining Customer to BC Hydro for electricity service provided for the operation of an Applicable

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Mine by completing, executing and delivering to BC Hydro an agreement in the form attached as Appendix 1;

(ii) The Applicable Mine must be, on the date of the request, a producing mine and not in long-term care and maintenance; and

(iii) The Eligible Customer must have no overdue bills with BC Hydro on the date of the request;

(b) BC Hydro shall, as soon as practicable after receipt of a request referred to in paragraph 2.1(a)(i), if the Eligible Customer meets the requirements for participation in the Mining Customer Payment Plan, accept the request and notify the Eligible Customer of the date on which the Application Period begins.

## **2.2 Payment of Adjusted Amount**

Subject to sections 2.4 and 2.9, the Mining Customer shall pay on account of each bill issued by BC Hydro during the Application Period, an adjusted amount for electricity service respecting an Applicable Mine (the “**Adjusted Amount**”), in Canadian dollars, calculated by BC Hydro as follows:

$$\text{Adjusted Amount} = \text{SA} + (\text{SA} \times \text{AP})$$

Where:

(a) “**SA**” means the amount that would have been payable by the Mining Customer under Rate Schedule 1823 on account of that bill but for the application of this Supplement;

(b) “**AP**” means the applicable of the following:

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# BC Hydro

Electric Tariff Supplement No. 90

Mining Customer Payment Plan

Effective: ~~March 14, 2016~~ April 8, 2020

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- (i)  $[(\text{settlement price} - 3.40) \times 208] / 100$  if the Applicable Mine of the Mining Customer is a copper mine; and
- (ii)  $[(\text{settlement price} - 134) \times 5] / 100$  if the Applicable Mine of the Mining Customer is a coal mine;

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Where:

- A. The settlement price calculated for a Mining Customer who operates a copper mine is the average of the daily settlement prices per metric tonne of copper, as reported by the London Metal Exchange, for the most recent Settlement Price Period, converted into the average of the daily settlement prices per pound of copper, by using a metric tonne to pound ratio of 1:2204.62, and converted into Canadian currency by using the average Bank of Canada daily exchange rate over that same period; and
- B. The settlement price calculated for a Mining Customer who operates a coal mine is the average of the daily settlement prices per metric tonne of Hard Coking Coal (Premium Low Vol) FOB Australia, as reported by Platts (Coal Trader International), for the most recent Settlement Price Period, converted into Canadian currency by using the average Bank of Canada daily exchange rate over that same period;

Provided that:

- (iii) If an AP is calculated to be more than 0.75, the Adjusted Amount for that bill shall be calculated using an AP of 0.75; and
- (iv) If an AP is calculated to be less than -0.75, the Adjusted Amount for that bill shall be calculated using an AP of -0.75.

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### **2.3 Deferral of Payment**

Where an Adjusted Amount calculated in accordance with section 2.2 is less than the amount that would have been payable by the Mining Customer under Rate Schedule 1823, but for the application of this Supplement, the Mining Customer's payment of the difference between the Adjusted Amount and the amount that would have been payable by the Mining Customer under Rate Schedule 1823, but for the application of this Supplement, shall be deferred in accordance with this Supplement and such difference shall be added to the Account Balance in accordance with section 1.1(a) upon BC Hydro issuing the bill in respect of such Adjusted Amount.

### **2.4 Maximum Account Balance**

- (a) If the Mining Customer's Account Balance, once adjusted to subtract amounts representing interest, is, on the date BC Hydro issues a bill to the Mining Customer, equal to 75 per cent of the Service Price, the Mining Customer shall pay:
- (i) The amounts required under Rate Schedule 1823 instead of the Adjusted Amounts if the AP calculated in accordance with section 2.2 is less than zero;  
or
  - (ii) The Adjusted Amount if the AP calculated in accordance with section 2.2 is zero or more.

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- (b) If the AP calculated in accordance with section 2.2 is less than zero and the Mining Customer's Account Balance, once adjusted to subtract amounts representing interest, would be, on the date BC Hydro issues a bill to the Mining Customer, less than 75 per cent of the Service Price, and deferral of payments pursuant to this Supplement would result in the Mining Customer's Account Balance, once adjusted to subtract amounts representing interest, exceeding 75 per cent of the Service Price, the Mining Customer shall pay an amount calculated in accordance with section 2.4(a)(i) less the amount that, upon adding such amount to the Account Balance, will result in the Account Balance, once adjusted to subtract amounts representing interest, equaling 75 per cent of the Service Price and payment of such deducted amount shall be deferred in accordance with this Supplement and such deducted amount shall be added to the Account Balance in accordance with section 1.1(a) upon BC Hydro issuing the bill.
- (c) If the Mining Customer's Account Balance is, on the date BC Hydro issues a bill to the Mining Customer, equal to zero, the Mining Customer shall pay the amounts required under Rate Schedule 1823 instead of the Adjusted Amounts if the AP calculated in accordance with section 2.2 is zero or more.

## **2.5 Additional Amount**

The Mining Customer may, on account of the Account Balance, pay any amount in addition to an Adjusted Amount at any time without notice, interest or penalty and all such amounts paid in excess of the Adjusted Amount shall be reflected in the Account Balance as of the date the payment was made.

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**2.6 Interest**

(a) Interest, calculated and compounded monthly, not in advance both before and after demand, default and judgment, shall accrue on the daily Account Balance, based on the number of days elapsed in a 365-day year, at the applicable of the following annualized interest rates:

- (i) The Floating Interest Rate if the Mining Customer is operating a mine referred to in subparagraphs 1.1(d)(i) to 1.1(d)(vii) and 1.1(d)(ix) to ~~1.1(d)(xiii)~~1.1(d)(xiv); or
- (ii) The Fixed Interest Rate if the Mining Customer is operating the mine referred to in subparagraph 1.1(d)(viii);

and such interest shall be added to the Account Balance on the last day of each Billing Period, or in the case of the Closing Date on the day prior to the Closing Date, and bear interest at the same rate.

(b) The Mining Customer acknowledges that Prime was 2.7 per cent per annum on the date this Supplement came into effect. A certificate of a Managing Director of the principal banker of BC Hydro, which on the date this Supplement came into effect is the Bank of Montreal, shall be conclusive evidence as to the rate of Prime in effect from time to time.

**2.7 Final Payment**

On or before the Closing Date the Mining Customer shall pay the Account Balance. If unpaid by the Closing Date, the Mining Customer shall pay the Account Balance, plus interest at the rates specified in section 2.6 as follows:

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- (a) BC Hydro shall add to the next bill issued to the Mining Customer for electricity service to the Applicable Mine, and to each monthly bill thereafter until the Account Balance is zero, an amount equal to 1/9 of the Account Balance as at the Closing Date plus interest calculated and accrued in accordance with section 2.6. BC Hydro and the Participating Customer may agree in writing to a different period of repayment, but BC Hydro is not obligated to do so.
- (b) Any bill issued in accordance with section 2.7(a) that is unpaid by the Mining Customer shall become overdue in accordance with the Electricity Supply Agreement, except that the interest rates specified in section 2.6 shall continue to apply.

~~On or before the Closing Date, the Mining Customer shall pay the Account Balance. If unpaid by the Closing Date and unless BC Hydro and the Mining Customer agree in writing that payment of the Account Balance will be made over a period specified in the agreement, the Account Balance shall become overdue pursuant to the Electricity Supply Agreement, except that the interest rates specified in section 2.6 shall continue to apply.~~

## **2.8 Taxes and Levies**

Amounts calculated under this Supplement do not include the Goods and Services Tax, the Provincial Sales Tax and any other tax or levy which BC Hydro may be lawfully authorized or required to collect from the Mining Customer.

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**2.9 Payments Required Pursuant to Tariff Supplement No. 97**

If an amount payable by the Mining Customer in accordance with Tariff Supplement No. 97 is overdue, for as long as such payment remains overdue the Mining Customer shall pay on account of each bill issued by BC Hydro during the Application Period pursuant to this Tariff Supplement 90, the higher of:

- (a) The amount that would have been payable by the Mining Customer under Rate Schedule 1823 on account of that bill but for the application of this Supplement; and
- (b) The Adjusted Amount in accordance with section 2.2.

**3.0 TERM OF MCPP AGREEMENT**

**3.1 Term of MCPP Agreement**

The term of an MCPP Agreement (the “**Term**”) in respect of an Applicable Mine commences on the date the Application Period commences and continues until the later of the Closing Date or the date following the Closing Date at which the Account Balance is zero unless terminated earlier pursuant to and in accordance with section 3.2.

**3.2 Termination**

- (a) An MCPP Agreement may be terminated in any of the following events:
  - (i) Immediately by the Mining Customer upon request to BC Hydro if at the time of the request the Account Balance is zero;
  - (ii) Immediately by BC Hydro, if at any time during the Application Period the Mining Customer sells, transfers or assigns all or substantially all of its interest in the Applicable Mine, at which time all unpaid amounts, including

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the Account Balance, shall become due and payable pursuant to the Electricity Supply Agreement and shall continue to accrue interest at the rate specified in section 2.6;

- (iii) Immediately by BC Hydro if at any time during the Application Period the Mining Customer commits an act of bankruptcy, becomes insolvent, proposes a compromise or arrangement to its creditors generally, has any petition for a receiving order in bankruptcy filed against it, makes a voluntary assignment in bankruptcy and/or fails to make any payment required under the Electricity Supply Agreement as supplemented by this Supplement, and all amounts owing by the Mining Customer to BC Hydro, including the Account Balance, shall, immediately upon such notice being given, become due and payable pursuant to the Electricity Supply Agreement and shall continue to accrue interest at the rate specified in section 2.6; and
- (iv) Immediately by BC Hydro upon any person or group of persons acting in concert acquiring, in a single transaction or a series of transactions during the Application Period, more than 50 per cent of the issued and outstanding shares in the capital of the Mining Customer resulting in a change of control of the Mining Customer, at which time all unpaid amounts, including the Account Balance, shall become due and payable pursuant to the Electricity Supply Agreement and shall continue to accrue interest at the rate specified in section 2.6.

