

# **Retailer Terms and Conditions for Distribution Access**

**Tomahawk REA Ltd.**

## TABLE OF CONTENTS

<b>ARTICLE 1 – PREAMBLE</b> .....	<b>5</b>
<b>ARTICLE 2 – DEFINITIONS AND INTERPRETATION</b> .....	<b>6</b>
2.1 Definitions.....	6
2.2 Conflicts.....	9
2.3 Headings .....	9
2.4 Schedules and Appendices .....	9
<b>ARTICLE 3 – GENERAL PROVISIONS</b> .....	<b>10</b>
3.1 Board Approval.....	10
3.2 Distribution Tariff .....	10
3.3 Effective Date .....	10
3.4 Terms and Conditions Prevail.....	10
3.5 Ownership of Facilities.....	10
3.6 New Facilities and Service Additions.....	11
<b>ARTICLE 4 – GENERAL OBLIGATIONS OF RETAILERS</b> .....	<b>12</b>
4.1 Timeliness, Due Diligence and Security Requirements .....	12
4.2 Arrangements with Members.....	12
4.3 Responsibility for Electric Purchases.....	12
4.4 Retailer Authorization .....	12
4.5 Retailer Identification .....	12
4.6 Single Retailer for Member .....	13
4.7 Fees and Other Charges .....	13
<b>ARTICLE 5 – MEMBER INQUIRIES AND MEMBER INFORMATION</b> .....	<b>14</b>
5.1 Member Inquiries.....	14
5.2 Member Inquiries Related to Emergency Situations and Outages.....	14
5.3 Member Information.....	14
<b>ARTICLE 6 – PROVISION OF SERVICE</b> .....	<b>16</b>
6.1 Qualification for Service .....	16
6.2 Application for Enrollment.....	16
<b>ARTICLE 7 – BILLING &amp; PAYMENT</b> .....	<b>18</b>
7.1 Retail Billing .....	18
7.2 Payment and Collection Terms.....	18
7.3 Late or Unpaid Bills.....	18
7.4 Adjustment of Bills .....	19
<b>ARTICLE 8 – DISTRIBUTION ACCESS SERVICE INTERRUPTION</b> .....	<b>20</b>
8.1 Continuous Supply.....	20
8.2 Interruption .....	20
8.3 Reasonable Efforts .....	20
<b>ARTICLE 9 – DISCONTINUANCE OF DISTRIBUTION ACCESS SERVICE</b> .....	<b>21</b>
9.1 Discontinuance by the Retailer .....	21
9.2 Discontinuance by TREA’s WSP .....	22
<b>ARTICLE 10 – SERVICE DISCONNECTS AND RECONNECT</b> .....	<b>23</b>

10.1 Disconnection of Service .....	23
10.2 Reconnect Service.....	24
<b>ARTICLE 11 – PRUDENTIAL REQUIREMENTS .....</b>	<b>25</b>
11.1 Setting of Prudential Requirements .....	25
11.2 Review and Reassessment .....	25
11.3 Costs .....	25
<b>ARTICLE 12 – METERING .....</b>	<b>26</b>
12.1 Provision and Ownership.....	26
12.2 Meter Reading .....	26
12.3 Changes to Metering Equipment .....	26
12.4 Meter Test and Adjustments.....	27
<b>ARTICLE 13 – LOAD SETTLEMENT .....</b>	<b>28</b>
13.1 Request for Information .....	28
13.2 No Liability for Errors .....	28
<b>ARTICLE 14 – DEFAULT .....</b>	<b>29</b>
14.1 Events of Default .....	29
14.2 Rights Upon Default.....	29
<b>ARTICLE 15 – LIABILITY AND INDEMNITY.....</b>	<b>30</b>
15.1 Indemnity.....	30
15.2 Consequential Loss .....	31
<b>ARTICLE 16 – FORCE MAJEURE .....</b>	<b>33</b>
16.1 Force Majeure Relief .....	33
16.2 Exclusions .....	33
16.3 Notice .....	33
16.4 Obligation to Remedy .....	33
16.5 Strikes and Lockouts .....	33
<b>ARTICLE 17 – DISPUTE RESOLUTION .....</b>	<b>34</b>
17.1 Resolution by the WSP and Retailer.....	34
17.2 Resolution by Arbitration.....	34
17.3 Arbitrators.....	34
17.4 Failure to Concur .....	34
17.5 Refusal to Appoint an Arbitrator.....	34
17.6 Failure to Appoint a Third Arbitrator.....	35
17.7 Technical Competence .....	35
17.8 Compensation of Arbitrators .....	35
17.9 Application of the Arbitration Act (Alberta) .....	35
17.10 Decisions Binding .....	35
17.11 Continuity of Service .....	36
<b>ARTICLE 18 – MISCELLANEOUS .....</b>	<b>37</b>
18.1 Compliance with Applicable Legal Authorities .....	37
18.2 No Assignment .....	37
18.3 No Waiver .....	37
18.4 Law .....	38
<b>ARTICLE 19 – NOTICE .....</b>	<b>39</b>



**Effective: 2021 – 01-05**

<b>Appendix A – COMPLIANCE TESTING PROTOCOL.....</b>	<b>40</b>
<b>Appendix B – DISCONNECT FOR NON PAYMENT .....</b>	<b>42</b>
<b>Appendix C – PRUDENTIAL REQUIREMENTS.....</b>	<b>43</b>
<b>Appendix D – MISCELLANEOUS SERVICE CHARGES .....</b>	<b>45</b>
<b>Appendix E – RETAILER SERVICE AGREEMENT .....</b>	<b>47</b>
<b>Appendix F – CONSENT FOR INFORMATION RELEASE .....</b>	<b>50</b>

## **ARTICLE 1 – PREAMBLE**

In accordance with the DSO (Distribution System Operator) Agreement made between Tomahawk Rural Electrification Association Ltd. ("TREA") and Battle River Cooperative REA Ltd., doing business as Battle River Power Coop ("BRPC"), the TREA, as a wire owner, has retained BRPC to act as its wire services provider ("WSP") after January 4, 2021. Pursuant to the Electric Utilities Act ("EUA"), BRPC will, for certain Members, act solely as a wire services provider which will not be responsible for providing electricity directly to these Members. In its role as a wire services provider, BRPC will enable Retailers to acquire access to TREA's electric distribution system for the purposes of allowing them to sell electricity directly to end-use Members.

These Terms and Conditions are intended to apply to the relationship between BRPC, as TREA's wire services provider and all Retailers or any other party who will be acting as an Agent on behalf of the Retailer for transactions, including, but not limited to, retail billing and load settlement.

These Terms and Conditions serve as a companion to the Terms and Conditions for Electric Distribution Service which are intended to govern the relationship between TREA, the Member, BRPC or any other person whom the TREA, or the Member has assigned to act on its behalf in its dealings with the WSP, regarding the provision of wire service on the TREA's electric distribution system.

If there are any conflicts between the Terms and Conditions for Electric Service – Members and these Terms and Conditions, the Terms and Conditions for Electric Service – Members shall prevail to the extent of such conflict.

These Terms and Conditions serve as a companion to the Terms and Conditions for Electric Service – Members that is intended to apply to the relationship between the wire owner, its WSP and the Member.

TREA is governed by the Board of Directors of TREA, and parties having any inquiries or complaints regarding these Terms and Conditions may direct such inquiries or complaints directly to TREA or to the Board.

The Board of Directors of TREA has approved these Terms and Conditions.

