

Attachment C

License Agreement (2020)- Pollinator Meadow

LICENCE OF OCCUPATION

THIS LICENCE is dated for reference June 18, 2020,

BETWEEN:

BRITISH COLUMBIA HYDRO AND POWER AUTHORITY
c/o Properties, 12th Floor - 333 Dunsmuir Street
Vancouver, British Columbia, V6B 5R3

(“Hydro”)

AND:

CORPORATION OF THE CITY OF NEW WESTMINSTER
c/o Parks and Recreation Department ,511 Royal Avenue
New Westminster, British Columbia, V3L 1H9

(the “Licensee”)

BACKGROUND

A. Hydro is the registered owner of the lands legally described as follows:

PID: 009-522-531

Lot 1 Block 21 District Lot 172 Group 1 New Westminster District Plan 2974;

PID: 009-522-557

Lot 2 Block 21 District Lot 172 Group 1 New Westminster District Plan 2974;

PID: 009-522-565

Lot 21 Block 21 District Lot 172 Group 1 New Westminster District Plan 2974; and

PID: 009-522-581

Lot 22 Block 21 District Lot 172 Group 1 New Westminster District Plan 2974,

(collectively, the “Land”).

B. Hydro has agreed to allow the Licensee to use the portion or portions of the Land shown outlined in bold black on the plan attached as **Schedule A** (the “Licensed Area”) for the purpose of constructing, operating and maintaining a Pollinator Meadow (as defined below) on the terms and conditions set out in this Licence.

C. Hydro holds a statutory right of way registered against title to the Land under number AA228919

(the “**Right of Way Agreement**”).

- D. Hydro has installed high voltage electrical transmission lines and underground duct works (the “**Hydro Works**”) on those portions of the Land shown in bold on Plan 76018 pursuant to the Right of Way Agreement, a copy of which Plan 76018 is attached as **Schedule B “(BC Hydro’s Right of Way Area)”** and a portion of the Licensed Area overlaps with BC Hydro’s Right of Way Area.
- E. The Licensee acknowledges that the Hydro’s Works within the Licensed Area will require certain restrictions on the Licensee’s use of the Licensed Area to ensure the safe maintenance and operation of the Hydro works and the safety of users of the Licensed Area.

AGREEMENTS

For value received, the parties agree as follows:

1. **Grant.** Subject to the terms of this Licence and any restrictions contained in this Licence, Hydro grants to the Licensee a non-exclusive right and licence to use the Licensed Area for the following purposes only and for no other purpose:
 - (a) to construct, install, operate, maintain and remove a garden for the purpose of attracting pollinating insects (the “**Pollinator Meadow**”);
 - (b) to plant, maintain and remove the plants approved for use on the Licensed Area set out in **Schedule C** attached hereto (the “**Permitted Plants**”) and to remove weeds from the Licensed Area and any other vegetation that may be required by Hydro from time to time;
 - (c) to construct, operate, repair and maintain two pedestrian walkways in a naturally-foot compacted state (the “**Pedestrian Pathways**”) on those portions of the Licensed Area shown outlined in bold red on **Schedule A**;
 - (d) to install, maintain, repair and replace informational signs (the “**Signage**”) on or within those portions of the Licensed Area shown outlined in bold blue on **Schedule A**;
 - (e) to install, maintain, repair and replace log seating (the “**Permitted Seating**”) on those portions of the Licensed Area shown in cross hatch on **Schedule A**; and
 - (f) to enter on, pass and repass over the Licensed Area on foot only except during the construction and removal phase of the Pollinator Meadow in which case, the Licensee may use vehicles and other equipment reasonably necessary for such construction and removal but subject to the special terms and conditions attached as **Schedule D**.

The Licensee will not construct, install or place any structures, buildings, improvements, equipment or things in the Licensed Area except for the Pollinator Meadow, the Pedestrian Pathways, the Signage, the Permitted Seating and garbage cans (collectively, the

“Improvements”), without the prior written consent of Hydro, which consent Hydro may withhold in its sole discretion.