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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

**4.0 DISPUTE RESOLUTION**

**4.1 Disputes**

If any dispute, question or difference of opinion between the Parties arises out of or under this Supplement (“**Dispute**”), then a Party may give to the other Party a notice (“**Dispute Notice**”) specifying the Dispute and requiring its resolution under this section 4.0. All Disputes shall be resolved in accordance with the provisions of this section 4.0, provided however, that either Party may apply to a court of competent jurisdiction for any interim relief by way of restraining order, injunction or other equitable remedy.

**4.2 Contract Representatives to Seek Resolution**

If a Dispute Notice is given to a Party, each Party shall appoint a contract representative within five business days of a Party notifying the other Party of a Dispute and cause its contract representative to negotiate in good faith to attain a resolution of the Dispute.

**4.3 Referral to Senior Executives**

If a Dispute is not resolved within five business days of the Dispute being referred to the contract representatives, the Parties shall seek to resolve the Dispute through their respective senior executives (at the vice president level or higher) before proceeding to resolve the Dispute through arbitration in accordance with section 4.4. Each Party shall appoint a senior executive to undertake such informal process within 10 business days of a Party notifying the other Party of a Dispute and the Parties shall use commercially reasonable efforts to resolve the Dispute through their appointed senior executives within 30 days after notification.

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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

**4.4 Referral to Arbitration**

If the Dispute is not resolved within 30 days of the Dispute being referred to the senior executives (or either party fails to timely appoint a contract representative or senior executive pursuant to sections 4.2 and 4.3), then either Party may submit the Dispute to arbitration under the ~~Commercial Arbitration Act~~ (British Columbia). The following rules shall apply to arbitration under this Agreement:

- (a) The arbitration shall be conducted before one arbitrator mutually agreed to by the Parties or if the Parties are unable to agree to an arbitrator within 15 days after a demand for arbitration has been given, either Party may apply to the court pursuant to the ~~Commercial Arbitration Act~~ (British Columbia) for the appointment of a single arbitrator;
- (b) The arbitrator shall be authorized only to interpret and apply the provisions of this Agreement and shall have no power to modify or change any of the above in any manner;
- (c) The arbitration shall be dealt with on an expeditious basis with both Parties using commercially reasonable efforts to obtain and implement a timely decision of the arbitrator; specifically, the arbitrator shall be instructed to impose time limits on the arbitration process such that a decision may be rendered within 45 days of appointment of the arbitrator;
- (d) The arbitrator shall determine the Dispute in accordance with the laws of the Province of British Columbia and applicable Canadian federal law; and
- (e) The Parties shall bear the costs of the arbitration equally and each Party shall bear its own costs.

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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

**4.5 Arbitration Decisions**

The decision of the arbitrator shall be final and binding upon the Parties, and judgment on the award may be entered in any court having jurisdiction. The decision of the arbitrator may be appealed solely on the grounds that the conduct of the arbitrator, or the decision itself, violated the standards of the ~~Commercial Arbitration Act~~ (British Columbia) or the rules set out in section 4.4. The final decision of the arbitrator shall also be filed with the Commission.

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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

**APPENDIX 1**

**MINING CUSTOMER PAYMENT PLAN AGREEMENT**

**THIS ELECTRICITY SUPPLY 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**") [], being a [wholly owned] subsidiary of [ PARENT], having its head office in [jurisdiction]]

OF THE SECOND PART

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

ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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

**1.0 INTERPRETATION**

**1.1 Capitalized Terms**

Capitalized terms used in this Agreement and not otherwise defined shall have the meanings given to them in the Supplement.

**2.0 APPLICABLE MINE**

(a) The Customer is an Eligible Customer and operates the following Applicable Mine: the \_\_\_\_\_ mine (the “**Mine**”);

(b) On the date this Agreement has been executed by the Customer and delivered to BC Hydro, the Mine is producing and not in long-term care and maintenance:

Coal; or

Copper.

**3.0 REQUEST FOR PARTICIPATION**

The Customer hereby requests participation as a Mining Customer in the Mining Customer Payment Plan and agrees that the terms of the Electricity Supply Agreement between the Parties dated as of the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_ shall be amended by the addition of the Supplement and that the Electricity Supply Agreement, as supplemented by the Supplement shall apply to the supply of electricity service from BC Hydro to the Mine during the Application Period.

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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

**4.0 APPLICATION PERIOD**

The Supplement shall begin to apply to the Customer, and the Application Period shall commence on the \_\_\_\_ day of \_\_\_\_\_, 201\_\_  
[to be completed by BC Hydro].

**5.0 TERM OF AGREEMENT**

The term of this Agreement commences on the date the Application Period commences and continues until the later of the Closing Date or the date following the Closing Date at which the Account Balance is zero unless terminated earlier pursuant to and in accordance with section 3.2 of the Supplement.

**6.0 MISCELLANEOUS**

**6.1 Successors and Assigns**

- (a) The Customer shall not transfer or assign, in whole or in part, its interest in this Agreement.
- (b) This Agreement shall be binding upon and shall enure to the benefit of the Parties and their respective successors.

**6.2 Further Assurances**

Each of the Parties agrees that it shall take from time to time such actions and execute such additional instruments as may be reasonably necessary or convenient to implement and carry out the intent and purpose of this Agreement.

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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

**6.3 Waiver**

The failure of a Party to insist on the strict performance of any provision of this Agreement or to exercise any right, power or remedy upon a breach hereof shall not constitute a waiver of any provision of this Agreement or limit that Party's right thereafter to enforce any provision or exercise any right.

**6.4 Amendments**

No amendment of this Agreement shall be valid unless made in writing and executed by the appropriate duly authorized signatories of the Parties (and approved by the Commission to the extent required by law) or unless ordered by the Commission in accordance with its authority under the Direction and the *Utilities Commission Act*.

**6.5 Governing Law**

This Agreement and all terms and conditions contained in it shall be governed and construed in accordance with the laws of the Province of British Columbia.

**6.6 Notices**

All notices, consents, requests or demands that either Party may be required or may desire to give to the other Party under this Agreement 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 or by facsimile copier, and is deemed to be given when received if delivered by prepaid mail at the address that each Party has given notice of under the Electricity Supply Agreement.

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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



**6.7 Counterpart Execution**

This Agreement may be executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same.

**6.8 Electronic Delivery**

Delivery by a Party of an executed copy of this Agreement by electronic means shall be effective delivery, but that Party shall promptly also deliver in person to the other Party an originally executed copy of this Agreement.

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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

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 by all joint venturers 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:

\_\_\_\_\_  
[CUSTOMER] )

\_\_\_\_\_  
Authorized Signatory (name and title) )

\_\_\_\_\_  
Authorized Signatory (name and title) )

\_\_\_\_\_  
Authorized Signatory (name and title)

ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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

# BC Hydro

Electric Tariff Supplement No. 90

Mining Customer Payment Plan

Appendix 1

Effective: April 8, 2020

Original of Page 7

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The undersigned hereby unconditionally and irrevocably guarantees the payment obligations of [CUSTOMER] to BC Hydro under this Agreement, and agrees that the undersigned shall be liable to BC Hydro for the performance of [CUSTOMER]'s payment obligations under this Agreement as a primary obligor as if a party to this Agreement. The undersigned further acknowledges and agrees that such guarantee will continue and survive until all payment obligations of the Customer arising during the term of the Agreement have been fully satisfied and the Account Balance determined in accordance with this Agreement is zero, notwithstanding any earlier termination of this Agreement.

[PARENT]

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Authorized Signatory (name and title)

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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COMMISSION SECRETARY

**RS 1823 AND RS 1828 CUSTOMER PAYMENT PLAN**

- A. The Lieutenant Governor in Council issued a Direction to the British Columbia Utilities Commission Respecting COVID-19 Relief, pursuant to section 3 of the *Utilities Commission Act* (British Columbia), dated effective April \_\_, 2020 (the “**Direction**”);
- B. Pursuant to the Direction, BC Hydro customers taking electricity service pursuant to Rate Schedule 1823 or Rate Schedule 1828 shall be permitted, upon admission to the RS 1823 and RS 1828 Customer Payment Plan, to defer payment of a portion of their account with BC Hydro for electricity service, to support the stability/liquidity of the Eligible Customer in respect of the Customer’s Plant operations due to the COVID-19 pandemic; and
- C. The terms and conditions of participation in the RS 1823 and RS 1828 Customer Payment Plan are incorporated into this Supplement to Electric Tariff Supplement No. 5 or Electric Tariff Supplement No. 87, as applicable.

**1.0 INTERPRETATION**

**1.1 Definitions**

In this Supplement:

- (a) “**Account Balance**” means, in relation to a Participating Customer, an amount determined by BC Hydro prior to issuing each bill during the Application Period, as follows:

$$\text{Account Balance} = (\text{TSA} + \text{I}) - (\text{TAA} + \text{A})$$

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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

Where:

- (i) **“TSA”** means the total amount that would have been payable by the Participating Customer under Rate Schedule 1823 or Rate Schedule 1828, as applicable, but for the application of this Supplement, during the period beginning on the date the Supplement begins to apply to the Participating Customer and ending on the date BC Hydro makes a determination of the Account Balance;
  - (ii) **“I”** means the interest accumulated on the Account Balance as of the last day of the most recent Billing Period prior to the determination of the Account Balance, calculated in accordance with section 2.5;
  - (iii) **“TAA”** means the sum of all Adjusted Amounts paid by the Participating Customer; and
  - (iv) **“A”** means any payments made by the Participating Customer in addition to an Adjusted Amount, including payments made on account of the Account Balance, in accordance with section 2.4;
- (b) **“Act”** means the *Utilities Commission Act* (British Columbia);
  - (c) **“Adjusted Amount”** has the meaning given to that term in section 2.2;
  - (d) **“Application Period”** means, in respect of a Participating Customer, the period that begins on March 22, 2020, and ends on the Closing Date or such earlier date on which the Payment Plan Agreement for the Participating Customer is terminated pursuant to section 3.2;
  - (e) **“Billing Period”** means a Participating Customer’s billing period determined pursuant to the Electricity Supply Agreement for electricity service;

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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