## ARTICLE 2 – DEFINITIONS AND INTERPRETATION

### 2.1 Definitions

The following words and phrases, whenever used in these Terms and Conditions or a Retail Service Agreement, shall have the meanings set forth below:

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

**“AUC”** means the Alberta Utilities Commission;

**“Association”** means the Tomahawk Rural Electrification Association Limited or its successor;

**“Billing Demand”** means the demand (expressed in kilovolt Amp (kVA), kiloWatt (kW), or other suitable unit), upon which billing to a Member is based;

**“Board”** means the Board of Directors of TREA;

**“Business Day”** means a business day is any day other than Saturday, Sunday or a statutory holiday in the Province of Alberta;

**“Customer”** means a person enrolled with the Retailer;

**“Demand”** means the maximum rate at which electric energy is delivered (expressed in kilovolt Amp (kVA), kiloWatt (kW), or other suitable unit);

**“Distribution Access Service”** means the service required to transport electricity to Members by means of an electric distribution system;

**“Distribution Contribution”** means the amount that a Member must pay to have a new service installed;

**“Distribution Extension Costs”** means the costs to extend service to a Member and include the costs of materials, labor, expenses, allocated overhead, and any other costs incurred by TREA in extending service to a Member, related to distribution voltages of 25 kV and lower;

**“Distribution Tariff”** means a distribution tariff prepared by TREA in accordance with the *Distribution Tariff Regulation, A.R. 162/2003*, as amended from time to time;

**“Electric Service Contract”** means an agreement for the provision of a Service Connection pursuant to the Terms and Conditions for Electric Service - Members, between TREA and a Member;

**“Electricity Services”** means the services associated with the provision of electricity to Members, including the exchange of electricity through the power pool, making financial arrangements to manage financial risk associated with the pool price, distribution access service, system access service, system support services, billing, metering, maintaining information systems, and any other services specified in the regulations;

**“Electric Service Tariff”** means a Distribution Tariff prepared by TREA and Regulated Rate Tariff prepared by BRPC;

**“Energy”** means electric energy (expressed in kiloWatt hours (kWh) or other suitable units);

**“Facilities”** means a physical plant (including, without limitation, distribution lines, transformers, meters, equipment and machinery);

**“Force Majeure”** means circumstances not reasonably within the control of TREA, including acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, wars, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, high water, washouts, inclement weather, orders or acts of civil or military authorities, civil disturbances, explosions, breakdown or accident to equipment, mechanical breakdowns, the intervention of federal, provincial, state or local government or from any of their agencies or boards, the order or direction of any court, and any other cause, whether of the kind herein enumerated or otherwise;

**“Generating Member”** means a Member with on-site generating equipment that is interconnected with TREA’s distribution facilities;

**“In-service Date”** means the date on which the Member specifies service is to be available or the date the service is actually available, whichever is later;

**“Interconnected System”** means those portions of TREA’s facilities which are connected with the electrical systems of other electric utilities in the Province of Alberta commonly known as the Alberta Interconnected Electric System (AIES);

**“Load”** means the demand and energy delivered to or required at any Point of Service;

**“Member”** means the Member of TREA;

**Effective: 2021 – 01-05**

**"Member Usage Information"** means the consumption and demand (eg. kWh, kW, kVA) metered at or estimated for a site for a previous usage period.

**"Point of Delivery" or "POD"** means the point at which electrical energy is transferred to TREA's distribution system;

**"Point of Service"** means the point at which TREA's service conductors are connected to the conductors or apparatus of a Member;

**"Power Factor"** means the ratio of the highest metered kiloWatt demand in a billing period to the highest metered kiloVolt Amp demand in that same billing period;

**"Power Pool"** means the scheme operated by the persons appointed under section 9(1)(b) and (c) of the Act for the dispatch and exchange of electric energy and financial settlement for the exchange of electric energy;

**"REA"** means the incorporated Rural Electrification Association;

**"RRR"** means the *Roles, Relationships and Responsibilities Regulation, A.R. 169/2003*, as amended from time to time;

**"Regulated Rate Option"** means the new RRO rate, as defined in Section 1(f) of the *Regulated Rate Option Regulation, AR 262/2005* or such other regulations made by the Minister under section 108 of the Act;

**"Regulated Rate Customer"** means an eligible customer who is not receiving electricity services from a retailer;

**"Retailer"** means a person who sells or provides Electricity Services directly to Members and who is entitled to enroll Members for Distribution Access Service under these Terms and Conditions;

**"Service Connection"** means TREA's distribution system Facilities required to physically connect to the Member's facilities;

**"Settlement System Code"** means the rules governing the roles, standard practices and process of the various organizations involved in load settlement in Alberta, made by the AUC pursuant to Section 24 of the Act;

**"Site"** means a site as defined in accordance with ISO rules for load settlement;



**Effective: 2021 – 01-05**

**“System Controller”** means the person(s) appointed by the Power Pool Council under the Act to carry out the system control function of the Power Pool;

**“Terms and Conditions”** means these Retailer Terms and Conditions for Distribution Access;

**“Transmission Administrator”** means the person(s) appointed by the Lieutenant Governor in Council under the Act.

**“WSP”** means a person whom the TREA has authorized to act on its behalf pursuant to Sections 104 and 105 of the Electric Utilities Act, S.A. 2003, c E-5.1.

## **2.2 Conflicts**

If there is any conflict between a provision expressly set out in these Terms and Conditions, as may be amended from time to time, and a Retailer Service Agreement, the express provision of these Terms and Conditions shall govern, as of their effective date.

## **2.3 Headings**

The division of these Terms and Conditions into sections, subsections and other subdivisions and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of these Terms and Conditions.

## **2.4 Schedules and Appendices**

The following schedules and appendices are attached to and form part of these Terms and Conditions:

- Appendix A - Compliance Testing Protocol
- Appendix B - Disconnect for Non Payment
- Appendix C - Prudential Requirements
- Appendix D - Miscellaneous Service Charges
- Appendix E – Retailer Service Agreement
- Appendix F – Consent For Information Release

## **ARTICLE 3 – GENERAL PROVISIONS**

### **3.1 Board Approval**

The Board of Directors of TREA has approved these Terms and Conditions. TREA may amend these Terms and Conditions from time to time and will subsequently file the new Terms and Conditions for information with the AUC.

### **3.2 Distribution Tariff**

TREA's Distribution Tariff is available for public inspection during normal business hours at the business offices of TREA and at the offices of the AUC.

### **3.3 Effective Date**

These Terms and Conditions are effective as of the indicated effective date. Whenever TREA files notice of an amendment to these Terms and Conditions, or when the Board approves an amendment to these Terms and conditions, revisions will be issued and updated on TREA's website, with the effective date of the amendments indicated thereon.

### **3.4 Terms and Conditions Prevail**

a) These Terms and Conditions, as amended from time to time, apply to TREA and to each Retailer. These Terms and Conditions also govern the relationship between TREA, its WSP and Member(s) for whom the Retailer is acting as an agent in its dealings with TREA's WSP.

b) No agreement can provide for the waiver or alteration of any part of these Terms and Conditions unless such agreement is first filed with and approved in writing by the Board.

### **3.5 Ownership of Facilities**

a) TREA remains the owner of all Facilities necessary to provide Distribution Access Service, unless an agreement between TREA and the Retailer or Member specifically provides otherwise.

b) Payment made by Retailers or Members for costs incurred by TREA in installing Facilities does not entitle Retailers or Members to ownership of any such Facilities, unless an agreement between TREA and the Retailer or Member specifically provides otherwise.



**Effective: 2021 – 01-05**

### **3.6 New Facilities and Service Additions**

TREA's WSP reserves the right to communicate directly with the Member in respect of any requests made by the Member, or a party acting on its behalf, for the construction of new facilities or additional services as provided for in the *Billing Regulation, 2003 AR 159/2003*, as may be amended from time to time. TREA's WSP reserves the right to charge the Member directly for any amounts required to be provided by the Member under the Terms and Conditions for Electric Service – Member. Retailers shall refer to the WSP's Member Guide to New Extensions for details of the requirements with respect to new facilities and service additions.

## **ARTICLE 4 – GENERAL OBLIGATIONS OF RETAILERS**

### **4.1 Timeliness, Due Diligence and Security Requirements**

- a) The Retailer shall exercise due diligence and use reasonable efforts in meeting its obligations hereunder, and perform the same in a timely manner.
- b) The Retailer shall adhere to all credit, deposit and security requirements specified in these Terms and Conditions.
- c) The Retailer shall make every effort to ensure that its Customers are aware of the provisions of these Terms and Conditions that may affect the Customer(s).

### **4.2 Arrangements with Members**

Unless otherwise stated herein, the Retailer shall be solely responsible for having appropriate contractual or other arrangements with its Customer(s) necessary to provide service. TREA or its WSP shall not be responsible for monitoring, reviewing or enforcing such contracts or arrangements and shall not be liable for any loss, damages, cost, injury, expense or other liability, whether direct, indirect, consequential or special in nature, howsoever caused, as a result of the Retailer's failure to perform its obligations to its Customer(s).

### **4.3 Responsibility for Electric Purchases**

The Retailer will be solely responsible to procure electricity on behalf of its Customers, including a share of the electricity lost in TREAs Facilities, and for arranging the delivery of such electricity to the Point of Service for Customers, subject to these Terms and Conditions.

### **4.4 Retailer Authorization**

The Retailer shall be responsible for obtaining authorization from each Member authorizing the enrollment of the Customer for receipt of Distribution Access Service by such Retailer. TREA's WSP shall be notified of enrollment as per the Settlement System Code.

### **4.5 Retailer Identification**

Any information exchange or communications between the Retailer and TREA's WSP under these Terms and Conditions shall employ a Retailer Identification Number.

