REQUEST FOR PROPOSALS

NEIGHBOURHOOD ENERGY UTILITY:
LOW-CARBON THERMAL ENERGY SUPPLY

FOR NORTHEAST FALSE CREEK

(FOR PRE-QUALIFIED PROPONNENTS ONLY)

RFP No. PS20210169

Issue Date: August 6, 2021

Issued by: City of Vancouver (the “City”)
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REQUEST FOR PROPOSALS NO. PS20210169
NEIGHBOURHOOD ENERGY UTILITY: LOW-CARBON THERMAL ENERGY SUPPLY
FOR NORTHEAST FALSE CREEK
PART A - INFORMATION AND INSTRUCTIONS

SUMMARY

To select a Proponent with an identified energy source and the expertise capable of supplying cost effective low-carbon renewable thermal energy in Northeast False Creek (“NEFC”) to the City’s False Creek Neighbourhood Energy Utility (“NEU”).

PART A - INFORMATION AND INSTRUCTIONS

1.0 THE RFP

1.1 Except where expressly stated otherwise in Appendix 1 of Part C of this Request for Proposals (“RFP”): (i) no part of the RFP consists of an offer by the city to enter into any contractual relationship; and (ii) no part of the RFP is legally binding on the city.

1.2 Only the following entities, which responded to the City’s Request for Expressions of Interest No. PS20200405, may submit a Proposal in response to this RFP:

(a) Corix Utilities Inc.
(b) Creative Energy Vancouver Platforms Inc.
(c) Joint Venture of Fenix Energy and Canadian Metropolitan Properties
(d) FortisBC Alternative Energy Services Inc. (FAES)

1.3 The City invites the four entities listed above to submit a Proposal that describes how the entity would efficiently and cost-effectively meet the objectives and requirements described in the RFP (a “Proposal”). From the entities that submit a Proposal (each, a “Proponent”) the City currently expects to select one Proponent and then enter into negotiations with that Proponent, which will conclude in the execution of a contract between the Proponent and the City (such a contract, an “Agreement”). However, the City may: (i) decline to select any Proponent; (ii) decline to enter into any Agreement; (iii) select multiple Proponents for negotiation; or (iv) enter into one or more agreements respecting the subject matter of the RFP with one or more Proponents or other entities at any time. The City may also terminate the RFP at any time.

1.4 The City currently intends that Proposals will be evaluated by the City in relation to their overall value, which will be assessed in the City’s sole and absolute discretion. In assessing value, the City expects to consider the factors described in Section 8.0 below, among others.

1.5 No bid security is required from Proponents in connection with the submission of Proposals because no Proposal will be deemed to be an irrevocable or otherwise binding offer by a Proponent to the City. The legal obligations of a Proponent that will arise upon the submission of its Proposal will be limited to the terms and conditions stated under the heading “Legal Terms & Conditions” in Appendix 1 to Part C - Form of Proposal of the RFP.

1.6 The execution of an Agreement may be contingent on funding being approved, and the relevant Proposal being approved, by the Vancouver City Council.

1.7 The RFP consists of four parts, plus appendices:

(a) PART A - INFORMATION AND INSTRUCTIONS: This part is intended to serve as a guide to the RFP process for Proponents.
PART B - CITY REQUIREMENTS: This part describes the subject matter of the RFP, in respect of which the City invites Proposals.

PART C - FORM OF PROPOSAL: This is the form in which the Proposal should be submitted.

PART D - FORM OF AGREEMENT: This part contains a model Agreement (the “Form of Agreement”). Any Agreement resulting from the RFP is expected to be substantially in the form of the Form of Agreement.

2.0 KEY DATES

2.1 Potential Proponents should note the following key dates:

<table>
<thead>
<tr>
<th>Event</th>
<th>Time and Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deadline for submission of Information Meeting registration form</td>
<td>August 16, 2021</td>
</tr>
<tr>
<td>(Appendix 1 to this Part A)</td>
<td></td>
</tr>
<tr>
<td>Information Meeting</td>
<td>2:00 - 3:30 pm on August 17, 2021</td>
</tr>
<tr>
<td>Deadline for Enquiries</td>
<td>September 30, 2021</td>
</tr>
<tr>
<td>Closing Time</td>
<td>3:00pm on October 7, 2021</td>
</tr>
</tbody>
</table>

2.2 All references to time in the RFP are references to the time in the City of Vancouver, as indicated in the electronic timestamp the Proposal receives upon delivery to the email address specified herein, which is in turn synchronized to Network Time Protocol (NTP) provided by the National Research Council of Canada adjusted to local Pacific Time Zone.

3.0 CONTACT PERSON

3.1 All enquiries regarding the RFP must be addressed to:

Donabella Bersabal
Donabella.bersabal@vancouver.ca

3.2 All enquiries must be made in writing and are to be directed only to the above contact person. In-person or telephone enquiries are not permitted. Any communication from potential Proponents to City staff other than the contact person regarding the content of this RFP may lead to disqualification of the Proponent from this RFP process, at the City’s sole discretion.

3.3 IF A POTENTIAL PROPOSER BELIEVES THAT THE CITY MAY BE UNABLE TO SELECT IT DUE TO A CONFLICT OF INTEREST, BUT IS UNCERTAIN ABOUT THIS, THE POTENTIAL PROPOSER IS URGED TO CONTACT THE ABOVE-MENTIONED INDIVIDUAL AS SOON AS POSSIBLE WITH THE RELEVANT INFORMATION SO THAT THE CITY MAY ADVISE THE POTENTIAL PROPOSER REGARDING THE MATTER.

4.0 SUBMISSION OF PROPOSALS

4.1 Proponents should submit their Proposals on or before the time and date specified in the bottom row of the table in Section 2.1 above (the “Closing Time”).

4.2 Each Proponent should submit its Proposal by email in accordance with the following:
Subject of the file to be: PS20210169 - NEU: Thermal Energy Supply for NEFC - Vendor name.

Document format for submissions:
- RFP Part C in PDF format - 1 combined PDF file,
- Commercial Proposal consisting of commercial proposal worksheet (provided) and a financial pro forma, and;
- Any other attachments if necessary

Zip the files to reduce the size or email separately if needed.

Send your submissions to Bids@vancouver.ca; do not deliver a physical copy to the City of Vancouver.

Submitting the files via Dropbox, FTP, or similar programs, is not acceptable.

Due to cybersecurity concerns, the City of Vancouver will quarantine any inbound email with attachments not in PDF or Microsoft Office formats which will result in non-delivery to Supply Chain Management and will be deemed not submitted. Non-compliant file formats will be detected and quarantined even if they are compressed, zipped, renamed, and include password protected zipped files.

The maximum number of attachments allowed in an email message is 250 attachments.

The maximum size limit for an email message, including all attachments, is 20MB per message.

4.3 To be considered by the City, a Proposal must be submitted in the form set out in Part C (the “Form of Proposal”), completed and duly executed by the relevant Proponent.

4.4 Amendments to a Proposal may be submitted via the same methods, at any time prior to the Closing Time.

4.5 Proposals are revocable and may be withdrawn at any time before or after the Closing Time.

4.6 All costs associated with the preparation and submission of a Proposal, including any costs incurred by a Proponent after the Closing Time, will be borne solely by the Proponent.

4.7 Unnecessarily elaborate Proposals are discouraged. Proposals should be limited to the items specified in Part C of the RFP.

4.8 The City is willing to consider any Proposal from two or more Proponents that wish to form a consortium for the purpose of responding to the RFP, provided that they disclose the names of all members of the consortium and all members complete and sign the first page of the Form of Proposal. Nonetheless, the City has a strong preference for Proposals submitted by a single Proponent, including a Proponent that would act as a general contractor and use subcontractors as required.

4.9 Proposals that are submitted after the Closing Time or that otherwise do not comply in full with the terms hereof may or may not be considered by the City and may or may not be returned to the Proponent, in the City’s sole discretion.
5.0 CHANGE TO THE RFP AND FURTHER INFORMATION

5.1 The City may amend the RFP or make additions to it at any time.

5.2 It is the sole responsibility of Proponents to check the City's website at: http://vancouver.ca/doing-business/open-bids.aspx regularly for amendments, addenda, and questions and answers in relation to the RFP.

5.3 Proponents must not rely on any information purported to be given on behalf of the City that contradicts the RFP, as amended or supplemented in accordance with the foregoing Section 5.2.

5.4 An information meeting (the “Information Meeting”) will be held to enable Proponents to seek clarification with respect to any aspect of the RFP in a group forum. The details are as follows:

   Date: as specified in Section 2.1 above.
   Time: as specified in Section 2.1 above.
   Location: Webex (an invite will be sent to the Proponents)

5.5 Potential Proponents are encouraged to read the RFP and submit any questions relating to the RFP to the Contact Person prior to the Information Meeting.

5.6 Potential Proponents must pre-register for the Information Meeting by completing and submitting the form contained in Appendix 1 to this Part A by e-mail to donabella.bersabal@vancouver.ca, on or before the time and date specified in Section 2.1 above. The Information Meeting is mandatory and Proposals submitted by Proponents that do not attend the Information Meeting may or may not be considered by the City, in the City’s sole discretion.

5.7 The City will in good faith attempt to give accurate oral responses to questions posed during the Information Meeting but Proponents are advised that they may only rely on the written information contained herein or in documents posted to the City’s website, as described in Section 5.1 above.

6.0 PROPOSED TERM OF ENGAGEMENT

6.1 The initial term of the Agreement is expected to be 30-years with options for the City to terminate at year 10, 15, 20 and 25. Options for extending the contract beyond the initial term will also be explored with the successful Proponent. The City reserves the right to optimize the initial contract term with the selected Proponent.

7.0 PRICING

7.1 All prices quoted in any Proposal are inclusive of PST and all other costs but exclusive of all other applicable sales taxes calculated upon such prices.

7.2 Prices must be quoted in Canadian currency and fixed prices must be quoted for the full term of the Proponent’s proposed agreement.

7.3 Prices are to be quoted CIP, destination (Incoterms, 2010). For the avoidance of doubt, freight, insurance, unloading at the destination designated by the City, import duties, brokerage,
royalties, handling, overhead, profit and all other similar costs are to be included in quoted prices.

8.0 EVALUATION OF PROPOSALS

8.1 The City may open or decline to open Proposals in such manner and at such times and places as are determined by the City.

8.2 The City currently intends that all Proposals submitted to it in accordance with the RFP will be evaluated by City representatives, using quantitative and qualitative tools and assessments, as appropriate, to determine which Proposal or Proposals offer the overall best value to the City. In so doing, the City expects to examine:

<table>
<thead>
<tr>
<th>Evaluation Criteria</th>
<th>Evaluation Weighting</th>
</tr>
</thead>
<tbody>
<tr>
<td>Technical</td>
<td>50%</td>
</tr>
<tr>
<td>Financial</td>
<td>50%</td>
</tr>
<tr>
<td>Total</td>
<td>100%</td>
</tr>
</tbody>
</table>

8.3 The City will retain complete control over the RFP process at all times until the execution and delivery of an Agreement or Agreements, if any. The City is not legally obligated to review, consider or evaluate Proposals, or any particular Proposal, and need not necessarily review, consider or evaluate Proposals, or any particular Proposal in accordance with the procedures set out in the RFP. The City may continue, interrupt, cease or modify its review, evaluation and negotiation process in respect of any or all Proposals at any time without further explanation or notification to any Proponents.

8.4 The City may, at any time prior to signing an Agreement, discuss or negotiate changes to the scope of the RFP with any one or more of the Proponents without having any duty or obligation to advise the other Proponents or to allow the other Proponents to vary their Proposals as a result of such discussions or negotiations.

8.5 The City may elect to short-list Proponents and evaluate Proposals in stages. Short-listed Proponents may be asked to provide additional information or details for clarification, including by attending interviews, making presentations, supplying samples, performing demonstrations, furnishing technical data or proposing amendments to the Form of Agreement. The City will be at liberty to negotiate in parallel with one or more short-listed Proponents, or in sequence, or in any combination, and may at any time terminate any or all negotiations.

8.6 The City may also require that any proposed subcontractors undergo evaluation by the City.

8.7 For the avoidance of doubt, notwithstanding any other provision in the RFP, the City has in its sole discretion, the unfettered right to: (a) accept any Proposal; (b) reject any Proposal; (c) reject all Proposals; (d) accept a Proposal which is not the lowest-price proposal; (e) accept a Proposal that deviates from the requirements or the conditions specified in the RFP; (f) reject a Proposal even if it is the only Proposal received by the City; (g) accept all or any part of a Proposal; (h) split the scope of work between one or more Proponents; and (i) enter into one or more agreements respecting the subject matter of the RFP with any entity or entities at any time. Without limiting the foregoing, the City may reject any Proposal by a Proponent that has
a conflict of interest, has engaged in collusion with another Proponent or has otherwise attempted to influence the outcome of the RFP other than through the submission of its Proposal.

9.0 CITY POLICIES

9.1 The City’s Procurement Policy, Ethical Purchasing Policy and related Supplier Code of Conduct found at [http://vancouver.ca/doing-business/selling-to-and-buying-from-the-city.aspx](http://vancouver.ca/doing-business/selling-to-and-buying-from-the-city.aspx) align the City’s approach to procurement with its corporate social, environmental and economic sustainability values and goals. They evidence the City’s commitment to maximize benefits to the environment and the community through product and service selection, and to ensure safe and healthy workplaces, where human and civil rights are respected. Each Proponent is expected to adhere to the supplier performance standards set forth in the Supplier Code of Conduct. The Ethical Purchasing Policy shall be referred to in the evaluation of Proposals, to the extent applicable.

9.2 The City’s Alcohol, Controlled Drugs and Medications Policy applies to all contractors doing work on behalf of the City and can be found at [https://policy.vancouver.ca/ADMIN011.pdf](https://policy.vancouver.ca/ADMIN011.pdf). The policy is intended to set expectations regarding the use of alcohol, medication and controlled drugs that may render an employee unfit for work, impair performance or cause risk of harm to health and safety. The successful Proponent will be required to ensure compliance with the policy by its employees when doing work for the City.

10.0 LIVING WAGE EMPLOYER

10.1 Effective May 1, 2017, the City of Vancouver became a “Living Wage Employer”. As such, the City requires all firms that are contracted by the City to provide services on City-owned and leased properties to pay employees who perform those services on City property a Living Wage as calculated by the Living Wage for Families Campaign.

Please see the Living Wage for Families Campaign website for the current Living Wage for Vancouver:

[http://www.livingwageforfamilies.ca/living_wages_in_bc_and_canada](http://www.livingwageforfamilies.ca/living_wages_in_bc_and_canada)

The Living Wage includes the value of any non-mandatory benefits such as paid sick leave, employer-paid Medical Services Plan premiums and extended health benefits.

The Living Wage for Families has created a Living Wage Calculator to assist with the calculation of an employee’s hourly rate with benefits. The Living Wage Calculator can be found at the following website:


Proponents should refer to the Form of Agreement attached as Part D to this RFP for the specific requirements related to the Living Wage, which include:

(a) paying the Living Wage to all employees who perform services pursuant to the Agreement on City property during the term of the Agreement; and

(b) ensuring that all subcontractors pay the Living Wage to their employees who perform services on City property during the term of the Agreement.
Failure to comply with the Living Wage requirement will entitle the City to terminate the Agreement.

11.0 CERTAIN APPLICABLE LEGISLATION

11.1 Proponents should note that the City of Vancouver is subject to the *Freedom of Information and Protection of Privacy Act* (British Columbia), which imposes significant obligations on the City’s consultants or contractors to protect all personal information acquired from the City in the course of providing any service to the City.

11.2 Proponents should note that the *Income Tax Act* (Canada) requires that certain payments to non-residents be subject to tax withholding. Proponents are responsible for informing themselves regarding the requirements of the *Income Tax Act* (Canada), including the requirements to qualify for any available exemptions from withholding.

12.0 LEGAL TERMS AND CONDITIONS

12.1 The legal obligations of a Proponent that will arise upon the submission of its Proposal are stated in Appendix 1 to Part C - Form of Proposal of the RFP. Except where expressly stated in those Legal Terms and Conditions: (i) no part of the RFP consists of an offer by the City to enter into any contractual relationship; and (ii) no part of the RFP is legally binding on the City.

POTENTIAL PROPOSIENTS MUST REVIEW THESE LEGAL TERMS AND CONDITIONS IN APPENDIX 1 TO PART C - FORM OF PROPOSAL CAREFULLY BEFORE SUBMITTING A PROPOSAL.
APPENDIX 1 TO PART A

RE: REQUEST FOR PROPOSALS NO. PS20210169, NEU: Low-Carbon Thermal Energy Supply for Northeast False Creek

To acknowledge your intent to attend the Information Meeting and to ensure that you receive the required information, please submit this form to the person identified below in accordance with the RFP:

Donabella Bersabal  
City of Vancouver  
Email: Donabella.bersabal@vancouver.ca

Proponent’s Name: ____________________________________________________________

Address: ___________________________________________________________________

Key Contact Person: __________________________________________________________

Telephone: __________________________

E-mail: __________________________

Our company WILL □ / WILL NOT □ attend the information meeting for Request for Proposals No. PS20210169, NEU: Low-Carbon Thermal Energy Supply for Northeast False Creek.

___________________________________________
Signature

___________________________________________
Name of Signatory

___________________________________________
E-mail Address

___________________________________________
Date
PART B – CITY REQUIREMENTS

The requirements stated in this Part B (collectively, the “City Requirements”) are current as of the date hereof, but may change or be refined in the course of the evaluation of Proposals or otherwise.

1.0 BACKGROUND

The Neighbourhood Energy Utility (“NEU”) supplies low-carbon thermal energy to buildings in the False Creek area via a hot-water distribution network to provide low-carbon space heating and domestic hot water. As part of the NEU expansion plan (Figure 1) approved by Vancouver City Council (“Council”) (refer to City-Provided Document vi. Council Report - Expansion of the False Creek Neighbourhood Energy Utility), the City is planning to establish a new NEU thermal network to service upcoming development in Northeast False Creek (“NEFC”) with low-carbon renewable energy.

The NEU has adopted the following guiding principles:

- Renewable energy: the NEU will be used to accelerate 100% renewable energy outcomes for connected buildings, making use of local energy resources
- Long-term financial viability: expansion of the NEU must be financially viable, earning a return on investment commensurate with a commercial utility model
- Cost: provide service that is cost-competitive with other available low-carbon heating options
- Resilience: maximize reliability of service and maintain long-term flexibility to adapt to future technologies
- Business model: own the distribution network to maintain control over GHG outcomes, while maintaining flexibility to support private sector investment in new low-carbon energy generation

In alignment with these guiding principles, the City is interested in exploring opportunities for third party thermal energy supply to feed into the new distribution network that the City is planning to install in NEFC.

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The City intends to implement major road and utility upgrades in phases to service NEFC, timed with major developments in the area. The City plans to install NEU distribution infrastructure as part of these larger infrastructure upgrades. As shown in Figure 2, the City projects that the first phase of NEU infrastructure will be installed on Pacific Blvd between Smithe and Griffiths Way to facilitate service to the Plaza of Nations and Pavco developments. The timeline for the second phase of road/utility upgrades will depend on developer timelines that are not yet known. The City is looking for an energy supply that could feed into the distribution network installed in Phase 1 and that can expand capacity as the neighbourhood develops.

While the NEFC distribution network will start as an independent NEU node, the City intends to integrate it with the existing NEU network in the long term (currently planned as part of the Phase 2 distribution extension), which would create an opportunity for energy sharing between the two nodes. While this procurement will focus on the energy requirements specific to NEFC, there will be opportunity for additional energy supply from the successful Proponent in the future following interconnection of the two nodes as referenced in section 3c.

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Central to this procurement is the requirement for any energy supply to be low-carbon and derived from renewable sources. The environmental performance required from the energy supply is driven primarily by the following City Policies:

a) **Zero Emission Building Plan (“ZEBP”)** (Refer to City-Provided Document v. “Zero Emission Building Plan)

The zero emission building plan sets greenhouse gas intensity (“GHGi”) limits on new developments that will become more stringent over time. Table 1 outlines the carbon intensity required to enable developers to meet the current and forecast GHGi limits imposed by the ZEBP. While the early development in NEFC will be captured under the current GHGi limits, the majority of development is expected to be held to the more stringent GHGi limits.

Table 1: Carbon intensity of energy supply required to meet current and forecast ZEBP GHGi limits

<table>
<thead>
<tr>
<th></th>
<th>Carbon intensity (kg CO2e/MWh)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current</td>
<td>70</td>
</tr>
<tr>
<td>Rezoning after 2025 (forecast)</td>
<td>20-30</td>
</tr>
</tbody>
</table>

b) **Climate Emergency Action Plan** (Refer to City-Provided Document vii. “Council Report - Climate Emergency Action Plan”)

In response to a declaration of climate emergency the NEU has committed to bring, for Council approval in 2023, a roadmap to transition the NEU to a 100% renewable energy supply (near zero carbon emissions) by 2030.

The City is seeking an energy supply that will align with current and future ZEBP requirements and that can support a transition to a 100% renewable energy supply with near-zero carbon emissions by 2030.
2.0 OVERVIEW OF REQUIREMENTS

The City is seeking an energy supplier (the “Supplier”) that can supply thermal energy to meet the demand of the first development in NEFC and be scaled up over time as new load in the neighbourhood is connected to the NEU’s distribution network. With the distribution network acting as the boundary of ownership between the City and the Supplier, the Supplier will be responsible for securing a location for energy generation and all elements of funding, permitting, designing, constructing, installing, operating, maintaining, and replacing the equipment required to supply energy into the distribution network.

Proponents are asked to submit Proposals that respond to any of the following options:

A. Primary Objective only

B. Secondary Objective only

C. One Proposal for Primary Objective and one Proposal for Secondary Objective

For all of the options above, the Proponent must satisfy applicable Specific Requirements listed under section 3.0 below.

A. Primary Objective: Uninterruptible Low-Carbon Energy Supply

As a primary objective, the City seeks to secure best value through a Supplier that can meet the following general requirements:

a) Cost-effective low-carbon renewable thermal energy that meets the City’s carbon intensity requirements and which offers stable and predictable energy costs over the contract period;

b) Reliable and resilient energy supply capable of meeting system peak energy demand at all times during the term of the agreement;

c) Ability to meet a commercial operating date driven by the completion of the first development in NEFC forecast to be the first phase of the Plaza of Nations development (Figure 2);

d) Ability to scale up energy capacity over time as buildings connect to the system, with flexibility to adapt to changes in development and capacity forecasts;

e) Energy centre located in close proximity to Phase 1 NEU distribution pipes in NEFC (Figure 2);

f) Energy supply compatible with the technical requirements of the NEU distribution network (temperatures, pressures, flows);

g) An interface with the NEU distribution network that will ensure NEU control over the flow and temperature entering and leaving the Supplier’s plant;

h) Demonstrated feasibility of delivering proposed energy supply, addressing all identified project risks;

i) Alignment with the City’s Neighbourhood Energy Centre Guidelines (refer to the City-Provided Document ii: NEU Energy Centre Guidelines).
j) Proposals that do not compromise the City’s broader environmental objectives and meet or exceed any environmental regulations (including those that govern air quality, noise, water, sewer, and traffic.