2. **Term.** This Licence will commence on June 18, 2020 (the “Commencement Date”) and will end on March 30th, 2023 (the “Term”) unless canceled in accordance with the terms hereof.
3. **Fees.** The Licensee will pay to Hydro the following amount(s), in advance, at the following time(s), plus applicable taxes, including goods and services tax, harmonized sales tax or any similar sales tax, value added tax, multi-stage tax, or business transfer tax, whatsoever called payable under the *Excise Tax Act* (Canada) or any replacement legislation:

One Dollar (\$1.00) (the “Licence Fees”) on or before the commencement of the Term.

If the first or last month of the Term is not a full calendar month, the Licence Fees for that month will be calculated and paid on a proportionate basis. The Licence Fees will be paid to Hydro at Hydro’s address set out on page 1 of this Licence or at such other place as Hydro may specify from time to time.

4. **Licence Limitations.** The Licensee agrees that:
 - (a) the rights granted under this Licence do not constitute any interest in the Land or entitle the Licensee to exclusive possession of the Licensed Area;
 - (b) the Licensee’s rights under this Licence are at all times subject to the rights and interests of Hydro as owner of the Licensed Area;
 - (c) Hydro may use the Licensed Area at any time for any purpose relating to the conduct of Hydro’s business and for the construction, operation, maintenance, repair and replacement of Hydro’s works and facilities on the Licensed Area or on adjacent lands;
 - (d) Hydro may require the Licensee to restrict its activities on the Licensed Area for such temporary periods as, in Hydro’s sole opinion, are required in relation to the operations of Hydro;
 - (e) the Licensee will comply with any rules and procedures regulating the use and administration of the Land as Hydro, acting reasonably, may adopt from time to time;
 - (f) Hydro may grant to other persons the right to use the Licensed Area or the Land for any purpose which Hydro, in its sole opinion, deems appropriate, and the Licensee will not interfere with the rights of those persons to enter onto and use the Licensed Area or Land;
 - (g) to the extent any of the Licensee’s activities compromise Hydro’s works and facilities, on the Licensed Area or the Land, the Licensee will on written request by Hydro, cease such activities; and
 - (h) this Licence is subject to the exceptions and reservations in the Crown grant of the Land and all subsisting grants to or rights of any person, including Hydro, granted or acquired in respect of the Land before or after the date of this Licence whether or not the Licensee

has actual notice of them.

5. **Release.** The Licensee acknowledges and agrees with Hydro that any interference with the rights of the Licensee under this Licence by virtue of the exercise or operation of the rights, privileges or interests described in Section 4 will not constitute a breach of Hydro's obligations hereunder and the Licensee releases and discharges Hydro and its directors, officers, employees, contractors, invitees and agents from and against any claim for loss or damage arising directly or indirectly out of any such interference. All costs and expenses, direct or indirect, which arise out of any interference by the Licensee with the rights, privileges and interests described in Section 4 will be borne solely by the Licensee.
6. **No Stockpiling.** The Licensee will not stockpile or burn any materials on the Licensed Area.
7. **No Alterations.** The Licensee will not: (i) alter or build; or (ii) cut down any trees on the Licensed Area without Hydro's prior written consent, which consent Hydro may withhold in its sole discretion. The Licensee may prune or remove growth from the Licensed Area that in the Licensee's opinion, acting reasonably and in consultation with Hydro, might create or increase any danger or hazard to the Licensee.
8. **Fill.**

The Licensee will not import any fill material onto the Licensed Area without Hydro's prior written consent, which consent Hydro may withhold in its sole discretion. The Licensee will notify Hydro of any intended fill placement and fill volumes at least 15 days prior to placement on the Licensed Area. Hydro may require analytical testing of the fill material prior to placement and the testing will be done at the Licensee's sole cost with copies of the results provided to Hydro. In any event, the Licensee will not import any fill onto the Licensed Area unless the fill material meets the applicable land use standards as set out in the *Contaminated Sites Regulation*, B.C. Reg. 375/96, promulgated under the British Columbia *Environmental Management Act*, R.S.B.C 2003 c. 53, as amended from time to time.