#### **4.6 Single Retailer for Member**

TREA's WSP shall not be required to recognize and deal with more than one Retailer in respect of a Point of Service at any given time. Nothing in these Terms and Conditions shall prohibit a Member from entering into arrangements with multiple Retailers for a Distribution Point of Service, provided that a single Retailer is designated to be the Member's Retailer for the purposes of these Terms and Conditions.

#### **4.7 Fees and Other Charges**

TREA's WSP will provide all standard services hereunder pursuant to the **Distribution Tariff**. All additional, supplementary or extra non-discretionary services provided by TREA's WSP to a Retailer (or Member) will be charged a separate rate or fee, such as those included, without limitation, in Appendix D. Payment for these services shall be in accordance with the provisions of these Terms and Conditions.

## **ARTICLE 5 – MEMBER INQUIRIES AND MEMBER INFORMATION**

### **5.1 Member Inquiries**

For Members requesting information on Distribution Access Service, TREA's WSP will make available the following information:

- i) Notification and informational materials to consumers about competition and consumer choices;
- ii) Direct Members, on request, to a source where they may obtain the current list of licensed Retailers maintained in accordance with the *Fair Trading Act*. TREA's WSP is under no obligation to ensure the accuracy of this list.

### **5.2 Member Inquiries Related to Emergency Situations and Outages**

Retailers shall make every effort to ensure Members contacting the Retailer regarding distribution emergency conditions, outages, safety or environment situations related to TREA's distribution system are referred directly to TREA's WSP immediately.

TREA's WSP reserves the right, without providing notice to the Retailer, to test or audit the response time of the Retailer. TREA's WSP will communicate any unacceptable patterns to the Retailer to be corrected.

### **5.3 Member Information**

#### *5.3.1 Provision of Member Information to a Retailer*

TREA's WSP shall provide standard Member Usage Information to a Retailer that has a Retail Service Agreement in place with the WSP upon request and upon receiving consent from the Member for:

- i) The 12-month period preceding the date of the request, or
- ii) For any shorter period for which the WSP has collected that information.

A Retailer may request Member Usage Information prior to an application for enrollment by obtaining and submitting to TREA's WSP the authorization from the Member in a form acceptable and agreed to by the WSP, see Appendix F.

The information referred to above will be provided by TREA's WSP at no additional cost for requests made once per year per account. TREA's WSP reserves the right to assess a charge for additional Member Usage Information requests as set forth in Appendix D hereof.



**Effective: 2021 – 01-05**

*5.3.2 Provision of Member Information to TREA's WSP*

The Retailer must notify TREA's WSP as promptly as reasonably practical of any changes to Member Information (as set out in the Retailer Agreement attached as Appendix E). Such information shall be provided in a form acceptable to TREA's WSP, as agreed to by the WSP and the Retailer.

## **ARTICLE 6 – PROVISION OF SERVICE**

### **6.1 Qualification for Service**

The Retailer must fulfill the following requirements to the satisfaction of TREA's WSP before TREA will provide Distribution Access Service to that Retailer:

- i) Submit to the WSP two copies of fully completed, executed Retail Service Agreement, Appendix E.;
- ii) Furnish a certified copy of the license issued to it and warrant in writing to the WSP that it is licensed pursuant to and will comply with the provisions of the *Fair Trading Act*, and any regulations or policies made there under;
- iii) Satisfy the credit requirements of the WSP as set forth in Article 11 hereof;
- iv) Warrant in writing to the WSP that it will comply with the guidelines established in the Settlement System Code and Tariff Billing Code Directive;
- v) Meet the compliance testing protocol of the WSP in respect of information exchange, which protocol is set forth in Appendix A hereof;
- vi) Warrant in writing to the WSP that it has been qualified by the Power Pool as a participant therein, and can receive electricity from the Power Pool; and
- vii) Meet any other requirements that TREA's WSP, acting reasonably, may impose in order to provide Distribution Access Service hereunder to the Retailer. Upon satisfaction of the above requirements, the WSP will provide Distribution Access Service to the Retailer, subject to these Terms and Conditions set out herein. TREA's WSP reserves the right, acting reasonably, to discontinue Distribution Access Service to the Retailer if at any time the Retailer fails to meet these requirements.

### **6.2 Application for Enrollment**

a) In order to initiate the provision of Distribution Access Service by TREA, the Retailer shall complete and provide to TREA's WSP an enrollment for Distribution Access Service in the form and manner set out in the Retailer Service Agreement (Appendix E) and in compliance with the Settlement System Code.

b) TREA's WSP will, subject to the Retailer meeting the provisions of these Terms and Conditions, accept an enrollment by a Retailer for provision of Distribution Access Service hereunder. TREA's WSP reserves the right to verify the identity of the Member and the accuracy of the Member Data. TREA's WSP may reject the enrollment if any information required in the application, including the Member Data and Retailer Business Function ID, provided by the Retailer is false, incomplete or inaccurate in any respect.

c) Upon receipt of an enrollment from a Retailer the WSP may accept the enrollment of the Retailer and will recognize the Retailer as the Retailer of Record for that particular Site.



**Effective: 2021 – 01-05**

d) Enrollments will be processed by TREA's WSP on a first-come, first-served basis. Each enrollment will be time and date-stamped when received by TREA's WSP.

e) Once the enrollment is submitted, TREA's WSP will exercise reasonable efforts, to provide the Retailer, in electronic form, same day notification on any given calendar day as outlined in the Settlement System Code informing the Retailer whether the enrollment has been accepted or rejected. If an enrollment is accepted, the effective date of the acceptance and the commencement of Distribution Access Service will be confirmed in the response to the Retailer. If an enrollment is rejected, TREA's WSP will provide reasons for the rejection.

f) In accordance with Article 12 of these Terms and Conditions, TREA's WSP will endeavor to obtain meter reads 100% of the time every 2 months. If TREA's WSP does not schedule an actual read at the time of the enrollment, TREA's WSP will estimate a meter read. At the request of the Retailer (or Member), TREA's WSP shall obtain an actual off-cycle meter read and assess a charge to the Retailer as set forth in Appendix D hereof.

g) If more than one enrollment is received for a Site while an earlier enrollment is pending, only the first valid enrollment received by TREA's WSP shall be processed in that period.

h) TREA's WSP reserves the right to refuse Distribution Access Service, at any Point of Service, to an applicant who is indebted to TREA's WSP.

i) The Retailer will not be liable to TREA's WSP for any outstanding indebtedness of the Member to TREA's WSP, which accrued prior to the receipt by the Retailer of Distribution Access Service hereunder.

## **ARTICLE 7 – BILLING & PAYMENT**

### **7.1 Retail Billing**

TREA's WSP will bill the Retailer for Distribution Access Services provided to the Retailer in accordance with the billing procedures set out as follows:

- i) The WSP will invoice the Retailer based on guidelines identified in the Tariff Billing Code Directive.
- ii) TREA's WSP will not assume any billing or collection obligations or responsibilities for or on behalf of the Retailer. The Retailer shall process Customer payments and handle collection responsibilities. TREA's WSP may, at its sole discretion and in addition to any other remedies available to it, terminate Distribution Access Service to the Retailer, if such Retailer does not pay all outstanding bills in accordance with these Terms and Conditions,
- iii) TREA's WSP reserves the right to bill the Member directly for any amounts required to be provided by the Member under the Terms and Conditions for Electric Service - Members. The Retailer shall refer to the Member Guide to New Extensions or the Terms and Conditions of Electric Service - Members with respect to these services.

### **7.2 Payment and Collection Terms**

- a) The Retailer shall pay to TREA's WSP by electronic means, on or before the 13th Business Day following the Business Day on which the Retailer was invoiced, the amount invoiced by the WSP for the preceding period.
- b) The Retailer shall pay all amounts owed to TREA's WSP whether or not the Customer has paid the Retailer.
- c) Failure to receive a bill does not release a Retailer from the obligation to pay the amount owing for any of the Distribution Services provided by TREA.

### **7.3 Late or Unpaid Bills**

If a Retailer defaults or is late in paying charges, TREA's WSP will provide the Retailer notice as required by section 12 of the *Distribution Tariff Regulation, A.R. 162/2003*, and will be entitled to draw on the credit facility of the Retailer within 3 days of providing such notice. TREA's WSP may require an additional deposit to replace the funds drawn down because of the default or late payment by the Retailer. TREA's WSP shall charge interest on the late payment as set forth in Appendix D – LATE PAYMENT CHARGES hereof.