B. Secondary Objective: Partial/Interruptible Low-Carbon Energy Supply

As a secondary objective, the City will also accept Proposals for a low-carbon renewable thermal energy supply that can only meet part of the forecast energy demand, provided it is cost effective and improves environmental performance when considered together with the primary source of energy. This type of Proposal is suitable for Proponents that have access to renewable thermal energy resources such as waste heat that may be intermittently available or insufficient to meet the full load requirements of the system but can be economically supplied to the City’s thermal grid when available to supplement the primary energy supply.

3.0 SPECIFIC REQUIREMENTS

The City is seeking Proposals that can meet the following specific requirements, which expand upon the general requirements described in Section 2.0 above.

a) Cost-Effective, Predictable, and Stable Energy Rates

The City is seeking Proposals that can offer cost-effective renewable thermal energy that will provide predictable and stable rates for the duration of the term of the agreement. To accomplish this, the City is seeking an agreement with defined rates for capacity and non-fuel operating costs and a defined minimum energy generation efficiency (refer to City Provided Documents i: “Proposed Rate Structure and Risk Allocation”). Under the proposed rate structure, fuel costs will flow through to the City based on the amount of energy purchased, exposing the City to fuel price volatility.

In addition to submitting the Commercial Proposal as part of Appendix 3 to demonstrate the cost effectiveness of the energy supply, Proponents are to provide a description of:

i. Key elements of the Proposal that will ensure cost-effective, predictable, and stable energy costs;

ii. The minimum energy generation efficiency (ratio of input fuel to output energy) that the Proponent commits to achieving for each proposed source of thermal energy;

iii. The long term price forecast for each fuel source being utilized to deliver the thermal energy, method and assumptions used for forecasting fuel prices, level of certainty in the forecasts, and the risk of fuel price escalation beyond what is currently forecast;

iv. Any existing or planned fuel supply agreements;

v. Protection the proposed energy supply offers against fuel price volatility.

b) Carbon Intensity of Renewable Energy Supply

In alignment with environmental policies and objectives, the City is seeking a low-carbon renewable energy supply that can meet the maximum allowable carbon intensity schedule outlined in Table 2. This carbon intensity schedule will ensure that the NEU is positioned to
enable developers to meet the current and future GHGi limits set forth through ZEBP while gradually transitioning to a 100% renewable energy supply with near-zero carbon emissions by 2030.

Proponents are required to demonstrate how they will meet the carbon intensity requirements by demonstrating security over the sources of low-carbon energy proposed and including an energy model that outlines all fuel inputs and GHG outputs. Energy model inputs and outputs should be based on the minimum energy generation efficiency committed by the Proponent (refer to City Provided Documents i: “Proposed Rate Structure and Risk Allocation”). Low-carbon energy inputs must be derived from a renewable source. It is up to the Proponent to demonstrate that the energy supply is both renewable and low-carbon based on Provincial and Federal standards. Refer to City Provided Documents iv. “B.C. Practices Methodology for Quantifying Greenhouse Gas Emissions” for guidance on fuel emission factors. Throughout the term of the agreement, the Supplier will be required to provide a monthly report specifying the inputs and outputs of the energy supply and an independently verified annual report on carbon intensity.

The damages that the City will suffer as a result of its Supplier not meeting the carbon intensity limits set out below will be difficult to quantify. However, the Supplier meeting the below carbon intensity limits is crucial. As the City has expressed throughout this RFP, one of the main reasons the City is pursuing this structure for this procurement is for the environmental benefits it provides. Consequently, the Supplier will, pursuant to Schedule 5 to the energy supply agreement, pay liquidated damages to the City if the Supplier fails to meet the carbon intensity requirements of the energy supply.

Table 2: Maximum Allowable Carbon Intensity of Energy Supply

<table>
<thead>
<tr>
<th>Year</th>
<th>Carbon Intensity Limit (kg CO2e/ MWh)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2025</td>
<td>70</td>
</tr>
<tr>
<td>2026</td>
<td>60</td>
</tr>
<tr>
<td>2027</td>
<td>50</td>
</tr>
<tr>
<td>2028</td>
<td>40</td>
</tr>
<tr>
<td>2029</td>
<td>30</td>
</tr>
<tr>
<td>2030-onward</td>
<td>15</td>
</tr>
</tbody>
</table>

(100% Renewable Energy)

The City reserves the right to optimize the carbon intensity schedule with the selected Supplier.

c) Energy Requirements

The estimated annual thermal energy demand and diversified peak loads required, based on current development forecasts, for servicing NEFC are provided in Table 3. The City is seeking Proposals that can bring on capacity as new loads are connected to the NEU distribution network. The City will subscribe to an increased nominated capacity as the capacity requirements are confirmed and secured at building permit issuance, giving the Supplier a
minimum of 18 months to add the necessary capacity prior to when it is required. A formal application for increased capacity would be submitted by the City to the Supplier specifying the amount of additional capacity required and date by which it would be required.

Due to the uncertain nature of development timing, the information provided in Table 3 is a forecast only and is not to be interpreted as a defined energy delivery schedule. The City is seeking an energy supply that can accommodate changes in the energy forecasts. Further, the City does not guarantee all the capacity forecast in Table 3 will be assigned to the Supplier and reserves the right to go back to market or utilize its own means of generation for new capacity requirements not yet assigned to the Supplier.

Following interconnection of NEFC with the existing NEU distribution network there will be an opportunity to supply up to an estimated additional 30,000-50,000 MWh beyond what is forecasting in Table 3 to support the growth and transition of the existing network from 70% to 100% renewable energy supply.

**Table 3: Forecast Energy Requirements**

<table>
<thead>
<tr>
<th>Year</th>
<th>Residential Floor Area (m²)</th>
<th>Commercial/ Retail Floor Area (m²)</th>
<th>Total Floor Area (m²)</th>
<th>Required Capacity: Diversified Peak Load (kW)</th>
<th>Annual Demand (MWh/y)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2025</td>
<td>77,000</td>
<td>16,700</td>
<td>93,700</td>
<td>3,300</td>
<td>7,000</td>
</tr>
<tr>
<td>2026</td>
<td>106,700</td>
<td>24,200</td>
<td>130,900</td>
<td>4,300</td>
<td>9,000</td>
</tr>
<tr>
<td>2027</td>
<td>152,700</td>
<td>44,100</td>
<td>196,800</td>
<td>6,600</td>
<td>13,800</td>
</tr>
<tr>
<td>2028</td>
<td>234,300</td>
<td>50,500</td>
<td>284,800</td>
<td>9,800</td>
<td>20,600</td>
</tr>
<tr>
<td>2029</td>
<td>251,900</td>
<td>63,700</td>
<td>315,600</td>
<td>10,800</td>
<td>22,700</td>
</tr>
<tr>
<td>2030</td>
<td>335,400</td>
<td>68,200</td>
<td>403,600</td>
<td>14,000</td>
<td>29,600</td>
</tr>
<tr>
<td>2031</td>
<td>369,200</td>
<td>77,300</td>
<td>446,500</td>
<td>15,500</td>
<td>32,800</td>
</tr>
<tr>
<td>2032</td>
<td>426,600</td>
<td>86,500</td>
<td>513,100</td>
<td>17,900</td>
<td>37,900</td>
</tr>
<tr>
<td>2033</td>
<td>452,300</td>
<td>97,500</td>
<td>549,800</td>
<td>19,200</td>
<td>40,500</td>
</tr>
<tr>
<td>2034 Onward</td>
<td>469,900</td>
<td>103,200</td>
<td>573,100</td>
<td>20,000</td>
<td>42,200</td>
</tr>
</tbody>
</table>

To support the Proponent in equipment sizing/selection, the hourly plant load forecast has been estimated by scaling the forecast connected floor area against existing NEU system data (refer to the City Provided Document iii: “Estimated Hourly Plant Load Forecast”). These forecasts are rough approximations that are meant to be indicative of the general load trends and are therefore subject to variation and ongoing validation by the Supplier. If modest changes to the hourly load profile would significantly change the plant performance or cost of energy, Proponents should identify this as a risk.

**NOTE:** the hourly load forecasts are based on averaged system data and therefore not reflective of the peak load design conditions reflected in Table 3.

d) **Reliable, Resilient, and Uninterruptible Energy Supply**
As the primary energy supply to the neighbourhood, an uninterruptible energy supply that reliably meets the peak demand of the connected buildings is critical. This is achieved by consistently heating the system water delivered to the Supplier to within two degrees of the specified supply temperature. The City is seeking Proposals that can demonstrate an appropriate level of resiliency and redundancy measures to ensure the system demand (up to the nominated capacity) can be met at all times. This includes redundancy and provisions to manage:

i. unplanned downtime of equipment during winter peaks (minimum N+1 redundancy)

ii. interruptions in the supply of primary energy sources such as gas and electricity

iii. interruptions to other fuel deliveries to site (where applicable)

iv. interruptions or failure to plant controls, highlighting controls and operations redundancy measures

v. unplanned upsets in the system, highlighting operator staffing levels and system monitoring and alarming measures

vi. In addition, the City is looking for Proposals that demonstrate resilience against risks such as:
   - fire
   - earthquake
   - flooding due to rainfall event
   - sea level rise / high tide events
   - flooding due to major a leak in energy centre (ex. failed pipe, gasket, or relief valve)
   - vandalism
   - terrorism
   - cyber attack

Given the nature of the services that the City will be providing to its customers using the thermal energy generated by the Supplier, it is crucial that the energy supply is reliable, resilient, and uninterrupted. The City would suffer significant damages that would be difficult to quantify if the Supplier was unable to generate enough thermal energy for almost any period of time. Moreover, if the Supplier was unable to generate enough thermal energy for 48 hours or more, the implications for the City and its customers would be particularly significant. The City may, for instance, be required to locate an emergency source of thermal energy at considerable cost. Consequently, the Supplier will, pursuant to Schedule 5 to the energy supply agreement, pay liquidated damages to the City if the Supplier fails to meet its energy supply obligations.

The City notes that:

- For Proposals submitted based on providing a partial/interruptible energy supply, an uninterruptible supply is not required.
• The City could install its own backup energy generation system and would consider alternate Proposals with this assumption if it resulted in significant energy cost savings

e) Schedule

The City is seeking an energy supply that can be available in time to service the first development in NEFC, currently forecasted for January 2025.

Proposals should clearly outline a plan for having energy available on schedule, which includes a detailed schedule with all elements and dependencies critical to the project. Where schedule constraints are identified, temporary energy supply solutions should be presented. For Proposals based on a partial/interruptible energy supply, there are no firm schedule requirements.

Given the nature of the services that the City will be providing to its customers using the thermal energy generated by the Supplier, it is crucial that the energy supply commences on schedule. The City would suffer significant damages that would be difficult to quantify if the Supplier was unable to meet the timeline that the parties agree upon. Consequently, the Supplier will, pursuant to Schedule 5 to the energy supply agreement, pay liquidated damages to the City if the Supplier fails to meet its guaranteed commercial operation date.

f) Energy Centre Siting

It is the responsibility of the Supplier to secure a site for energy generation. The Supplier will be responsible for all associated siting costs, including the cost to secure the land, property taxes, permitting fees, zoning requirements, and costs for bringing the necessary services to the site. Proponents must identify the proposed location for energy generation and:

i. Adequately demonstrate the ability to secure the site, highlighting any siting risks or dependencies, including any permitting or zoning requirements. The City’s preference is that the Supplier owns the proposed site. If this is not possible the Proponent should describe the alternate arrangement and any measures that will ensure the site will be available for the duration of the agreement.

ii. Provide a viable plan for servicing the site with all required utilities.

iii. Account for the costs of extending the NEU distribution network from the Phase 1 main line on Pacific Blvd (refer to Figure 2) to the proposed energy centre location. Proponents should assume a unit rate of $5,000 per trench meter, a cost that should be reflected in the provided financial pro forma (submitted as part of Commercial Proposal defined in Appendix 3). The technical feasibility of extending the NEU distribution pipes will be considered when evaluating the feasibility of the Proposal.

Proposals that present siting risks, which in the view of the City are not sufficiently mitigated, may be grounds for Proposal rejection in the City’s sole discretion.

g) Temperature of Energy Supply

The supplier is required to heat the return system water to the specified supply temperature. The supply temperature reset schedule planned for NEFC is provided in Table 4. This reset schedule, which aligns with the existing NEU network, is designed to be compatible with
current building design requirements and allows for optimal sizing of the distribution network. In addition, this reset schedule will allow for future integration of the systems after interconnection of NEFC with the existing distribution network. The City is seeking Proposals that can:

i. Demonstrate the ability to operate efficiently under the reset schedule provided;

ii. Allow adjustments in the reset schedule over time to optimize the delivery of energy;

iii. Allow for City operator intervention to increase supply temperature from the defined reset schedule when it is deemed necessary to meet system demands

Table 4: Supply Temperature Reset Schedule

<table>
<thead>
<tr>
<th>Outside Air Temperature (°C)</th>
<th>Required Supply Temperature (°C)</th>
<th>Estimated Return Temperature (°C)</th>
</tr>
</thead>
<tbody>
<tr>
<td>&gt;15</td>
<td>67</td>
<td>45-55</td>
</tr>
<tr>
<td>10</td>
<td>71</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>77</td>
<td></td>
</tr>
<tr>
<td>0</td>
<td>85</td>
<td></td>
</tr>
<tr>
<td>&lt;5</td>
<td>95</td>
<td></td>
</tr>
</tbody>
</table>

For Proposals based on a partial/interruptible energy supply, variations on the supply temperature reset schedule will be considered. As a minimum, a partial/interruptible energy supply should be able to achieve a supply temperature of 70°C.

h) Interface Between Distribution Network and Energy Supply

A well-designed interface between the City’s distribution network and the Supplier’s plant is critical to ensure the City is consistently receiving the required energy supply. Conceptually, the City will control the flow of return water sent to the Supplier and specify the supply temperature that is required. The Supplier is responsible for accepting the system water and heating the system water received to the specified temperature set point before it enters back into the distribution network from the Supplier’s plant. The City requires an interface between the Supplier and distribution network that offers the following:

i. Capable of accepting and heating system water to the specified temperature with flowrates that will increase over time as the nominated capacity is increased, which are estimated to be up to 150-200 litres per second at buildout.

ii. City control over the flow of energy entering the distribution network:
   - Generally set to provide the energy demand required by the system
   - With the ability for energy supply to be turned down if preferred alternative sources are available
   - With the ability to shut off energy supply if required

iii. City control over supply temperature set point:
iv. City control over the flowrate of system water being sent to the Supplier and returned to the City’s distribution network by the Supplier
- With flowrates estimated to be up to 150-200 litres per second at buildout
- With an acceptable pressure drop across the interface being consistently maintained
- Generally set so pumps ramp up/down to maintain a 172 kPa minimum differential pressure at all connected buildings
- With distribution system pressures not exceeding 1034 kPaWith the ability to increase or decrease system flow with a pressure set point offset or direct control over pump output (at the control of the City)

v. Space and provisions for the NEU distribution system including: pumps (lead/lag/spare configurations), thermal expansion tanks (N+1), and distribution controls. The Supplier is responsible for securing and providing adequate space required for installing and housing the NEU distribution equipment. The Supplier is also responsible for providing the electrical feeds to the required NEU equipment including a backup power supply for NEU distribution pumps and controls. Access to the space to be secured through a statutory right of way in favor of the City;

vi. Provisions for the City to have remote and local access to all required data points (flow rate, supply/return temperature, supply/return pressure, equipment input and output, plant output, plant efficiency, metered energy, etc.);

vii. Provisions for the City to have remote and local control over the supply temperature set point, supply pressure set point, and distribution pumps at all times. Remote control to be over a platform that can be integrated into the existing plant control system currently used by the City;

viii. Provisions for a fibre optic network connection to enable remote communication with the plant;

ix. Utility grade thermal energy metering that can be inspected and monitored by the City at any time.

A hydraulically separated system would be preferred to simplify ownership boundaries, but alternatives that meet the requirements above will also be considered. Close collaboration between the Supplier and the City will be required during the design phase. The Supplier is responsible for the costs of providing the space and provisions specified in this section and designing the interconnection with the NEU distribution network, including required NEU distribution equipment, to the satisfaction of the City.
i) Safe Energy Supply

The Proponent is responsible for all safety requirements related to constructing and operating the energy generation facility, including permitting, plant registration, and ongoing compliance requirements with Technical Safety BC and any other applicable safety authorities. Proposals shall identify any safety risks or hazards inherent to the proposed energy supply and the actions the energy Supplier will take to mitigate the risks. In addition, the Proponent shall specify the assumed TSBC plant registration classification and associated staffing levels.

Proposals that present inherent safety risks, which in the view of the City are not sufficiently mitigated, may be grounds for Proposal rejection in the City’s sole discretion.

j) Regulatory Requirements

The Proponent will be responsible for all BCUC regulatory approvals, or where appropriate, seeking the applicable regulatory exemptions. Proposals shall outline the anticipated regulatory process and the strategy and anticipated schedule for achieving regulatory approval, including plans for engaging and consulting with the public. The City is seeking Proponents with significant experience with regulatory approvals.

k) Other Environmental Performance Requirements

The Supplier is responsible for adhering to all environmental regulatory requirements. Proposals must identify and where possible quantify all potential environmental impacts introduced by the project and the mitigations that will be in place to minimize impacts. The following environmental attributes will be considered in the evaluation of the Proposal:

i. Air quality: Proposals must demonstrate that the impacts of the facility on air quality will not compromise Provincial and Regional air quality objectives and must meet or exceed all applicable air quality regulations.

ii. Noise/vibrations: Beyond conforming to noise bylaw requirements, Proponents are expected to develop a system that will have negligible acoustic impacts on the livability of adjacent dwellings. If selected as the Supplier, this will include conducting an acoustic study identifying necessary measures to mitigate risk of noise and vibrations and implementing the findings.

iii. Water consumption: Proposals must quantify water consumption and demonstrate how water usage is being minimized and will not compromise municipal water reduction objectives.

iv. Wastewater discharge: Proposals must identify wastewater volumes and temperatures and demonstrate that wastewater discharge adheres to City, regional, and provincial standards for water quality.

v. Soil and groundwater: Proposals must identify any impacts to soil or groundwater quality and, as applicable, demonstrate that the project will meet all provincial standards.

vi. Traffic impacts must be identified and, where deemed necessary, a formal traffic plan for review by the City will be required.
Proposals that present the potential for significant adverse environmental impacts, which in the view of the City are not sufficiently mitigated, may be grounds for Proposal rejection in the City’s sole discretion.

I) Project Feasibility

The Proponent is responsible for demonstrating the overall feasibility of its Proposal. Project risks are to be identified and a mitigation strategy should be provided for each. Proponents should consider the following risks:

i. Technological

ii. Fuel supply security

iii. Regulatory approvals (BCUC, TSBC)

iv. Permitting

v. Funding

vi. Public acceptance

vii. Construction/implementation

viii. Schedule delays

ix. Operational reliability

x. Environmental performance

m) Alignment with energy centre guidelines

The Proponent must meet the requirements outlined in the City’s NEU Energy Centre Guideline (refer to the City Provided Document ii: NEU Energy Centre Guidelines), which includes requirements specific to:

i. Air Quality

ii. Neighbourhood Fit

iii. Sustainability of Fuel Sources

iv. Community Engagement

Proposals that do not meet the requirements outlined in the NEU Energy Centre Guideline may be grounds for Proposal rejection in the City’s sole discretion.

4.0 INNOVATION

In addition to the core objectives, the City also places value on Proposals that offer:
• The ability to provide additional low-carbon energy supply and enhanced system resiliency once NEFC is interconnected to the existing NEU network

• Carbon reductions and environmental improvements beyond the confines of the required energy supply

• Secondary energy supplies that meet partial energy demands by utilizing local waste heat resources

5.0 LIST OF CITY-PROVIDED DOCUMENTS

The following documents and drawings are incorporated in this RFP by reference and can be accessed through the City’s FTP site which will be provided to Proponents by email:

i. Proposed Rate Structure and Risk Allocation

ii. NEU Energy Centre Guidelines

iii. Estimated Hourly Plant Load Forecast


v. Zero Emission Building Plan


PART C – FORM OF PROPOSAL

RFP No. PS20210169, Neighbourhood Energy Utility: Low-Carbon Thermal Energy Supply for the Northeast False Creek (the “RFP”)

Proponent’s Full Legal Name: _______________________________________________________________

“Proponent”

Address: ______________________________________________________________________________

_____________________________________________________________________________________

Jurisdiction of Legal Organization: __________________________________________________________

Key Contact Person: _____________________________________________________________________

Telephone: _____________________________________________________________________________

E-mail: _______________________________________________________________________________

The Proponent, having carefully examined and read the RFP, including all amendments and addenda thereto, if any, and all other related information published on the City’s website, hereby acknowledges that it has understood all of the foregoing, and in response thereto hereby submits the enclosed Proposal.

The Proponent further acknowledges that it has read and agrees to the Legal Terms & Conditions attached as Appendix 1 to this Form of Proposal.

IN WITNESS WHEREOF the Proponent has executed this Proposal Form:

_____________________________________________________________________________________

Signature of Authorized Signatory for the Proponent

Date

Name and Title

_____________________________________________________________________________________

Signature of Authorized Signatory for the Proponent

Date

Name and Title
APPENDICES

The Form of Proposal includes the following attached Appendices:

APPENDIX 1  Legal Terms and Conditions of RFP
APPENDIX 2  Technical Proposal
APPENDIX 3  Commercial Proposal
APPENDIX 4  Certificate of Existing Insurance
APPENDIX 5  Personal Information Consent Form(s)
APPENDIX 6  Proposed Amendments to Form of Agreement
APPENDIX 7  Conflicts; Collusion; Lobbying
APPENDIX 8  Proof of WorkSafeBC Registration
APPENDIX 1
LEGAL TERMS AND CONDITIONS OF RFP

1 APPLICATION OF THESE LEGAL TERMS AND CONDITIONS

These legal terms and conditions set out the City’s and the Proponent’s legal rights and obligations only with respect to the RFP proposal process and any evaluation, selection, negotiation or other related process. In no event will the legal terms and conditions of this Appendix 1 apply to, or have the effect of supplementing, any Contract formed between the City and the Proponent, or otherwise apply as between the Proponent and the City following the signing of any such Contract.

2 DEFINITIONS

In this Appendix 1, the following terms have the following meanings:

(a) “City” means the City of Vancouver, a municipal corporation continued pursuant to the Vancouver Charter.

(b) “Contract” means a legal agreement, if any, entered into between the City and the Proponent following and as a result of the Proponent’s selection by the City in the City’s RFP process.

(c) “Losses” means, in respect of any matter, all direct or indirect, as well as consequential: claims, demands, proceedings, losses, damages, liabilities, deficiencies, costs and expenses (including without limitation all legal and other professional fees and disbursements, interest, penalties and amounts paid in settlement whether from a third person or otherwise).

(d) “Proponent” means the legal entity which has signed the Proposal Form, and “proponent” means any proponent responding to the RFP, excluding or including the Proponent, as the context requires.

(e) “Proposal” means the package of documents consisting of the Proposal Form (including this Appendix 1), the Proponent’s proposal submitted under cover of the Proposal Form, and all schedules, appendices and accompanying documents, and “proposal” means any proposal submitted by any proponent, excluding or including the Proponent, as the context requires.