9. **No Herbicides and/or Pesticide Use Permitted.** The Licensee will not use any fertilizers, insecticides, pesticides or weed repellants on the Licensed Area.
10. **Pedestrian Pathways.** The Licensee will not commence any construction on the Pedestrian Pathways without first obtaining Hydro's prior written consent, which consent may be given subject to terms and conditions. Pedestrian Pathways are to remain in their naturally foot-compacted state unless, with the prior approval of Hydro, gravel is used. Any gravel approved by Hydro must be in accordance with the fill requirements set out in this Licence. Not to limit the foregoing but for greater certainty, the Licensee will not use any form of mulch, including but not limited to bark mulch, on the Pedestrian Pathways or on any other portion of the Licensed Area.
11. **Signage.** The Signage installed on or within those portions of the Licensed Area shown outlined in bold blue on Schedule B will be in a form similar to that described and shown in Schedule E to this Licence. No other Signage will be installed on or near the Hydro Works located on the Licensed Area without the prior written consent of Hydro, which may be withheld in Hydro's sole discretion and may be given subject to terms and conditions. Signage must be on a wood post and must be made of non combustible heavy duty corrugated plastic or or similar material.

- Metal must not be used. At the request of Hydro and with Hydro's approval as to the location and type of signage, the Licensee will also post signs to advise the public of any bee hotels placed on the Licensed Area.
12. **Permitted Seating.** The Licensee Permitted Seating installed on the Licensed Area will be in a form similar to that described and shown in Schedule F to this Licence.
 13. **Garbage Cans.** The Licensee will at its sole cost provide, monitor, maintain and regularly empty garbage cans on the Licensed Area in order to keep the Licensed Area and Land clean and tidy at all times. All garbage cans installed on the Licensed Area by the Licensee must be in a form pre approved for use by Hydro.
 14. **Hydro Works.** The Licensee acknowledges that there are Hydro Works within the Licensed Area and other portions of the Land, and agrees to comply with the terms and conditions relating to those works set out in the Special Conditions Schedule attached as Schedule D to this Licence. Notwithstanding the foregoing but for greater certainty, the Licensee will make a BC One Call prior to installing any Improvements, other than the garbage cans, on the Licensed Area.
 15. **No Waste or Nuisance.** The Licensee will not commit or allow any waste or destruction of the Licensed Area, or do or permit to be done anything that may be or become a nuisance or annoyance to Hydro or other occupiers of the Land or adjoining lands.
 16. **Maintenance.** The Licensee will at its sole cost keep the Licensed Area and any Improvements in a safe, clean and tidy condition and in good repair. The Licensee will, at its sole cost, be responsible for the maintenance and upkeep of the Pollinator Meadow including: watering, weeding, mowing, litter and garbage removal and any other garden related maintenance required during the Term. Hydro agrees to mow the Lands biannually during the year.
 17. **Removal.** The Licensee will, at its sole cost and expense, be responsible for all snow and ice removal from the Licensed Area, including from the driveways, walkways and sidewalks located on the Licensed Area, and from any public sidewalks adjacent to the entrance of the Licensed Area. The Licensee will not place snow or ice removed from the Licensed Area or adjacent public sidewalks on any electrical structures, poles, guys or anchors located on or near the Licensed Area.
 18. **Repair and Removal.** On the expiry or sooner termination of this Licence, the Licensee will peaceably surrender and leave the Licensed Area and will, at its sole cost, remove the Improvements if requested by Hydro, and restore the Licensed Area to the satisfaction of Hydro. If the Licensee fails to remove any of the Improvements as requested by Hydro, such Improvements will be forfeited to and become Hydro's property and Hydro may remove the Improvements and the Licensee will, on demand, compensate Hydro for all costs Hydro incurs concerning the removal of the Improvements. On the expiry or sooner termination of this Licence, the Licensee is not obligated to remove the Permitted Plants which may remain and thereafter become the property of Hydro.
 19. **Compliance with Laws.** The Licensee will comply with all laws and regulations pertaining to its use and occupation of the Licensed Area, including Environmental Laws (defined below).