- (f) “**Closing Date**” means June 21, 2020;
- (g) “**Commission**” means the British Columbia Utilities Commission;
- (h) “**Copper Mining Customer Payment Plan Agreement**” means a Copper Mining Customer Payment Plan Agreement attached as Appendix 1 to Tariff Supplement No. 99;
- (i) “**Customer’s Plant**” has the same meaning as in the Electricity Supply Agreement;
- (j) “**Direction**” means the Direction to the British Columbia Utilities Commission Respecting COVID-19 Relief issued by the Lieutenant Governor in Council pursuant to section 3 of the *Act* and dated effective April \_\_, 2020;
- (k) “**Electricity Supply Agreement**” means the Electricity Supply Agreement (Electric Tariff Supplement No. 5 or Electric Tariff Supplement No. 87, as applicable) between a Participating Customer and BC Hydro for the supply of electricity to the Customer’s Plant;
- (l) “**Eligible Customer**” means a customer of BC Hydro who, immediately before the Direction comes into force, was receiving electricity service from BC Hydro pursuant to Rate Schedule 1823 or Rate Schedule 1828;
- (m) “**Floating Interest Rate 1**” means a nominal annual interest rate calculated as follows:

$$\text{Floating Interest Rate} = (12 \times [(1+i)^{1/12} - 1]) \times 100$$

Where:

- (i) “**i**” means the sum of Prime + 2.5 per cent; and

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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

- (ii) **“Prime”** has the meaning given to that term in section 1.1(r);
- (n) **“Floating Interest Rate 2”** means a nominal annual interest rate calculated in accordance with the formula set out in Floating Interest Rate 1, except that
- (i) **“i”** means the sum of Prime + 5.0 per cent;
- (o) **“MCPA Agreement”** means a Mining Customer Payment Plan Agreement attached as Appendix 1 to Tariff Supplement No. 90;
- (p) **“Participating Customer”** means an Eligible Customer whose request referred to in section 2.1(a)(i) has been accepted and to whom this Supplement applies;
- (q) **“Party”** means either BC Hydro or a Participating Customer and **“Parties”** means both BC Hydro and the Participating Customer;
- (r) **“Prime”** means the published per annum prime lending rate on loans denominated in Canadian Dollars made in Canada charged by the principal banker of BC Hydro as at the date the interest is calculated in accordance with section 2.5;
- (s) **“Rate Schedule 1823”** means Rate Schedule 1823 – Transmission Service – Stepped Rate, as amended, supplemented or replaced from time to time;
- (t) **“Rate Schedule 1828”** means Rate Schedule 1828 – Transmission Service – Biomass Energy Program, as amended, supplemented or replaced from time to time;
- (u) **“Supplement”** means this supplement and includes the form of Payment Plan Agreement attached as Appendix 1; and
- (v) **“Term”** has the meaning given to that term in section 3.1.

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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COMMISSION SECRETARY

## **1.2 Appendices**

Appendix 1 – form of Payment Plan Agreement attached to this Supplement is incorporated into and forms part of this Supplement.

## **1.3 Interpretation**

In this Supplement, except where otherwise expressly provided or the context otherwise requires:

- (a) Words importing the singular include the plural and vice versa, “or” is not exclusive, “including” is not limiting, whether or not non-limiting language (such as “without limitation”) is used with reference to it, a grammatical variation of a defined term shall have a corresponding meaning, and reference to any person includes such person’s successors and assigns but, if applicable, only if the succession or assignment is permitted under this Supplement;
- (b) The inclusion of headings in this Supplement is for convenience only and shall not affect the construction or interpretation of this Supplement;
- (c) Any reference to a specific section, subsection or other subdivision is to the designated section, subsection or other subdivision of this Supplement, unless the context otherwise requires; and
- (d) All monetary amounts referred to in this Supplement are stated and shall be paid in Canadian currency.

## **1.4 Obligations Supplemental**

- (a) BC Hydro’s and a Participating Customer’s obligations under this Supplement are supplemental to their respective obligations under the Electricity Supply Agreement.

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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



- (b) Except as specifically supplemented by this Supplement, the Electricity Supply Agreement of a Participating Customer shall continue in full force and effect and, in particular, shall govern billing and payment for electricity service supplied by BC Hydro. Nothing in this Supplement shall release a Participating Customer from liability for payment of any amounts owing pursuant to the Electricity Supply Agreement.

**2.0 PAYMENT PLAN**

**2.1 Application to Participate in the Payment Plan**

- (a) As a condition of participating in the RS 1823 and RS 1828 Customer Payment Plan:
- (i) An Eligible Customer shall, by April 30, 2020 or such later date agreed to by BC Hydro, make a request to BC Hydro that this Supplement apply respecting amounts that will be payable by the Eligible Customer to BC Hydro for electricity service provided for the operation of the Customer's Plant by completing, executing and delivering to BC Hydro an agreement in the form attached as Appendix 1;
  - (ii) The Customer's Plant of the Eligible Customer must be an operating facility and not in long-term care and maintenance;
  - (iii) The Eligible Customer must have no overdue bills with BC Hydro on the date of the request, unless otherwise agreed to by BC Hydro; and
  - (iv) The Eligible Customer must not have an MCPP Agreement or a Copper Mining Customer Payment Plan Agreement in effect with BC Hydro.

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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

(b) BC Hydro shall, as soon as practicable after receipt of a request referred to in paragraph 2.1(a)(i), if the Eligible Customer meets the requirements for participation in the RS 1823 and RS 1828 Customer Payment Plan, accept the request and notify the Eligible Customer.

**2.2 Payment of Adjusted Amount**

The Participating Customer shall pay on account of each bill issued by BC Hydro during the Application Period, an adjusted amount for electricity service respecting the Customer’s Plant (the “**Adjusted Amount**”), in Canadian dollars, equal to 50% of the amount that would have been payable by the Participating Customer under Rate Schedule 1823 or Rate Schedule 1828, as applicable, on account of that bill but for the application of this Supplement.

**2.3 Deferral of Payment**

The difference between the Adjusted Amount calculated in accordance with section 2.2 and the amount that would have been payable by the Participating Customer under Rate Schedule 1823 or Rate Schedule 1828, as applicable, but for the application of this Supplement, shall be deferred in accordance with this Supplement and such difference shall be added to the Account Balance in accordance with section 1.1(a) upon BC Hydro issuing the bill in respect of such Adjusted Amount.

**2.4 Additional Amount**

The Participating Customer may, on account of the Account Balance, pay any amount in addition to an Adjusted Amount at any time without notice, interest or penalty and all such amounts paid in excess of the Adjusted Amount shall be reflected in the Account Balance as of the date the payment was made.

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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

**2.5 Interest**

- (a) Interest, calculated and compounded monthly, not in advance both before and after demand, default and judgment, shall accrue on the daily Account Balance, based on the number of days elapsed in a 365-day year, at the Floating Interest Rate 1 or Floating Interest Rate 2, as applicable, and such interest shall be added to the Account Balance on the last day of each Billing Period, or in the case of the Closing Date on the day prior to the Closing Date, and bear interest at the same rate:
  - (i) Floating Interest Rate 1 shall apply until the Closing Date and
  - (ii) Floating Interest Rate 2 shall apply thereafter until the Account Balance is zero.
  
- (b) The Participating Customer acknowledges that Prime was \_\_\_ per cent per annum on April \_\_, 2020. A certificate of a Managing Director of the principal banker of BC Hydro, which on the date this Supplement came into effect is the Bank of Montreal, shall be conclusive evidence as to the rate of Prime in effect from time to time.

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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

**2.6 Repayment of Account Balance**

On or before the Closing Date, the Participating Customer shall pay the Account Balance. If unpaid by the Closing Date, beginning with the bill BC Hydro issues to the Participating Customer in September 2020 for electricity service in accordance with the Electricity Supply Agreement, and on each monthly bill thereafter until the Account Balance is zero, BC Hydro shall include on the bill an amount equal to 1/9 of the Account Balance as at the date of the September 2020 bill plus interest calculated and accrued in accordance with section 2.5(a)(ii), and the bill shall become due and payable in accordance with the Electricity Supply Agreement. Any such bill unpaid by the Participating Customer shall become overdue in accordance with the Electricity Supply Agreement except that the interest rate specified in section 2.5(a)(ii) shall continue to apply.

**2.7 Taxes and Levies**

Amounts calculated under this Supplement do not include the Goods and Services Tax, the Provincial Sales Tax and any other tax or levy which BC Hydro may be lawfully authorized or required to collect from the Participating Customer.

**3.0 TERM OF PAYMENT PLAN AGREEMENT****3.1 Term of Payment Plan Agreement**

The term of a Payment Plan Agreement (the “**Term**”) commences on the date the Application Period commences and continues until the later of the Closing Date or the date following the Closing Date at which the Account Balance is zero unless terminated earlier pursuant to and in accordance with section 3.2.

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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

**3.2 Termination**

- (a) A Payment Plan Agreement may be terminated in any of the following events:
- (i) Immediately by the Participating Customer upon request to BC Hydro if at the time of the request the Account Balance is zero;
  - (ii) Immediately by BC Hydro if the Participating Customer sells, transfers or assigns all or substantially all of its interest in the Customer's Plant, at which time all unpaid amounts, including the Account Balance, shall become due and payable pursuant to the Electricity Supply Agreement;
  - (iii) Immediately by BC Hydro if the Participating Customer commits an act of bankruptcy, becomes insolvent, proposes a compromise or arrangement to its creditors generally, has any petition for a receiving order in bankruptcy filed against it, makes a voluntary assignment in bankruptcy and/or fails to make any payment required under the Electricity Supply Agreement as supplemented by this Supplement, and all amounts owing by the Participating Customer to BC Hydro, including the Account Balance, shall, immediately upon such notice being given, become due and payable pursuant to the Electricity Supply Agreement; and
  - (iv) Immediately by BC Hydro upon any person or group of persons acting in concert acquiring, in a single transaction or a series of transactions, more than 50 per cent of the issued and outstanding shares in the capital of the Participating Customer resulting in a change of control of the Participating Customer, at which time all unpaid amounts, including the Account Balance, shall become due and payable pursuant to the Electricity Supply Agreement.

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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

**4.0 DISPUTE RESOLUTION****4.1 Disputes**

If any dispute, question or difference of opinion between the Parties arises out of or under this Supplement (“**Dispute**”), then a Party may give to the other Party a notice (“**Dispute Notice**”) specifying the Dispute and requiring its resolution under this section 4.0. All Disputes shall be resolved in accordance with the provisions of this section 4.0, provided however, that either Party may apply to a court of competent jurisdiction for any interim relief by way of restraining order, injunction or other equitable remedy.