## **7.4 Adjustment of Bills**

### *7.4.1 Billing Error*

Should the Retailer dispute any amount owing, the Retailer shall nonetheless pay such disputed amount and subject the dispute for resolution in accordance with these Terms and Conditions. Following resolution of any such dispute, TREA's WSP will return any amount found owing to the Retailer forthwith. The right or ability of either party to dispute a bill for service provided hereunder shall only apply to bills rendered during a period of two (2) years prior to the date of a written notice of such dispute. TREA's WSP may assess a charge to the Retailer for reviewing billing disputes, in circumstances where TREA's WSP has not been responsible for any billing error, as established in Appendix D hereof.

### *7.4.2 Unauthorized Use*

Where TREA's WSP determines that there has been unauthorized use of electric service including, but not limited to, meter tampering, unauthorized connection or reconnection, theft or fraud whereby TREA's WSP is denied full compensation for Distribution Access Services provided, TREA's WSP will bill the Retailer for the WSP's estimate of such unauthorized use. Nothing in this section shall limit any other rights or remedies that TREA's WSP may have in connection with such unauthorized use.

## **ARTICLE 8 – DISTRIBUTION ACCESS SERVICE INTERRUPTION**

### **8.1 Continuous Supply**

TREA's WSP shall make all reasonable efforts to maintain a continuous electricity supply to the Retailer's Customers, but TREA or its WSP cannot guarantee an uninterrupted electricity supply.

### **8.2 Interruption**

Without liability of any kind to TREA or its WSP, TREA's WSP shall have the right to disconnect or otherwise curtail, interrupt or reduce service to the Retailer (and the Retailer's Customers) whenever TREA's WSP reasonably determines, or when TREA or its WSP is directed by the System Controller, that such a disconnection, curtailment, interruption or reduction is necessary to facilitate construction, installation, maintenance, repair, replacement or inspection of any of TREA's Facilities; to maintain the safety and reliability of TREA's distribution system; or due to any other reason, including emergencies, forced outages, potential overloading of TREA's distribution system or Force Majeure.

### **8.3 Reasonable Efforts**

TREA's WSP shall use reasonable efforts to minimize any scheduled curtailment, interruption or reduction to the extent reasonably practicable under the circumstances, to provide the Member with prior notification of any such curtailment, interruption or reduction to the extent reasonably practicable, and to resume Distribution Access Service as promptly as reasonably practicable.

## **ARTICLE 9 – DISCONTINUANCE OF DISTRIBUTION ACCESS SERVICE**

This Article, as amended from time to time, specifies the processes for the transactions between TREA's WSP and the Retailer in relation to de-enrollment of a Site, which includes, without limitation, the circumstances when a Retailer chooses not to provide Distribution Access Service to the Customer or when TREA's WSP discontinues Distribution Access Service to the Retailer as set forth in section 9.2 herein.

### **9.1 Discontinuance by the Retailer**

a) To discontinue Distribution Access Service, a Retailer shall complete and provide to TREA's WSP a written notice of de-enrollment of service in the form and manner set out in compliance with the Settlement System Code. Such notice shall clearly specify the Retailer's reason(s) for seeking to de-enroll the Site (Member).

b) In accordance with Article 12 of these Terms and Conditions, TREA's WSP shall obtain at least one (1) meter reading from 100% of cumulative meters every 2 months using one of the approved meter reads as defined in the Settlement System Code. If TREA's WSP does not schedule an actual read at the time of the de-enrollment, TREA's WSP will estimate a meter read. At the request of the Retailer (or Customer), TREA's WSP shall obtain an actual off-cycle meter read and assess a charge to the Retailer as set forth in Appendix D hereof.

c) Acting reasonably, TREA's WSP may, in its discretion accept a notice of de-enrollment of a Customer by a Retailer for discontinuance of Distribution Access Service hereunder, unless to do so is contrary to TREA's approved policies and these Terms and Conditions. TREA's WSP reserves the right to verify the identity of the Member at the Site and the accuracy of the Member Data. TREA's WSP may reject the notice of de-enrollment if any information required in the application, including the Member Data, provided by the Retailer is false, incomplete or inaccurate in any respect.

d) The Retailer is responsible to ensure that its Customers are provided notice of the de-enrollment, and the consequences thereof, and that TREA's WSP will not be held liable for any disputes between the Customer and the Retailer.

e) Upon receipt of a notice of de-enrollment of Distribution Access Service from a Retailer, TREA's WSP may accept the de-enrollment of the Retailer and will normally process the de-enrollment by the fifteenth (15th) Business Day following receipt of such notice.

f) The Retailer shall remain responsible for service to the Customer until a replacement Retailer or Default Supplier is appointed and in place for the Customer.

## **9.2 Discontinuance by TREA's WSP**

TREA or its WSP may discontinue Distribution Access Service to the Retailer and the Retailer's Customer(s) if any of the following occur:

- i) The Retailer has been decertified by Alberta Government Services, or
- ii) The Retailer has failed to meet its obligations under these Terms and Conditions or the Retail Service Agreement with TREA or its WSP, or
- iii) The Retailer has failed to meet its credit requirements pursuant to Appendix C, or
- iv) On account of theft, fraud or tampering with metering equipment.

Notification of discontinuance will be made electronically to the Retailer and by mail to the Member. Upon discontinuance of Distribution Access Service pursuant to this Article, the provisions of the affected service(s) may be assumed by another eligible Retailer from which the Customer elects to obtain service(s).

## **ARTICLE 10 – SERVICE DISCONNECTS AND RECONNECT**

This Article, as amended from time to time, specifies the processes for the transactions between TREA’s WSP and the Retailer in relation to the physical disconnect of a Point of Service as requested by TREA’s WSP or Retailer.

### **10.1 Disconnection of Service**

#### *10.1.1 Disconnection by TREA or its WSP*

a) TREA or its WSP has the right to disconnect electric service to the Member in a number of circumstances, including but not limited to non-payment of TREA or its WSP bills or any past due charges by the Member; evidence of safety violations, theft, fraud or tampering with metering equipment by the Member; or the Member fails to meet its obligations under the Terms and Conditions for Distribution Service Connections or any of the terms of the Member's Electric Service Contract. If a Member notifies TREA or its WSP to disconnect service, TREA or its WSP will refer the member to their Retailer. The only exception is in the event that the member request is for safety reasons.

b) If the disconnect is a result of a safety violation, TREA’s WSP will reconnect the service when the safety problem is resolved and when the Member has provided, or paid TREA’s WSP costs of providing, such devices or equipment as may be necessary to resolve such safety problem and to prevent such damage, interference or disturbance.

#### *10.1.2 Disconnection at Request of Retailer*

a) In accordance with the RRR, the Retailer shall have the right in some circumstances to request that TREA’s WSP disconnect service to a particular Member, and TREA’s WSP shall comply with that request, unless such action is inconsistent with TREA's or its WSP’s approved policies and these Terms and Conditions.

b) If a Retailer requests TREA’s WSP to disconnect service to a particular Customer for idle service, TREA’s WSP reserves the right to charge the Retailer the Member's monthly idle service charges. If the Point of Service is not enrolled with a Retailer, or Supplier of Last Resort, the idle service charges will be charged directly to the Member.

c) TREA’s WSP reserves the right to assess charges to the Retailer to disconnect service to a Member as set forth in Appendix D hereof.

**Effective: 2021 – 01-05**

## **10.2 Reconnect Service**

Before reconnecting or restoring service to a particular Member:

- i) The Retailer must provide TREA's WSP with sufficient notice to reconnect service, as determined in TREA's WSP's reasonable discretion;
- ii) TREA's WSP reserves the right to charge the Retailer for each month of disconnection, if the service was previously on idle and is reconnected within 12 months of disconnection;
- iii) TREA's WSP reserves the right to assess a reconnection charge as set forth in Appendix D hereof.



## **ARTICLE 11 – PRUDENTIAL REQUIREMENTS**

### **11.1 Setting of Prudential Requirements**

A Retailer shall meet and maintain such financial and other Prudential Requirements, as TREA's WSP deems appropriate to ensure that the Retailer is and remains of sufficient financial standing to meet its ongoing financial obligations. The Prudential Requirements are set out in detail in Appendix C.

### **11.2 Review and Reassessment**

TREA's WSP may review and reassess the adequacy of the financial security or credit rating provided by a Retailer from time to time and may direct the Retailer to provide new replacement or additional financial security in accordance with its new determination as to the adequacy of the Prudential Requirements for that Retailer.

### **11.3 Costs**

All costs associated with obtaining financial security and meeting prudential requirements under this section are the responsibility of the Retailer.