20. **No Transfer.** The Licensee will not sublicense, assign, mortgage or transfer any of its rights under this Licence, or permit any other person to use or occupy the Licensed Area, without Hydro's prior written consent, which consent Hydro may withhold in its sole discretion.
21. **Risk.** The Licensee accepts the Licensed Area on an "as is" basis and agrees that it will use the Licensed Area at its own risk. Hydro will not be liable for any Losses (defined below) suffered by the Licensee or those for whom the Licensee is responsible at law arising out of this Licence or the Licensee's use and occupation of the Licensed Area.
22. **Taxes and Liens.**
- (a) **Taxes.** The Licensee will pay and discharge when due all applicable taxes, levies, charges and assessments assessed, levied or charged which relate to the Land in respect of this Licence or any Improvements, which the Licensee or Hydro is liable to pay; and
 - (b) **Liens.** The Licensee will cause to be discharged any lien, encumbrance or charge upon the Land which arises out of the use of the Licensed Area by the Licensee or by those for whom the Licensee is responsible at law. If the Licensee fails to do so within 30 days after the date the Licensee first has knowledge of any lien, encumbrance or charge, Hydro may, at the Licensee's expense, cause such lien, encumbrance or charge to be discharged.
23. **Terms and Conditions.** The Licensee will comply with all the terms and conditions in the attached **Schedule D**, and with any other terms, rules or regulations that Hydro may from time to time impose concerning the Land.
24. **Inspection.** Hydro and its authorized representatives will have the right at any time and from time to time to inspect the Licensed Area.
25. **Sale or Transfer.** If Hydro sells or otherwise transfers any interest in the Land, in whole or in part, and if this Licence is not otherwise terminated in accordance with this Licence, to the extent that the transferee is responsible for compliance with Hydro's obligations under this Licence, Hydro, without further written agreement, will be released from all of its obligations in this Licence.
26. **Environmental Definitions.** In this Licence the following terms have the following meanings:
- "Contaminants"** means pollutants, contaminants, deleterious substances, underground or aboveground tanks, lead, asbestos, asbestos-containing materials, hazardous, corrosive, or toxic substances, hazardous waste, waste, polychlorinated biphenyls ("PCBs"), PCB-containing equipment or materials, pesticides, defoliants, fungi (including mould and spores arising from fungi), or any other solid, liquid, gas, vapour, odour, heat, sound, vibration, radiation, or combination of any of them, which is now or hereafter prohibited, controlled, or regulated under Environmental Laws or may necessitate, invite or permit a Government Authority to require remedial or investigatory action under any Environmental Laws;
- "Environmental Damage"** means any environmental loss, injury or damage done to the Land or the property of others (including to air, water, groundwater, soil, sediment, animal and plant life)

resulting from the use of the Licensed Area by the Licensee, its employees, servants, agents, contractors, or any others for whom the Licensee is responsible at law, including the release or disturbance of any Contaminants that exceed standards established by Environmental Laws, an adverse effect on the health of any person, loss of enjoyment or normal use of property, or interference with the normal conduct of business;

“Environmental Laws” means any statutes, laws, regulations, orders, bylaws, standards, guidelines, protocols, criteria, permits, codes of practice and other lawful requirements of any Government Authority having jurisdiction over the Licensed Area now or hereafter in force relating in any way to the environment, environmental assessment, Contaminants (including the use, manufacture, handling, transportation, production, disposal, discharge, storage or emission of Contaminants), occupational health and safety, protection of any form of plant or animal life or transportation of dangerous goods, including the principles of common law and equity;

“Government Authority” means any federal, provincial, state, municipal, regional or local government or government authority, domestic or foreign, and includes any department, commission, bureau, board, administrative agency, regulatory body, minister, director, approving officer, manager, or other person of similar authority of any of the foregoing; and

“Release” means any release, spill, leak, pumping, pouring, emission, emptying, discharge, injection, escape, leaching, migration, disposal or dumping.