**4.2 Contract Representatives to Seek Resolution**

If a Dispute Notice is given to a Party, each Party shall appoint a contract representative within five business days of a Party notifying the other Party of a Dispute and cause its contract representative to negotiate in good faith to attain a resolution of the Dispute.

**4.3 Referral to Senior Executives**

If a Dispute is not resolved within five business days of the Dispute being referred to the contract representatives, the Parties shall seek to resolve the Dispute through their respective senior executives (at the vice president level or higher) before proceeding to resolve the Dispute through arbitration in accordance with section 4.4. Each Party shall appoint a senior executive to undertake such informal process within 10 business days of a Party notifying the other Party of a Dispute and the Parties shall use commercially reasonable efforts to resolve the Dispute through their appointed senior executives within 30 days after notification.

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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

**4.4 Referral to Arbitration**

If the Dispute is not resolved within 30 days of the Dispute being referred to the senior executives (or either party fails to timely appoint a contract representative or senior executive pursuant to sections 4.2 and 4.3), then either Party may submit the Dispute to arbitration under the *Arbitration Act* (British Columbia). The following rules shall apply to arbitration under this Agreement:

- (a) The arbitration shall be conducted before one arbitrator mutually agreed to by the Parties or if the Parties are unable to agree to an arbitrator within 15 days after a demand for arbitration has been given, either Party may apply to the court pursuant to the *Arbitration Act* (British Columbia) for the appointment of a single arbitrator;
- (b) The arbitrator shall be authorized only to interpret and apply the provisions of this Agreement and shall have no power to modify or change any of the above in any manner;
- (c) The arbitration shall be dealt with on an expeditious basis with both Parties using commercially reasonable efforts to obtain and implement a timely decision of the arbitrator; specifically, the arbitrator shall be instructed to impose time limits on the arbitration process such that a decision may be rendered within 45 days of appointment of the arbitrator;
- (d) The arbitrator shall determine the Dispute in accordance with the laws of the Province of British Columbia and applicable Canadian federal law; and
- (e) The Parties shall bear the costs of the arbitration equally and each Party shall bear its own costs.

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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

**4.5 Arbitration Decisions**

The decision of the arbitrator shall be final and binding upon the Parties, and judgment on the award may be entered in any court having jurisdiction. The decision of the arbitrator may be appealed solely on the grounds that the conduct of the arbitrator, or the decision itself, violated the standards of the *Arbitration Act* (British Columbia) or the rules set out in section 4.4. The final decision of the arbitrator shall also be filed with the Commission.

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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



**APPENDIX 1  
PAYMENT PLAN AGREEMENT**

**THIS PAYMENT PLAN AGREEMENT** made as of  
the \_\_\_\_ day of \_\_\_\_\_, 2020\_  
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**") [, being a [**wholly owned**] subsidiary of  
**[PARENT]**, having its head office in **[jurisdiction]**]

OF THE SECOND PART

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

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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

**1.0 INTERPRETATION**

**1.1 Capitalized Terms**

Capitalized terms used in this Agreement and not otherwise defined shall have the meanings given to them in the Supplement.

**2.0 ELIGIBILITY**

- (a) The Customer is an Eligible Customer;
- (b) On the date this Agreement has been executed by the Customer and delivered to BC Hydro, the Customer's Plant is an operating facility and not in long-term care and maintenance;
- (c) On the date this Agreement has been executed by the Customer and delivered to BC Hydro, the Customer has no overdue bills with BC Hydro, unless otherwise agreed to by BC Hydro; and
- (d) On the date this Agreement has been executed by the Customer and delivered to BC Hydro, the Customer does not have a MCPP Agreement or Copper Mining Customer Payment Plant Agreement in effect with BC Hydro.

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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

**3.0 REQUEST FOR PARTICIPATION**

The Customer hereby requests participation as a Participating Customer in the RS 1823 and RS 1828 Customer Payment Plan and agrees that the terms of the Electricity Supply Agreement between the Parties dated as of the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_ shall be amended by the addition of the Supplement and that the Electricity Supply Agreement, as supplemented by the Supplement shall apply to the supply of electricity service from BC Hydro to the Customer's Plant.

**4.0 APPLICATION PERIOD**

The Supplement shall begin to apply to the Customer, and the Application Period shall commence on March 22, 2020.

**5.0 TERM OF AGREEMENT**

The term of this Agreement commences on the date the Application Period commences and continues until the later of the Closing Date or the date following the Closing Date at which the Account Balance is zero unless terminated earlier pursuant to and in accordance with section 3.2 of the Supplement.

**6.0 MISCELLANEOUS**

**6.1 Successors and Assigns**

- (a) The Customer shall not transfer or assign, in whole or in part, its interest in this Agreement.
- (b) This Agreement shall be binding upon and shall enure to the benefit of the Parties and their respective successors.

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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

**6.2 Further Assurances**

Each of the Parties agrees that it shall take from time to time such actions and execute such additional instruments as may be reasonably necessary or convenient to implement and carry out the intent and purpose of this Agreement.

**6.3 Waiver**

The failure of a Party to insist on the strict performance of any provision of this Agreement or to exercise any right, power or remedy upon a breach hereof shall not constitute a waiver of any provision of this Agreement or limit that Party's right thereafter to enforce any provision or exercise any right.

**6.4 Amendments**

No amendment of this Agreement shall be valid unless made in writing and executed by the appropriate duly authorized signatories of the Parties (and approved by the Commission to the extent required by law) or unless ordered by the Commission in accordance with its authority under the Direction and the *Utilities Commission Act*.

**6.5 Governing Law**

This Agreement and all terms and conditions contained in it shall be governed and construed in accordance with the laws of the Province of British Columbia.

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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

**6.6 Notices**

All notices, consents, requests or demands that either Party may be required or may desire to give to the other Party under this Agreement 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 or by facsimile copier, and is deemed to be given when received if delivered by prepaid mail at the address that each Party has given notice of under the Electricity Supply Agreement.

**6.7 Counterpart Execution**

This Agreement may be executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same.

**6.8 Electronic Delivery**

Delivery by a Party of an executed copy of this Agreement by electronic means shall be effective delivery, but that Party shall promptly also deliver in person to the other Party an originally executed copy of this Agreement.

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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

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 by all joint venturers 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:

\_\_\_\_\_  
Authorized Signatory (name and title)  
  
[CUSTOMER] )  
 )  
 )  
 )  
 )  
\_\_\_\_\_  
Authorized Signatory (name and title) )  
 )  
 )  
 )  
 )  
\_\_\_\_\_  
Authorized Signatory (name and title)

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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

The undersigned hereby unconditionally and irrevocably guarantees the payment obligations of **[CUSTOMER]** to BC Hydro under this Agreement, and agrees that the undersigned shall be liable to BC Hydro for the performance of **[CUSTOMER]**'s payment obligations under this Agreement as a primary obligor as if a party to this Agreement. The undersigned further acknowledges and agrees that such guarantee will continue and survive until all payment obligations of the Customer arising during the term of the Agreement have been fully satisfied and the Account Balance determined in accordance with this Agreement is zero, notwithstanding any earlier termination of this Agreement.

**[PARENT]**

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Authorized Signatory (name and title)

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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COMMISSION SECRETARY

**COAL MINING CUSTOMER PAYMENT PLAN**

- A. The Lieutenant Governor in Council issued a Direction to the British Columbia Utilities Commission Respecting COVID-19 Relief, pursuant to section 3 of the *Utilities Commission Act* (British Columbia), dated effective April \_\_, 2020 (the “**Direction**”);
- B. Pursuant to the Direction, Eligible Customers (as defined below) shall be permitted, upon admission to the Coal Mining Customer Payment Plan, to defer payment of a portion of their account with BC Hydro for electricity service, to support the stability/liquidity of the Eligible Customer in respect of mining operations due to the COVID-19 pandemic; and
- C. The terms and conditions of participation in the Coal Mining Customer Payment Plan are incorporated into this Supplement to the Electric Tariff.

**1.0 INTERPRETATION****1.1 Definitions**

In this Supplement:

- (a) “**Account Balance**” means, in relation to a Participating Customer, an amount determined by BC Hydro prior to issuing each bill during the Application Period, as follows:

$$\text{Account Balance} = (\text{TSA} + \text{I}) - (\text{TAA} + \text{A})$$

Where:

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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



- (i) **“TSA”** means the total amount that would have been payable by the Participating Customer under Rate Schedule 1611 but for the application of this Supplement, during the period beginning on the date the Supplement begins to apply to the Participating Customer and ending on the date BC Hydro makes a determination of the Account Balance;
  - (ii) **“I”** means the interest accumulated on the Account Balance as of the last day of the most recent Billing Period prior to the determination of the Account Balance, calculated in accordance with section 2.6;
  - (iii) **“TAA”** means the sum of all Adjusted Amounts paid by the Participating Customer; and
  - (iv) **“A”** means any payments made by the Participating Customer in addition to an Adjusted Amount, including payments made on account of the Account Balance, in accordance with section 2.5;
- (b) **“Act”** means the *Utilities Commission Act* (British Columbia);
- (c) **“Adjusted Amount”** has the meaning given to that term in section 2.2 or 2.3, as applicable;
- (d) **“Applicable Mine”** means any of the following mines:
- (i) Willow Creek; and
  - (ii) Wolverine;

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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

- (e) “**Application Period 1**” means, in respect of a Participating Customer, the period that begins on April \_\_, 2020, and ends on Closing Date 1 or such earlier date on which the Coal Mining Payment Plan Agreement for the Participating Customer is terminated pursuant to section 3.2;
- (f) “**Application Period 2**” means, in respect of a Participating Customer, the period that begins on Closing Date 1 or such later date the Supplement begins to apply to the Participating Customer, and ends on Closing Date 2 or such earlier date on which the Coal Mining Payment Plan Agreement for the Participating Customer is terminated pursuant to section 3.2;
- (g) “**Billing Month**” means a month in which BC Hydro issues a bill to a Participating Customer for electricity service respecting an Applicable Mine;
- (h) “**Billing Period**” means a Participating Customer’s billing period determined pursuant to Rate Schedule 1611;
- (i) “**Closing Date 1**” means the earlier of June 30, 2020 or the date immediately before the day on which BC Hydro issues to the Participating Customer a fourth monthly bill pursuant to this Supplement;
- (j) “**Closing Date 2**” means March 14, 2021;
- (k) “**Coal Mining Customer Payment Plan**” means the Coal Mining Customer Payment Plan offered by BC Hydro to Eligible Customers pursuant to this Supplement;
- (l) “**Coal Mining Customer Payment Plan Agreement**” means the Coal Mining Customer Payment Plan Agreement attached as Appendix 1 to this Supplement;
- (m) “**Commission**” means the British Columbia Utilities Commission;