## **ARTICLE 12 – METERING**

### **12.1 Provision and Ownership**

The meters used by TREA's WSP to assess the level of Distribution Access Service charges to the Retailer will be the same meters used to provide Member billing information to the Retailer. TREA's WSP will provide, install and seal all meters for each Point of Service of a Customer of the Retailer in accordance with TREA's Terms and Conditions for Electric Service – Members. Interval recording meters shall be installed for a Member who has a connected load exceeding the threshold defined under the Settlement System Code. Each meter shall remain the property of TREA.

### **12.2 Meter Reading**

a) Metered Load will be based on meter readings made by TREA's WSP, or the Member from time to time or on estimates for those billing periods when the meter is not read. TREA's WSP reserves the right to assess a charge to the Retailer for non-scheduled meter readings.

b) For small general service Members whose load requirements are small, consistent, and can be accurately predicted, the billing demand may be determined, at the sole discretion of TREA's WSP, by circuit breakers, or from the nameplate rating of the Member's equipment rather than being metered.

### **12.3 Changes to Metering Equipment**

a) Should a Member or Retailer request new metering equipment beyond the basic service, TREA's WSP shall provide, install, test and maintain the required metering equipment. The metering equipment must be requested in writing by the Member or Retailer and meet BRPC's requirements. The Member or Retailer shall bear the cost of providing and installing the metering equipment, and ongoing operating costs. The metering equipment shall become the property of TREA and will be maintained by TREA's WSP. TREA's WSP shall complete installation of the metering equipment within thirty (30) days of delivery from the supplier. TREA's WSP shall bill the Member or Retailer upon installation, and the Member or Retailer shall pay TREA's WSP in full within thirteen (13) Business Days of receipt thereof. If payment is not received within (13) Business Days, TREA's WSP shall charge interest on the late payment as set forth in Appendix D hereof.

b) Should a Member or Retailer request to return the metering equipment to its previous basic form, the Member or Retailer shall bear the cost of removal and installation of the metering equipment.

c) Upon request by the Retailer or Member, TREA's WSP may provide other metering services, above standard metering service, in its discretion, acting reasonably, and may charge separate fees for such service.

#### **12.4 Meter Test and Adjustments**

a) TREA's WSP may inspect and test a meter at any reasonable time. At the request of a Retailer, TREA's WSP shall arrange for on-site meter verification and if necessary, shall arrange for a meter to be tested by an official designate for that purpose by Measurement Canada or accredited agency as may, from time to time, be designated for this purpose.

b) If a test determines that the meter is not accurate within the limits set by government standards, as determined in the WSP's reasonable discretion, the Retailer's bill will be adjusted accordingly. Where it is impossible to determine when the error commenced, it shall be deemed to have commenced three (3) months before the test or the date of the meter installation, whichever occurred later. TREA or its WSP shall not be liable to the Retailer (or Member) for any additional costs that are associated with such metering or meter reading errors.

c) TREA's WSP reserves the right to assess a charge to the Retailer for a meter test, in circumstances where TREA's WSP has not been responsible for any metering error, as set forth in Appendix D hereof.

## **ARTICLE 13 – LOAD SETTLEMENT**

### **13.1 Request for Information**

A Retailer may request profiling and settlement information above the basic service provisions specified in the Settlement System Code providing:

- i) The Retailer provides a written request to TREA's WSP outlining the purpose for the additional settlement information; and
- ii) The additional settlement information applies only to the Customers of the Retailer.

Upon satisfaction of the above requirements, TREA's WSP will advise the Retailer in a written proposal of the type of work, time of delivery and charges necessary to provide the additional settlement information to the Retailer.

### **13.2 No Liability for Errors**

TREA or its WSP, shall not be responsible for any estimating errors and shall not be liable to the Retailer for any costs that are associated with such estimating errors.

## **ARTICLE 14 – DEFAULT**

### **14.1 Events of Default**

An event of default under these Terms and Conditions and the Retail Service Agreement will occur if either TREA, its WSP or the Retailer (“Defaulting Party”):

- i) Is the subject of a bankruptcy, insolvency or similar proceeding,
- ii) Makes an assignment for the benefit of its creditors,
- iii) Applies for, seeks, consents to, or acquiesces in the appointment of a receiver, custodian, trustee, liquidator or similar official to manage all or a substantial portion of its assets,
- iv) Fails to pay the other party (“Non-Defaulting Party”) when payment is due, or to satisfy any other material obligation under these Terms and Conditions or the Retail Service Agreement including, without limiting the generality of the foregoing, fulfilling the creditworthiness requirements as set forth in Article 11, in accordance with these Terms and Conditions, and fails to remedy the failure or satisfy the obligation, as the case may be, within ten (10) Business Days after receipt of written notice thereof from the Non-Defaulting Party.

### **14.2 Rights Upon Default**

In an event of default, the Non-Defaulting Party shall, subject to these Terms and Conditions and any applicable regulatory requirements, be entitled to pursue any and all available legal and equitable remedies and terminate the Retail Service Agreement without any liability or responsibility whatsoever, except for obligations arising prior to the date of termination. The Non-Defaulting Party shall provide written notice to the defaulting party of its intention to terminate Distribution Access Service hereunder.

## **ARTICLE 15 – LIABILITY AND INDEMNITY**

### **15.1 Indemnity**

a) Each of TREA, its WSP and the Retailer (as applicable, the “Indemnitor”) shall respectively indemnify and hold harmless the other party and its directors, officers, employees, agents and representatives (“Indemnitee(s)”) from and against any direct damages, injuries, losses and other liabilities claimed against the Indemnitee or any of them, and all related costs and expenses (including legal fees on a solicitor and his own client full indemnity basis) suffered or incurred by any of them in relation to any claims, cause of action, action, suit or proceeding by a third party (“Claim”) which arises from damage to property or injury to or death of persons resulting from the Indemnitor’s failure to perform its obligations under these Terms and Conditions which failure is caused by the negligence or willful act of the Indemnitor or any of its directors, officers, employees, agents or representatives acting within the scope of their authority or employment. The indemnity under this Section 15.1(a) will be limited to an amount in proportion to the degree to which the Indemnitor or its directors, officers, employees, agents or representatives acting within the scope of their authority or employment are at fault. For the purpose of this Section 15.1(a) “willful act” means any act or omission which is an intentional tort or an intentional breach of any obligations under these Terms and Conditions.

b) In the event that an Indemnitee is entitled to and desires to assert its right to indemnification from an Indemnitor under this Section 15.1 such Indemnitee will give the Indemnitor prompt notice of the Claim, which shall describe the Claim in reasonable detail and shall indicate the estimated amount, if practicable, of the indemnifiable loss that has been or may be sustained by the Indemnitee. The failure to promptly notify the Indemnitor hereunder shall not relieve the Indemnitor of its obligations hereunder, except to the extent that the Indemnitor is actually and materially prejudiced by the failure to so notify promptly.

c) Subject to Section 15.1(d) hereof, if the Indemnitor delivers to the Indemnitee a written acknowledgement of its unconditional and irrevocable obligation to indemnify the Indemnitee under Section 15.1(a) in respect of: (1) all of the damages, injuries, losses, liabilities, costs and expenses that may be claimed against, or suffered or incurred by, the Indemnitee in respect of the Claim within 10 days following the Indemnitor’s receipt of the Indemnitee’s notice of such Claim and if the existence of such obligation to indemnify is made known by the Indemnitor to the third party claimant (and, if applicable, to the court or other tribunal determining the Claim), the Indemnitee shall make available to the Indemnitor all information in its possession or to which it has access, other than information that has been designated as confidential by the provider of such information, which is or may be relevant to the particular Claim and the Indemnitor shall be entitled, at its option, to take carriage of the defense of the Claim by its own counsel and, if it elects to do so, the Indemnitee shall cooperate with the Indemnitor to the fullest reasonable extent in the defense, settlement or compromise of the Claim; or (2) some, but less than

**Effective: 2021 – 01-05**

all, of the damages, injuries, losses, liabilities, costs and expenses that may be claimed against, or suffered or incurred by, the Indemnitee in respect of the Claim within 10 days following the Indemnitor's receipt of the Indemnitee's notice of such Claim and if the Indemnitee is of the opinion that the Indemnitor's interests are not in conflict with its own, the Indemnitee shall make available to the Indemnitor all information in its possession or to which it has access, other than information that has been designated as confidential by the provider of such information, which is or may be relevant to that portion of the Claim in respect of which the Indemnitor has an obligation to indemnify the Indemnitee and consult with the Indemnitor in respect thereof.