(f) “Proposal Form” means that certain Part C of the RFP, completed and executed by the Proponent, to which this Appendix 1 is appended.

(g) “RFP” means the document issued by the City as Request for Proposals No. PS20210169, as amended from time to time and including all addenda.

(h) “Supplier” means the successful Proponent that enters into a Contract with the City for the supply of low-carbon renewable thermal energy to the City’s hot-water distribution network.

3 NO LEGAL OBLIGATION ASSUMED BY THE CITY

Despite any other term of the RFP or the Proposal Form, including this Appendix 1 (except only Sections 7, 8.2 and 10 of this Appendix 1, in each case to the extent applicable), the City assumes no legal duty or obligation to the Proponent or to any proposed subcontractor in respect of the RFP, its subject matter or the Proposal unless and until the City enters into a Contract, which the City may decline to do in the City’s sole discretion.
4 NO DUTY OF CARE OR FAIRNESS TO THE PROPOSER

The City is a public body required by law to act in the public interest. In no event, however, does the City owe to the Proponent or to any of the Proponent’s proposed subcontractors (as opposed to the public) any contract or tort law duty of care, fairness, impartiality or procedural fairness in the RFP process, or any contract or tort law duty to preserve the integrity of the RFP process. The Proponent hereby waives and releases the City from any and all such duties and expressly assumes the risk of all Losses arising from participating in the RFP process on this basis.

5 EVALUATION OF PROPOSALS

5.1 Compliance / Non-Compliance

Any proposal which contains an error, omission or misstatement, which contains qualifying conditions, which does not fully address all of the requirements or expectations of the RFP, or which otherwise fails to conform to the RFP may or may not be rejected by the City at the City’s sole discretion. The City may also invite a proponent to adjust its proposal to remedy any such problem, without providing the other proponents an opportunity to amend their proposals.

5.2 Reservation of Complete Control over Process

The City reserves the right to retain complete control over the RFP and proposal processes at all times. Accordingly, the City is not legally obligated to review, consider or evaluate the proposals, or any particular proposal, and need not necessarily review, consider or evaluate the proposals, or any particular proposal, in accordance with the procedures set out in the RFP, and the City reserves the right to continue, interrupt, cease or modify its review, evaluation and negotiation processes in respect of any or all proposals at any time without further explanation or notification to any proponents.

5.3 Discussions/Negotiations

The City may, at any time prior to signing a Contract, discuss or negotiate changes to the scope of the RFP, any proposal or any proposed agreement with any one or more of the proponents without having any duty or obligation to advise the Proponent or to allow the Proponent to vary its Proposal as a result of such discussions or negotiations with other proponents or changes to the RFP or such proposals or proposed agreements, and, without limiting the general scope of Section 6 of this Appendix 1, the City will have no liability to the Proponent as a result of such discussions, negotiations or changes.

5.4 Acceptance or Rejection of Proposals

The City has in its sole discretion, the unfettered right to: accept any proposal; reject any proposal; reject all proposals; accept a proposal which is not the lowest-price proposal; accept a proposal that deviates from the requirements of the RFP or the conditions specified in the RFP; reject a proposal even if it is the only proposal received by the City; accept all or any part of a proposal; enter into agreements respecting the subject matter of the RFP with one or more proponents; or enter into one or more agreements respecting the subject matter of the RFP with any other person at any time.

6 PROTECTION OF CITY AGAINST LAWSUITS

6.1 Release by the Proponent

Except only and to the extent that the City is in breach of Section 8.2 of this Appendix 1, the Proponent now releases the City, its officials, its agents and its employees from all liability for any Losses incurred in connection with the RFP or the Proposal, including any Losses in connection with:
(a) any alleged (or judicially determined) breach by the City or its officials, agents or employees of the RFP (it being agreed that, to the best of the parties' knowledge, the City has no obligation or duty under the RFP which it could breach (other than wholly unanticipated obligations or duties merely alleged or actually imposed judicially));

(b) any unintentional tort of the City or its officials or employees occurring in the course of conducting the RFP process;

(c) the Proponent preparing and submitting the Proposal;

(d) the City accepting or rejecting the Proposal or any other submission; or

(e) the manner in which the City: reviews, considers, evaluates or negotiates any proposal; addresses or fails to address any proposal or proposals; resolves to enter into a Contract or not enter into a Contract or any similar agreement; or the identity of the proponent(s) or other persons, if any, with whom the City enters any agreement respecting the subject matter of the RFP.

6.2 Indemnity by the Proponent

Except only and to the extent that the City breaches Section 8.2 of this Appendix 1, the Proponent indemnifies and will protect, save and hold harmless the City, its officials, its agents and its employees from and against all Losses, in respect of any claim or threatened claim by the Proponent or any of its proposed subcontractors or agents alleging or pleading:

(a) any alleged (or judicially determined) breach by the City or its officials or employees of the RFP (it being agreed that, to the best of the parties' knowledge, the City has no obligation or duty under the RFP which it could breach (other than wholly unanticipated obligations or duties merely alleged or actually imposed judicially));

(b) any unintentional tort of the City or its officials or employees occurring in the course of conducting the RFP process, or

(c) liability on any other basis related to the RFP or the proposal process.

6.3 Limitation of City Liability

In the event that, with respect to anything relating to the RFP or this proposal process (except only and to the extent that the City breaches Section 8.2 of this Appendix 1), the City or its officials, agents or employees are found to have breached (including fundamentally breached) any duty or obligation of any kind to the Proponent or its subcontractors or agents whether at law or in equity or in contract or in tort, or are found liable to the Proponent or its subcontractors or agents on any basis or legal principle of any kind, the City's liability is limited to a maximum of $100, despite any other term or agreement to the contrary.

7 DISPUTE RESOLUTION

Any dispute relating in any manner to the RFP or the proposal process (except to the extent that the City breaches this Section 7 or Section 8.2 of this Appendix 1, and also excepting any disputes arising between the City and the Proponent under a Contract (or a similar contract between the City and a proponent other than the Proponent)) will be resolved first with a collaborative process and then if necessary, by an arbitrator. For further details to address dispute resolution, refer to section 24.6 of the Form of Agreement attached as Part D to this RFP.
8 PROTECTION AND OWNERSHIP OF INFORMATION

8.1 RFP and Proposal Documents City’s Property

(a) All RFP-related documents provided to the Proponent by the City remain the property of the City and must be returned to the City, or destroyed, upon request by the City.

(b) The documentation containing the Proposal, once submitted to the City, becomes the property of the City, and the City is under no obligation to return the Proposal to the Proponent.

8.2 Proponent’s Submission Confidential

Subject to the applicable provisions of the Freedom of Information and Protection of Privacy Act (British Columbia), other applicable legal requirements, and the City's right to publicly disclose information about or from the Proposal, including without limitation names and prices, in the course of publicly reporting to the Vancouver City Council about the RFP, the City will treat the Proposal (and the City’s evaluation of it), in confidence in substantially the same manner as it treats its own confidential material and information.

8.3 All City Information Confidential

(a) The Proponent will not divulge or disclose to any third parties any non-public documents or information concerning the affairs of the City which have been or are in the future provided or communicated to the Proponent at any time (whether before, during or after the RFP process). Furthermore, the Proponent agrees that it has not and must not use or exploit any such non-public documents or information in any manner, including in submitting its Proposal.

(b) The Proponent now irrevocably waives all rights it may have by statute, at law or in equity, to obtain any records produced or kept by the City in evaluating its Proposal (and any other submissions) and now agrees that under no circumstances will it make any application to the City or any court for disclosure of any records pertaining to the receipt, evaluation or selection of its Proposal (or any other submissions) including, without limitation, records relating only to the Proponent.

9 NO CONFLICT OF INTEREST / NO COLLUSION / NO LOBBYING

9.1 Declaration as to no Conflict of Interest in RFP Process

(a) The Proponent confirms and warrants that there is no officer, director, shareholder, partner, employee or contractor of the Proponent or of any of its proposed subcontractors, or any other person related to the Proponent’s or any proposed subcontractor’s organization (a “person having an interest”) or any spouse, business associate, friend or relative of a person having an interest who is: (i) an official or employee of the City; or (ii) related to or has any business or family relationship with an elected official or employee of the City, in each case, such that there could be any conflict of interest or any appearance of conflict of interest in the evaluation or consideration of the Proposal by the City, and, in each case, except as set out, in all material detail, in a separate section titled “Conflicts; Collusion; Lobbying” in the Proposal in accordance with the form set out in Part C - Form of Proposal.

(b) The Proponent confirms and warrants that there is no person having an interest (as defined above) who is a former official, former employee or former contractor of the City and who has non-public information relevant to the RFP obtained during his or her employment or engagement by the City, except as set out, in all material detail, in a separate section titled “Conflicts;
Collusion; Lobbying” in the Proposal in accordance with the form set out in Part C - Form of Proposal.

9.2 Declaration as to No Conflict of Interest Respecting Proposed Supply

The Proponent confirms and warrants that neither the Proponent nor any of its proposed subcontractors is currently engaged in supplying (or is proposing to supply) goods or services to a third party such that entering into an agreement with the City in relation to the subject matter of the RFP would create a conflict of interest or the appearance of a conflict of interest between the Proponent’s duties to the City and the Proponent’s or its subcontractors’ duties to such third party, except as set out, in all material detail, in a separate section titled “Conflicts; Collusion; Lobbying” in the Proposal in accordance with the form set out in Part C - Form of Proposal.

9.3 Declaration as to No Collusion

The Proponent confirms and warrants that:

(a) the Proponent is not competing within the RFP process with any entity with which it is legally or financially associated or affiliated, and

(b) the Proponent is not cooperating in any manner in relation to the RFP with any other proponent responding to the RFP,

in each case, except as set out, in all material detail, in a separate section titled “Conflicts, Collusion, Lobbying” in the Proposal in accordance with the form set out in Part C - Form of Proposal.

9.4 Declaration as to No Lobbying

The Proponent confirms and warrants that:

(a) neither it nor any officer, director, shareholder, partner, employee or agent of the Proponent or any of its proposed subcontractors is registered as a lobbyist under any lobbyist legislation in any jurisdiction in Canada or in the United States of America; and

(b) neither it nor any officer, director, shareholder, partner, employee or agent of the Proponent or any of its proposed subcontractors has engaged in any form of political or other lobbying whatsoever with respect to the RFP or sought, other than through the submission of the Proposal, to influence the outcome of the RFP process,

in each case, except as set out, in all material detail, in a separate section titled “Conflicts, Collusion, Lobbying” in the Proposal in accordance with the form set out in Part C - Proposal Form.

10 GENERAL

(a) All of the terms of this Appendix 1 to this Proposal Form which by their nature require performance or fulfillment following the conclusion of the proposal process will survive the conclusion of such process and will remain legally enforceable by and against the Proponent and the City.

(b) The legal invalidity or unenforceability of any provision of this Appendix 1 will not affect the validity or enforceability of any other provision of this Appendix 1, which will remain in full force and effect.
(c) The Proponent now assumes and agrees to bear all costs and expenses incurred by the Proponent in preparing its Proposal and participating in the RFP process.

END OF APPENDIX 1
APPENDIX 2
TECHNICAL PROPOSAL

Complete this Appendix 2 - Technical Proposal by attaching a separate Technical Proposal section organized in the same manner and in the same order as the items below at the minimum and containing all of the requested information.

A. Executive Summary

Provide a brief executive summary of your Proposal.

B. Description of the Proposed Energy Supply

Provide a description of the proposed energy supply and the equipment and technologies that will be used to deliver it. Included in this, provide the following information:

- Proposal option (i.e. A, B or C; refer to Part B section 2.0)
- Description of the energy sources and technologies being used
- Capacity, output, and efficiency of each energy source at buildout
- Achievable supply temperatures
- Process flow diagram

C. Work Plan, Schedule and Key Personnel

Provide a complete work plan for delivering renewable thermal energy to the City, identifying key personnel and detailing the steps the Proponent will take to meet the forecasted energy supply date and future energy requirements. Include a realistic timeline for completion of key tasks including, but not limited to regulatory approvals, funding, permitting, design, construction, commissioning, and ongoing operation and maintenance for each phase of the project. The Proponent’s work plan should make reference to the City’s schedule requirements as stated in subsection “e” of the Specific Requirements (Part B, Section 3.0) and indicate if the schedule cannot be met. Schedule interdependencies and delay risks should be identified and if required a contingency plan for supplying temporary energy should be identified.

As part of this work plan, please include a schedule detailing the critical path, relevant project phases, key deliverables, client approval hold-points, and major and minor milestones.

For the key personnel, identify and provide professional biographical information for the key personnel that would perform the Proponent’s work, including those of the primary sub-consultants that would perform the Proponent’s work, outlining their intended roles in meeting the Requirements.

D. Cost-Effective, Predictable, and Stable Energy Rates

Referring to subsection “a” of the Specific Requirements (Part B, section 3.0) describe how the Proposal will provide a cost-effective, predictable, and stable cost of low-carbon renewable thermal energy while protecting against fuel price volatility by identifying:

i. Key elements of the Proposal that will ensure cost-effective, predictable, and stable energy costs
ii. The minimum energy generation efficiency (ratio of input fuel to output energy) that the Proponent commits to achieving for each proposed source of thermal energy

iii. The long term price forecast for each fuel source being utilized to deliver the thermal energy, method and assumptions used for forecasting fuel prices, level of certainty in the forecasts, and the risk of fuel price escalation beyond what is currently forecast

iv. Any existing or planned fuel supply agreements

v. Protection the proposed energy supply offers against fuel price volatility. Does the proposed energy supply offer any flexibility to draw from different fuel inputs in response to fuel price volatility?

E. Carbon Intensity of Energy Supply

Referring to subsection “b” of the Specific Requirements (Part B, section 3.0), describe how the Proposal will meet the carbon intensity requirements by providing:

i. A description of the security over the renewable energy resources being proposed. For Proposals that are reliant on specific fuel deliveries or access to renewable resources not in direct control by the Proponent, describe how the energy sources will be secured.

ii. Energy model outputs forecasting annual GHG emissions with the following information:
   a. Capacity and fuel type of each energy source
   b. Carbon intensity assumed for each fuel used
   c. Minimum efficiency (ratio of input fuel to output energy) for each energy source
   d. Monthly energy inputs/outputs from each energy source
   e. Total annual energy inputs/outputs
   f. Total annual energy produced
   g. Total annual GHG emissions
   h. Carbon intensity of the energy supply (kg CO2e/MWh)

iii. What is the risk of underperformance? In the event of underperformance, describe what actions the Proponent would take to get the carbon intensity below the required maximums.

F. Energy Requirements

Referring to subsection “c” of the Specific Requirements (Part B, section 3.0), describe:

i. The energy generation equipment proposed and how the equipment will be dispatched to meet the fluctuating demand throughout the day/year.

ii. The approach for bringing on additional capacity to meet the growing peak demand as new load is secured/confirmed through the building permit process. Can new capacity be added in the 18-month timeline provided?
iii. How the proposed energy supply can be adapted to respond to changes in the capacity forecast or neighbourhood buildout.

G. **Reliable, Resilient, and Uninterruptible Energy Supply**

Referring to subsection “d” of the Specific Requirements (Part B, section 3.0), outline the resiliency and redundancy measures that will be used to ensure a reliable, resilient, uninterruptible energy supply. As part of this, please also respond to the following questions:

i. Is the energy source proven and demonstrated to be reliable?

ii. What level of energy generation redundancy is proposed to accommodate unplanned equipment downtime during winter peaks? What percentage of the peak capacity could be provided if the largest piece of equipment was down?

iii. What level of backup electrical generation is proposed to address the risk of BC Hydro electrical supply failure? What systems would be connected to backup electrical supply and what level of capacity would be available in the event of power loss?

iv. What level of capacity would be available in the event of a natural gas pipeline failure shutting off gas supply to the plant?

v. If the Proposal is dependent on physical fuel supply deliver to site (such as wood chips), what capacity would be available in the event of disruption to fuel supply delivery?

vi. If the energy supply is not meeting the required supply temperature set point, what systems will be in place to alert the Proponent’s plant operators of the problem and resolve the issue?

vii. What level of staffing is proposed? Will there be an operator available 24/7 to respond to system issues?

viii. What level of redundancy is proposed for the plant programmable logic controller (PLC) to ensure continuous control of the system? In the event of a control system failure, can the system be run manually?

ix. What resiliency measures are proposed to reduce the risk posed by:

- fire
- earthquake
- flooding due to rainfall event
- flooding due to sea level rise / high tide events
- flooding due to major leak in energy centre (ex. failed pipe, gasket, or relief valve)
- vandalism
- terrorism
- cyber attack
H. Energy Centre Siting

Referring to subsection “f” of the Specific Requirements (Part B, section 3.0), identify the proposed site for energy generation and demonstrate the viability of the site with the following:

i. Proximity of the site to the NEU distribution pipe network in NEFC:
   - Identify the distance between the site for energy generation and the NEU Phase 1 NEFC distribution network (refer to Figure 2).
   - Identify a viable routing for connecting to the NEU distribution network. Include for the cost of installing the NEU distribution pipe as part of the energy generation financial pro forma using a unit rate of $5,000 per trench meter.

ii. Security over the site:
   - Describe the existing arrangement in place for utilizing the site (ownership, option to purchase, etc) and the associated level of control the Proponent has over the site
   - Who is the current owner of the site and what is the Proponent’s relationship with the owner?
   - Is the proposed energy centre an addition to an existing building or a new build?
   - What conditions or dependencies exist before proceeding with the project at the proposed site? Is this subject to any permitting and zoning requirements?
   - Identify all siting risks

iii. Technical feasibility:
   - Provide a servicing plan identifying the routing for key utilities, considering utility corridor availability for long utility runs
   - What is the elevation of the site? Will the plant be above/below grade? What is the risk for flooding and what mitigations will be in place.
   - Identify any technical risks with siting the energy generation at the site identified

I. Temperature of Energy Supply

Referring to subsection “g” of the Specific Requirements (Part B, section 3.0), describe the supply temperature that can be delivered based on the proposed energy supply. Confirm the ability to operate efficiently at the temperature reset provided and the ability to handle changes in the temperature set point when operator intervention is required. How dependent is the energy supply efficiency on the supply temperature set point?

J. Interface Between Distribution Network and Energy Supply

Referring to section “h” of the Specific Requirements (Part B, section 3.0), describe how the proposed energy supply would interface with the City’s distribution network. Provide a sketch of the proposed interface identifying the boundaries of ownership and a drawing showing the dedicated
space provided for NEU distribution equipment. Outline how the approach meets the City requirements of:

i. Accepting the system water and heating it to the specified temperatures
ii. Remote and local City control over the flow of energy entering the distribution network
iii. Remote and local City control over the supply temperature set point
iv. Remote and local City control over the distribution system flowrate
v. Space and provisions for NEU distribution equipment (pumps, thermal expansion tanks, and controls) including electrical feeds and backup power supply

Is the proposed energy supply hydraulically separated from the distribution network? If not, how will clear boundaries of ownership be maintained?

K. Safety

Referring to section “i” of the Specific Requirements (Part B, section 3.0), describe how the Proposal will ensure a safe energy supply. Identify any safety risks or hazards inherent to the proposed energy supply and the approach to mitigate the risks. In addition, specify the anticipated TSBC plant registration classification and associated staffing levels. Are there any anticipated risks around TSBC approval based on the proposed energy supply?

L. Regulatory

Referring to section “j” of the Specific Requirements (Part B, section 3.0), outline the Proponent’s ability to successfully achieve the required regulatory approvals and the proposed approach for navigating BCUC regulation or exemption. Include the following:

i. Is the energy supply subject to BCUC approval? Will a BCUC exemption be pursued?
ii. Outline the anticipated regulatory process and strategy for achieving regulatory approval or exemption. What does the Proponent require from the City to support this approach?
iii. Is the Proposal likely to generate public opposition? What are the plans for engaging and consulting with the public?
iv. Provide a timeline for the regulatory requirements
v. Provide examples of past BCUC regulatory experience

M. Other Environmental Impacts

Referring to subsection “k” of the Specific Requirements (Part B, section 3.0), identify all environmental impacts introduced by the project and the mitigations that will be in place to minimize the impacts. At a minimum, the following should be considered: air quality, noise/vibrations, water consumption, wastewater discharge, soil & groundwater impacts, and traffic impacts.

N. Feasibility
Referring to subsection “l” of the Specific Requirements (Part B, section 3.0), demonstrate the projects feasibility by identifying risks and a strategy for how those risks will be addressed/mitigated. At a minimum, the following risks should be considered: technological, fuel supply security, regulatory approvals (BCUC, TSBC), permitting, funding, public acceptance, construction/implementation, schedule delays, operational reliability, and environmental performance.

O. Alignment with Energy Centre Guidelines

Referring to subsection “m” of the Specific Requirements (Part B, section 3.0), describe how the proposed energy supply conforms to the requirements outlined in the City’s Energy Centre Guidelines (refer to the City Provided Document ii: NEU Energy Centre Guidelines):

i. Air Quality

ii. Neighbourhood Fit

- What considerations are being made to ensure the proposed energy centre integrates in with the neighbourhood?
- Based on the proposed location and technology proposed, what is the potential for impacts such as traffic, noise, and odour to the neighbourhood

iii. Sustainability of Fuel Sources

iv. Community Engagement

- What approach will be taken to engage with the public to ensure the project will be accepted by the local community

P. Innovation and Alternative Approaches

Notwithstanding any other provision hereof, the City may consider value-creating Proposals that derogate from the Requirements if it results in significant reductions in the cost of energy or improvements in system efficiency/environmental performance. In addition to proposing services which meet all the Requirements, the Proponent is encouraged to offer alternative solution(s) and/or innovative approach(es) to the City’s Objectives and Requirements. Alternative solution(s) and/or innovative approach(es) should be identified as options to the original Proposal and described in a Section clearly titled Alternative Solutions & Innovations. Any pricing impact of the option(s) should also be provided.

In addition to the core Requirements, the City also places value on projects that offer:

i. The potential for addition low-carbon energy supply once the NEFC is interconnected to the existing NEU network which could enable broader system carbon reduction and system resiliency objectives.

ii. Carbon reductions and environmental improvements beyond the confines of the required energy supply.

iii. Secondary energy supplies that meet partial energy demands by utilizing local waste heat resources.
Q. Supplier Diversity

Please note that these Supplier Diversity questions are *OPTIONAL* and will not form part of the evaluation of this RFP. Proponent’s answers to Supplier Diversity questions are for information gathering purposes only and will be kept confidential in accordance with the Legal Terms and Conditions of this RFP.

In the space below, indicate the Proponent’s company profile with regards to social value and economic inclusion supporting equity, diversity, inclusion and reconciliation, including social/environmental certifications, workforce diversity and/or if owned/controlled by an equity-seeking demographic (including but not limited to non-profit, cooperative, Women, Indigenous Peoples, Ethno-cultural People (minorities, newcomers, immigrants), persons with disabilities or LGBTQ+ people).