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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

- (n) **“Direction”** means the Direction to the British Columbia Utilities Commission Respecting COVID-19 Relief issued by the Lieutenant Governor in Council pursuant to section 3 of the *Act* and dated effective April \_\_, 2020;
- (o) **“Eligible Customer”** means a customer of BC Hydro who, immediately before the Direction comes into force, was receiving electricity service from BC Hydro respecting an Applicable Mine;
- (p) **“Floating Interest Rate 1”** means a nominal annual interest rate calculated as follows:
- $$\text{Floating Interest Rate} = (12 \times [(1+i)^{1/12} - 1]) \times 100$$
- Where:
- (i) **“i”** means the sum of Prime + 2.5 per cent; and
- (ii) **“Prime”** has the meaning given to that term in section 1.1(t);
- (q) **“Floating Interest Rate 2”** means a nominal annual interest rate calculated in accordance with the formula set out in Floating Interest Rate 1, except that
- (i) **“i”** means the sum of Prime + 5.0 per cent;
- (r) **“Participating Customer”** means an Eligible Customer whose request referred to in section 2.1(a)(i) has been accepted and to whom this Supplement applies;
- (s) **“Party”** means either BC Hydro or a Participating Customer and **“Parties”** means both BC Hydro and the Participating Customer;
- (t) **“Prime”** means the published per annum prime lending rate on loans denominated in Canadian Dollars made in Canada charged by the principal banker of BC Hydro as at the date the interest is calculated in accordance with section 2.6;
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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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

- (u) **“Rate Schedule 1611”** means Rate Schedule 1611 – Large General Service (150 kW and Over), as amended, supplemented or replaced from time to time;
- (v) **“Settlement Price Period”** means, in relation to a Participating Customer, a period that
  - (i) Begins 30 days before the day referred to in paragraph 1.1(v)(ii)(A) or (B), as applicable; and
  - (ii) Ends on a day that is either:
    - A. The 15<sup>th</sup> day of the month that immediately precedes the Billing Month, if BC Hydro issues the bill on or before the 15<sup>th</sup> day of the Billing Month; or
    - B. The 15<sup>th</sup> day of the Billing Month, if BC Hydro issues the bill after that day;
- (w) **“Supplement”** means this supplement and includes the form of Coal Mining Customer Payment Plan Agreement attached as Appendix 1; and
- (x) **“Term”** has the meaning given to that term in section 3.1.

## **1.2 Appendices**

Appendix 1 – form of Coal Mining Customer Payment Plan Agreement attached to this Supplement is incorporated into and forms part of this Supplement.

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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

**1.3 Interpretation**

In this Supplement, except where otherwise expressly provided or the context otherwise requires:

- (a) Words importing the singular include the plural and vice versa, “or” is not exclusive, “including” is not limiting, whether or not non-limiting language (such as “without limitation”) is used with reference to it, a grammatical variation of a defined term shall have a corresponding meaning, and reference to any person includes such person’s successors and assigns but, if applicable, only if the succession or assignment is permitted under this Supplement;
- (b) The inclusion of headings in this Supplement is for convenience only and shall not affect the construction or interpretation of this Supplement;
- (c) Any reference to a specific section, subsection or other subdivision is to the designated section, subsection or other subdivision of this Supplement, unless the context otherwise requires; and
- (d) All monetary amounts referred to in this Supplement are stated and shall be paid in Canadian currency.

**1.4 Obligations Supplemental**

- (a) BC Hydro’s and a Participating Customer’s obligations under this Supplement are supplemental to their respective obligations under the Electric Tariff.

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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

- (b) Except as specifically supplemented by this Supplement, the Electric Tariff shall continue to apply to BC Hydro and the Participating Customer in full force and effect and, in particular, shall govern billing and payment for electricity service supplied by BC Hydro. Nothing in this Supplement shall release a Participating Customer from liability for payment of any amounts owing pursuant to the Electric Tariff and Rate Schedule 1611.

## **2.0 COAL MINING CUSTOMER PAYMENT PLAN**

### **2.1 Application to Participate**

- (a) As a condition of participating in the Coal Mining Customer Payment Plan:
- (i) An Eligible Customer shall, by April 30, 2020 or such later date agreed to by BC Hydro, make a request to BC Hydro that this Supplement apply respecting amounts that will be payable by the Eligible Customer to BC Hydro for electricity service provided for the operation of an Applicable Mine by completing, executing and delivering to BC Hydro an agreement in the form attached as Appendix 1;
  - (ii) The Applicable Mine must be operating and must not be in long-term care and maintenance; and
  - (iii) The Eligible Customer must have no overdue bills with BC Hydro on the date of the request, unless otherwise agreed to by BC Hydro.
- (b) BC Hydro shall, as soon as practicable after receipt of a request referred to in paragraph 2.1(a)(i), if the Eligible Customer meets the requirements for participation in the Coal Mining Customer Payment Plan, accept the request and notify the Eligible Customer.

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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

**2.2 Payment of Adjusted Amount During Application Period 1**

The Participating Customer shall pay on account of each bill issued by BC Hydro during the Application Period 1, an adjusted amount for electricity service respecting the Applicable Mine (the “**Adjusted Amount**”), in Canadian dollars, equal to 50 per cent of the amount that would have been payable by the Participating Customer under Rate Schedule 1611, as applicable, on account of that bill but for the application of this Supplement.

**2.3 Payment of Adjusted Amount During Application Period 2**

The Participating Customer shall pay on account of each bill issued by BC Hydro during the Application Period 2, an Adjusted Amount for electricity service respecting an Applicable Mine, in Canadian dollars, calculated by BC Hydro as follows:

$$\text{Adjusted Amount} = \text{SA} + (\text{SA} \times \text{AP})$$

Where:

- (a) “**SA**” means the amount that would have been payable by the Participating Customer under Rate Schedule 1611 on account of that bill but for the application of this Supplement;
- (b) “**AP**” means  $[(\text{settlement price} - 134) \times 5]/100$ ;

Where the settlement price is the average of the daily settlement prices per metric tonne of Hard Coking Coal (Premium Low Vol) FOB Australia, as reported by Platts (Coal Trader International), for the most recent Settlement Price Period, converted into Canadian currency by using the average Bank of Canada daily exchange rate over that same period;

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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

Provided that:

- (i) If an AP is calculated to be more than 0.75, the Adjusted Amount for that bill shall be calculated using an AP of 0.75; and
- (ii) If an AP is calculated to be less than -0.75, the Adjusted Amount for that bill shall be calculated using an AP of -0.75.

**2.4 Deferral of Payment**

The difference between the Adjusted Amount calculated in accordance with section 2.2 or 2.3, as applicable, and the amount that would have been payable by the Participating Customer under Rate Schedule 1611, but for the application of this Supplement, shall be deferred in accordance with this Supplement and such difference shall be added to the Account Balance in accordance with section 1.1(a) upon BC Hydro issuing the bill in respect of such Adjusted Amount.

**2.5 Additional Amount**

The Participating Customer may, on account of the Account Balance, pay any amount in addition to an Adjusted Amount at any time without notice, interest or penalty and all such amounts paid in excess of the Adjusted Amount shall be reflected in the Account Balance as of the date the payment was made.

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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



**2.6 Interest**

- (a) Interest, calculated and compounded monthly, not in advance both before and after demand, default and judgment, shall accrue on the daily Account Balance, based on the number of days elapsed in a 365-day year, at the Floating Interest Rate 1 or Floating Interest Rate 2, as applicable, and such interest shall be added to the Account Balance on the last day of each Billing Period, or in the case of the Closing Date 1 on the day prior to Closing Date 1, and bear interest at the same rate:
- (i) Floating Interest Rate 1 shall apply until the Closing Date 1; and
  - (ii) Floating Interest Rate 2 shall apply thereafter until the Account Balance is zero.
- (b) The Participating Customer acknowledges that Prime was \_\_\_ per cent per annum on April \_\_, 2020. A certificate of a Managing Director of the principal banker of BC Hydro, which on the date this Supplement came into effect is the Bank of Montreal, shall be conclusive evidence as to the rate of Prime in effect from time to time.

**2.7 Final Payment**

On or before the Closing Date 2, the Participating Customer shall pay the Account Balance. If unpaid by the Closing Date 2, the Participating Customer shall pay the Account Balance, plus interest at the rates specified in section 2.6(a)(ii), as follows:

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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

- (a) BC Hydro shall add to the next bill issued to the Participating Customer for electricity service to the Applicable Mine, and to each monthly bill thereafter until the Account Balance is zero, an amount equal to 1/9 of the Account Balance as at the Closing Date 2 plus interest calculated and accrued in accordance with section 2.6(a)(ii). BC Hydro and the Participating Customer may agree in writing to a different period of repayment, but BC Hydro is not obligated to do so.
- (b) Any bill issued in accordance with section 2.7(a) unpaid by the Participating Customer shall become overdue in accordance with the Electric Tariff.

**2.8 Taxes and Levies**

Amounts calculated under this Supplement do not include the Goods and Services Tax, the Provincial Sales Tax and any other tax or levy which BC Hydro may be lawfully authorized or required to collect from the Participating Customer.

**3.0 TERM OF PAYMENT PLAN AGREEMENT**

**3.1 Term of Payment Plan Agreement**

The term of a Coal Mining Customer Payment Plan Agreement (the “**Term**”) commences on the date the Application Period 1 commences and continues until the later of the Closing Date 2 or the date following the Closing Date 2 at which the Account Balance is zero unless terminated earlier pursuant to and in accordance with section 3.2.