The Indemnitee shall not make any admission of the liability regarding, or settle or compromise, that portion of the Claim in respect of which the Indemnitor has acknowledged its obligation to indemnify the Indemnitee without the written consent of the Indemnitor, which consent shall not be unreasonably withheld.

d) The provisions of Section 15.1(a) hereof shall not apply in respect of any Claim to which the Indemnitor is, or may reasonably be expected to be, a party and where the Indemnitee is asserting legal defenses in relation to the Claim that conflict with legal defenses being asserted by the Indemnitor.

e) Except to the extent to which either TREA, its WSP or the Retailer is required to indemnify the other party (and those other persons specified in this Article 15) by the express terms of Article 15, neither TREA nor the Retailer, nor their respective directors, officers, agents, employees, and representatives, will be liable to the other party for any damages, costs, expenses, injuries, losses, or liabilities suffered or incurred by the other party, its directors, officers, employees, agents and representatives howsoever and whenever caused, and each party, for itself and as agent for its respective directors, officers, agents, employees and representatives hereby forever release the other party, its directors, officers, agents, employees and representatives from any liability or obligation in respect thereof. For greater certainty, neither TREA, its WSP nor the Retailer shall be limited in a claim against the other for specific performance or other equitable relief in relation thereto, or direct damages only and related costs and expenses (including legal fees on a solicitor and his own client full indemnity basis), arising from a breach of these Terms and Conditions.

## **15.2 Consequential Loss**

Notwithstanding anything to the contrary contained in these Terms and Conditions, neither TREA, its WSP nor the Retailer will be liable to the other party, and Association shall not be liable to the Member with respect to matters for which Retailer is acting as agent for the Member, for any damage, cost, expense, injury loss or other liability of an indirect, special or consequential nature suffered by the other party or claimed by any third party against the other party which arises due to such party's failure to perform its obligations under these Terms and Conditions or for any other reason (including negligence on its



**Effective: 2021 – 01-05**

part or on the part of any person for whose acts it is responsible), howsoever and whensoever caused, and whether arising in contract, negligence or other tort liability, strict liability or otherwise; and without limiting the generality of the foregoing, damage, injury or loss of an indirect or consequential nature shall include loss of revenue, loss of profits, loss of production, loss of earnings, loss of contract, cost of purchased or replacement capacity and energy, cost of capital and loss of the use of any facilities or property owned, operated, leased or used by the other party.



## **ARTICLE 16 – FORCE MAJEURE**

### **16.1 Force Majeure Relief**

TREA, its WSP or Retailer, as the case may be, is relieved of its obligations hereunder, and shall not be liable for any failure to perform any term of these Terms and Conditions to the extent that and when such failure is due to, or is a consequence of, any event of Force Majeure.

### **16.2 Exclusions**

Notwithstanding the definition of Force Majeure, lack of funds shall not be an event of Force Majeure.

### **16.3 Notice**

The party claiming relief from liability under the provisions of this Article 16 shall promptly give the other party notice of the Force Majeure including full particulars thereof and shall promptly give the other party notice when the Force Majeure event ceases to prevent performance pursuant to these Terms and Conditions.

### **16.4 Obligation to Remedy**

The party claiming relief from liability under the provisions of this Article 16 shall promptly remedy the cause and effect of the Force Majeure insofar as it is reasonably able to do so.

### **16.5 Strikes and Lockouts**

Notwithstanding any other provision of these Terms and Conditions the settlement of any strike, lockout or other industrial disturbance shall be wholly in the discretion of the party claiming relief from liability and such party may settle such strike, lockout or industrial disturbance at such time and on such terms and conditions as it may deem appropriate and no failure or delay in settling such strike, lockout or industrial disturbance shall constitute a cause or event within the control of such party or deprive such party of the benefits of this Article 16.

## **ARTICLE 17 – DISPUTE RESOLUTION**

### **17.1 Resolution by the WSP and Retailer**

If any dispute between TREA's WSP and a Retailer arises at any time in connection with these Terms and Conditions, TREA's WSP and the Retailer acting reasonably and in good faith, shall use all reasonable efforts to resolve the dispute as soon as possible in an amicable manner. If the dispute cannot be otherwise resolved pursuant to this Article 17, the chief executive officers of TREA's WSP and the Retailer shall meet to attempt to resolve the dispute.

### **17.2 Resolution by Arbitration**

If any dispute has not been resolved pursuant to Section 17.1 hereof within 30 days after notice from TREA's WSP or the Retailer to the other of its desire to have the dispute resolved, then the dispute shall be resolved pursuant to Sections 17.3 to 17.11 hereof. TREA's WSP and the Retailer shall abide by the terms of any award rendered by the arbitrator(s) appointed hereunder without delay.

### **17.3 Arbitrators**

All disputes or differences between TREA's WSP and a Retailer in connection with these Terms and Conditions shall be referred (unless TREA's WSP and the Retailer concur in the appointment of a single arbitrator) to a board of arbitrators consisting of one (1) arbitrator to be appointed by each of TREA's WSP and the Retailer who shall, by instrument in writing, appoint a third arbitrator immediately after they are themselves appointed. Notwithstanding the foregoing, any disputed matters between TREA's WSP and a Retailer relating to an order or direction made or approved by the AUC or falling within the exclusive jurisdiction of the AUC, shall be referred to the AUC for resolution.

### **17.4 Failure to Concur**

TREA's WSP and a Retailer shall be deemed to have failed to concur in the appointment of a single arbitrator if such an arbitrator shall not have been appointed within fifteen (15) days after the serving by either TREA's WSP or the Retailer on the other of notice requesting it to concur in the appointment of such an arbitrator.

### **17.5 Refusal to Appoint an Arbitrator**

If either TREA's WSP or the Retailer shall neglect or refuse to appoint an arbitrator within fifteen (15) days after the other party (provided such other party has appointed its arbitrator) has served TREA's WSP or the Retailer, as the case may be, with notice to make the appointment, the party who has appointed its arbitrator shall be entitled to apply, upon notice to the

other party, to a Justice of the Court of Queen's Bench of Alberta to appoint an arbitrator for the party in default.

### **17.6 Failure to Appoint a Third Arbitrator**

If the arbitrators appointed by TREA's WSP and the Retailer have not, within fifteen (15) days after their appointment or the appointment of the arbitrator last appointed, as the case may be, appointed a third arbitrator, either TREA's WSP or the Retailer shall be entitled to apply upon notice to the other party to a Justice of the Court of Queen's Bench of Alberta to appoint such an arbitrator.

### **17.7 Technical Competence**

Any arbitrator appointed under the provisions of this clause whether by concurrence of TREA's WSP and the Retailer, by either party, by the arbitrators, or by a Justice of the Court of Queen's Bench of Alberta shall, in the opinion of the persons making such appointment, be possessed of such technical or other qualifications as may be reasonably necessary to enable him to properly adjudicate upon the dispute or difference.

### **17.8 Compensation of Arbitrators**

If both TREA's WSP and the Retailer agree to a single arbitrator, then the costs of the arbitrator shall be divided evenly between the parties. If a panel of three arbitrators is appointed then each party shall be responsible for the costs of the arbitrator appointed by it. The arbitration panel shall determine the costs of the third arbitrator.

### **17.9 Application of the Arbitration Act (Alberta)**

Except as herein modified, the provisions of the *Arbitration Act*, as amended from time to time, shall apply to any arbitration proceeding.

### **17.10 Decisions Binding**

A decision of the single arbitrator or the majority of the three arbitrators named or appointed shall be final and binding upon each of the parties to the dispute or difference.



**Effective: 2021 – 01-05**

### **17.11 Continuity of Service**

All performance required under these Terms and Condition by TREA's WSP and the Retailer and payment therefore shall continue during the dispute resolution proceedings contemplated by this Article 17, provided that in the case of any such proceedings pertaining to amounts payable under these Terms and Conditions, any payments or reimbursements required as a result of the proceedings shall be effective as of a date to be determined in such proceedings and interest shall be paid thereon by the party required to make the payment or reimbursement on the amount at a rate of 2.5% from the date so determined until paid.

## **ARTICLE 18 – MISCELLANEOUS**

### **18.1 Compliance with Applicable Legal Authorities**

TREA's WSP and the Retailer are subject to, and shall comply with, all existing or future applicable federal, provincial and local laws, all existing or future orders or other actions of the System Controller or of governmental authorities having applicable jurisdiction.