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<th>Majority owned/controlled by:</th>
<th>Workforce Diversity:</th>
<th>Social / Environmental Certifications</th>
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<tr>
<td>Women</td>
<td>% Women</td>
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<tr>
<td>Indigenous Peoples</td>
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<td>BuySocial</td>
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<tr>
<td>Non-Profit/Charity (Social Enterprise)</td>
<td>% Ethno-cultural People</td>
<td>Supplier Diversity Certification</td>
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<tr>
<td>Coop</td>
<td>% People with Disabilities</td>
<td>Fairtrade</td>
</tr>
<tr>
<td>Community Contribution Corporation (3C/CCC)</td>
<td>% LGBTQ+</td>
<td>Green Business Certification (ie. LEED, ClimateSmart)</td>
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<tr>
<td>Ethno-cultural Persons</td>
<td>% Other: please indicate</td>
<td>Other: please indicate</td>
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<tr>
<td>People with Disabilities</td>
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<td>LGBTQ+</td>
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<td>Other: please indicate</td>
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END OF APPENDIX 2
APPENDIX 3
COMMERCIAL PROPOSAL

Proponent to provide proposed pricing and payment terms, which should be in accordance with Part A, Section 7.0 of the RFP and the proposed rate structure and risk allocation (refer to the City Provided Document i: Proposed Rate Structure and Risk Allocation) as well as any other sections of the RFP imposing requirements as to pricing.

0 - Commercial Proposal must be submitted in Excel format and as a separate file to the entire Proposal.

The Commercial Proposal must consist of two submissions:

1. Commercial Proposal Worksheet

Proponent to complete the Microsoft Excel spreadsheet provided by the City titled “Commercial Proposal Worksheet” available on the FTP for Proponents.

2. Financial Pro Forma

Proponent to submit a financial pro forma completed in Microsoft Excel detailing all the inputs, outputs and assumptions used to arrive at the Commercial Proposal rates. The pro forma must detail all the items contributing to the cost of supplying thermal energy to the City on a monthly basis for the term of the Agreement. At a minimum the financial pro forma must include the following:

i. Key assumptions and model inputs (such as fuel cost forecast, energy generation efficiency, capital costs, staffing costs, non-fuel operating costs, cost of capital, return on investment)

ii. Energy model providing monthly inputs and outputs by defining equipment efficiency, equipment dispatch, fuel inputs, thermal energy outputs, carbon intensities, carbon emissions.

iii. Capital spend forecast

iv. Energy generation costs
   - Fuel costs
   - Non-fuel operating costs
   - Financing costs
   - Other costs

The pro forma must include functionality to enable the City to test the sensitivity of the pro forma assumptions under different scenarios. To enable this, key assumptions should be presented in a separate tab and changes to the assumption must flow through the spreadsheet.

☐ By colouring in this box, the Proponent hereby confirms that the above Commercial Proposal is based on the payment of wages to employees of the Proponent and Subcontractors that comply with the City’s Living Wage Policy as described in Section 10.0 of Part A and in the Form of Agreement attached hereto as Part D.
APPENDIX 4
CERTIFICATE OF EXISTING INSURANCE

Appendix 4 is to be duly completed and signed by the Proponent's insurance agent or broker as evidence of its existing insurance, along with a letter from its insurance broker or agent indicating whether or not (and, if not, then to what extent) it will be able to comply with the insurance requirements set out in the Form of Agreement, should the Proponent be selected as a successful Proponent. (Any successful Proponent will also be required to provide proof of the satisfaction of all insurance requirements prior to or concurrently with the City entering into any Agreement.)

Use the attached insurance certificate form.
## Appendix 4

### Cert of Existing Insurance

**Section 2 through 8 – to be completed and executed by the Insurer or its Authorized Representative**

1. **THIS CERTIFICATE IS ISSUED TO:** City of Vancouver, 453 W 12th Avenue, Vancouver, BC, V5Y 1V4 and certifies that the insurance policy (policies) as listed herein have been issued to the Named Insured and is/are in full force and effect.

2. **NAMED INSURED** (must be the same name as the proponent/bidder and is either an individual or a legally incorporated company)

   **BUSINESS TRADE NAME** or **DOING BUSINESS AS**

   **BUSINESS ADDRESS**

   **DESCRIPTION OF OPERATION**

3. **PROPERTY INSURANCE (All Risks Coverage including Earthquake and Flood)**

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<td>Contents and Equipment $</td>
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<td>POLICY PERIOD From</td>
<td>to</td>
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4. **COMMERCIAL GENERAL LIABILITY INSURANCE (Occurrence Form)**

   Including the following extensions:

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<th>Limits of Liability (Bodily Injury and Property Damage Inclusive)</th>
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<td>√ Property Damage including Loss of Use</td>
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<td>√ Products and Completed Operations</td>
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<td>√ Cross Liability or Severability of Interest</td>
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<td>√ Employees as Additional Insureds</td>
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<td>√ Blanket Contractual Liability</td>
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5. **AUTOMOBILE LIABILITY INSURANCE** for operation of owned and/or leased vehicles

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<td>POLICY PERIOD From</td>
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   *If vehicles are insured by ICBC, complete and provide Form APV-47.

6. **UMBRELLA OR EXCESS LIABILITY INSURANCE**

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7. **PROFESSIONAL LIABILITY INSURANCE**

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<td>POLICY NUMBER</td>
<td>Per Occurrence/Claim $</td>
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<td>POLICY PERIOD From</td>
<td>to</td>
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</tbody>
</table>

   *If the policy is in a “CLAIMS MADE” form, please specify the applicable Retroactive Date:

8. **OTHER INSURANCE**

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**SIGNED BY THE INSURER OR ITS AUTHORIZED REPRESENTATIVE**

**PRINT NAME OF INSURER OR ITS AUTHORIZED REPRESENTATIVE, ADDRESS AND PHONE NUMBER**

---

*Appendix 4 - Cert of Existing Insurance*
APPENDIX 5
PERSONAL INFORMATION CONSENT FORM(S)

Complete one copy of this Appendix 5 - Personal Information Consent Form(s), in the form set out below, for each key personnel for whom a CV or other information regarding employment history and qualifications has been included in the Proposal.

PERSONAL INFORMATION CONSENT FORM

Reference #PS20210169

Title: NEU: Thermal Energy Supply for Northeast False Creek

With the provision of my signature at the foot of this statement I, ____________________________
______________________________ (Print Name)

consent to the indirect collection from ____________________________
______________________________ (Print Name of Proponent) of my

personal information in the form of a work history, resume or summary of qualifications.

In consenting to this indirect collection, I understand that my personal information, so collected, will be
used by the City for the sole purpose of evaluating the submitted response to the above-noted procurement process. I understand further that my personal information, once collected by the City, will be handled by the City in accordance with the provisions of the (BC) Freedom of Information and Protection of Privacy Act.

_________________________________  _____________________________
Signature                        Date
APPENDIX 6
PROPOSED AMENDMENTS TO FORM OF AGREEMENT

Complete this Appendix 6 - Proposed Amendments to Form of Agreement in the form set out below by detailing any proposed amendments to the Form of Agreement attached as Part D. If no amendments to the Form of Agreement are proposed, state “none”. It is at the City's sole discretion whether or not these proposed amendments will be considered for the Form of Agreement.

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<th>Rationale and Benefit</th>
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APPENDIX 7
CONFLICTS; COLLUSION; LOBBYING

Complete this APPENDIX 7 - Conflicts; Collusion; Lobbying in the form set out below by setting out any exceptions to the declarations in Section 9 of the Legal Terms and Conditions attached as Appendix 1 to this Part C - Form of Proposal or indicate that there are no exceptions, as applicable.

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<tr>
<td>Exceptions to Declarations as to No Lobbying (Section 9.4 of Legal Terms and Conditions)</td>
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APPENDIX 8
PROOF OF WORKSAFEBC REGISTRATION

Attached as APPENDIX 8 to this Form of Proposal proof of valid WorkSafeBC registration.
PART D - FORM OF AGREEMENT

See attached.
THERMAL ENERGY PURCHASE AGREEMENT

City of Vancouver Neighbourhood Energy Utility

Low-Carbon Thermal Energy Supply for Northeast False Creek
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THERMAL ENERGY PURCHASE AGREEMENT

THIS AGREEMENT ("TEPA") is effective as of ________________, _________ (the “Effective Date”)

BETWEEN:

___________________ a _______________ ____________ under the laws of ______________ with its head office at ______

______________________________

("Seller")

AND:

CITY OF VANCOUVER, a municipal corporation continued under the Vancouver Charter, with its head office at 453 West 12th Avenue, Vancouver, BC V5Y 1V4

("Buyer").

WHEREAS:

A. The Buyer owns and operates the False Creek Neighbourhood Energy Utility, which supplies hot water for space heating, ventilation heating, and domestic hot water heating ("Thermal Energy") to buildings in the Northeast False Creek area of Vancouver, B.C. ("NEFC");

B. On March 16, 2020, the City issued Request for Expressions of Interest no. PS20200405 (the “RFEOI”), which invited interested parties to express their interest in generating low-carbon, renewable thermal energy in NEFC and selling it to the City;

C. Based upon the responses that the City received to the RFEOI, the City pre-qualified four parties, including the Seller. On ________, the City issued Request for Proposals No. PS20210169 (the “RFP”) to those four parties. From the proposals that the City received in response to the RFP, the City selected the Seller as its preferred proponent;

D. The Seller now wishes to sell to the Buyer, and the Buyer now wishes to purchase from the Seller, low-carbon, renewable thermal energy on the terms and conditions set forth in this TEPA; and

Now therefore, the Parties agree:

1. INTERPRETATION

1.1 Definitions
Schedule 1 sets out or references the definitions applicable to certain words and phrases used in this TEPA.

1.2 Schedules
Attached to and forming part of this TEPA are the following schedules:

- Schedule 1 - Definitions
- Schedule 2 - Seller’s Plant Description and Specifications
- Schedule 3 - Thermal Energy Rates
- Schedule 4 - Received System Water Energy Delivery Specifications
- Schedule 5 - Liquidated Damages
- Schedule 6 - COD Certificate
- Schedule 7 - Sample Form Performance Security
- Schedule 8 - Sample Form Development Progress Report
- Schedule 9 - Project Timeline
- Schedule 10 - Input Energy Plan
- Schedule 11 - Form of Section 219 Covenant, Statutory Right of Way, and Option to Purchase

1.3 Headings
The division of this TEPA into Articles, Sections, subsections, paragraphs, and schedules and the insertion of headings are for convenience of reference only and do not affect the interpretation of this TEPA.

1.4 Plurality and Gender
Words in the singular include the plural and vice versa and words importing gender include the masculine, feminine, and neuter genders, in each case as the context requires.

1.5 Additional Interpretive Rules
For the purposes of this TEPA, except as otherwise expressly stated:

(a) “this TEPA” means this TEPA as it may from time to time be supplemented or amended and in effect, and includes the schedules attached to this TEPA;

(b) the words “herein”, “hereof”, and “hereunder” and other words of similar import refer to this TEPA as a whole and not to any particular Article, Section, subsection, or other subdivision;

(c) the word “including” or “includes” is not limiting whether or not non-limiting language (such as “without limitation” or “but not limited to” or words of similar import) is used with reference thereto;

(d) the words “year” and “month” refer to a calendar year and a calendar month;

(e) any consent, approval, or waiver contemplated by this TEPA must be in writing and signed by the Party against whom its enforcement is sought, and may be
given, withheld, delayed, or conditioned in the unfettered discretion of the Party of whom it is requested;

(f) all rights and remedies of either Party under this TEPA are cumulative and not exclusive of any other remedies to which either Party may be lawfully entitled and either Party may pursue any and all of its remedies concurrently, consecutively, and alternatively;

(g) any notice required or permitted to be given, or other thing required or permitted to be done, under this TEPA on or before a day that is not a Business Day, will be deemed to be given or done when required or permitted hereunder if given or done on or before the next following Business Day.

2. **SUPPLY OF THERMAL ENERGY**

2.1 **Seller’s Plant**

The Seller will, at its own cost and expense and in compliance with the Project Standards and all of the terms and conditions of this TEPA,

(a) design, engineer, procure, fund, construct, install, commission, operate, and maintain the Seller’s Plant at the Site

(i) in accordance with Good Utility Practice; and

(ii) so that at all times during the Service Term it is capable of generating the Nominated Capacity stated in Schedule 4; and

(b) interconnect the Seller’s Plant to the Point of Reception and the Point of Interconnection.

2.2 **Supply of Thermal Energy**

(a) The Buyer will deliver System Water to the Seller at the Point of Reception up to the Maximum System Water Flowrate.

(b) The Seller will, at its own cost and expense and in compliance with the Project Standards and all of the terms and conditions of this TEPA, use the Input Energy to heat the Received System Water and deliver the Received System Water to the Buyer at the Point of Interconnection at the temperatures specified in Schedule 4.

2.3 **Buyer’s Distribution System Water Level**

(a) The Buyer will in its sole discretion maintain the appropriate level of System Water in the Buyer’s Distribution System in accordance with Good Utility Practice.

(b) The Seller will not add or remove System Water from the Buyer’s Distribution System without the consent of the Buyer.
3. **TERM**

3.1 **Term**

The term of this TEPA commences on the Effective Date and ends at 11:59 PM on the thirtieth anniversary of the COD (the “Term”), unless this TEPA is terminated or extend earlier in accordance with the terms of this TEPA.

3.2 **Service Term**

The Seller will deliver Received System Water to the Buyer at the Point of Interconnection at the temperatures stated in Schedule 4 starting on the COD and ending at 11:59 PM on the thirtieth anniversary of the COD (the “Service Term”), unless this TEPA is terminated earlier in accordance with the terms of this TEPA.

3.3 **Early Termination Option**

The Buyer may terminate this TEPA effective at:

(a) 11:59 PM on the tenth anniversary of the COD by giving written notice of termination to the Seller no later than three years before that date;

(b) 11:59 PM on the fifteenth anniversary of the COD by giving written notice of termination to the Seller no later than three years before that date;

(c) 11:59 PM on the twentieth anniversary of the COD by giving written notice of termination to the Seller no later than three years before that date; and

(d) 11:59 PM on the twenty-fifth anniversary of the COD by giving written notice of termination to the Seller no later than three years before that date.

If the Buyer terminates this TEPA pursuant to Section 3.3(a), then the Buyer will pay the Seller ___________. [Note to Draft: Amount to be inserted from Proposal.]

If the Buyer terminates this TEPA pursuant to Section 3.3(b), then the Buyer will pay the Seller ___________. [Note to Draft: Amount to be inserted from Proposal.]

If the Buyer terminates this TEPA pursuant to Section 3.3(c), then the Buyer will pay the Seller ___________. [Note to Draft: Amount to be inserted from Proposal.]

If the Buyer terminates this TEPA pursuant to Section 3.3(d), then the Buyer will pay the Seller ___________. [Note to Draft: Amount to be inserted from Proposal.]

3.4 **Term and Service Term Extensions**

Notwithstanding Section 3.1 and 3.2, if neither Party delivers notice to the other Party three years or more before the end of the Term and the Service Term, then the Term and the Service Term will extend for an additional five-year term, followed by successive five-year terms thereafter until the TEPA is terminated. At any time after the twenty-seventh anniversary of
COD, either Party may terminate this TEPA by providing the other Party with three years’ written notice.

4. **BCUC REGULATION**

4.1 **Regulatory Filing**

(a) The Seller will within six weeks after the Effective Date apply to the BCUC for all necessary Permits or an Exemption, as appropriate, for the (i) the Seller’s Plant; (ii) approval of this TEPA; and (iii) approval of the Thermal Energy Rates (the “BCUC Application”).

(b) Before submitting the BCUC Application, the Seller will deliver a draft to the Buyer for its review and comments and the Buyer will provide any comments it has to the Seller no later than twenty Business Days after receiving the draft.

(c) The Seller will incorporate the Buyer’s comments into the BCUC Application to the extend doing so is feasible.

(d) If the Buyer does not provide any comments within twenty Business Days, then the Buyer will be deemed to have no comments.

(e) If the Seller seeks the Buyer’s assistance with the BCUC Application, then the Buyer will provide the Seller with reasonable support for the BCUC Application.

4.2 **Regulatory Review Termination**

(a) If within 240 days after the Effective Date, the

(i) the Seller has not obtained an Exemption, or

(ii) the BCUC has not issued the necessary Permits referred to in Section 4.1(a) on terms acceptable to the Buyer in its sole discretion (“BCUC Acceptance”),

then the Buyer may terminate this TEPA by notifying the Seller in writing.

(b) If the Buyer terminates this TEPA in accordance with this Section 4.2, then the Buyer will return the Performance Security to the Seller within thirty days after the termination date. [Note to Draft: The Section 219 Covenant, Statutory Right of Way, and Option to Purchase would be discharged if the Buyer terminated the TEPA in accordance with Section 4.2, but the process for that occurring will be described in that document.]

4.3 **Regulatory Changes**

If at any time during the Service Term the BCUC orders changes to the Thermal Energy Rates, then either Party may terminate this TEPA by notifying the other Party in writing and specifying the date of termination in the notice.
4.4 Public Consultation

The Buyer may require the Seller to consult with and seek input from the public on the Seller’s Plant and the services described in this TEPA in a manner that the Buyer may determine in its sole discretion.

5. SELLER’S PLANT

5.1 Site

The Seller will construct the Seller’s Plant at the Site unless the Buyer consents in writing to a different site.

5.2 Ownership

The Seller will hold legal and beneficial title to the Site and the Seller’s Plant at all times during the Term. The Seller will not transfer or pledge legal or beneficial title to the Site, the Seller’s Plant, or any component of the Seller's Plant to any other legal entity, including an Affiliate, without the written consent of the Buyer.

5.3 Section 219 Covenant, Statutory Right of Way, and Option to Purchase

Concurrently with the execution of this TEPA, the Seller will execute in registrable form and deliver to the Buyer the Section 219 Covenant, Statutory Right of Way, and Option to Purchase. The Section 219 Covenant, Statutory Right of Way, and Option to Purchase will be registered on title to the Site in priority to any non-permitted encumbrances registered on title to the Site.

5.4 Seller’s Plant Design Specifications

(a) Without restricting the generality of Section 2.1, the Seller will, at its own cost and expense and in compliance with the Project Standards and all of the terms and conditions of this TEPA, design, engineer, procure, fund, construct, install, commission, operate, and maintain the Seller’s Plant, the Point of Reception, and the Point of Interconnection at the Site in accordance with the design specifications set out in Schedule 2 and Good Utility Practice.

(b) The Seller will make Commercially Reasonable Efforts to fulfil its obligations under this Section in accordance with the Project Timeline, as amended from time to time by mutual consent of the Parties.

5.5 Development of the Seller’s Plant

(a) The Seller will commence the work described in Sections 2.1 and 5.4 no later than thirty days after BCUC Acceptance or Exemption, whichever is applicable.

(b) After the Seller commences the work described in Sections 2.1 and 5.4, the Seller will diligently work to complete the Project in accordance with the Project Standards and Project Timeline.
(c) The Seller will design and install all equipment and material in the Seller’s Plant to conform to the Project Standards and Good Utility Practice.

5.6 Permits

Subject to Section 4.1 for any Permits issued by the BCUC, the Seller will obtain, comply with, and maintain at all times during the Term all of the Permits that are necessary to perform its obligations under the TEPA. The Seller will on request promptly provide to the Buyer copies of all Material Permits.

5.7 Development Reports

On each January 1, April 1, July 1 and October 1 after the Effective Date and continuing until COD, the Seller will deliver to the Buyer a report in the form specified in Schedule 8 describing the progress of development of the Project.

6. COMMERCIAL OPERATION DATE

6.1 Guaranteed COD

(a) The Seller will achieve the Commercial Operation Date before the Guaranteed Commercial Operation Date plus Force Majeure Days.

(b) If, any time after first receiving a Nominated Capacity Increase Notice from the Buyer, the Seller has any reason to believe that it will not achieve the Commercial Operation Date before the Guaranteed Commercial Operation Date plus Force Majeure Days, then the Seller will immediately notify the Buyer in writing.

(c) The Buyer will not deliver the first Nominated Capacity Increase Notice before __________.

6.2 Requirements for COD

Subject to Section 6.5, the Commercial Operation Date will occur at 24:00 PPT on the day on which all of the following conditions have been satisfied:

(a) the Buyer has delivered the first Nominated Capacity Increase Notice to the Seller;

(b) the Seller has obtained all Material Permits and all of the Material Permits are in full force and effect;

(c) the Seller’s Plant has generated Output Energy in compliance with all Project Standards and Material Permits for 72 continuous hours and the Seller has delivered to the Buyer trended data showing that the Seller has consistently delivered Received System Water heated to the temperatures stated in Schedule 4 to the Buyer at the Point of Interconnection;

(d) the Seller is not:
(i) Bankrupt or Insolvent;

(ii) in default of any payment obligation or requirement to post security under this TEPA;

(iii) in material default of any of its other covenants, representations, warranties, or obligations under this TEPA (other than those defaults for which the Seller has paid all LDs owing under this TEPA); or

(iv) in material default under any Material Permit; and

(e) the Seller has delivered to the Buyer:

(i) copies of all Material Permits in a form sufficient to demonstrate the Seller’s compliance with Section 6.2(b);

(ii) data from the Seller’s Meter sufficient to demonstrate compliance by the Seller with Section 6.2(c);

(iii) a hydrostatic pressure test report;

(iv) a flushing report;

(v) a plant commissioning report demonstrating output up to the Nominated Capacity;

(vi) an energy meter calibration certificate for the Seller’s Meter;

(vii) a demonstration of the Buyer’s ability to remotely monitor and control the set points and data points specified in the Project Standards; and

(viii) keys and access codes that allow the Buyer to enter the Seller’s Plant.

Within 30 days after the Seller satisfies the last of the above requirements, the Seller will deliver to the Buyer a COD Certificate, the Long Term Operating Plan, and the Annual Operating Plan for the period from COD to the next December 31 following COD or, if COD occurs after September 30, for the period from COD to December 31 in the year following COD. If the Seller satisfies all of the above requirements but does not deliver a COD Certificate, the Long Term Operating Plan, and the Annual Operating Plan within 30 days after the last of the above requirements is satisfied, then COD will occur at 24:00 PPT on the day the Seller delivers the last of the foregoing documents to the Buyer. The foregoing is subject to Section 6.4.

6.3 Buyer Right to Observe

The Seller will notify the Buyer not less than 10 days before the commencement of any proposed testing under Section 6.2(c) and the Buyer may attend and observe each such test. The Seller will also notify the Buyer in accordance with this Section 6.3 of any test that commences more than 72 hours after the end of an unsuccessful test under Section 6.2(c).
6.4 **COD Disputes**

(a) The Buyer may, by notice to the Seller within 25 Business Days after the date of delivery to the Buyer of a COD Certificate, contest the COD Certificate on the grounds that the Seller has not satisfied the requirements for COD in Section 6.2.

(b) Pending the final resolution of any dispute relating to whether the requirements for COD have been satisfied, the Seller will not be required to remit any COD Delay LDs, provided that if the final determination is that COD has not been achieved, the Seller will forthwith remit COD Delay LDs in accordance with Section 11.1 calculated from the Guaranteed COD plus Force Majeure Days, together with applicable interest in accordance with Section 11.2(b).