**3.2 Termination**

- (a) A Coal Mining Customer Payment Plan Agreement may be terminated in any of the following events:

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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

- (i) Immediately by the Participating Customer upon request to BC Hydro if at the time of the request the Account Balance is zero;
- (ii) Immediately by BC Hydro if the Participating Customer sells, transfers or assigns all or substantially all of its interest in the Applicable Mine, at which time all unpaid amounts, including the Account Balance, shall become due and payable pursuant to the Electric Tariff;
- (iii) Immediately by BC Hydro if the Participating Customer commits an act of bankruptcy, becomes insolvent, proposes a compromise or arrangement to its creditors generally, has any petition for a receiving order in bankruptcy filed against it, makes a voluntary assignment in bankruptcy and/or fails to make any payment required under the Electric Tariff as supplemented by this Supplement, and all amounts owing by the Participating Customer to BC Hydro, including the Account Balance, shall, immediately upon such notice being given, become due and payable pursuant to the Electric Tariff; and
- (iv) Immediately by BC Hydro upon any person or group of persons acting in concert acquiring, in a single transaction or a series of transactions, more than 50 per cent of the issued and outstanding shares in the capital of the Participating Customer resulting in a change of control of the Participating Customer, at which time all unpaid amounts, including the Account Balance, shall become due and payable pursuant to the Electric Tariff.

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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

**4.0 DISPUTE RESOLUTION**

**4.1 Disputes**

If any dispute, question or difference of opinion between the Parties arises out of or under this Supplement (“**Dispute**”), then a Party may give to the other Party a notice (“**Dispute Notice**”) specifying the Dispute and requiring its resolution under this section 4.0. All Disputes shall be resolved in accordance with the provisions of this section 4.0, provided however, that either Party may apply to a court of competent jurisdiction for any interim relief by way of restraining order, injunction or other equitable remedy.

**4.2 Contract Representatives to Seek Resolution**

If a Dispute Notice is given to a Party, each Party shall appoint a contract representative within five business days of a Party notifying the other Party of a Dispute and cause its contract representative to negotiate in good faith to attain a resolution of the Dispute.

**4.3 Referral to Senior Executives**

If a Dispute is not resolved within five business days of the Dispute being referred to the contract representatives, the Parties shall seek to resolve the Dispute through their respective senior executives (at the vice president level or higher) before proceeding to resolve the Dispute through arbitration in accordance with section 4.4. Each Party shall appoint a senior executive to undertake such informal process within 10 business days of a Party notifying the other Party of a Dispute and the Parties shall use commercially reasonable efforts to resolve the Dispute through their appointed senior executives within 30 days after notification.

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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

#### **4.4 Referral to Arbitration**

If the Dispute is not resolved within 30 days of the Dispute being referred to the senior executives (or either party fails to timely appoint a contract representative or senior executive pursuant to sections 4.2 and 4.3), then either Party may submit the Dispute to arbitration under the *Arbitration Act* (British Columbia). The following rules shall apply to arbitration under this Agreement:

- (a) The arbitration shall be conducted before one arbitrator mutually agreed to by the Parties or if the Parties are unable to agree to an arbitrator within 15 days after a demand for arbitration has been given, either Party may apply to the court pursuant to the *Arbitration Act* (British Columbia) for the appointment of a single arbitrator;
- (b) The arbitrator shall be authorized only to interpret and apply the provisions of this Agreement and shall have no power to modify or change any of the above in any manner;
- (c) The arbitration shall be dealt with on an expeditious basis with both Parties using commercially reasonable efforts to obtain and implement a timely decision of the arbitrator; specifically, the arbitrator shall be instructed to impose time limits on the arbitration process such that a decision may be rendered within 45 days of appointment of the arbitrator;
- (d) The arbitrator shall determine the Dispute in accordance with the laws of the Province of British Columbia and applicable Canadian federal law; and
- (e) The Parties shall bear the costs of the arbitration equally and each Party shall bear its own costs.

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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

**4.5 Arbitration Decisions**

The decision of the arbitrator shall be final and binding upon the Parties, and judgment on the award may be entered in any court having jurisdiction. The decision of the arbitrator may be appealed solely on the grounds that the conduct of the arbitrator, or the decision itself, violated the standards of the *Arbitration Act* (British Columbia) or the rules set out in section 4.4. The final decision of the arbitrator shall also be filed with the Commission.

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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

**APPENDIX 1**  
**COAL MINING CUSTOMER PAYMENT PLAN AGREEMENT**

**THIS COAL MINING CUSTOMER PAYMENT PLAN 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**") [, being a [**wholly owned**] subsidiary of  
**[PARENT]**, having its head office in **[jurisdiction]**]

OF THE SECOND PART

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

\_\_\_\_\_  
ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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

**1.0 INTERPRETATION**

**1.1 Capitalized Terms**

Capitalized terms used in this Agreement and not otherwise defined shall have the meanings given to them in the Supplement.

**2.0 ELIGIBILITY**

- (a) The Customer is an Eligible Customer and operates the following Applicable Mine: the \_\_\_\_\_ mine (the “**Mine**”);
- (b) On the date this Agreement has been executed by the Customer and delivered to BC Hydro, the Mine is operating and is not in long term care and maintenance; and
- (c) On the date this Agreement has been executed by the Customer and delivered to BC Hydro, the Customer has no overdue bills with BC Hydro, unless otherwise agreed to by BC Hydro.

**3.0 REQUEST FOR PARTICIPATION**

The Customer hereby requests participation as a Participating Customer in the Coal Mining Customer Payment Plan and acknowledges and agrees that the terms and conditions of the Electric Tariff, in respect of their application to the Customer, shall be amended by the addition of the Supplement and that the terms of the Electric Tariff, as supplemented by the Supplement shall apply to the supply of electricity service from BC Hydro to the Customer in respect of the Mine during the term of this Agreement.

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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



**4.0 APPLICATION PERIOD**

The Supplement shall begin to apply to the Customer, and the Application Period 1 shall commence on April \_\_, 2020.

**5.0 TERM OF AGREEMENT**

The term of this Agreement commences on the date the Application Period 1 commences and continues until the later of the Closing Date 2 or the date following the Closing Date 2 at which the Account Balance is zero unless terminated earlier pursuant to and in accordance with section 3.2.

**6.0 MISCELLANEOUS**

**6.1 Successors and Assigns**

- (a) The Customer shall not transfer or assign, in whole or in part, its interest in this Agreement.
- (b) This Agreement shall be binding upon and shall enure to the benefit of the Parties and their respective successors.

**6.2 Further Assurances**

Each of the Parties agrees that it shall take from time to time such actions and execute such additional instruments as may be reasonably necessary or convenient to implement and carry out the intent and purpose of this Agreement.

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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

**6.3 Waiver**

The failure of a Party to insist on the strict performance of any provision of this Agreement or to exercise any right, power or remedy upon a breach hereof shall not constitute a waiver of any provision of this Agreement or limit that Party's right thereafter to enforce any provision or exercise any right.

**6.4 Amendments**

No amendment of this Agreement shall be valid unless made in writing and executed by the appropriate duly authorized signatories of the Parties (and approved by the Commission to the extent required by law) or unless ordered by the Commission in accordance with its authority under the Direction and the *Utilities Commission Act*.

**6.5 Governing Law**

This Agreement and all terms and conditions contained in it shall be governed and construed in accordance with the laws of the Province of British Columbia.

**6.6 Notices**

All notices, consents, requests or demands that either Party may be required or may desire to give to the other Party under this Agreement 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 or by facsimile copier, and is deemed to be given when received if delivered by prepaid mail at the address that each Party has given notice of prior to this Agreement.

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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

**6.7 Counterpart Execution**

This Agreement may be executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same.

**6.8 Electronic Delivery**

Delivery by a Party of an executed copy of this Agreement by electronic means shall be effective delivery, but that Party shall promptly also deliver in person to the other Party an originally executed copy of this Agreement.

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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

**BC Hydro**

Electric Tariff Supplement No. 98  
Coal Mining Customer Payment Plan  
Appendix 1  
Effective: April 8, 2020  
Original of Page 6

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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 by all joint venturers 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:

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Authorized Signatory (Name and Title)

**[CUSTOMER]**

)  
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Authorized Signatory (Name and Title)

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Authorized Signatory (Name and Title)

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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COMMISSION SECRETARY

The undersigned hereby unconditionally and irrevocably guarantees the payment obligations of [CUSTOMER] to BC Hydro under this Agreement, and agrees that the undersigned shall be liable to BC Hydro for the performance of [CUSTOMER]'s payment obligations under this Agreement as a primary obligor as if a party to this Agreement. The undersigned further acknowledges and agrees that such guarantee will continue and survive until all payment obligations of the Customer arising during the term of the Agreement have been fully satisfied and the Account Balance determined in accordance with this Agreement is zero, notwithstanding any earlier termination of this Agreement.

[PARENT]

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Authorized Signatory (Name and Title)

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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COMMISSION SECRETARY

**COPPER MINING CUSTOMER PAYMENT PLAN**

- A. The Lieutenant Governor in Council issued a Direction to the British Columbia Utilities Commission Respecting COVID-19 Relief, pursuant to section 3 of the *Utilities Commission Act* (British Columbia), dated effective April \_\_, 2020 (the “**Direction**”);
- B. Pursuant to the Direction, Eligible Customers (as defined below) shall be permitted, upon admission to the Copper Mining Customer Payment Plan, to defer payment of a portion of their account with BC Hydro for electricity service respecting an Applicable Mine (as defined below), to support the stability/liquidity of the Eligible Customer in respect of its mining operations due to the COVID-19 pandemic; and
- C. The terms and conditions of participation in the Copper Mining Customer Payment Plan, as provided in the Direction, are incorporated into this Supplement to Electric Tariff Supplement No. 5.