27. **Condition of Licensed Area.** The Licensee acknowledges and agrees that Hydro has made no representations or warranties with respect to the environmental condition of the Licensed Area and the Licensee is licensing the Licensed Area on an “as is, where is” basis with respect to its environmental condition. Prior to using the Licensed Area under this Licence, the Licensee has performed any such investigations of the Licensed Area as it considered appropriate and is satisfied as to its environmental condition.
28. **Environmental Representations and Warranties.** The Licensee represents and warrants to Hydro that, except as disclosed to and approved in writing by Hydro, the Licensee’s operations on the Licensed Area do not involve the sale, storage, manufacture, handling, disposal, treatment, generation, use, transport, refinement, processing, production, remediation, Release into the Environment of, or any other dealing with, any Contaminants.
29. **Environmental Covenants.** The Licensee covenants and agrees with Hydro that it will:
- (a) promptly and strictly comply, and cause any other person for whom the Licensee is in law responsible to comply, with all Environmental Laws regarding the use and occupancy of the Licensed Area, including obtaining and complying with all required permits or other authorizations, and making all required registrations, filings and notifications;
 - (b) accept responsibility for any Environmental Damage caused by its use of the Licensed Area or the use of the Licensed Area by anyone for whom the Licensee is responsible at law, whether authorized or unauthorized;
 - (c) not use or permit to be used all or any part of the Licensed Area for the sale, storage, manufacture, disposal, handling, treatment, generation, use, transport, refinement,

processing, production, remediation, Release into the environment of, or any other dealing with, any Contaminants, without the prior written consent of Hydro, which consent may be withheld in Hydro's sole discretion;

- (d) promptly remove and remediate, upon the written request of Hydro, any Contaminants from the Land attributable to the use of the Licensed Area by the Licensee or its employees, servants, agents, contractors, s or anyone for whom the Licensee is responsible at law, whether authorized or unauthorized, and in a manner which conforms to Environmental Laws governing such removal; and
- (e) promptly notify Hydro if the Licensee has knowledge, or has reasonable cause to believe that:
 - (i) any Contaminants have been Released on, or have otherwise come to be located on, under or about any part of the Land (including the Licensed Area), or
 - (ii) any charge, order, investigation, or notice of violation or non-compliance has been issued against the Licensee or relating to the operations at the Licensed Area under any Environmental Laws, or of any notice, claim, action or other proceeding by any third party against the Licensee or in respect of the Licensed Area concerning any Contaminant allegedly released from or related to the Licensed Area.

30. **Indemnity.** The Licensee will indemnify Hydro and its directors, officers, employees, contractors, invitees and agents (collectively, the "Indemnified Parties") concerning any and all claims, demands, actions and causes of action, proceedings, losses, costs (including legal, consulting or other professional fees), fines, orders, expenses, damages (including Environmental Damage), liabilities, injuries (including injuries causing death), property damage and any other matter of whatsoever nature or kind (collectively, the "Losses") which at any time may be suffered by or made against any of the Indemnified Parties, directly or indirectly caused by, resulting from or attributable to:

- (a) any occurrence on the Licensed Area caused by the Licensee or those for whom the Licensee is responsible at law, including any Losses suffered by any user of the Licensed Area;
- (b) any breach by the Licensee or those for whom the Licensee is responsible at law of any of the Licensee's obligations under this Licence;
- (c) any legal or administrative action, proceeding, investigation, demand, claim, or notice of any third party, including any Government Authority, against any one or more of the Indemnified Parties pursuant to or under Environmental Laws that is related to or occurs as a result of the use and occupation of the Licensed Area by the Licensee or those for whom the Licensee is responsible at law;
- (d) any Release or alleged Release of Contaminants at or from the Licensed Area into the environment by the Licensee or those for whom the Licensee is responsible at law;
- (e) the exercise by the Licensee or by those for whom the Licensee is responsible at law of the rights granted under this Licence; and

- (f) any negligent act, omission or willful misconduct of the Licensee or those for whom the Licensee is responsible at law.

Hydro may add the amount of any such Losses to the Licence Fees and the amount so added will be payable to Hydro immediately. This indemnity will survive the expiry or sooner termination of this Licence.

31. Insurance. The Licensee must, at its sole cost and expense during the Term, and during any other period of time that the Licensee may use the Licensed Area, take out and maintain in full force and effect, the following insurance policies:

- (a) Commercial General Liability insurance on an occurrence form for an amount not less than \$2,000,000 per occurrence applying to the Licensee's activities carried on, in and from the Licensed Area and which coverage will include without limitation, liability assumed under contract, claims for personal injury, broad form property damage, non-owned automobile liability, and products and completed operations with respect to the occupancy by the Licensee of the Licensed Area. The policy will name Hydro as an additional insured and will contain a cross liability and severability of interest clause; and
- (b) any other form of insurance as Hydro may reasonably require from time to time in amounts and for perils against which a prudent licensee would protect itself in similar circumstances.