(c) If the Buyer does not deliver a notice to the Seller contesting the COD Certificate within the time specified in this Section, COD will be deemed to have occurred as provided in Section 6.2.

6.5 **Early COD**

Except with the Buyer’s prior consent, the Seller will not achieve COD earlier than 30 days before the Guaranteed COD.

7. **OPERATION OF SELLER’S PLANT**

7.1 **Operations**

(a) The Seller will employ and contract with qualified and experienced individuals to operate the Seller’s Plant. The Seller will operate and maintain the Seller’s Plant and will cause the Seller’s Plant to be operated and maintained in compliance with the Project Standards and Good Utility Practice.

(b) The Seller will use Fuel to heat the Received System Water to the temperatures stated in Schedule 4. The Seller will be responsible for procuring all of the Fuel necessary to fulfil its obligations under this TEPA, but the Buyer may require the Seller to use a certain source of Fuel in the Buyer’s sole discretion.

(c) The Seller will comply in all material respects with the Input Energy Plan unless it receives the Buyer’s consent to deviate from the Input Energy Plan.

7.2 **Energy Conversion Ratio**

(a) When the Seller uses the Input Energy to heat the Received System Water and deliver the Received System Water to the Buyer at the Point of Interconnection at the temperatures specified in Schedule 4 pursuant to Section 2.2, the Seller will for each calendar month of the Service Term convert the Input Energy into Output Energy at an energy conversion ratio of at least the Minimum Efficiency.

(b) If the Seller does not in a calendar month during the Service Term convert the Input Energy into Output Energy at the Minimum Efficiency or higher, then the Seller will pursuant to Schedule 3 be responsible for the cost of any additional Input Energy the Seller used to fulfil its obligations under Section 2.2.
7.3 Carbon Intensity

During each calendar year of the Service Term, the Seller will produce no more than the maximum number of Carbon Dioxide Equivalents stated in Schedule 4 for every one MWh of Output Energy that the Seller delivers to the Buyer at the Point of Interconnection.

7.4 Records

The Seller will prepare and maintain all Records or duplicates of such Records at the Seller’s Plant or, following the expiry of the Term or the earlier termination of this TEPA, at such other location as may be agreed in writing between the Parties, for a period of not less than seven years from the date on which each such Record is created.

7.5 Reports to the Buyer

The Seller will deliver the following to the Buyer:

(a) Input Energy Plan

   (i) Not less than 60 days before each successive fifth anniversary of COD (in each case the “Five-Year Anniversary”), the Seller will deliver to the Buyer an Input Energy Plan for the succeeding five-year period containing information of the type and detail set out in the extant Input Energy Plan, any proposed variations from the extant Input Energy Plan, and such other planning data relating to the Input Energy as the Buyer may reasonably request. Subject to the Buyer’s prior consent, such replacement Input Energy Plan will replace the extant Input Energy Plan effective as of the Five-Year Anniversary and immediately following the filing of the replacement Input Energy Plan with the Buyer.

   (ii) The Seller may revise the Input Energy Plan at any time with the Buyer’s consent. The Seller will give prompt and due consideration to any revisions to the Input Energy Plan that the Buyer may reasonably request.

(b) Monthly Input Energy Report - Not less than 10 days following the end of each calendar month during the Service Term, the Seller will deliver to the Buyer a report setting out, with reference to the Input Energy Plan:

   (i) a description of the source and volume of Input Energy consumed in that calendar month, together with such additional information relating to the Input Energy as the Buyer may reasonably require, including third party invoices for the Input Energy purchased by the Seller and used to generate Output Energy; and

   (ii) a report on all material variances in that calendar month between the Input Energy Plan and the Seller’s actual procurement and consumption of the Input Energy.

(c) Annual Input Energy Report - Not less than 60 days following the end of each calendar year during the Service Term, the Seller will deliver to the Buyer a report setting out, with reference to the Input Energy Plan:
(i) a description of the source and volume of the Input Energy consumed in that calendar year, together with such additional information relating to the Input Energy as the Buyer may reasonably require; and

(ii) a report on all material variances in that calendar year between the Input Energy Plan and the Seller’s actual procurement and consumption of the Input Energy.

(d) **Monthly Carbon Intensity Report** - Not less than 10 days following the end of each calendar month during the Service Term, the Seller will deliver to the Buyer a report setting out, with reference to the Input Energy Plan and separated out by each type of Fuel that the Seller uses for Input Energy:

(i) a description of the quantity of Input Energy that the Seller used during that calendar month;

(ii) a description of the quantity of Output Energy that the Seller generated and delivered to the Buyer at the Point of Interconnection during that calendar month;

(iii) a description of the quantity of Carbon Dioxide Equivalents that the Seller produced during that calendar month; and

(iv) the Carbon Intensity for that calendar month.

(e) **Annual Carbon Intensity Report** - Not less than 60 days following the end of each calendar year during the Service Term, the Seller will deliver to the Buyer a report setting out, with reference to the Input Energy Plan and separated out by each type of Fuel that the Seller uses for Input Energy:

(i) a description of the quantity of Input Energy that the Seller used during that calendar year;

(ii) a description of the quantity of Output Energy that the Seller generated and delivered to the Buyer at the Point of Interconnection during that calendar year;

(iii) a description of the quantity of Carbon Dioxide Equivalents that the Seller produced during that calendar year;

(iv) the Carbon Intensity for that calendar year; and

(v) proof that a third party qualified to assess a carbon intensity report has verified the information contained in the report.

(f) **Long Term Operating Plan** - By the date specified in Section 6.2, the Seller will provide to the Buyer an operating plan for the Seller’s Plant for a five-year period commencing at COD and ending on December 31 of the year in which the fifth anniversary of COD occurs, including the long-term major maintenance schedule. On or before September 30 in each year during the Service Term after the year in which COD occurs, the Seller will provide the Buyer with an updated plan for
the five-year period commencing on the next January 1. The Long Term Operating Plan will be consistent with Good Utility Practice and is intended to assist the Buyer in planning activities;

(g) **Annual Operating Plan** - On or before September 30 in each year during the Term, the Seller will provide to the Buyer an operating plan for the Seller’s Plant for the 14-month period commencing on the next November 1, including any necessary update to the extant Annual Operating Plan, which may be included in the Long Term Operating Plan. The Annual Operating Plan will be consistent with Good Utility Practice and is intended to assist the Buyer in planning activities;

(h) **Notice of Outages** - The Seller will promptly notify the Buyer of any Outage, or any anticipated Outage, of the Seller’s Plant. Any notice under this Section will include a statement of the length of the Outage, the cause of the Outage, the corrective action taken or the proposed corrective action, and the Seller’s estimate of the expected duration of the Outage, and the Seller will promptly communicate such information to the Buyer in such manner as the Buyer may instruct the Seller from time to time;

(i) **Notice of Buyer Termination Event** - The Seller will notify the Buyer promptly of any Buyer Termination Event or of any material risk that a Buyer Termination Event or any default by the Seller may occur;

(j) **Reporting on Environmental Attributes** - The Seller will within 10 Business Days after a request from the Buyer, provide to the Buyer:

(i) all information the Buyer requires to verify the quantity of Output Energy generated by the Seller’s Plant and the existence, nature, and quantity of Environmental Attributes;

(ii) any information required for the purposes of any Environmental Attribute or energy tracking system as directed by the Buyer; and

(iii) any other information the Buyer requires to enable the Buyer or its Affiliates to obtain or realize the full benefit of the Environmental Attributes, including sales of the Environmental Attributes to third parties.

(k) **Reporting on Environmental Impacts** - The Seller will deliver to the Buyer not later than February 28 in each year after COD, or in accordance with any other periodic reporting requirement prescribed by Applicable Laws or terms and conditions of Permits, environmental impact reports that comply with this Section, and any reasonable written guidelines issued by the Buyer from time to time relative to the form and content of such reports. Environmental impact reports will provide annual data concerning the impact of the operation of the Seller’s Plant on the environment, including GHG emissions, nitrous oxide emissions, sulphur oxide emissions, water consumption, sewer discharge volume, and the air and water quality, odour, noise, land use, biota, and habitat impacts of the Seller’s Plant. Data relative to GHG emissions may include Input Energy
use by type, heat rate, and energy content of the Input Energy and other relevant data.

7.6 Exemption from Utility Regulation

If the Seller obtains an Exemption, the Seller will not take or omit to take any action that would cause the Seller to cease to be exempt from regulation as a “public utility” as defined in the UCA for the Seller’s Plant, the delivery of Received System Water heated to the temperatures stated in Schedule 4 to the Point of Interconnection, and the performance by the Seller of its obligations under this TEPA.

8. CHANGES

8.1 Changes

The Buyer may request changes to this TEPA by delivering a Change Request to the Seller. The Seller will within twenty Business Days after receipt of a Change Request deliver a Change Order Notice to the Buyer. If within twenty Business Days of its receipt of the Change Order Notice the Buyer signs the Change Order Notice and delivers it to the Seller, then, subject to Section 8.7, this TEPA will be changed according to the terms of the Change Order Notice.

8.2 Changes to Seller’s Plant

The Seller will not make any material change to the Seller’s Plant without the prior consent of the Buyer.

8.3 Increase in Nominated Capacity

(a) The Buyer may increase the Nominated Capacity by delivering a Nominated Capacity Increase Notice and an updated Schedule 4 to the Seller.

(b) If, any time after receiving a Nominated Capacity Increase Notice from the Buyer, the Seller has any reason to believe that it will not be capable of generating the increased Nominated Capacity by the date stated in the Nominated Capacity Increase Notice, then the Seller will immediately notify the Buyer in writing.

(c) If the Seller does not achieve the increased Nominated Capacity by the date stated in the Nominated Capacity Increase Notice, the Seller will pay the Buyer liquidated damages in accordance with Section 16.2 and Schedule 5.

(d) The Buyer will deliver an updated Schedule 4 to the Seller prior to the date on which the Seller’s Plant will be capable of generating the increased Nominated Capacity and accepting the increased Maximum System Water Flowrate.

8.4 Decrease in Nominated Capacity

(a) The Buyer may request a decrease to the Nominated Capacity by delivering a Nominated Capacity Decrease Notice to the Seller.
If the Seller receives a Nominated Capacity Decrease Notice from the Buyer, the Seller will make Commercially Reasonable Efforts to locate a new purchaser for the difference from the Nominated Capacity to the proposed decreased Nominated Capacity.

If the Seller successfully locates a new purchaser for the difference from the Nominated Capacity to the proposed decreased Nominated Capacity, then the Seller will notify the Buyer no later than thirty days prior to the date that the Seller’s Plant will be capable of delivering thermal energy to the new purchaser by executing the Nominated Capacity Decrease Notice and delivering it to the Buyer.

The Buyer will deliver an updated Schedule 4 to the Seller prior to the date on which the Seller’s Plant is capable of delivering thermal energy to the new purchaser.

8.5 Change of Fuel

(a) The Buyer may change the Fuel by delivering a Fuel Switch Notice to the Seller.

(b) The Seller may reject the Fuel Switch Notice if changing the Fuel would require the Seller to make physical changes to the Seller’s Plant.

(c) If the change of Fuel would not require the Seller to make physical changes to the Seller’s Plant, then the Seller will accept the Fuel Switch Notice by signing it and returning it to the Buyer no later than thirty days after receiving it from the Buyer.

(d) If the Seller accepts the Fuel Switch Notice, then, subject to Section 8.8, its acceptance of the Fuel Switch Notice will amend the TEPA in accordance with the terms of the Fuel Switch Notice.

8.6 Change of Temperature

(a) The Buyer may change the temperatures stated in Schedule 4 by delivering a Temperature Change Notice and an updated Schedule 4 to the Seller.

(b) If, any time after receiving a Temperature Change Notice from the Buyer, the Seller has any reason to believe that it will not be capable of delivering Received System Water to the Point of Interconnection at the new temperatures stated in Schedule 4 by the date stated in the Temperature Change Notice, then the Seller will immediately notify the Buyer in writing.

(c) If the Seller does not deliver the Received System Water to the Point of Interconnection at the new temperatures stated in Schedule 4 by the date stated in the Temperature Change Notice, the Seller will pay the Buyer liquidated damages in accordance with Section 16.2 and Schedule 5.
8.7 Regulatory Approval for Changes

If any of the changes to the TEPA described in this Article 8 require the approval of the BCUC, the Seller will within six weeks after the date the Parties agree to the changes apply to the BCUC, as necessary for approval of the amended TEPA and, if applicable, the Thermal Energy Rates.

8.8 Changes in Force and Effect

(a) If the changes to the TEPA described in this Article 8 do not require the approval of the BCUC, then the Parties will amend the TEPA, as necessary, to give effect to the changes to which they agreed.

(b) If the changes to the TEPA described in this Article 8 require the approval of the BCUC, then those changes will go into effect upon approval by the BCUC or the date provided in the notice, whichever is later.

(c) If the BCUC does not approve changes to the TEPA that require the BCUC’s approval and to which the Parties have agreed, then those changes to the TEPA will be of no force and effect and the TEPA will revert to its previous terms.

9. RATES

9.1 Thermal Energy Rates

In consideration for the construction and the operation of the Seller’s Plant, the delivery of Received System Water heated to the temperatures stated in Schedule 4 to the Point of Interconnection, and all of the Seller’s other obligations under this TEPA, the Buyer will pay the Seller the Thermal Energy Rates.

9.2 Changes to Thermal Energy Rates

The Thermal Energy Rates are fixed. The Parties will only adjust the Thermal Energy Rates in accordance with the terms of Schedule 3.

10. PURCHASE AND SALE OBLIGATIONS

10.1 Non-Exclusivity

The Buyer may generate thermal energy or may purchase thermal energy generated by a party other than the Seller.

10.2 Custody, Control, and Risk of Energy

(a) Custody, control, risk of, and title to all thermal energy generated by the Seller and delivered to the Buyer passes from the Seller to the Buyer at the Point of Interconnection.

(b) The Seller will deliver all thermal energy to the Buyer under this TEPA free and clear of all liens, claims, charges, and encumbrances. The Seller will be responsible for all transmission losses and costs, if any, relating to the
transmission of thermal energy from the Seller’s Plant to the Point of Interconnection.

10.3 Test Energy Obligations

The Buyer will not be required to pay the Seller the Input Energy Charge for the Received System Water that the Seller heats to the temperatures described in Schedule 4 and delivers to the Point of Interconnection in accordance with Section 6.2(c).

10.4 Limitations on Delivery and Acceptance Obligations

(a) Limitations on Delivery Obligations - The obligations of the Seller under Section 2.2 are subject to:

(i) Force Majeure invoked by the Seller in accordance with Article 15; and

(ii) disconnection of the Seller’s Plant from the Buyer’s Distribution System for reasons that are not at all attributable to the Seller or the Seller’s Plant.

(b) Limitations on Acceptance Obligations - The obligations of the Buyer under Section 2.2 are subject to:

(i) Force Majeure invoked by the Buyer in accordance with Article 15;

(ii) disconnection of the Seller’s Plant from the Buyer’s Distribution System for reasons that are not at all attributable to the Buyer; and

(iii) the right of the Buyer to terminate the TEPA in accordance with Article 18.

11. STATEMENTS AND PAYMENT

11.1 Statements

(a) In each month after the first month during the Service Term that the Seller delivers Output Energy to the Buyer at the Point of Interconnection, the Seller will, by the twenty-fifth day of the month, deliver to the Buyer a statement for the preceding month. The Seller will confirm the statement to any billing guideline issued by the Buyer pursuant to Section 11.4 and will indicate on the statement, among other things, (i) the amount of Output Energy that the Seller delivered to the Buyer at the Point of Interconnection in the previous month, (ii) the amount of Input Energy and associated third party invoices for the Input Energy that the Seller uses (iii) the energy conversion ratio from Input Energy to Output Energy (iv) any LDs payable by the Seller to the Buyer, and (v) the amount of money that the Buyer owes the Seller for the previous month, broken down by Capacity Charge, Input Energy Charge, and Non-Energy Operating Cost Charge. To the extent not previously delivered pursuant to the requirements of this TEPA, the Seller will include on each statement sufficient data for the Buyer to satisfy itself that the statement is accurate.
11.2 Payment

(a) Within 30 days after receipt of a statement delivered pursuant to Section 11.1(a), but subject to Sections 11.5 and 17.6, the Buyer will pay to the Seller the amount set out in the statement, except to the extent the Buyer in good faith disputes all or part of the statement, in which case the Buyer will notify the Seller in compliance with Section 11.1(b). If the Buyer disputes any portion of a statement, the Buyer must nevertheless pay the undisputed net amount payable by the Buyer pursuant to the statement.

(b) Any amount required to be paid in accordance with this TEPA, but not paid by either Party when due, will accrue interest at an annual rate equal to the Prime Rate plus two percent, compounded annually. Any disputed amount that is found to be payable will be deemed to have been due within thirty days after the date of receipt of the statement that included or should have included the disputed amount.

11.3 Taxes

All dollar amounts in this TEPA do not include any value-added, consumption, commodity, or similar taxes, including GST and PST, which, if applicable, will be borne by the Buyer and added to each statement.

11.4 Billing Guideline

The Seller will comply with any reasonable written billing guideline, including any requirements for the form of statements pursuant to Section 11.1, issued by the Buyer, provided that any such billing guideline will not vary the express terms of this TEPA. If there is any conflict between a billing guideline and this TEPA, this TEPA will govern.

11.5 Set-off

If the Buyer and the Seller each owe the other an amount under this TEPA in the same month, then the amounts will be aggregated and the Parties may discharge their obligations to pay through netting, in which case the Party, if any, owing the greater aggregate amount will pay to the other Party the difference between the amounts owed, provided that:

(a) this Section 11.5 applies only to:

(i) the Thermal Energy Rates owed by the Buyer to the Seller;

(ii) any LDs owing by the Seller to the Buyer; and
(iii) any Termination Payment or Final Amount owing by either Party to the other Party.

(b) no LD, Termination Payment, or Final Amount will be added to or deducted from the Thermal Energy Rates unless the LD, Termination Payment, or Final Amount remains unpaid fifteen days after the Party owed the LD, Termination Payment, or Final Amount gives notice to the other Party.

Except as otherwise expressly provided in this TEPA, each Party reserves all rights, counterclaims, and other remedies and defences that such Party has or may have arising from or related to this TEPA.

12. METERING

12.1 Installation of Seller’s Meter

The Seller will, at its sole cost and expense, install, operate, and maintain the Seller’s Meter at all times during the Service Term. The Seller will equip the Seller’s Plant with electronic meters and remote monitoring capability and that it makes real-time data available to the Buyer at all times during the Service Term. The Seller will install the Seller’s Meter at a location approved by the Buyer that will allow the Buyer to measure the Output Energy delivered to the Point of Interconnection independent of any other generation equipment or facilities. The Seller’s Meter will be:

(a) a utility-grade meter approved and certified by Measurement Canada and includes:

   (i) a magnetic flow meter;

   (ii) energy calculator; and

   (iii) resistance temperature detectors to measure the temperature of the Received System Water at the Point of Reception and the Point of Interconnection;

(b) capable of remote interrogation; and

(c) sufficient to accurately meter the quantity of Output Energy generated at the Seller’s Plant and delivered to the Point of Interconnection.

12.2 Operation of Seller’s Meter

(a) The Parties will use the Seller’s Meter for the purposes of calculating the amount of Test Energy and Output Energy that the Seller delivers to the Buyer at the Point of Interconnection. If the Seller’s Meter fails, the Parties will, until the Seller’s Meter has been repaired or replaced, rely upon information provided by any back-up meter that the Buyer installs pursuant to Section 12.3. If the Seller’s Meter fails and there is no back-up meter installed pursuant to Section 12.3, then for the period that the Seller’s Meter fails the Parties will assume that the Seller has delivered the same amount of Output Energy to the Buyer at the Point of Interconnection as it delivered in the same period the previous year.
(b) The Seller will allow the Buyer to access the Seller’s Plant at any time during normal business hours on reasonable advance notice for the purpose of inspecting the Seller’s Meter.

(c) The Seller will, on the Buyer’s request and at the Seller’s sole cost and expense, cause the Seller’s Meter to be inspected, tested, and adjusted provided that, except as set out below, the Buyer will not make such a request more than once in each year during the Service Term if the Buyer does not have reason to believe that the Seller’s Meter is inaccurate.

(d) The Seller will give the Buyer reasonable prior notice of all inspections, tests, and calibrations of the Seller’s Meter and will permit a representative of the Buyer to witness and verify such inspections, tests, and calibration. If either Party has reason to believe that the Seller’s Meter is inaccurate, the Seller will at its own cost and expense cause the Seller’s Meter to immediately be tested upon becoming aware of the potential inaccuracy. The Seller will provide the Buyer with copies of all meter calibration test results and all other results of any test of the Seller’s Meter. If any test of the Seller’s Meter discloses an inaccuracy, any payments or adjustments made or calculated under this TEPA that would have been affected by the inaccuracy will, so far as is practicable, be recalculated to correct for the inaccuracy. For purposes of such correction, if the inaccuracy is traceable to a specific event or occurrence at a reasonably ascertainable time, then the adjustment will extend back to that time. Otherwise, the Parties will assume that the error has existed for a period equal to one half of the time elapsed since COD or one half of the time since the last meter test, whichever is more recent, but in any event will not extend back more than 36 months. Any amounts that the Parties determine to be payable or subject to refund as a result of such recalculations will be paid to the Party entitled to such amounts within 30 days after the paying Party is notified of the recalculation.

12.3 Buyer’s Meter

The Buyer may at any time at the Buyer’s sole cost, on not less than 30 days’ prior notice to the Seller, install the Buyer’s Meter at the Seller’s Plant at a location to be agreed upon by the Buyer and the Seller, acting reasonably, and the Seller will allow the Buyer to access the Seller’s Plant for such purpose and for the purpose of inspecting and maintaining such equipment. The Seller will make transformers, transformer connections, and telephone access available to the Buyer, as required, if the Buyer elects to install the Buyer’s Meter. The Buyer’s Meter will be the property of the Buyer and the Seller will not tamper with, remove, or move the Buyer’s Meter.

13. ENVIRONMENTAL ATTRIBUTES

13.1 Renewable Energy

The Fuel will be Renewable Energy.

13.2 Transfer of Environmental Attributes
The Seller hereby transfers, assigns, and sets over to the Buyer all right, title, and interest in and to the Environmental Attributes. The Buyer will not be required to make any payment for the Environmental Attributes. The Seller, upon the reasonable request of the Buyer, will do, sign, and deliver to the Buyer, or cause to be done or signed and delivered to the Buyer, all further acts, deeds, things, documents, and assurances required to give effect to this Section.

13.3 **Exclusivity**

The Seller will not at any time during the Term commit, sell, or deliver any Environmental Attributes to any Person other than the Buyer. The Seller will not use or apply any Environmental Attributes for any purpose. The Seller will not make any false or misleading statements concerning the ownership of the Environmental Attributes or the destination, end user, or recipient of the Environmental Attributes in any marketing materials, statements, or communications. The exclusive rights conferred by this Section are of fundamental importance, and that, without prejudice to any right to claim damages, compensation, or an accounting of profits, the granting of an interim, interlocutory, and permanent injunction is an appropriate remedy to restrain any breach or threatened breach by the Seller of the obligation set out in this Section.