**1.0 INTERPRETATION**

**1.1 Definitions**

In this Supplement:

- (a) “**Account Balance**” means, in relation to an Applicable Mine of a Participating Customer, an amount determined by BC Hydro prior to issuing each bill during the Application Period, as follows:

$$\text{Account Balance} = (\text{TSA} + \text{I}) - (\text{TAA} + \text{A})$$

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Where:

- (i) **“TSA”** means the total amount that would have been payable by the Participating Customer under Rate Schedule 1823, but for the application of this Supplement, during the period beginning on the date the Supplement begins to apply to the Participating Customer and ending on the date BC Hydro makes a determination of the Account Balance;
  - (ii) **“I”** means the interest accumulated on the Account Balance as of the last day of the most recent Billing Period prior to the determination of the Account Balance, calculated in accordance with section 2.5;
  - (iii) **“TAA”** means the sum of all Adjusted Amounts paid by the Participating Customer; and
  - (iv) **“A”** means any payments made by the Participating Customer in addition to an Adjusted Amount, including payments made on account of the Account Balance, in accordance with section 2.4;
- (b) **“Act”** means the *Utilities Commission Act* (British Columbia);
- (c) **“Adjusted Amount”** has the meaning given to that term in section 2.2;
- (d) **“Applicable Mine”** means any of the following mines:
- (i) Copper Mountain;
  - (ii) Gibraltar;
  - (iii) Highland Valley;
  - (iv) Mount Milligan;
  - (v) New Afton; and

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- (vi) Red Chris.
- (e) **“Application Period”** means, in respect of an Applicable Mine, the period that begins on March 22, 2020, and ends on the Closing Date or such earlier date on which the Copper Mining Customer Payment Plan Agreement for the Participating Customer is terminated pursuant to section 3.2;
- (f) **“Billing Month”** means a month in which BC Hydro issues a bill to a Participating Customer for electricity service respecting an Applicable Mine;
- (g) **“Billing Period”** means a Participating Customer’s billing period determined pursuant to the Electricity Supply Agreement for electricity service respecting an Applicable Mine;
- (h) **“Closing Date”** means June 21, 2020;
- (i) **“Commission”** means the British Columbia Utilities Commission;
- (j) **“Copper Mining Customer Payment Plan Agreement”** means a Copper Mining Customer Payment Plan Agreement attached as Appendix 1 to this Supplement;
- (k) **“Direction”** means the Direction to the British Columbia Utilities Commission Respecting COVID-19 Relief issued by the Lieutenant Governor in Council pursuant to section 3 of the *Act* and dated effective April \_\_, 2020;
- (l) **“Electricity Supply Agreement”** means the Electricity Supply Agreement (Electric Tariff Supplement No. 5) between a Participating Customer and BC Hydro for the supply of electricity to an Applicable Mine of the Participating Customer;
- (m) **“Eligible Customer”** means a customer of BC Hydro who, immediately before the Direction comes into force, was receiving electricity service from BC Hydro respecting an Applicable Mine;
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COMMISSION SECRETARY



- 
- (n) **“Floating Interest Rate”** means a nominal annual interest rate calculated as follows:

$$\text{Floating Interest Rate} = (12 \times [(1+i)^{1/12} - 1]) \times 100$$

Where:

- (i) **“i”** means the sum of Prime + 2.5 per cent; and
- (ii) **“Prime”** has the meaning given to that term in section 1.1(s);
- (o) **“MCPA Agreement”** means a Mining Customer Payment Plan Agreement attached as Appendix 1 to Tariff Supplement No. 90;
- (p) **“Participating Customer”** means an Eligible Customer whose request referred to in section 2.1(a)(i) has been accepted and to whom this Supplement applies;
- (q) **“Party”** means either BC Hydro or a Participating Customer and **“Parties”** means both BC Hydro and the Participating Customer;
- (r) **“Payment Plan Agreement”** means a Payment Plan Agreement attached as Appendix 1 to Tariff Supplement No. 97;
- (s) **“Prime”** means the published per annum prime lending rate on loans denominated in Canadian Dollars made in Canada charged by the principal banker of BC Hydro as at the date the interest is calculated in accordance with section 2.5;
- (t) **“Rate Schedule 1823”** means Rate Schedule 1823 – Transmission Service – Stepped Rate, as amended, supplemented or replaced from time to time;
- (u) **“Settlement Price Period”** means, in relation to a Participating Customer, a period that:

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- (i) Begins 30 days before the day referred to in paragraph 1.1(u)(ii)(A) or (B), as applicable; and
- (ii) Ends on a day that is either:
  - A. The 15<sup>th</sup> day of the month that immediately precedes the Billing Month, if BC Hydro issues the bill on or before the 15<sup>th</sup> day of the Billing Month; or
  - B. The 15<sup>th</sup> day of the Billing Month, if BC Hydro issues the bill after that day;
- (v) **“Supplement”** means this supplement and includes the form of Copper Mining Customer Payment Plan Agreement attached as Appendix 1; and
- (w) **“Term”** has the meaning given to that term in section 3.1.

## **1.2 Appendices**

Appendix 1 – form of Copper Mining Customer Payment Plan Agreement attached to this Supplement is incorporated into and forms part of this Supplement.

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ACCEPTED: \_\_\_\_\_

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**1.3 Interpretation**

In this Supplement, except where otherwise expressly provided or the context otherwise requires:

- (a) Words importing the singular include the plural and vice versa, “or” is not exclusive, “including” is not limiting, whether or not non-limiting language (such as “without limitation”) is used with reference to it, a grammatical variation of a defined term shall have a corresponding meaning, and reference to any person includes such person’s successors and assigns but, if applicable, only if the succession or assignment is permitted under this Supplement;
- (b) The inclusion of headings in this Supplement is for convenience only and shall not affect the construction or interpretation of this Supplement;
- (c) Any reference to a specific section, subsection or other subdivision is to the designated section, subsection or other subdivision of this Supplement, unless the context otherwise requires; and
- (d) All monetary amounts referred to in this Supplement are stated and shall be paid in Canadian currency.

**1.4 Obligations Supplemental**

- (a) BC Hydro’s and a Participating Customer’s obligations under this Supplement are supplemental to their respective obligations under the Electricity Supply Agreement.

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- (b) Except as specifically supplemented by this Supplement, the Electricity Supply Agreement of a Participating Customer shall continue in full force and effect and, in particular, shall govern billing and payment for electricity service supplied by BC Hydro respecting an Applicable Mine. Nothing in this Supplement shall release a Participating Customer from liability for payment of any amounts owing pursuant to the Electricity Supply Agreement.

## **2.0 COPPER MINING CUSTOMER PAYMENT PLAN**

### **2.1 Application to Participate in the Copper Mining Customer Payment Plan**

- (a) As a condition of participating in the Copper Mining Customer Payment Plan in respect of an Applicable Mine:
- (i) An Eligible Customer shall, by April 30, 2020 or such later date agreed to by BC Hydro, make a request to BC Hydro that this Supplement apply respecting amounts that will be payable by the Eligible Customer to BC Hydro for electricity service provided for the operation of an Applicable Mine by completing, executing and delivering to BC Hydro an agreement in the form attached as Appendix 1;
  - (ii) The Applicable Mine must be, on the date of the request, a producing mine and not in long-term care and maintenance;
  - (iii) The Eligible Customer must have no overdue bills with BC Hydro on the date of the request, unless otherwise agreed to by BC Hydro; and
  - (iv) The Eligible Customer must not have an MCPP Agreement or a Payment Plan Agreement in effect with BC Hydro.

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- (b) BC Hydro shall, as soon as practicable after receipt of a request referred to in paragraph 2.1(a)(i), if the Eligible Customer meets the requirements for participation in the Copper Mining Customer Payment Plan, accept the request and notify the Eligible Customer.

## **2.2 Payment of Adjusted Amount**

The Participating Customer shall pay on account of each bill issued by BC Hydro during the Application Period, an adjusted amount for electricity service respecting an Applicable Mine (the “**Adjusted Amount**”), in Canadian dollars, calculated by BC Hydro as follows:

The Adjusted Amount is equal to the lower of:

- (a) 50 per cent of SA; and
- (b)  $SA + (SA \times AP)$

Where:

- (i) “**SA**” means the amount that would have been payable by the Participating Customer under Rate Schedule 1823 on account of that bill but for the application of this Supplement;

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(ii) “**AP**” means  $[(\text{settlement price} - 3.40) \times 208]/100$ ;

Where:

The settlement price calculated for a Participating Customer is the average of the daily settlement prices per metric tonne of copper, as reported by the London Metal Exchange, for the most recent Settlement Price Period, converted into the average of the daily settlement prices per pound of copper, by using a metric tonne to pound ratio of 1:2204.62, and converted into Canadian currency by using the average Bank of Canada daily exchange rate over that same period, provided that if an AP is calculated to be more than 0.75, the AP shall be 0.75, and if an AP is calculated to be less than -0.75, the AP shall be -0.75.

### **2.3 Deferral of Payment**

The difference between the Adjusted Amount calculated in accordance with section 2.2 and the amount that would have been payable by the Participating Customer under Rate Schedule 1823, but for the application of this Supplement, shall be deferred in accordance with this Supplement and such difference shall be added to the Account Balance in accordance with section 1.1(a) upon BC Hydro issuing the bill in respect of such Adjusted Amount.

### **2.4 Additional Amount**

The Participating Customer may, on account of the Account Balance, pay any amount in addition to an Adjusted Amount at any time without notice, interest or penalty and all such amounts paid in excess of the Adjusted Amount shall be reflected in the Account Balance as of the date the payment was made.

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ACCEPTED: \_\_\_\_\_

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**2.5 Interest**

- (a) Interest, calculated and compounded monthly, not in advance both before and after demand, default and judgment, shall accrue on the daily Account Balance, based on the number of days elapsed in a 365-day year, at the Floating Interest Rate and such interest shall be added to the Account Balance on the last day of each Billing Period, or in the case of the Closing Date on the day prior to the Closing Date, and bear interest at the same rate.
- (b) The Participating Customer acknowledges that Prime was \_\_\_ per cent per annum on April \_\_, 2020. A certificate of a Managing Director of the principal banker of BC Hydro, which on the date this Supplement came into effect is the Bank of Montreal, shall be conclusive evidence as to the rate of Prime in effect from time to time.

**2.6 Final Payment or Transfer of Account Balance on Closing Date**

- (a) On or before the Closing Date, the Participating Customer shall notify BC Hydro of the Participating Customer's election to either:
- (i) Pay the Account Balance to BC Hydro by the Closing Date, in which case the Participating Customer shall pay the Account Balance to BC Hydro by the Closing Date and if unpaid by the Closing Date, the Account Balance shall become overdue pursuant to the Electricity Supply Agreement except that the interest rate applied to the overdue amount shall be Prime + 5.0 per cent; or

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- (ii) Request BC Hydro to transfer the Account Balance to the Participating Customer's Account Balance pursuant to Tariff Supplement No. 90 subject to the Participating Customer entering into a MCPP Agreement with BC Hydro, in which case the Account Balance pursuant to this Supplement shall be added to the Participating Customer's Account Balance pursuant to Tariff Supplement No. 90 effective on the Closing Date and payable in accordance with Tariff Supplement No. 90.
  