32. Insurance Policy Requirements. All policies of insurance referred to herein:

- (a) will be considered primary with respect to the Licensee's activities, and all deductibles and self-insured retentions will be borne by the Licensee;
- (b) will, where applicable, contain a waiver of subrogation rights which the Licensee's insurer(s) may have against Hydro, with exception to Hydro's negligence; and
- (c) will include an undertaking by the insurers to notify Hydro, in writing, not less than 30 days prior to any cancellation or other termination thereof, and will be on policy forms satisfactory to Hydro and underwritten by insurers legally permitted to transact business in the province of British Columbia that are acceptable to Hydro.

33. Insurance Certificates. The Licensee agrees to provide Hydro with certificates of insurance that confirm compliance by the Licensee with the insurance requirements set out herein, including proof of renewal of each policy during the Term.

34. Termination by Hydro. Hydro may terminate this Licence if:

- (a) the Licensee breaches any of its obligations under this Licence and fails to remedy the breach within 15 days of receiving written notice from Hydro;
- (b) the Licensee has not commenced within a reasonable time, or ceases to use the Licensed Area for the purposes permitted herein;

- (c) Hydro gives the Licensee 90 days' prior written notice that Hydro wishes, in its sole discretion, to terminate this Licence;
- (d) Hydro discovers that the Licensee has, in Hydro's sole opinion, misrepresented or withheld any fact material to the granting of this Licence; or
- (e) this Licence is taken in execution or attachment by any person or the Licensee commits an act of bankruptcy, becomes insolvent or is petitioned into bankruptcy or voluntarily enters into an arrangement with its creditors.

On the termination date specified in Hydro's termination notice, the Licensee will peaceably surrender and leave the Licensed Area in good repair and condition in accordance with its covenants under this Licence (including the environmental provisions). Hydro will not be liable to compensate the Licensee for any Losses resulting from the exercise of these termination rights.

35. **Termination by Licensee.** In consideration of the sum of \$10, which sum is non-refundable, now paid by the Licensee to Hydro (the receipt and sufficiency of which is acknowledged by Hydro), the Licensee is granted the right to cancel and terminate this Licence, without penalty, upon giving not less than ninety (90) days prior written notice to Hydro at any time after commencement of the Term. On the termination date specified in the notice of termination issued by the Licensee pursuant to this section, the Licensee will peaceably surrender and leave the Licensed Area in accordance with all of its covenants under this Licence (including the environmental provisions). Notwithstanding such date of termination, any Licence Fees already paid by the Licensee to Hydro will not be reimbursed.
36. **Notice.** Addresses for any notice or document to be given under this Licence will be as follows:
- (a) if to the Licensee:

Corporation of the City of New Westminster
c/o Parks and Recreation Department,
511 Royal Avenue,
New Westminster, BC V3L 1H9
Attention: Erika Mashig, Manager, Arboriculture, Horticulture, Parks & Open Space
Planning

Email: emashig@newwestcity.ca
 - if to Hydro:

BC Hydro
c/o Properties, 13th Floor - 333 Dunsmuir,
Vancouver, B.C. V6B 5R3
Attention: Manager, Leasing Services, Properties

Email: Leasing@bchydro.com
37. **Deemed Receipt.** Where service of a notice or document is required under this Licence, the notice or document will be in writing and deemed to have been served as follows:

- (a) if delivered by hand or courier, upon delivery;
- (b) if mailed, upon the seventh (7th) Business Day following posting. In this Licence, the term “**Business Days**” shall mean Monday to Friday, inclusive, of each week, statutory holidays in the province of British Columbia excepted; and
- (c) if emailed:
 - (f) to the Licensee, upon actual receipt by the Licensee as evidenced by a return email or automatic receipt indicating that the email has been read; or
 - (ii) to Hydro, upon Hydro providing to the Licensee express written acknowledgment of receipt of the notice or document by email (notwithstanding any automatic reply or receipt indicating that the email has been read). If the Licensee has not received a written acknowledgement of the notice from Hydro by email within 7 Business Days of sending the email, transmission of the email will be deemed to have failed and notice not provided. In the event of a failure of an email transmission, it is the responsibility of the Licensee to deliver the notice or document to Hydro using an alternative method in accordance with this Licence. Hydro will not be liable for any loss or damage or any other disadvantage suffered by the Licensee resulting from such email communication.