13.4 **Representations and Warranties**

The Seller represents and warrants to the Buyer that the Seller will be the legal and beneficial owner of the Environmental Attributes when they are generated free and clear of all liens, claims, charges, and encumbrances of any kind and no other Person has or will have any agreement or right of any kind to purchase or otherwise to acquire or to claim or otherwise make any use whatsoever of the Environmental Attributes.

14. **INSURANCE AND DAMAGE OR DESTRUCTION**

14.1 **Insurance**

(a) No later than the beginning of the Term, the Seller will at its own expense obtain and, throughout construction, testing, and commissioning of the Seller’s Plant, maintain Construction Insurance coverage(s), including:

(i) project-specific wrap-up liability insurance with a limit of not less than $10,000,000 per occurrence and in the aggregate for bodily injury, death, and third party property damage and a minimum of 24 months’ completed operations liability;

(ii) project-specific course of construction property insurance covering the construction, testing, and commissioning of the Seller’s Plant against property loss or mechanical or electrical equipment breakdown; and

(iii) environmental impairment liability insurance, including non-owned disposal sites coverage for a limit of not less than $2,000,000 per claim covering third party bodily injury, property damage, and clean-up costs arising out of a pollution event, including but not limited to unexpected and unintentional spill, discharge, emission, dispersal, leakage, migration, release, or escape of pollutants including polychlorinated
biphenyl. Coverage will include the transportation, loading, and unloading of materials.

(b) Throughout the Term, the Seller will at its own expense obtain and maintain:

(i) commercial general liability insurance with a limit of not less than $10,000,000 per occurrence and in the aggregate against claims for bodily injury, death, or third party property damage, with the following extensions or endorsements of coverage:

   (I) personal injury and advertising liability,

   (II) products and completed operations,

   (III) sudden and accidental pollution,

   (IV) cross liability and severability of interest clause,

   (V) blanket contractual liability,

   (VI) non-owned auto liability, and

   (VII) the Buyer and its officials, officers, employees, and agents added as additional insureds;

(ii) all risk property insurance on the Seller’s Plant insuring against loss or damage from all perils, including earthquake, flood, business interruption, and contingent business interruption. This insurance will contain a waiver of subrogation in favour of the Buyer; and

(iii) electrical and mechanical equipment breakdown insurance covering the Seller’s Plant. This insurance shall contain a waiver of subrogation in favour of the Buyer.

(c) The Seller will maintain all of the aforementioned insurance policies in full force and effect at all times throughout the Term and for a period of not less than two years after the completion of the Term. The aforementioned insurance policies will:

(i) be obtained from and issued by insurers authorized to carry on business within British Columbia, on terms satisfactory to the Buyer, acting reasonably;

(ii) be primary insurance for liability arising out of the Seller’s operations and any insurance or self-insurance maintained by the Buyer will be in excess of this insurance and will not contribute to such policies; and

(iii) contain a provision that such insurance coverage will not be cancelled or endorsed to reduce the limits of liability without the insurer or their authorized representative giving the Buyer at least 30 days’ written notice by registered mail. If any policy is endorsed to restrict coverage
midterm, then Seller will provide Buyer written notice of the restriction no later than the effective date change unless it is due to non-payment of premium, in which case the applicable statutory conditions will apply.

(d) The Seller will provide, at its own cost, any additional insurance that it is required by law to provide or other lines of insurance coverages, endorsements, or increased limits of insurance as deemed necessary by the Buyer and as a reasonable thermal energy supplier would require to protect their operations or performance of services similar to the Project.

(e) The Seller will provide the Buyer with evidence of all required insurance to be taken out in the form of one or more certificate(s) of insurance in a form and substance satisfactory to the Buyer. The certificate(s) of insurance will identify the title of this TEPA, policy holder, description of operations, insurer name, insurer policy number, insurer policy period, and insurer limits. Proof of insurance, in the form of such certificate(s) of insurance, will be made available to the Buyer immediately upon request, acting reasonably.

(f) The Seller will be responsible for the full amount of all deductibles under all insurance policies required to be maintained by the Seller under this Section.

15. **FORCE MAJEURE**

15.1 **Invoking Force Majeure and Notice**

(a) Neither Party will be in breach or default of any obligation under this TEPA if that Party is unable to perform that obligation due to an event or circumstance of Force Majeure. Subject to any limitations expressly set out in this TEPA, the time for performance of such obligation will be extended by the number of days that the Party is unable to perform the obligation as a result of the event or circumstance of Force Majeure.

(b) If there is a Force Majeure preventing a Party from performing an obligation under this TEPA, that Party will promptly notify the other Party of the Force Majeure. The notice must identify the nature of the Force Majeure, its expected duration, and the particular obligations affected by the Force Majeure. The effected Party will deliver reports to the other Party at such intervals as the other Party may reasonably request while the Force Majeure continues. A Party will be deemed to have invoked Force Majeure from the later of:

   (i) the date when that Party gives notice of the Force Majeure in accordance with this Section 15.1(b); and

   (ii) if such date is not a Business Day, the next following Business Day;

provided that if such notice is given by 17:00 PPT on the first Business Day following the later of:

   (iii) the day on which the Force Majeure occurs; and
the day when the Party knew, or reasonably ought to have known, of the occurrence of the Force Majeure;

the Party will be deemed to have invoked Force Majeure from the date on which the event of Force Majeure occurred. The Party invoking Force Majeure will make Commercially Reasonable Efforts to remove or mitigate the effects of the Force Majeure. The Party invoking Force Majeure will promptly respond to any inquiry from the other Party regarding the efforts being undertaken to remove or mitigate the Force Majeure. The Party invoking Force Majeure will give immediate notice of the end of the Force Majeure.

15.2 Exclusions

Neither Party may invoke Force Majeure:

(a) for any economic hardship or for lack of money, credit, or markets;
(b) if the Force Majeure is the result of a breach by the Party seeking to invoke Force Majeure of a Permit or of any Applicable Laws;
(c) for a mechanical breakdown;
(d) if the Force Majeure was caused by a breach of, or default under, this TEPA or a wilful or negligent act or omission by the Party seeking to invoke Force Majeure;
(e) for any acts or omissions of third parties, including any Affiliate of the Seller or any vendor, supplier, contractor, or customer of a Party or any Governmental Authority;
(f) for any disconnection of the Seller’s Plant from the Point of Interconnection or any disconnection of the Point of Interconnection to the Buyer’s Distribution System; or
(g) based on the cost or unavailability of Fuel or the Input Energy for any reason, including natural causes, unless transport of Fuel or the Input Energy to the Seller’s Plant is prevented by an event or circumstance that constitutes Force Majeure as defined in this TEPA.

16. LIQUIDATED DAMAGES

16.1 COD Delay

If the Seller obtains BCUC Acceptance and the Buyer delivers a Nominated Capacity Increase Notice to the Seller but the Seller fails to achieve COD by the Guaranteed COD plus Force Majeure Days, the Seller will pay the Buyer the liquidated damages described in Section 1 of Schedule 5 (the “COD Delay LDs”). The COD Delay LDs represent a genuine estimate of the
economic and other losses that the Buyer will incur if the Seller does not achieve COD by the Guaranteed COD plus Force Majeure Days. The Seller will pay any COD Delay LDs that it owes to the Buyer for the immediately preceding month no later than thirty days after the last day of the immediately preceding month. The COD Delay LDs do not represent an estimate of third party claims, liabilities, damages, losses, costs, demands, actions, fines, penalties, suits, orders, or proceedings, including the full amount of all legal fees and expenses (“Third Party Claims”), that the Buyer may suffer as a result of the Seller failing to achieve COD by the Guaranteed COD plus Force Majeure Days. Third Party Claims resulting from the Seller’s failure to achieve COD by the Guaranteed COD plus Force Majeure Days will be governed under Section 22.1 of the TEPA.

16.2 Outages

If there is an Outage during the Service Term, the Seller will in accordance with the requirements of Schedule 4 end the Outage and resume the delivery of Received System Water to the Point of Interconnection at the temperatures stated in Schedule 4. If there is an Outage, the Buyer will not pay the Seller the Capacity Charge or the Non-Energy Operating Cost Charge for the Outage Duration. If there is an Outage, the Seller will pay the Buyer the liquidated damages described in Section 2 of Schedule 5 (the “Outage LDs”). The Outage LDs represent a genuine estimate of the economic and other losses that the Buyer will incur if the Seller does not deliver the Received System Water to the Point of Interconnection at the temperatures stated in Schedule 4. The Seller will pay any Outage LDs that it owes to the Buyer for the immediately preceding month no later than thirty days after the last day of the immediately preceding month. The Outage LDs do not represent an estimate of Third Party Claims that the Buyer may suffer as a result of an Outage. Third Party Claims resulting from an Outage will be governed under Section 22.1 of the TEPA.

16.3 Carbon Intensity Failure

If the Seller produces more than the maximum number of Carbon Dioxide Equivalents stated in Schedule 4 for every one MWh of Output Energy that the Seller delivers to the Buyer at the Point of Interconnection in a calendar year during the Service Term, then the Seller will pay the Buyer the liquidated damages described in Section 3 of Schedule 5 (the “Carbon Intensity LDs”). The Carbon Intensity LDs represent a genuine estimate of the economic and other losses that the Buyer will incur if the Seller breaches Section 7.3. The Seller will pay any Carbon Intensity LDs that it owes to the Buyer for the immediately preceding month no later than thirty days after the last day of the immediately preceding month. The Seller will not pay the Buyer Carbon Intensity LDs if the Seller breaches Section 7.3 as the result of the Buyer delivering a Fuel Switch Notice to the Seller under Section 8.5.

16.4 Exclusive Remedies for Buyer

Except in the case of Deliberate Breach and the Third Party Claims exceptions described in Sections 16.1 and 16.2, payment by the Seller of the LDs is the exclusive remedy to which the Buyer is entitled for the Seller’s breach of:

(a) Section 2.2;
(b) Section 6.1;
(c) Section 7.3; and
provided that the foregoing does not limit or otherwise affect any right to receive interest on LDs, any right to terminate the TEPA, or any right to receive a Termination Payment, in each case as expressly set out in this TEPA, or the exercise of any other right or remedy expressly set out in this TEPA.

16.5 Exclusive Remedies for Seller

The Seller’s exclusive remedy for the Buyer’s failure to take or pay for the Received System Water at the Point of Interconnection at the temperatures stated in Schedule 4 is the right to recover the price payable by the Buyer to the Seller under Section 9.1 and Schedule 3 and any interest on any such amount owing by the Buyer to the Seller, provided that the foregoing does not limit or otherwise affect any right the Seller has under Section 11.5 or any right to receive a Termination Payment.

17. PERFORMANCE SECURITY

17.1 Delivery

(a) The Seller will deliver the Performance Security to the Buyer concurrently with execution and delivery of this TEPA. The Seller will maintain the Performance Security until the time provided in Section 17.2(a) and will amend or replace the Performance Security so it complies at all times with the requirements of Section 17.4.

(b) The Performance Security does not limit the Seller’s liability for any breach of or default under this TEPA.

17.2 Return

(a) Except under Section 4.2, the Buyer will return or release the Performance Security to the Seller, without deduction unless prior deductions have properly been made under this TEPA, within thirty days after the later of the termination of this TEPA or the Seller’s discharge of all of its obligations and liabilities to the Buyer under this TEPA.

17.3 Enforcement

(a) If:

(i) the Seller fails to pay any Final Amount owing by the Seller to the Buyer; or

(ii) the Seller fails to pay any LDs owing by the Seller to the Buyer;

and, in each case, the Seller fails to cure such failure to pay within fifteen days after notice from the Buyer to the Seller, then the Buyer may enforce the Performance Security and apply the proceeds thereof on account of amounts owing to the Buyer for any or all of the foregoing.
17.4 **Form**

The Seller will maintain the Performance Security in the form of a letter of credit that is:

(a) issued or advised by a branch in Vancouver, Canada of a financial institution having a credit rating not less than Standard & Poor’s A-, Moody’s A3, or Dominion Bond Rating Service A (low) and if such credit rating agencies publish differing credit ratings for the same financial institution, the lowest credit rating of any of the credit rating agencies will apply for the purpose of this Section;

(b) in the form set out in Schedule 7 or in such other form to which the Buyer may consent; and

(c) for a term of not less than one year and providing that it is renewed automatically, unless the issuing or confirming financial institution advises otherwise by the date specified in Schedule 7.

17.5 **Replenishment**

If the Buyer draws on the Performance Security, as permitted under this TEPA, then the Seller will within three Business Days after such draw provide additional security in the form specified in Section 17.4 sufficient to replenish or maintain the aggregate amount of the Performance Security at the amount required hereunder.

17.6 **Right to Withhold Payment**

If the Seller has failed to maintain the Performance Security in the amount required under this TEPA (subject to the cure period specified in Section 17.5), the Buyer may withhold payment of any amount owing by the Buyer to the Seller under this TEPA until five days after the date when the Seller has delivered the required amount of Performance Security to the Buyer. Any amounts withheld by the Buyer in accordance with this Section 17.6 will not bear interest.

17.7 **Letter of Credit Failure**

If there is a Letter of Credit Failure, the Buyer may enforce the Performance Security and hold the proceeds of such enforcement until such time as the Seller delivers replacement Performance Security in the amount and in the form required under this TEPA. Upon receipt of such replacement security, the Buyer will return the proceeds of enforcement of the original Performance Security to the Seller without interest after deducting any amounts the Buyer may deduct under this TEPA. The Seller will notify the Buyer promptly of any Letter of Credit Failure.

18. **TERMINATION**

18.1 **Termination**

In addition to any other right to terminate this TEPA expressly set out in any other provision of this TEPA, the Buyer may by providing written notice to the Seller terminate this TEPA if:

(a) the Seller has failed to obtain all Material Permits on or before the date that is the earlier of:
(i) Guaranteed COD; and

(ii) the third anniversary of the Effective Date;

provided that the Buyer may terminate the TEPA under this provision only if the Buyer delivers a termination notice before the date on which the Seller has secured all Material Permits;

(b) COD does not occur by Guaranteed COD plus 90 days plus all Force Majeure Days (not exceeding 180 Force Majeure Days), provided that if the Seller can demonstrate on or before such date to the Buyer’s satisfaction that construction of the Seller’s Plant is eighty percent complete by such date, then the Buyer may terminate the TEPA under this provision by notice to the Seller only if the Seller fails to achieve COD within a further 90 days plus any further Force Majeure Days (not exceeding 180 Force Majeure Days) after such date, and provided further that the Buyer may terminate the TEPA under this provision only if the Buyer delivers a termination notice before COD;

(c) either Party has received a notice from the other Party invoking Force Majeure and the Force Majeure has not been terminated by the date that is 90 days after the date of notice invoking Force Majeure, provided that the Buyer may terminate the TEPA under this provision only if the Buyer delivers a termination notice before the end of the Force Majeure; or

(d) a Buyer Termination Event occurs.

Any termination pursuant to this Section 18.1 will be effective immediately upon delivery of the notice of termination to the Seller. If the Buyer terminates this TEPA under Section 18.1(a) or 18.1(b), it will have no financial obligations to the Seller. If the Buyer terminates this TEPA under Section 18.1(c) or 18.1(d), the Buyer will pay the Thermal Energy Rates to the Seller up to the date of termination.

19. ASSIGNMENT

19.1 Assignment

The Seller does not have the right to assign or dispose of this TEPA or any direct or indirect interest in this TEPA, in whole or in part, for all or part of the Term, except:

(a) with the consent of the Buyer, which the Buyer may withhold in its sole discretion; or

(b) to an Affiliate, on notice to, but without the consent of, the Buyer, provided that the Seller will remain liable for the obligations of the assignee under this TEPA unless otherwise agreed in writing by the Buyer.

If the Seller wishes to assign its interest in this TEPA to an Affiliate or another party, the Seller must provide the Buyer with notice of its desire to assign, and, where applicable, a request for consent to assign, not less than thirty days before the proposed date of assignment. If the Seller wishes to assign its interest in this TEPA to an Affiliate or another party, the Seller must deliver to the Buyer a proposed form of assignment and assumption agreement and, in the case of an
assignment pursuant to Section 19.1(a), evidence of the capability of the assignee as required by Section 19.2(b). Any sale or other disposition of the Seller’s Plant that results in the Seller holding less than a fifty percent interest in the Seller’s Plant, any sale or other disposition of all or any interest of the Seller in this TEPA or revenue derived from this TEPA, any mortgage, pledge, charge, or grant of a security interest in all or any part of the Seller’s ownership interest in the Project Assets, or any change of Control, merger, amalgamation, or reorganization of the Seller will be considered an assignment of this TEPA by the Seller for the purpose of this Article 19, including Section 19.2, provided that where Control is transferred to an Affiliate or where the Seller merges or amalgamates with an Affiliate or enters into a reorganization with an Affiliate, Section 19.1(b) will apply.

19.2 Preconditions to Assignment

Without limiting Section 19.1(a), any assignment pursuant to Section 19.1 is subject to:

(a) the assignee entering into and becoming bound by this TEPA, assuming all the obligations and liabilities of the assignor under the TEPA arising both before and after the assignment of the TEPA, providing any Performance Security or other security required by the Buyer, and the representations and warranties set out in Section 21.1 being true and effective of the assignee at the time of assignment; and

(b) except for an assignment under Section 19.1(b), the assignee demonstrating to the satisfaction of the Buyer in the Buyer’s sole discretion the assignee’s capability (financial, technical, and otherwise) to fulfil the obligations of the assignor under this TEPA or, in the case of a change of Control, merger, amalgamation, or reorganization of the Seller, the parties to that transaction demonstrating to the reasonable satisfaction of the Buyer the continued ability of the Seller to perform its obligations under this TEPA.

19.3 Costs

The Seller will reimburse the Buyer for all costs that the Buyer incurs in connection with an assignment or an attempted assignment.

19.4 No Assignment Before COD

Notwithstanding Section 19.1(a), the Seller will not assign (including any event or action that is deemed under Section 19.1 to be an assignment) or otherwise dispose of any interest in this TEPA, including to an Affiliate, before COD.

20. INSPECTION AND AUDIT

20.1 General Inspection and Audit Rights

For the sole purpose of verifying:

(a) compliance with this TEPA;

(b) the accuracy of invoices and other statements or calculations delivered by the Seller to the Buyer under this TEPA; and
the Seller’s right to rely on any relief claimed by the Seller under this TEPA;

after receiving reasonable prior notice from the Buyer, the Seller will provide the Buyer and
the Buyer's representatives and advisors with prompt access during normal business hours to
the Seller’s Plant and to all Records. The Seller will also promptly provide copies of any Records
to the Buyer on request by the Buyer at any time. The Buyer and the Buyer’s representatives
and advisors may take copies of any Records. The Buyer will exercise any access under this
Article 20 at the Buyer’s cost and in a manner that minimizes disruption to the operation of
the Seller’s Plant. Any review, inspection, or audit by the Buyer of the Seller’s Plant or its design,
construction, operation, maintenance, repair, or records or any other review, inspection, or
audit by the Buyer of other activities of the Seller may not be relied upon by the Buyer, or
others, as confirming or approving those matters.

20.2 Inspection and Audit Rights Regarding Environmental Attributes

The Buyer, any Affiliate of the Buyer, and any third Person who has entered into a contract
with the Buyer or any Affiliate of the Buyer to purchase Environmental Attributes may at any
time conduct or have a third Person with the necessary expertise conduct, at the Buyer’s
expense, an audit of the Project Assets and Records to verify compliance with the requirements
for the Environmental Attributes. The Seller will promptly provide any consents
required to
enable the Buyer, any Affiliate of the Buyer, or any third Person who has entered into a contract
with the Buyer to purchase Environmental Attributes to make enquiries with Governmental
Authorities concerning the status of compliance by the Seller and the Seller’s Plant with
Applicable Laws and Permits.

21. REPRESENTATIONS AND WARRANTIES

21.1 By Seller

The Seller represents and warrants to the Buyer, and acknowledges that the Buyer is relying on
those representations and warranties in entering into this TEPA, as follows:

(a) Corporate Status - The Seller is duly incorporated, organized, validly existing,
and in good standing under the laws of the jurisdiction of its incorporation, is
registered or otherwise lawfully authorized to carry on business in British
Columbia, and has full power, capacity, and authority to own its assets and to
carry on its business as now conducted and to enter into and to perform its
obligations under this TEPA;

(b) Bankruptcy - No actions are threatened or have been taken or authorized by the
Seller or any other Person to initiate proceedings related to the bankruptcy,
insolvency, liquidation, dissolution, or winding-up of the Seller or to appoint a
receiver, liquidator, trustee, or assignee in bankruptcy for the Seller;

(c) Assets - No appropriation, expropriation, or seizure of all or any portion of the
Seller’s Plant, the Site, or any of the Seller’s material properties or assets, is
pending or threatened;

(d) No Conflict - Neither the execution of this TEPA nor the carrying out of the
Seller’s obligations under this TEPA will (i) constitute or cause a breach of,
default under, or violation of, the constating documents or bylaws of the Seller,
any permit, franchise, lease, license, approval, or agreement to which the Seller
is a party, or any other covenant or obligation binding on the Seller or affecting
any of its properties, (ii) cause a lien or encumbrance to attach to the Seller’s
Plant, other than a security interest granted for financing the design,
construction, or operation of the Seller’s Plant, or (iii) result in the acceleration,
or the right to accelerate, any obligation under, or the termination of, or the
right to terminate, any permit, franchise, lease, license, approval, or agreement
related to the Seller’s Plant;

(e) Binding Obligation - This TEPA constitutes a valid and binding obligation of the
Seller enforceable against the Seller in accordance with its terms;

(f) Authorization, Execution, and Delivery - This TEPA has been duly authorized,
executed, and delivered by the Seller; and

(g) Proposal Documents - All material information in the Proposal Documents is true
and correct in all material respects and there is no material information omitted
from the Proposal Documents that makes the information in the Proposal
Documents misleading or inaccurate in any material respect.

21.2 By Buyer

The Buyer represents and warrants to the Seller, and acknowledges that the Seller is relying on
those representations and warranties in entering into this TEPA, as follows:

(a) Corporate Status - The Buyer is a municipal corporation continued under the
Vancouver Charter (British Columbia), is validly existing, and has full power,
capacity, and authority to own its assets and to carry on its business as now
conducted and to enter into and to perform its obligations under this TEPA;

(b) Bankruptcy - No actions are threatened or have been taken or authorized by the
Buyer or any other Person to initiate proceedings related to the bankruptcy,
insolvency, liquidation, dissolution, or winding-up of the Buyer or to appoint a
receiver, liquidator, trustee, or assignee in bankruptcy for the Buyer;

(c) Assets - There is no appropriation, expropriation, or seizure of any of the
material assets of the Buyer pending or threatened;

(d) No Conflict - Neither the signing of this TEPA nor the carrying out of the Buyer’s
obligations under this TEPA will constitute or cause a breach of, default under,
or violation of the Vancouver Charter (British Columbia), any permit, franchise,
lease, license, approval, or agreement to which the Buyer is a party, or any other
covenant or obligation binding on the Buyer or affecting any of its properties;

(e) Binding Obligation - This TEPA constitutes a valid and binding obligation of the
Buyer enforceable against the Buyer in accordance with its terms; and

(f) Authorization, Execution, and Delivery - This TEPA has been duly authorized,
executed, and delivered by the Buyer.
22. INDEMNITIES AND LIMITATION OF LIABILITY

22.1 Seller Indemnity

Without limiting any other obligation of the Seller, the Seller will indemnify, defend, and hold harmless the Buyer, its Affiliates, and their respective officials, officers, employees, agents, contractors, successors, and assigns (the “Buyer Indemnified Parties”) from and against any and all claims, liabilities, damages, losses, costs, demands, actions, fines, penalties, suits, orders, and proceedings, including the full amount of all legal fees and expenses, that any Buyer Indemnified Party may pay or incur or that may be asserted against any Buyer Indemnified Party as a result of, arising from, or in connection with a breach of this TEPA by the Seller or any negligent act or omission or willful misconduct of the Seller or any Person for whom the Seller is at law responsible.