- (b) If the Participating Customer fails to notify BC Hydro of the Participating Customer's election, as required by section 2.6(a), the Participating Customer shall be deemed to have made the election pursuant to section 2.6(a)(i) effective on the Closing Date and the Account Balance shall then become overdue pursuant to the Electricity Supply Agreement except that the interest rate applied to the overdue amount shall be Prime + 5.0 per cent.

**2.7 Taxes and Levies**

Amounts calculated under this Supplement do not include the Goods and Services Tax, the Provincial Sales Tax and any other tax or levy which BC Hydro may be lawfully authorized or required to collect from the Participating Customer.

**3.0 TERM OF COPPER MINING CUSTOMER PAYMENT PLAN AGREEMENT**

**3.1 Term of Agreement**

The term of a Copper Mining Customer Payment Plan Agreement (the "**Term**") in respect of an Applicable Mine commences on the date the Application Period commences and continues until the Closing Date unless terminated earlier pursuant to and in accordance with section 3.2.

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**3.2 Termination**

- (a) A Copper Mining Customer Payment Plan Agreement may be terminated in any of the following events:
- (i) Immediately by the Participating Customer upon request to BC Hydro if at the time of the request the Account Balance is zero;
  - (ii) Immediately by BC Hydro, if at any time the Participating Customer sells, transfers or assigns all or substantially all of its interest in the Applicable Mine, at which time all unpaid amounts, including the Account Balance, shall become due and payable pursuant to the Electricity Supply Agreement;
  - (iii) Immediately by BC Hydro if at any time the Participating Customer commits an act of bankruptcy, becomes insolvent, proposes a compromise or arrangement to its creditors generally, has any petition for a receiving order in bankruptcy filed against it, makes a voluntary assignment in bankruptcy and/or fails to make any payment required under the Electricity Supply Agreement as supplemented by this Supplement, and all amounts owing by the Participating Customer to BC Hydro, including the Account Balance, shall, immediately upon such notice being given, become due and payable pursuant to the Electricity Supply Agreement; and
  - (iv) Immediately by BC Hydro upon any person or group of persons acting in concert acquiring, in a single transaction or a series of transactions, more than 50 per cent of the issued and outstanding shares in the capital of the Participating Customer resulting in a change of control of the Participating Customer, at which time all unpaid amounts, including the Account Balance, shall become due and payable pursuant to the Electricity Supply Agreement.

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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COMMISSION SECRETARY

## **4.0 DISPUTE RESOLUTION**

### **4.1 Disputes**

If any dispute, question or difference of opinion between the Parties arises out of or under this Supplement (“**Dispute**”), then a Party may give to the other Party a notice (“**Dispute Notice**”) specifying the Dispute and requiring its resolution under this section 4.0. All Disputes shall be resolved in accordance with the provisions of this section 4.0, provided however, that either Party may apply to a court of competent jurisdiction for any interim relief by way of restraining order, injunction or other equitable remedy.

### **4.2 Contract Representatives to Seek Resolution**

If a Dispute Notice is given to a Party, each Party shall appoint a contract representative within five business days of a Party notifying the other Party of a Dispute and cause its contract representative to negotiate in good faith to attain a resolution of the Dispute.

### **4.3 Referral to Senior Executives**

If a Dispute is not resolved within five business days of the Dispute being referred to the contract representatives, the Parties shall seek to resolve the Dispute through their respective senior executives (at the vice president level or higher) before proceeding to resolve the Dispute through arbitration in accordance with section 4.4. Each Party shall appoint a senior executive to undertake such informal process within 10 business days of a Party notifying the other Party of a Dispute and the Parties shall use commercially reasonable efforts to resolve the Dispute through their appointed senior executives within 30 days after notification.

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ACCEPTED: \_\_\_\_\_

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

**4.4 Referral to Arbitration**

If the Dispute is not resolved within 30 days of the Dispute being referred to the senior executives (or either party fails to timely appoint a contract representative or senior executive pursuant to sections 4.2 and 4.3), then either Party may submit the Dispute to arbitration under the *Arbitration Act* (British Columbia). The following rules shall apply to arbitration under this Agreement:

- (a) The arbitration shall be conducted before one arbitrator mutually agreed to by the Parties or if the Parties are unable to agree to an arbitrator within 15 days after a demand for arbitration has been given, either Party may apply to the court pursuant to the *Arbitration Act* (British Columbia) for the appointment of a single arbitrator;
- (b) The arbitrator shall be authorized only to interpret and apply the provisions of this Agreement and shall have no power to modify or change any of the above in any manner;
- (c) The arbitration shall be dealt with on an expeditious basis with both Parties using commercially reasonable efforts to obtain and implement a timely decision of the arbitrator; specifically, the arbitrator shall be instructed to impose time limits on the arbitration process such that a decision may be rendered within 45 days of appointment of the arbitrator;
- (d) The arbitrator shall determine the Dispute in accordance with the laws of the Province of British Columbia and applicable Canadian federal law; and
- (e) The Parties shall bear the costs of the arbitration equally and each Party shall bear its own costs.

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ACCEPTED: \_\_\_\_\_

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COMMISSION SECRETARY

**4.5 Arbitration Decisions**

The decision of the arbitrator shall be final and binding upon the Parties, and judgment on the award may be entered in any court having jurisdiction. The decision of the arbitrator may be appealed solely on the grounds that the conduct of the arbitrator, or the decision itself, violated the standards of the *Arbitration Act* (British Columbia) or the rules set out in section 4.4. The final decision of the arbitrator shall also be filed with the Commission.

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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

**APPENDIX 1**  
**COPPER MINING CUSTOMER PAYMENT PLAN AGREEMENT**

**THIS AGREEMENT** made as of  
the \_\_\_\_ day of \_\_\_\_\_, 2020  
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**")[, being a [**wholly owned**] subsidiary of  
**[PARENT]**, having its head office in [**jurisdiction**]]

OF THE SECOND PART

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

\_\_\_\_\_  
ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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

**1.0 INTERPRETATION**

**1.1 Capitalized Terms**

Capitalized terms used in this Agreement and not otherwise defined shall have the meanings given to them in the Supplement.

**2.0 APPLICABLE MINE**

- (a) The Customer is an Eligible Customer and operates the following Applicable Mine: the \_\_\_\_\_ mine (the “**Mine**”);
- (b) On the date this Agreement has been executed by the Customer and delivered to BC Hydro, the Mine is producing copper and not in long-term care and maintenance;
- (c) On the date this Agreement has been executed by the Customer and delivered to BC Hydro, the Customer has no overdue bills with BC Hydro, unless otherwise agreed to by BC Hydro; and
- (d) On the date this Agreement has been executed by the Customer and delivered to BC Hydro, the Customer does not have an MCPP Agreement or a Payment Plan Agreement in effect with BC Hydro.

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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COMMISSION SECRETARY

**3.0 REQUEST FOR PARTICIPATION**

The Customer hereby requests participation as a Participating Customer in the Copper Mining Customer Payment Plan and agrees that the terms of the Electricity Supply Agreement between the Parties dated as of the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_ shall be amended by the addition of the Supplement and that the Electricity Supply Agreement, as supplemented by the Supplement shall apply to the supply of electricity service from BC Hydro to the Mine during the Application Period.

**4.0 APPLICATION PERIOD**

The Supplement shall begin to apply to the Customer, and the Application Period shall commence on March 22, 2020.

**5.0 TERM OF AGREEMENT**

The term of this Agreement commences on the date the Application Period commences and continues until the Closing Date unless terminated earlier pursuant to and in accordance with section 3.2 of the Supplement.

**6.0 MISCELLANEOUS**

**6.1 Successors and Assigns**

- (a) The Customer shall not transfer or assign, in whole or in part, its interest in this Agreement.
- (b) This Agreement shall be binding upon and shall enure to the benefit of the Parties and their respective successors.

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ACCEPTED: \_\_\_\_\_

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COMMISSION SECRETARY

**6.2 Further Assurances**

Each of the Parties agrees that it shall take from time to time such actions and execute such additional instruments as may be reasonably necessary or convenient to implement and carry out the intent and purpose of this Agreement.

**6.3 Waiver**

The failure of a Party to insist on the strict performance of any provision of this Agreement or to exercise any right, power or remedy upon a breach hereof shall not constitute a waiver of any provision of this Agreement or limit that Party's right thereafter to enforce any provision or exercise any right.

**6.4 Amendments**

No amendment of this Agreement shall be valid unless made in writing and executed by the appropriate duly authorized signatories of the Parties (and approved by the Commission to the extent required by law) or unless ordered by the Commission in accordance with its authority under the Direction and the *Utilities Commission Act*.

**6.5 Governing Law**

This Agreement and all terms and conditions contained in it shall be governed and construed in accordance with the laws of the Province of British Columbia.

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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



**6.6 Notices**

All notices, consents, requests or demands that either Party may be required or may desire to give to the other Party under this Agreement 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 or by facsimile copier, and is deemed to be given when received if delivered by prepaid mail at the address that each Party has given notice of under the Electricity Supply Agreement.

**6.7 Counterpart Execution**

This Agreement may be executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same.

**6.8 Electronic Delivery**

Delivery by a Party of an executed copy of this Agreement by electronic means shall be effective delivery, but that Party shall promptly also deliver in person to the other Party an originally executed copy of this Agreement.

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ACCEPTED: \_\_\_\_\_

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

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 by all joint venturers 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:

\_\_\_\_\_  
Authorized Signatory (name and title)  
  
[CUSTOMER] )  
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\_\_\_\_\_  
Authorized Signatory (name and title)  
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\_\_\_\_\_  
Authorized Signatory (name and title)

ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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

The undersigned hereby unconditionally and irrevocably guarantees the payment obligations of [CUSTOMER] to BC Hydro under this Agreement, and agrees that the undersigned shall be liable to BC Hydro for the performance of [CUSTOMER]'s payment obligations under this Agreement as a primary obligor as if a party to this Agreement. The undersigned further acknowledges and agrees that such guarantee will continue and survive until all payment obligations of the Customer arising during the term of the Agreement have been fully satisfied and the Account Balance determined in accordance with this Agreement is zero, notwithstanding any earlier termination of this Agreement.

[PARENT]

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Authorized Signatory (name and title)

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ACCEPTED: \_\_\_\_\_

ORDER NO. \_\_\_\_\_

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COMMISSION SECRETARY