Hydro or the Licensee may change its address for delivery by notifying the other party of such change in address in accordance with the notice provisions set forth above.

- 38. **Counterparts.** This Licence may be executed in counterparts and when each party has executed a counterpart each of the counterparts will be deemed to be an original and all of the counterparts when taken together will constitute one and the same agreement.
- 39. **Delivery.** This Licence or a counterpart thereof may be executed by a party and transmitted by facsimile or electronic transmission and if so executed and transmitted this Licence will be for all purposes as effective and binding upon the party as if the party had delivered an originally executed document.
- 40. **Governing Law.** This Licence will be governed by the laws of the Province of British Columbia and the applicable laws of Canada. The parties hereby attorn to the exclusive jurisdiction of the courts of British Columbia.
- 41. **No Partnership.** This Licence does not create a partnership, employment agreement, lease or joint venture relationship between the parties.
- 42. **Remedies.** Hydro’s remedies contained in this Licence are in addition to any other remedy available to Hydro at law or in equity. Without limiting the generality of the foregoing, if the Licensee fails to comply with any of its obligations under this Licence, Hydro will be entitled to take such steps as it deems advisable to correct such defaults (including assuming control of any equipment located within the Licensed Area) without liability to Hydro, and the Licensee will pay to Hydro forthwith upon demand all costs and expenses incurred by Hydro in so doing, plus an administration fee of fifteen percent (15%) of such total costs and expenses.

43. **Severability.** If all or any part of any section of this Licence is found to be illegal or unenforceable, that part or section will be considered separate and severable and the remaining parts or sections, as the case may be, will remain enforceable to the fullest extent permitted by law.
44. **Waiver.** Any waiver by Hydro of any term or condition in this Licence must be in writing to be effective. Any waiver of any term or condition in this Licence will not be a waiver of any further or other breach.
45. **Consent.** Hydro's consent or approval to any act by the Licensee requiring Hydro's consent or approval of Hydro will not be considered to waive or render unnecessary consent or approval to any subsequent similar act.
46. **Enurement.** This Licence will bind and benefit each party and its respective heirs, administrators, executors, successors and in the case of the Licensee, its permitted assigns, and in the case of Hydro, its assigns.
47. **Entire Agreement.** This Licence constitutes the entire agreement between the parties and may not be amended except by a written agreement signed by the parties.
48. **Time of Essence.** Time is of the essence of this Licence.
49. **Joint and Several.** If the Licensee comprises more than one person, the obligations of those persons under this Licence will be joint and several.
50. **Schedules.** The schedules attached to this Licence form part of this Licence.
51. **Interpretation.** Words in one gender include all genders, and words in the singular include the plural and *vice versa*. Statutory references include a reference to any amendments (including replacement legislation).
52. **Including.** The word "including" when following any general statement, term, or matter is not to be construed to limit such general statement, term, or matter to the specific items set forth immediately following such word or to similar items but rather such general statement, term, or

matter is to be construed to refer to all other items that could reasonably fall within the broadest possible scope of such general statement, term, or matter.

TO EVIDENCE THEIR AGREEMENT, the parties have executed this Licence as of the date first above written.

BRITISH COLUMBIA HYDRO AND POWER AUTHORITY

By its authorized signatory:

Name: DAVID Y.M. CHAN
Title: MANAGER, ACQUISITIONS AND SALES

APPROVED
as to form only
Solicitor
B.C. Hydro and
Power Authority

CORPORATION OF THE CITY OF NEW WESTMINSTER

By its authorized signatory(ies):

Name: MAYOR JONATHAN X. COTÉ
Title:

Name: JACQUE KILLAWEE
Title: JACQUE KILLAWEE CITY CLERK