TREA's WSP will not violate, directly or indirectly, or become a party to a violation of any requirement of the System Controller or any applicable federal, provincial or local statute, regulation, bylaw, rule or order in order to provide Distribution Access Service, on behalf of TREA, to the Retailer (or a Member of the Retailer). The WSP's obligation to provide Distribution Access Service is subject to the condition that all requisite governmental and regulatory approvals for the provision of such Distribution Access Service will have been obtained and will be maintained in force during such period of Distribution Access Service.

### **18.2 No Assignment**

Neither TREA nor the Retailer shall assign any of its rights or obligations under these Terms and Conditions or the Retail Service Agreement without obtaining (a) any necessary regulatory approval(s); and (b) the prior written consent of the non-assigning party, which consent shall not be unreasonably withheld. No assignment shall relieve the assigning party of any of its obligations under these Terms and Conditions or the Retail Service Agreement until such obligations have been assumed by the assignee. Any assignment in violation of this Section shall be void. However, TREA may assign any or all of its rights and obligations under these Terms and Conditions and the Retail Service Agreement, without the Retailer's consent, to any entity succeeding to all or substantially all of the assets of TREA, if the assignee agrees, in writing, to be bound by all of the terms and conditions hereof and if any necessary regulatory approvals are obtained.

### **18.3 No Waiver**

The failure of either party to insist on any one or more instances upon strict performance of any provisions of these Terms and Conditions or a Retail Service Agreement, or to take advantage of any of its rights hereunder, shall not be construed as a waiver of any such provisions or the relinquishment of any such right or any other right hereunder, which shall remain in full force and effect. No term or condition of these Terms and Conditions or a Retail Service Agreement shall be deemed to have been waived and no breach excused unless such waiver or consent to excuse is in writing and signed by the party claimed to have waived or consented to excuse.

**Effective: 2021 – 01-05**

#### **18.4 Law**

These Terms and Conditions and the Retail Service Agreement between TREA's WSP and the Retailer shall be governed by the laws of the Province of Alberta and the federal laws of Canada applicable in the Province of Alberta, without regard to principles of conflicts of law. Any lawsuit arising in connection with these Terms and Conditions and the Retail Service Agreement shall be brought in the courts of the Province of Alberta.



**Effective: 2021 – 01-05**

## **ARTICLE 19 – NOTICE**

Unless otherwise stated herein, all notices, demands or requests required or permitted under these Terms and Conditions or a Retail Service Agreement shall be in writing and shall be personally delivered or sent by courier-service or facsimile transmission (with the original transmitted by any of the other aforementioned delivery methods) addressed as follows:

- a) If to the Retailer, to the address and the addressee set out in the Retail Service Agreement between the Retailer and TREA's WSP.
- b) If to TREA's WSP, to the address and the addressee set out in the Retail Service Agreement between the Retailer and TREA's WSP.

Notice received after the close of the Business Day shall be deemed received on the next Business Day.

## **Appendix A – COMPLIANCE TESTING PROTOCOL**

### **1.0 INTRODUCTION**

The Retailer must fulfill the requirements of the compliance testing protocol, as amended from time to time, before TREA's WSP can provide Distribution Access Service to the Retailer. The purpose of the compliance testing protocol is to set forth procedures for testing and evaluating compliance with the Alberta Settlement System Code and the Tariff Billing Code Information Exchange Standards and Guidelines.

### **2.0 COMPLIANCE TESTING & CERTIFICATION**

(a) TREA's WSP uses the compliance testing to ensure that the Retailer meets the standards defined by TREA's WSP and the Alberta Settlement System Code – Information Exchange Standards and Guidelines. The compliance test focuses on the electronic transactions supporting enrollment, service requests and updating Member Information as defined by the Information Exchange Standards and Guidelines. In particular the various tests cover proper formulation, receipt, processing, form and content of, and response to key transactions.

(b) A Retailer may fail any compliance test up to two times, after which failures the Retailer may reschedule and retake the test. Should a Retailer fail any test three times, the Retailer must wait one month or some other time period designated by TREA's WSP before retesting will be allowed. In the event a Retailer requires re-testing, the Retailer must successfully complete all compliance tests in order to obtain certification. All requisite compliance tests must be performed successfully before TREA's WSP will provide Certification for Service to the Retailer.

### **3.0 TESTING SUPPORT**

TREA's WSP will provide testing support by telephone and e-mail for Retailers participating in the compliance testing process. TREA's wSP will use reasonable efforts to communicate the test results to the Retailer within five (5) Business Days.

### **4.0 PREREQUISITES**

(a) The Retailer must notify TREA's WSP at least two months prior to accepting enrollments, of the Retailer's Identification number, business name, general mailing address and business phone number.

(b) The Retailer must have purchased and installed VL Trader, a product from CLEO, that allows for secure, fast, reliable file transfers.





**Effective: 2021 – 01-05**

## 5.0 COMPLIANCE TESTS

All retailers must successfully perform all compliance tests at least twice. All files must contain three or more records.

## **Appendix B – DISCONNECT FOR NON PAYMENT**

In accordance with the Roles, Relationships and Responsibilities Regulation (“RRR”) a Retailer shall have the right to request that TREA’s WSP disconnect service to a particular Member, and TREA’s WSP shall comply with that request, unless such action is inconsistent with TREA’s approved Terms and Conditions. The same policies shall apply to the Default Supplier. TREA’s policy (as approved in these Terms and Conditions) with respect to disconnecting Members is set out below and in Appendix B hereto.

1. In circumstances where a Retailer requests TREA’s WSP to disconnect a Member for Non- Payment, a Retailer shall de-enroll the Site and provide updated Member Information to TREA’s WSP. Upon receipt of the de-enrollment, TREA’s WSP will provide the Member with a written notice advising of its options before TREA’s WSP will proceed with the de-enrollment. If the Member does not enroll with a Retailer other than the Default Supplier, or has not notified the Retailer or TREA’s WSP of its decision to accept the disconnect for non-payment request, TREA’s WSP will forward the Site and Member Information to the Supplier of Last Resort for Members that are not eligible for the Regulated Default Supply Regulation.

2. A Member who is eligible for the Regulated Default Supply will be served by BRPC under the Terms and Conditions upon which TREA will provide Electricity Services under the Regulated Default Supply Regulation.

## Appendix C – PRUDENTIAL REQUIREMENTS

Subject to review and reassessment of the Prudential Requirements of a Retailer by TREA's WSP from time to time, TREA's WSP has established the following minimum financial criteria for Retailers entering into a Retail Service Agreement with TREA's WSP.

### 1.0 PRUDENTIAL INSTRUMENTS

Subject to section 4 below, a Retailer will be deemed to have met the Prudential Requirements if:

- i) The Retailer, affiliate or person which guarantees the financial obligation of the Retailer in a manner acceptable to TREA's WSP has at least an "A" rating from the Canadian Bond Rating Service or an equivalent rating from a major reputable bond rating service satisfactory to TREA's WSP, or
- ii) The Retailer provides, in a manner acceptable to TREA's WSP, a bank guarantee, irrevocable letter of credit, or cash deposits drawn on a Canadian Chartered Bank, trust Association, credit union or other lending institution acceptable to TREA's WSP in or for an amount equal to and not less than the projected value of that Retailer's payments over a 75 day period under TREA's Distribution Tariff, as reasonably forecast by TREA's WSP.

### 2.0 CREDIT ASSESSMENT

For Retailers to which 1(i) applies, the Retailer shall provide TREA's WSP with audited financial statements for the most recent past three (3) years and all other information reasonably required to conduct a credit risk assessment. TREA's WSP, subject to review and reassessment, shall establish the Retailer's allowable credit limits in relation to its bond rating for each Retailer, affiliate or person who guarantees the financial obligations of the Retailer, based on the credit assessment and shall notify the Retailer of their credit limit.

### 3.0 INITIAL FINANCIAL OBLIGATIONS FOR PRUDENTIAL LEVELS

The initial financial obligation levels will be estimated on anticipated load and the formula as defined herein such that:

- i) For each Retailer to which 1(i) applies, the initial financial obligations do not exceed the established credit limit assessed under section 2; and
- ii) For each Retailer to which 1(ii) applies, to estimate the initial security deposit required by each Retailer.

\$ Initial Prudential Levels =

[Sum of estimated loads of all members served by the retailer multiplied by the monthly charges (system access service & distribution access service charges) multiplied by 75 (75 days).]