22.2 Buyer Indemnity

Without limiting any other obligation of the Buyer, the Buyer will indemnify, defend, and hold harmless the Seller, its Affiliates, and their respective officials, officers, employees, agents, contractors, successors, and assigns (the “Seller Indemnified Parties”) from and against any and all claims, liabilities, damages, losses, costs, demands, actions, fines, penalties, suits, orders, and proceedings, including the full amount of all legal fees and expenses, that any Seller Indemnified Party may pay or incur or that may be asserted against any Seller Indemnified Party as a result of, arising from, or in connection with a breach of this TEPA by the Buyer or any negligent act or omission or willful misconduct of the Buyer or any Person for whom the Buyer is at law responsible.

22.3 Indemnification Conditions

The right of any party to be indemnified (“Indemnitee”) by the other Party (“Indemnitor”) under any indemnity contained in this TEPA for a claim by a third Person is subject to the conditions that:

(a) the Indemnitee gives the Indemnitor prompt notice of such claim, the right to select and instruct counsel, and all reasonable cooperation and assistance, including the availability of documents and witnesses within the control of the Indemnitee, in the defence or settlement of the claim; and

(b) the Indemnitee does not compromise or settle the claim without the prior consent of the Indemnitor.

22.4 Third Party Beneficiary Conditions

The Buyer holds the benefit of Section 22.1 for itself, and on behalf of the Buyer Indemnified Parties, which are not party to this TEPA, and the Seller holds the benefit of Section 22.2 for itself, and on behalf of the Seller Indemnified Parties, which are not party to this TEPA. Each of the Buyer Indemnified Parties and the Seller Indemnified Parties may enforce those Sections respectively for their own benefit by action taken directly against the Seller or the Buyer respectively, and/or such actions may be taken by the Buyer or the Seller against the other for the benefit of their respective indemnified parties.
22.5 **Limits of Liability**

Except in the case of Deliberate Breach, in each calendar year the Seller’s uninsured liability for damages for all breaches of, or defaults under, this TEPA in that calendar year is limited to an amount equal to the revenues that the Buyer pays the Seller for its services under this TEPA in that calendar year with a minimum of $1,000,000, provided that the foregoing does not apply to:

(a) any liability under Section 22.1;

(b) interest on any amount owing under this TEPA; and

(c) any other provision in this TEPA that is expressly excluded from the limit of liability in this Section.

This limitation of the Seller’s liability is separate from any amounts that the Seller recovers under any insurance policy it holds pursuant to Section 14.

22.6 **Consequential Damages**

Neither Party will be liable to the other Party for any special, incidental, exemplary, punitive, or consequential damages arising out of a Party’s performance or non-performance under this TEPA, whether based on or claimed under contract, tort, strict liability, or any other theory at law or in equity.

23. **CONFIDENTIALITY**

23.1 **Additional Confidentiality Obligation**

During the Term and for two years thereafter (i) the Buyer will treat as confidential, and will not disclose to any third person, Seller Confidential Information, and (ii) the Seller will treat as confidential, and will not disclose to any third person, Buyer Confidential Information, provided however that the foregoing obligations, and nothing in this TEPA, prevents or restricts:

(a) disclosures that are expressly authorized under any Section of this TEPA or as otherwise set out in this TEPA;

(b) disclosures that are necessary to enable either Party to fulfill its obligations under this TEPA;

(c) in the case of the Buyer, disclosure of Seller Confidential Information:

   (i) to any ministers, deputy ministers, or servants or employees of the Province of British Columbia; and

   (ii) to its directors, officers, employees, Affiliates, consultants, and advisors;
provided that each of the foregoing to whom Seller Confidential Information is disclosed is advised of the confidential nature thereof;

(d) in the case of the Seller, disclosure of Buyer Confidential Information in any regulatory proceeding, whether related to this TEPA or other matters, to the extent that the Seller considers disclosure necessary or desirable to support its position in any such proceeding, provided that, to the extent reasonably practicable, the Seller gives reasonable notice to the Buyer before making the disclosure, and, to the extent requested by the Buyer, requests the relevant tribunal or commission to treat all or any part of the disclosure as confidential or to limit its further disclosure;

(e) in the case of the Buyer, disclosure to any Person or any Governmental Authority of any Seller Confidential Information about:

(i) the Seller’s Plant that the Buyer is required to disclose to verify qualification of the output of the Seller’s Plant as Renewable Energy or to provide confirmation to any such Person or Governmental Authority that the output from the Seller’s Plant qualifies as Renewable Energy; or

(ii) the Input Energy or the Output Energy or the Seller’s Plant that the Buyer is required to disclose to enable the Buyer to obtain or realize the full benefit to the Buyer of the Environmental Attributes, including sales of Environmental Attributes to third parties;

(f) in the case of the Seller, disclosure of the Buyer Confidential Information to its directors, officers, employees, Affiliates, consultants, and advisors, provided that each of the foregoing to whom Buyer Confidential Information is disclosed is advised of the confidential nature thereof;

(g) without limiting the Seller’s disclosure rights under Section 23.2(d) above, disclosures required to be made by a Party by an order of a court or tribunal or under any law, regulatory requirement, or requirement of any stock exchange that is binding upon it, provided that (i) to the extent reasonably practicable, the Party making such disclosure gives reasonable notice to the other Party before making the disclosure, and (ii) limits the disclosure to that required by the applicable order, law, or regulatory or stock exchange requirement;

(h) disclosures in any legal proceedings for the enforcement of the TEPA or other agreement entered into by the Seller pursuant to the RFP process; or

(i) disclosures of the Seller Confidential Information or the Buyer Confidential Information (as the case may be) by agreement or consent of both Parties.

23.2 Freedom of Information and Protection of Privacy Act

The Buyer is subject to the Freedom of Information and Protection of Privacy Act (British Columbia) and the Buyer’s non-disclosure obligations under this TEPA are subject to the provisions of that legislation, as amended from time to time.
24. **GENERAL PROVISIONS**

24.1 **Independence**

The Parties are independent contractors and nothing in this TEPA or its performance creates a partnership, joint venture, or agency relationship between the Parties.

24.2 **Enurement**

This TEPA enures to the benefit of the Parties, their successors, and any permitted assigns.

24.3 **Notices**

Any notice, consent, waiver, declaration, request for approval, or other request, statement, or bill (a “notice”) that either Party may be required or may desire to give to the other Party under this TEPA must be in writing addressed to the other Party at the addresses stated on the first page of this TEPA.

24.4 **Entire Agreement and Amendment**

This TEPA contains the entire agreement between the Parties for the purchase and sale of energy and supersedes all previous communications, understandings, and agreements between the Parties for the subject matter of this TEPA. There are no representations, warranties, terms, conditions, undertakings, or collateral agreements express, implied, or statutory between the Parties other than as expressly set out in this TEPA. This TEPA may not be amended except by an agreement in writing signed by both Parties.

24.5 **No Waiver**

Other than for the specific matter or circumstance for which a waiver is given, and except as otherwise specified in this TEPA, no failure by a Party to enforce, or require a strict observance and performance of, any of the terms of this TEPA will constitute a waiver of those terms or affect or impair those terms or the right of a Party at any time to enforce those terms or to take advantage of any remedy that Party may have for any other matter or circumstance.

24.6 **Dispute Resolution**

(a) If any dispute arises between any of the Parties, they will first refer it to their representatives with day-to-day responsibility for the administration of this TEPA, who will endeavour to resolve the dispute within 10 days.

(b) If those representatives cannot resolve the dispute within 10 days, then those representatives will refer the dispute to a senior executive of the Party with all pertinent information, and those senior executives will endeavour to resolve the dispute within 5 days after receipt of such information.

(c) If those senior executives cannot resolve the dispute within 5 days, then either Party may give notice to the other Party, who will be deemed to accept, to refer the dispute to the Vancouver International Arbitration Centre to be finally resolved pursuant to its applicable rules and the British Columbia Arbitration Act, as amended from time-to-time.
(d) The place of arbitration will be Vancouver, British Columbia, Canada. The number of arbitrators shall be one.

(e) The Parties may seek interim measures of protection, including relief by way of a mandatory injunction, from a court of competent jurisdiction pending commencement or completion of any arbitration.

(f) The Parties also may seek from a court of competent jurisdiction any equitable relief or remedy that the arbitrator does not have the jurisdiction to grant.

(g) All performance required under this TEPA by the Parties and payments required under this TEPA will continue during the dispute resolution proceedings contemplated by this Section 24.6, provided that this Section may not be interpreted or applied to delay or restrict the exercise of any right to suspend performance under or terminate this TEPA pursuant to the express terms hereof.

(h) Any payments or reimbursements required by an arbitration award will be due as of the date determined in accordance with Section 11.2 or, where Section 11.2 is not applicable, as of the date determined in the award, and, without duplication with Section 11.2(b), will bear interest at an annual rate equal to the Prime Rate plus 3% compounded monthly, from the date such payment was due until the amount is paid.

(i) To the fullest extent permitted by law, the Parties will maintain in confidence the fact that an arbitration has been commenced, all documents and information exchanged during the course of the arbitration proceeding, and the arbitrators’ award, provided that each of the Parties may disclose such matters to its own officers, directors, shareholders and employees, its professional advisors and other representatives, and may make such disclosures in the course of any proceedings required to pursue any legal right arising out of or in connection with the arbitration and may make such disclosures as are required by law or for regulatory purposes.

(j) Nothing in this TEPA precludes either Party from bringing a Proceeding in any jurisdiction to enforce an arbitration award or any judgment enforcing an arbitration award, nor will the bringing of such Proceedings in any one or more jurisdictions preclude the bringing of enforcement Proceedings in any other jurisdiction. In connection with any court proceedings, each Party waives its respective rights to any jury trial.

24.7 Governing Law

This TEPA is made under, and will be interpreted in accordance with, the laws of the Province of British Columbia. Subject to Section 24.6, any suit, action, or proceeding (a “Proceeding”) arising out of, or relating to, this TEPA may be brought in the courts of the Province of British Columbia at Vancouver. Those courts have non-exclusive jurisdiction over any Proceeding. The Parties hereby irrevocably attorn to the jurisdiction of such courts for any Proceeding.
24.8 **Living Wage**

(a) Subject to Section 24.8(b), it is a condition of this TEPA that, for the duration of the Term, the Seller pays all Living Wage Employees not less than the Living Wage.

(b) Notwithstanding Section 24.8(a), the Seller has up to 6 months from the date on which any increase in the Living Wage is published by the Living Wage Certifier to increase wages for all Living Wage Employees such that all Living Wage Employees continue to be paid not less than the Living Wage.

(c) The Seller will require all of the subcontractors that it engages to perform any of the Seller’s obligations under this TEPA to comply with the requirements of Section 24.8(a).

(d) A breach by the Seller of its obligations pursuant to Sections 24.8(a) and (c) will constitute a material breach by the Seller of this TEPA.

(e) The Seller will submit to the Buyer in a format reasonably acceptable to the Buyer before January 31 of each calendar year of the Term a living wage report setting out:

(i) the number of Living Wage Employees of the Seller and each subcontractor who were paid a Living Wage pursuant to this Section 24.8 during the previous calendar year or portion thereof that would not have received a Living Wage for substantially similar work but for the obligations of the Seller pursuant to this Section 24.8; and

(ii) the total incremental costs incurred by the Seller, including any amounts paid to subcontractors, to fulfill its obligations pursuant to this Section 24.8 to pay a Living Wage to the Living Wage Employees described in Section 24.8(e)(i).

24.9 **Industry Terms**

Technical or industry specific words or phrases not otherwise defined in this TEPA have the well-known meaning given to those terms as of the date of this TEPA in the industry or trade in which they are applied or used.

24.10 **Statutory References**

Reference to a statute means, unless otherwise stated, the statute and regulations, if any, under that statute, in force from time to time, and any statute or regulation passed and in force that has the effect of supplementing or superseding that statute or those regulations.

24.11 **Currency**

References to dollars or $ means Canadian dollars, unless otherwise stated. References to US$ or US dollars means United States dollars.
24.12 Reference Indices

Except as otherwise provided in Schedule 3, if any index, tariff, or price quotation referred to in this TEPA ceases to be published, or if the basis therefor is changed materially, there will be substituted an available replacement index, tariff, or price quotation that most nearly, of those then publicly available, approximates the intent and purpose of the index, tariff, or price quotation that has so ceased or changed. This TEPA will be amended as necessary to accommodate such replacement index, tariff, or price quotation, all as determined by written agreement between the Parties, or failing agreement, by arbitration under Section 24.6.

24.13 Conversions

If a value used in a calculation in this TEPA must be converted to another unit of measurement for purposes of consistency or to achieve a meaningful answer, the value will be converted to that different unit for purposes of the calculation.

24.14 Acknowledgment

The Seller represents that it has obtained its own independent legal, financial, tax, technical, and other advice on all issues relating to this TEPA and all transactions contemplated under this TEPA. This TEPA will be interpreted as would an agreement that has been negotiated and drafted by, and entered into between, commercially sophisticated parties dealing at arm’s length.

24.15 Further Assurances

Each Party will, upon the reasonable request of the other Party, do, sign, or cause to be done or signed all further acts, deeds, things, documents, and assurances required for the performance of this TEPA.

24.16 Severability

Any provision of this TEPA that is illegal or unenforceable will be ineffective to the extent of the illegality or unenforceability without invalidating the remaining provisions of this TEPA.

24.17 Counterparts

This TEPA may be executed in counterparts, each of which is deemed to be an original document and all of which are deemed one and the same document.
IN WITNESS WHEREOF each Party by its duly authorized representative(s) has signed this TEPA as of the Effective Date.

For [SELLER]

________________________________________
Authorized Representative

________________________________________
Print Name and Office

________________________________________
Date

For the CITY OF VANCOUVER:

________________________________________
Authorized Representative

________________________________________
Print Name and Office

________________________________________
Date
SCHEDULE 1

DEFINITIONS

References in this Schedule 1 to a Section or Subsection mean a Section or Subsection of the TEPA unless otherwise stated. When used in the TEPA or any of its Schedules, the following words and expressions will have the following meaning:

1. “Affiliate” means, for the Seller, any Person directly or indirectly Controlled by, Controlling, or under common Control with, the Seller and, for the Buyer, any Person directly or indirectly Controlled by the Buyer.

2. “Annual Operating Plan” means each plan delivered by the Seller to the Buyer under Section 7.5(g) and all amendments to such plan in accordance with Section 7.5(g).

3. “Applicable Laws” means any and all statutes, laws (including common law), ordinances, rules, regulations, codes, orders, bylaws, policies, directions, standards, guidelines, protocols, and other lawful requirements of any Governmental Authority in effect from time to time that are applicable to the performance obligations of the Parties under this TEPA and includes, without limitation, the UCA.

4. “Bankrupt or Insolvent” means, for a Person:
   (a) the Person has started proceedings to be adjudicated a voluntary bankrupt or consented to the filing of a bankruptcy proceeding against it;
   (b) the Person has filed a petition or similar proceeding seeking reorganization, arrangement, or similar relief under any bankruptcy or insolvency law;
   (c) a receiver, liquidator, trustee, or assignee in bankruptcy has been appointed for the Person or the Person has consented to the appointment of a receiver, liquidator, trustee, or assignee in bankruptcy;
   (d) the Person has voluntarily suspended the transaction of its usual business; or
   (e) a court has issued an order declaring the Person bankrupt or insolvent.

5. “BCUC” means the British Columbia Utilities Commission or any successor thereto.

6. “BCUC Acceptance” has the meaning given in Section 4.2(a)(ii).

7. “BCUC Application” has the meaning given in Section 4.1(a).

8. “Business Day” means any calendar day that is not a Saturday, Sunday, or other day recognized as a statutory holiday in British Columbia.


10. “Buyer Confidential Information” means technical or commercial information disclosed by the Buyer to the Seller that the Buyer directs, and clearly marks, as confidential,
including this TEPA, but excluding information that (i) is or becomes in the public domain, other than as a result of a breach of this TEPA by the Seller, or (ii) is known to the Seller before disclosure to it by the Buyer, or becomes known to the Seller, thereafter by way of disclosure to the Seller by any other person who is not under an obligation of confidentiality for the information.

11. “Buyer Indemnified Party” has the meaning given in Section 22.1.

12. “Buyer Termination Event” means any one of the following:

(a) the Seller is Bankrupt or Insolvent;
(b) a Letter of Credit Failure has occurred and the Seller has failed to cure that failure within 5 Business Days after the Letter of Credit Failure occurred;
(c) an amount due and payable by the Seller to the Buyer under this TEPA remains unpaid for 15 days after its due date and such default has not been cured within 15 days after the Buyer has given notice of the default to the Seller;
(d) the Seller is in material default of any of its covenants, representations, warranties, or other obligations under this TEPA (other than as set out above), including Section 2.2, unless within 3 days after the date of notice by the Buyer to the Seller of the default the Seller has cured the default or, if the default cannot be cured within that 3 day period, the Seller demonstrates to the reasonable satisfaction of the Buyer in the Buyer’s sole discretion that the Seller is working diligently and expeditiously to cure the default and the default is cured within a further reasonable period of time;
(e) the Seller is in default of any of its obligations under Section 2.2 for 12 straight hours or more two times or more in the same calendar year during the Service Term; or
(f) the Seller is in default of its obligations under Section 7.3 for three consecutive calendar years or a total of five calendar years during the Service Term.

13. “Buyer’s Distribution System” means the system of distribution pipes and ancillary equipment and facilities through which the Buyer’s Neighbourhood Energy Utility distributes Thermal Energy to its customers throughout Vancouver’s Northeast False Creek neighbourhood and that interconnects with the Seller’s Plant at the Point of Reception and the Point of Interconnection.

14. “Buyer’s Meter” means the Buyer’s meter that may be located at the Point of Interconnection and used by the Buyer to meter how much Output Energy the Seller delivers to the Buyer under this TEPA.

15. “Capacity Charge” means the fixed monthly charge that is described in detail in Table 1 of Schedule 3, expressed in dollars per Nominated Capacity per month, and payable by the Buyer to the Seller for the capital costs that the Seller incurs to construct the Seller’s Plant under this TEPA.
16. “Carbon Dioxide Equivalents” means kilograms of carbon dioxide equivalents, as calculated in accordance with Federal and Provincial standards for quantifying greenhouse gas emissions of Greenhouse Gases of varying potencies.

17. “Carbon Intensity” means the number of Carbon Dioxide Equivalents produced for every one MWh of Output Energy that the Seller delivers to the Buyer at the Point of Interconnection.

18. “Carbon Intensity LDs” means the LDs specified in Section 16.3.

19. “Change Order Notice” means a written notice that is executed by the Seller and that specifically describes the changes to this TEPA and its Schedules that the Seller proposes to make in response to a Change Request.

20. “Change Request” means a written document that generally describes the changes that the Buyer proposes to make to this TEPA.

21. “COD” or “Commercial Operation Date” means the time when the Seller’s Plant achieves COD pursuant to Section 6.2.

22. “COD Certificate” means a certificate in the form set out in Schedule 6, completed and accompanied by attachments reasonably satisfactory to the Buyer and signed by a senior officer of the Seller.

23. “COD Delay LDs” means the LDs specified in Section 16.1.

24. “Commercially Reasonable Efforts” means taking, in good faith, all commercially reasonable steps to achieve the objective, using commercially reasonable and available resources.

25. “Construction Insurance” means all insurance customarily maintained by prudent owners in connection with the construction of a facility similar to the Seller’s Plant, including course of construction insurance.

26. “Control” of any Person means:

   (a) for any corporation or other Person having voting shares or the equivalent, the ownership or power to vote, directly or indirectly, shares, or the equivalent, representing 50% or more of the power to vote in the election of directors, managers, or persons performing similar functions;

   (b) ownership of 50% or more of the equity or beneficial interest in that Person; or

   (c) the ability to direct the business and affairs of any Person by acting as a general partner, manager, or otherwise.
27. “CPCN” means a certificate of public convenience and necessity granted under the UCA by the BCUC to the Seller authorizing the Seller to complete the Project.

28. “CPI” has the meaning given in Schedule 3.

29. “Daily Capacity Charge” means the Capacity Charge divided by thirty.


31. “Deliberate Breach” means:

   (a) any failure by the Seller to achieve COD by Guaranteed COD plus 365 days plus all Force Majeure Days (not exceeding 180 Force Majeure Days) resulting from any wilful or grossly negligent act or omission of the Seller;

   (b) any breach of or default under any provision of this TEPA by the Seller resulting from any wilful or grossly negligent act or omission by the Seller; or

   (c) a Buyer Termination Event constituting a repudiation of the TEPA by the Seller.

32. “Effective Date” means the date set out on the first page of this TEPA.

33. “Environmental Attributes” means:

   (a) all attributes associated with, or that may be derived from, the Output Energy or the Seller’s Plant having decreased environmental impacts relative to certain other generation facilities or technologies, including any existing or future credit, allowance, “green” tag, ticket, certificate, or other “green” marketing attribute or proprietary or contractual right, whether or not tradeable;

   (b) any credit, reduction right, off-set, allowance, allocated pollution right, certificate, or other unit of any kind whatsoever, whether or not tradeable, and any other proprietary or contractual right, whether or not tradeable, resulting from, or otherwise related to the actual or assumed reduction, displacement, or offset of emissions at any location other than the Seller’s Plant as a result of the generation, purchase, or sale of the Output Energy;

   (c) all revenues, entitlements, benefits, and other proceeds arising from or related to the foregoing.

34. “Exemption” means a ministerial exemption under Section 22 of the UCA for the Seller from the requirements of Part 3 and Section 71 of the UCA for the approval of the TEPA.

35. “Final Amount” means an amount owing by either Party to the other Party pursuant to this TEPA, including as a result of a breach of this TEPA, where such amount is (i) undisputed by the Party owing such amount; or (ii) has been finally determined by an arbitration award pursuant to Section 24.6 or by a court order and all rights of appeal in respect of such award or order have been exhausted or have expired.
36. “Five-Year Anniversary” has the meaning given in Section 7.5(a).

37. “Force Majeure” means, exhaustively:

(a) earthquakes with epicentres within fifty kilometres of the Seller’s Plant and that register at 8.0 or above on the Richter scale, volcanic eruptions, tsunamis, and floods other than those that are caused by sea level rise, king tides, storm surges, or pipe or equipment failure;

and does not include:

(b) any refusal, failure or delay of any Governmental Authority in granting any Material Permit to the Seller, whether or not on terms and conditions that permit the Seller to perform its obligations under this TEPA, except where such failure or delay is a result of an event described in paragraph (a) above; or

(c) any event or circumstance that is described in Section 15.2.

38. “Force Majeure Days” means the number of days the Seller is delayed in achieving COD as a result of Force Majeure invoked by the Seller in accordance with Article 15.

39. “Fuel” means ____________________. [Note to Draft: Fuel type to be inserted from Proposal.]

40. “Fuel Switch Notice” means a written notice that is executed by the Buyer and that states the new Fuel that the Seller will use to heat the Received System Water to the temperatures stated in Schedule 4.

41. “GHG” or “Greenhouse Gas(es)” means: (i) one or more of the following gases: carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulphur hexafluoride; and (ii) any other gas that is identified as having significant global warming potential and is added, at any time before the expiry of the Term, to Schedule 1 to the Canadian Environmental Protection Act, 1999, or to the Climate Change Accountability Act (British Columbia), or to any other regulation(s) governing the emission of the gases noted in (i) from the Seller’s Plant.

42. “Good Utility Practice” means any of the practices, methods, and acts engaged in or approved by a significant portion of the thermal energy utility industry or any of the practices, methods, and acts that, in the exercise of reasonable judgement in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety, and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in British Columbia. Good Utility Practice is intended to include maintenance and replacement practices following manufacturer recommendations and following the guidelines and recommendations of governments, agencies, commissions, and industry organizations such as Measurement Canada, BCUC, Canadian Standards Association, Technical Safety BC, American National Standards Institute, and American Society of Mechanical Engineers.
43. “Governmental Authorities” means any federal, provincial, local, or foreign governments or any of their boards or agencies, or any regulatory authority, other than the Buyer and entities controlled by the Buyer.

44. “GST” means the goods and services tax imposed under the Excise Tax Act (Canada) as that Act may be amended or replaced from time to time.

45. “Guaranteed COD” or “Guaranteed Commercial Operation Date” means 18 months after the date that the Buyer first delivers a Nominated Capacity Increase Notice to the Seller.

46. “Indemnitee” has the meaning given in Section 22.3.

47. “Indemnitor” has the meaning given in Section 22.3.

48. “Input Energy” means the quantity of Fuel, measured in MWh, that the Seller uses to heat the Received System Water to the temperatures stated in Schedule 4 over a period of time.

49. “Input Energy Charge” means the variable monthly charge described in detail in Table 2 of Schedule 3 that is payable by the Buyer to the Seller for the Input Energy, subject to Section 7.2.

50. “Input Energy Plan” means the Seller’s five-year plan for the supply and consumption of the Input Energy, as specified in Schedule 10, and each subsequent plan approved by the Buyer in accordance with this TEPA.

51. “Instantaneous Capacity” means the thermal energy capacity, expressed in MW, that the Seller actually delivers to the Buyer at the Point of Interconnection at any point in time during the Service Term, which will be measured using the real-time Received System Water flow rate and the real-time temperature differential of Received System Water between the Point of Reception and the Point of Interconnection and the following formula: \[ F \times Cp \times dT \]

52. “Kilowatts” or “kW” means kilowatt.

53. “LDs” means the COD Delay LDs, the Outage LDs, and the Carbon Intensity LDs.

54. “Letter of Credit Failure” means:

   (a) the Seller fails to renew or replace the Performance Security by no later than 30 days before the expiry thereof;

   (b) the Seller fails to amend or replace the Performance Security as required under Section 17.1 by no later than 30 days before the requirement to amend or replace such Performance Security arises;
(c) the issuer of the Performance Security:

(i) fails to maintain a credit rating of at least the minimum rating specified in Section 17.4(a);

(ii) fails to comply with or perform its obligations under the Performance Security; or

(iii) disaffirms, disclaims, repudiates, terminates, rejects, in whole or in part, or challenges the validity of, the Performance Security; or

(d) the Performance Security ceases to be in full force and effect for purposes of this TEPA (whether or not in accordance with its terms) before the date specified in Article 17 for return of the Performance Security to the Seller.

55. “Living Wage” means the hourly wage established by the Living Wage Certifier from time to time during the Term, which includes (i) direct wages and (ii) the value of any non-mandatory benefits such as paid sick leave, employer-paid Medical Services Plan premiums, and extended health benefits.

56. “Living Wage Certifier” means the Living Wage for Families Campaign, any successor entity, or, in the event the Living Wage for Families Campaign ceases to carry on operations, such other living wage certification entity designated by the Buyer to the Seller in writing;

57. “Living Wage Employee” means any and all employees of the Seller and any subcontractors of the Seller that perform any of the Seller’s obligations under this TEPA;

58. “Long Term Operating Plan” means the plan referred to in Section 7.5(f) as amended by the Seller from time to time.

59. “Material Permits” means the following if and as required for the Seller’s Plant:

(a) any permits required for the operation of the equipment at the Seller’s Plant;

(b) any permits required by regulators that have jurisdiction over the Seller or the Seller’s Plant;

(c) development or building permits;

(d) environmental assessment certificate;

(e) air emissions permit;

(f) any permit, licence, or approval required for the discharge of any type of waste from the Seller’s Plant;

(g) water license;

(h) zoning appropriate for the Seller’s Plant; and
(i) any permits or approval required for the storage of Fuel at the Seller’s Plant;

on terms and conditions that permit the Seller to comply with its obligations under this TEPA.

60. “Maximum System Water Flowrate” means the maximum flowrate of System Water that the Seller is required to accept from the buyer at the Point of Reception at all times during the Service Term, which will be expressed in litres per second and stated in Schedule 4.

61. “Minimum Efficiency” means _______________. [Note to Draft: Minimum Efficiency to be inserted from Proposal.]

62. “Monthly Input Energy” means the quantity of Fuel, measured in MWh, that the Seller uses to heat the Received System Water to the temperatures stated in Schedule 4 in a calendar month during the Service Term.

63. “MW” means megawatt.

64. “MWh” means megawatt-hour.

65. “NEFC” means the Northeast False Creek area of Vancouver, B.C.

66. “Nominated Capacity” means the thermal energy capacity stated in Schedule 4, expressed in kW, that the Seller will be capable of delivering to the Point of Interconnection in order to heat the Received System Water to the temperatures stated in Schedule 4 at all times during the Service Term.

67. “Nominated Capacity Decrease Notice” means a written notice that is executed by the Buyer and that states the decreased Nominated Capacity and the date by which the Buyer requests that the Seller decrease the Nominated Capacity of the Seller’s Plant.

68. “Nominated Capacity Increase Notice” means a written notice that is executed by the Buyer and that states the increased Nominated Capacity and the increased Maximum System Water Flowrate and the date upon which the increased Nominated Capacity and the increased Maximum System Water Flowrate will go into effect, which cannot be less than eighteen months after the date of the Nominated Capacity Increase Notice unless the Seller consents.

69. “Non-Energy Operating Costs Charge” means the monthly charge described in detail in Table 3 of Schedule 3 that is payable by the Buyer to the Seller for the Seller’s non-energy operating costs.

70. “Outage” means a Supply Shortfall for fifteen minutes or more of a given hour during the Service Term.

71. “Outage Duration” means the quantity of time expressed in hours between the start of an Outage and the end of the final Supply Shortfall before the Seller achieves Service Restored.

72. “Outage LDs” means the LDs specified in Section 16.2.
“Outage Severity” means the average magnitude of Supply Shortfall during an Outage expressed as the percentage of required capacity that is delivered, as calculated using the formula below and the data recorded during an Outage:

\[
\text{Outage Severity} = \frac{\text{Instantaneous Capacity}}{\text{Required Capacity}} = \frac{F \times Cp \times (Ts - Tr)}{F \times Cp \times (Trs - Tr)} \times 100\%
\]

Ts = Temperature (°C) of Received System Water at Point of Interconnection

Tr = Temperature (°C) of Received System Water at Point of Reception

Trs = Required temperature (°C) at Point of Interconnection stated in Schedule 4 based upon the associated air temperature outside the Seller’s Plant

F = Flowrate of Received System Water (litres per second)

Cp = Specific heat of water (4.186 J/g°C)

“Output Energy” means the quantity of thermal energy, measured in MWh, that the Seller adds to the Received System Water and delivers to the Point of Interconnection, which will be measured using the Received System Water flow rate and the temperature differential of Received System Water between the Point of Reception and the Point of Interconnection.

“Party” means (i) the Buyer and its successors and permitted assigns; or (ii) the Seller and its successors and permitted assigns, and “Parties” means both the Buyer and the Seller and their respective successors and permitted assigns.

“Performance Security” means a letter of credit in the form specified in Section 17.4 in an amount at any particular time equal to the revenues that the Buyer paid to the Seller for its services under this TEPA in the immediately preceding calendar year with a minimum of $1,000,000.

“Permits” means the permits, certificates, licences, and other approvals required for the design, construction, ownership, operation, and maintenance of the Seller’s Plant and the delivery of Output Energy at the Point of Interconnection and the sale of Output Energy, and includes all Material Permits.

“Person” means an individual, body corporate, firm, partnership, joint venture, trust, legal representative, or other legal entity.

“POI” or “Point of Interconnection” means the station in the Seller’s Plant composed of heat exchangers, pumps, pipes, valves, flanges, connections, and other equipment and facilities through which Received System Water will transfer from the Seller’s Plant to the Buyer’s Distribution System.

“POR” or “Point of Reception” means the station in the Seller’s Plant composed of pumps, pipes, valves, flanges, connections, and other equipment and facilities through which Received System Water will transfer from the Buyer’s Distribution System to the Seller’s Plant.
81. “PPT” means Pacific Prevailing Time, being Pacific Daylight Time or Pacific Standard Time, as applicable.

82. “Prime Rate” means the floating prime interest rate announced from time to time by the main branch of Bank of Montreal in Vancouver, British Columbia, or any successor thereto, expressed as an annual rate, as the reference rate it will use to determine rates of interest payable on Canadian dollar commercial loans made in Canada.

83. “Proceeding” has the meaning given in Section 24.7.

84. “Project” means the financing, design, engineering, procurement, construction, commissioning, operation, and maintenance of the Seller’s Plant.

85. “Project Assets” means the Seller’s Plant and all rights, property, assets, equipment, materials, and contracts required to design, engineer, procure, construct, commission, operate, and maintain the Seller’s Plant, whether real or personal and whether tangible or intangible, including equipment and other warranties, Permits, supply and other contracts, the goodwill in and right to use the name by which the Seller’s Plant is commonly known, the books, records and accounts for the Seller’s Plant, and all land tenure and land tenure agreements for the Seller’s Plant.

86. “Project Standards” mean:
   (a) all Applicable Laws;
   (b) the terms and conditions of all Permits issued in connection with the Seller’s Plant;
   (c) Good Utility Practice;
   (d) the Seller’s Plant Description;
   (e) the requirements of Schedule 2, Schedule 4, and Schedule 10;
   (f) the CPCN; and
   (g) the terms and conditions of this TEPA.

87. “Project Timeline” means the timeline for the Project that is attached as Schedule 9.

88. “Proposal” means the proposal submitted by the Seller pursuant to the RFP.

89. “Proposal Documents” means the Proposal and all documents and information provided by the Seller to the Buyer in connection with such Proposal, whether concurrently with or after the date of submission of the Proposal to the Buyer.

90. “PST” means British Columbia provincial social service or sales tax.

91. “Received System Water” means System Water that the Seller receives from the Buyer at the Point of Reception;
92. “Records” means all records and logs required to properly administer this TEPA, including:

(a) Output Energy generation records and operating logs;
(b) a log book of all Outages and other reductions in Output Energy output (specifying the date, time, duration and reasons for each Outage and each reduction in Output Energy output);
(c) meter readings;
(d) trended data of all system data points requested by the City logged at 1 minutes internals and saved on a Historian, including but not limited to supply and return temperatures, supply and return pressures, System Water flow rate, Instantaneous Capacity, outside air temperature, supply temperature set point, cumulative metered energy, plant equipment output, and plant equipment efficiency;
(e) GHG emission and carbon intensity reports;
(f) Carbon Dioxide Equivalents emissions reports;
(g) maintenance reports;
(h) invoice support records;
(i) documents concerning compliance with Permits and Applicable Laws;
(j) all information the Buyer requires to verify qualification of the output from the Seller’s Plant as Renewable Energy; and
(k) records of the Input Energy used and the Output Energy delivered to the Point of Interconnection for each calendar year of the Service Term from each source of Input Energy;

all consistent with Good Utility Practice.

93. “Renewable Energy” means ______. [Note to Draft: Definition of Renewable Energy to be inserted based upon type of Fuel used.]

94. “RFEOI” means Request for Expressions of Interest No. PS20200405.

95. “RFP” means the Request for Proposals No. PS20210169 issued by the Buyer on ________________, together with all appendices and all other documents and forms referenced therein as forming part of the RFP.

96. “Schedules” means the schedules described in Section 1.2 of the TEPA and that are attached to this TEPA.
97. “Section 219 Covenant, Statutory Right of Way, and Option to Purchase” means a Section 219 covenant, a statutory right of way, and an option to purchase in the form that is attached to this TEPA as Schedule 11.

98. “Seller” means the Party so identified on page one of this TEPA, and its successors and permitted assigns.

99. “Seller Confidential Information” means technical or commercial information disclosed by the Seller to the Buyer that the Seller treats, and clearly marks, as confidential before its disclosure to the Buyer, but excluding:

   (a) this TEPA; and

   (b) information that (i) is or becomes in the public domain, other than as a result of a breach of this TEPA by the Buyer, or (ii) is known to the Buyer before disclosure to it by the Seller, or becomes known to the Buyer thereafter by way of disclosure to the Buyer by any other person who is not under an obligation of confidentiality for that information.

100. “Seller Indemnified Party” has the meaning given in Section 22.2.

101. “Seller’s Meter” means the Seller’s meter that is located at the Point of Interconnection and used by the Seller to meter how much Output Energy the Seller delivers to the Buyer under this TEPA.

102. “Seller’s Plant” means the Seller’s energy generation plant, including all of the facilities and equipment required to construct, operate, and maintain the plant, the facilities and equipment required to use the Input Energy to generate Output Energy, and the building that houses the plant, fuel storage, and handling facilities, the Point of Reception, and the Point of Interconnection, all of which is described in detail in Schedule 2.

103. “Seller’s Plant Description” means the description of and specifications for the Seller’s Plant, which are described in detail in Schedule 2.

104. “Service Restored” means the point in time after an Outage when the Seller has been delivering Received System Water to the Point of Interconnection at the temperatures stated in Schedule 4 for 24 hours.

105. “Service Term” has the meaning given in Section 3.2.

106. “Site” means the lands located at __________ where the Seller will construct, operate, and maintain the Seller’s Plant.

107. “Supply Shortfall” means a delivery of the Received System Water to the Point of Interconnection at temperatures that are two degrees Celsius less or less than two degrees Celsius less than the temperatures stated in Schedule 4 that is caused by the Instantaneous Capacity being below the Nominated Capacity.
108. “System Water” means the substance, which consists of water and chemicals that inhibit corrosion, that circulates through the closed loop piping system of the Buyer’s Distribution System;

109. “Temperature Change Notice” means a written notice that is executed by the Buyer and that states the new temperatures at which the Seller must deliver the Received System Water to the Point of Interconnection and the date upon which the new temperatures will go into effect, which cannot be less than fifteen days after the date of the Temperature Change Notice unless the Seller consents.

110. “TEPA” means this Thermal Energy Purchase Agreement, including all attached Schedules, all as amended, supplemented, or otherwise modified from time to time.

111. “Term” has the meaning given in Section 3.1.

112. “Termination Payment” means the amount payable by the Buyer to the Seller pursuant to Section 3.3.

113. “Test Energy” means Output Energy delivered at the POI (i) during any successful test pursuant to Section 6.2(c), and (ii) if COD is achieved at 24:00 PPT on the day on which such test is concluded, during the period after the test and before the COD.


115. “Thermal Energy Rates” means the rates that the Buyer pays the Seller for the delivery of Thermal Energy to the Point of Interconnection under this TEPA, which shall consist of the Capacity Charge, the Input Energy Charge, and the Non-Energy Operating Costs Charge.

116. “UCA” means the Utilities Commission Act (British Columbia).
SCHEDULE 2

SELLER’S PLANT DESCRIPTION AND SPECIFICATIONS

[To be provided by selected Proponent before agreement is finalized.]
SCHEDULE 3
THERMAL ENERGY RATES

[To be finalized before the agreement is signed.]
SCHEDULE 4
RECEIVED SYSTEM WATER ENERGY DELIVERY SPECIFICATIONS

[Note to draft: This is an incomplete schedule; to be finalized before the agreement is signed.]

1. **Nominated Capacity** [Note to draft: this will be specified by the Buyer over the course of the Service Term]
   Nominated Capacity: ________ kW

2. **Maximum Received System Water Flowrate** [Note to draft: this will be specified by the Buyer over the course of the Service Term]
   Maximum Received System Water Flowrate: ________ litres per second

3. **Maximum Allowable Carbon Intensity of Energy Supply**
   The Seller will provide a low-carbon energy supply that has an annual Carbon Intensity less than the Carbon Intensity limit stated in table 1:

   **Table 1: Carbon Intensity Limit**

<table>
<thead>
<tr>
<th>Year</th>
<th>Carbon Intensity Limit (kg CO2e/ MWh)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2025</td>
<td>70</td>
</tr>
<tr>
<td>2026</td>
<td>60</td>
</tr>
<tr>
<td>2027</td>
<td>50</td>
</tr>
<tr>
<td>2028</td>
<td>40</td>
</tr>
<tr>
<td>2029</td>
<td>30</td>
</tr>
<tr>
<td>2030-onward</td>
<td>15</td>
</tr>
</tbody>
</table>

4. **Required Supply Temperature of System Water at Point of Interconnection**
   System Water is required to be delivered at the Point of Interconnection within 2°C of the required supply temperature defined relative to the outside air temperature as specified in table 2:

   **Table 2: Required Supply Temperature Schedule**

<table>
<thead>
<tr>
<th>Outside Air Temperature (°C)</th>
<th>Required Supply Temperature at Point of</th>
<th>Estimated Return Temperature at Point of</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
5. Reliable, Resiliency, and Uninterruptible Energy Supply

The Seller is required to provide a reliable, resilient, and uninterruptible energy supply that is free of Outages.

To support this requirement the Seller will provide:

- Redundant energy generation capacity: _____kW
- Electrical generation backup capacity: _____kW
- Backup fuel supply:
- On-site operator frequency:
- On-call operator frequency:

6. Communication in the Event of an Outage

In the event of an Outage the Seller will, at a minimum, provide the following communications to the Buyer:

<table>
<thead>
<tr>
<th>Outage Duration</th>
<th>Communication</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-hour</td>
<td>Notify Buyer by phone providing a summary of the Outage cause, Outage Severity, and expected time service will be restored</td>
</tr>
<tr>
<td>4-hours</td>
<td>Written communication to Buyer stating the outage cause, work plan for restoring service, and schedule for restoring service</td>
</tr>
<tr>
<td>8-hours</td>
<td>Written statement to Buyer for release to impacted Customers Ongoing written updates to Seller at 8 hour intervals</td>
</tr>
</tbody>
</table>
SCHEDULE 5
LIQUIDATED DAMAGES

1. COD Delay LDs

Daily Capacity Charge multiplied by 5 multiplied by the number of days after the Guaranteed COD plus Force Majeure Days that COD occurs.

Example Calculation:
For example, if COD occurs ten days after Guaranteed COD plus Force Majeure Days, then:

COD Delay LDs = Daily Capacity Charge × 5 × 10 days

2. Outage LDs

Daily Capacity Charge multiplied by the Outage Duration multiplied by the multiplier in Table 1 assigned based on the Outage Duration and Outage Severity.

Table 1: Outage LD Multiplier (X)

<table>
<thead>
<tr>
<th>Outage Severity</th>
<th>Outage Duration</th>
<th>&lt;1h</th>
<th>&lt;4h</th>
<th>&lt;48h</th>
<th>&gt;48h</th>
</tr>
</thead>
<tbody>
<tr>
<td>98-90%</td>
<td>X=0.25</td>
<td>X=0.5</td>
<td>X=1</td>
<td>X=2</td>
<td></td>
</tr>
<tr>
<td>89-75%</td>
<td>X=0.5</td>
<td>X=1</td>
<td>X=2</td>
<td>X=4</td>
<td></td>
</tr>
<tr>
<td>74-50%</td>
<td>X=1</td>
<td>X=2</td>
<td>X=4</td>
<td>X=8</td>
<td></td>
</tr>
<tr>
<td>49-0%</td>
<td>X=2</td>
<td>X=4</td>
<td>X=8</td>
<td>X=16</td>
<td></td>
</tr>
</tbody>
</table>

Example Calculation:
For example,

Nominated Capacity: 10,000 kW

Received System Water flowrate: 50 L/s

Temperature at Point of Reception: 50°C

Required Supply Temperature (per Schedule 4): 80°C

Actual Supply Temperature at Point of Interconnection: 75°C

Outage Duration: 1.5 days
Instantaneous Capacity = 50 * 4.18 * (75-50) = 5,225 kW

Outage Severity = \( \frac{50 \times 4.18 \times (75-50)}{50 \times 4.18 \times (80-50)} \times 100\% = 83\% \)

LD = Daily Capacity Charge \( \times 2 \times 1.5 \) days

3. **Carbon Intensity LDs**

Kilograms of additional Carbon Dioxide Equivalents that the Seller generates as a result of being above the maximum Carbon Intensity permitted in Schedule 4 multiplied by the cost of carbon specified in table 2.

**Table 2: Cost of Carbon**

<table>
<thead>
<tr>
<th>Contract Year</th>
<th>Cost of Carbon ($ per kg of Carbon Dioxide Equivalents)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>2-30</td>
<td>0.15</td>
</tr>
</tbody>
</table>

**Example Calculation:**

For example, if the Seller provides an annual report stating 20,000 MWh of energy production and an annual carbon intensity that is 5 kg CO2e/MWh above the maximum carbon intensity stated in Schedule 4.

Additional CO2e emissions = \( 5 \text{ kg CO2e/MWh} \times 20,000\text{MWh} = 100,000 \text{ kg CO2e} \)

Liquidated Damages = \( \frac{0.15}{\text{kg CO2e}} \times 100,000 \text{ kg CO2e} = $15,000 \)
SCHEDULE 6

COD CERTIFICATE
SCHEDULE 7

SAMPLE FORM PERFORMANCE SECURITY

[To be provided by selected Proponent before agreement is finalized. Refer to Section 17 of the TEPA.]
SCHEDULE 8

SAMPLE FORM DEVELOPMENT PROGRESS REPORT
SCHEDULE 9

PROJECT TIMELINE

[To be provided by selected Proponent before agreement is finalized.]
SCHEDULE 10

INPUT ENERGY PLAN

[To be provided by selected Proponent before agreement is finalized.]
SCHEDULE 11

FORM OF SECTION 219 COVENANT, STATUTORY RIGHT OF WAY, AND OPTION TO PURCHASE

[To be provided by selected Proponent before agreement is finalized.]