#### 4.0 MAINTAINING PRUDENTIAL REQUIREMENTS

a) TREA's WSP will ensure for each Retailer to which 1 (i) or 1(ii) applies, that the expected financial obligations do not exceed the credit limit or level of financial security provided by each Retailer. If a Retailer's financial obligations for a period of at least 75 days are estimated by TREA's WSP to exceed 80% of the limit set out above in section 2 and section 3, TREA's WSP will have the right to request additional security. Such additional security will be due within 10 Business Days of TREA's WSP's request. If security is not presented within that time frame, TREA's WSP reserves the right to suspend the provision of further Distribution Access Services to the Retailer.

b) For Retailers to which 1(i) applies, TREA's WSP requires Retailers to report any downgrading of their corporate bond rating to TREA's WSP within 2 Business Days of said rating revisions.

(c) If a Retailer fails to pay any amount billed, TREA's WSP will apply all or any portion of that Retailer's security deposit to the unpaid amount. The Retailer will then be required to replenish the security deposit as outlined above.

#### 5.0 INTEREST ON SECURITY DEPOSIT

##### RETAILER COSTS

All costs associated with obtaining financial security and meeting prudential requirements are the responsibility of the Retailer.

## **Appendix D – MISCELLANEOUS SERVICE CHARGES**

### **1.0 APPLICABILITY**

Applicable to every Retailer participating in Distribution Access Service within TREA's service area.

### **2.0 SCHEDULE OF CHARGES**

All charges and provisions of the Member's applicable price schedule shall apply in addition to the following charges for the service being provided:

**a) MEMBERSHIP FEE**

\$1.00

**b) RECONNECTION AND DISCONNECTION OF SERVICE**

*\$ Association's actual costs  
(\$95.00 minimum for disconnect)  
(\$95.00 minimum for reconnect)*

**c) ON-CYCLE METER READS**

*\$35.00 per read per meter*

**d) OFF-CYCLE METER READS**

*\$50.00 per read per meter*

**e) SET SERVICE TO IDLE/RE-ENERGIZE SERVICE IN LESS THAN A 12 MONTH PERIOD**

\$50.00

**f) DOORKNOCKER CHARGE**

*\$140.00 charge for notification and delivery of future disconnect*

**g) REQUEST FOR INTERVAL METER**

Member request for interval metering (for connected load under the threshold as defined in the Settlement System Code):

*\$Capital and Installation Cost of meter, phone line or cell phone plus monthly phone line charges.*

**h) ADDITIONAL MEMBER USAGE INFORMATION**

*\$ Association's Actual Cost  
(\$25.00 minimum)*

**i) METER DISPUTES**

Review of meter disputes, which includes a meter test, in circumstances where TREA's WSP has not been responsible for any error:

*\$ Association's actual costs*

**j) LATE PAYMENT CHARGE**

*2% per month (26.8% per annum)*

**k) RETURNED CHEQUE FEE**

*\$20.00*

**l) COST ESTIMATE FOR A NEW SERVICE**

*\$200.00*

**m) OTHER MISCELLANEOUS FEES**

*ADHOC Reporting \$150.00 per hour (minimum 1 hour)*

## Appendix E – RETAILER SERVICE AGREEMENT

**BETWEEN:** Battle River Cooperative REA LTD., as a wire service provider (“WSP”) on behalf of Tomahawk Rural Electrification Association Ltd., (herein after called the “Association”) with an address of \_\_\_\_\_,

-and- \_\_\_\_\_ Retailer Name (herein after called the “Retailer”)  
Retailer Address

**WHEREAS** the WSP has been authorized by the Association to provide Distribution Access Services on the Association’s Distribution System to Members of the Association (the “Members”) and to Retailers and to act as wire services provider on behalf of the Association.

**AND WHEREAS** the Retailer has requested the Association, through its WSP, to provide the Retailer with Distribution Access Services for the purposes of serving Member(s)

NOW THEREFORE in consideration of the covenants and agreements herein contained, the Retailer and the WSP hereby agree as follows:

### 1. Provision of Information

The Retailer agrees to provide the following information by electronic form to the WSP, and represents and warrants that such information is true and accurate:

- (a) Retailer Identification No.: \_\_\_\_\_.
- (b) Member Information, in a form acceptable to WSP, for each customer of the Retailer: (1) Name: (2) Telephone No.: (3) Mailing Address: (4) Site I.D. No.: (5) Site Contact Name: (6) Site Telephone No.: (7) Site Legal Land Description

The Retailer is solely responsible for the provision of accurate and timely member information to the WSP. Should any of the above information or any other member data or member information, change during the term of this Retail Service Agreement, Retailer shall advise WSP of the change, by electronic means, as soon as is reasonably practicable in the circumstance, and in any event within two (2) business days.

### 2. Terms and Conditions

- (a) This Retail Service Agreement is subject to the Terms and Conditions for Distribution Access - Retailer (“Terms and Conditions”), as amended from time to time, which are approved by the Board of Directors of the Association and filed for information with the Alberta Utilities Commission (“AUC”).
- (b) The Retailer must notify the member that the member will be responsible for any stranded costs associated with the early termination of the Regulated Default Supply.

### 3. Review of Terms and Conditions

The Retailer acknowledges that it has been provided a copy of the Association’s Terms and Conditions has reviewed and understands these Terms and Conditions and agrees to be bound by them, and any amendments thereto, in all transactions with the WSP or the Association’s Members.

### 4. Other Agreements

No person, whether an employee or agent of the Association or otherwise, can agree to change, alter, vary or waive any provision of the Terms and Conditions without the express approval of the Association.

### 5. Term

This Retail Service Agreement shall be effective on the date first noted herein, and thereafter shall remain in effect until terminated by either party in accordance with Article 9 or Article 10, as applicable, of the Terms and Conditions; or for the reasons set out in Article 14 of the Terms and Conditions. Further notwithstanding anything in the Terms and Conditions, it is agreed and understood that in the event the WSP is no longer providing Distribution Access Services to the Association this Agreement shall immediately terminate and the Retailer shall then enter into an agreement with the Association or such new party providing Distribution Access Services on behalf of the Association.

### 6. Use of Distribution Access

The Retailer understands and agrees that the Distribution Access Service provided hereunder is provided solely for the Retailer’s use at the locations and for the Members identified to the WSP in accordance with paragraph 1 hereof. The Retailer shall not use the Distribution Access Service provided by the WSP for any other purpose.

#### **7. Provision of Information**

If the Retailer, at any time, becomes aware that any Member is using the service(s) provided by the Retailer in a manner which is inconsistent with the Terms and Conditions, which could potentially create safety, health or environment concerns or damage the Association's Distribution System or facilities, the Retailer shall immediately notify the WSP of such circumstances.

#### **8. Interference with Association Facilities**

In providing service to its Member, the Retailer shall not, in any way, damage or interfere with or otherwise disturb, alter or tamper with the facilities of the Association. The Retailer shall notify the WSP immediately of any problem or defect relating to the Association's facilities, which is discovered by or brought to the attention of the Retailer.

#### **9. Payment of Rates**

The Retailer agrees to pay all rates, charges, invoices or fees levied or billed to it by the WSP in accordance with Article 7 of the Terms and Conditions.

#### **10. Roles**

The Retailer acknowledges, understands and agrees that the WSP will not perform any billing or collection activities on its behalf. The Retailer agrees to pay all amounts due and owing to the WSP in accordance with Article 7 of the Terms and Conditions, regardless of any billing or collection disputes the Retailer may have with its Member(s).

#### **11. Prudential Requirements**

(a) The Retailer agrees to comply with the Association's Prudential Requirements established pursuant to Article 11 of the Terms and Conditions and the *Distribution Tariff Regulation, A.R. 162/2003*, for purposes of enabling the WSP to assess the Retailer's credit risk and required security.

(b) the WSP shall be entitled to access the financial security provided by the Retailer in the event of late payment or default on any invoices or bills of the WSP, in accordance with Articles 7 and 14 of the Terms and Conditions.

#### **12. Authority**

This Retail Service Agreement is subject to all applicable legislation, including the *Electric Utilities Act* and the Regulations made thereunder, and all applicable orders, rulings, regulations and decisions of the EUB or any other regulatory authority having jurisdiction over the parties or the matters addressed herein.

#### **13. Benefit**

This Retail Service Agreement shall enure to the benefit of and be binding and enforceable by the parties hereto and their respective heirs, executors, administrators, successors and, where permitted, assigns.

#### **14. Continuation of Agreement**

If any provision of this Retail Service Agreement, or the application thereof, is to any extent held invalid or unenforceable, the remainder of this Retail Service Agreement and the application thereof, other than those provisions which have been held invalid or unenforceable, shall not be affected and shall continue in full force and effect and shall be enforceable to the fullest extent permitted by law or in equity.

#### **15. Confidentiality**

Neither party may disclose any Confidential Information obtained pursuant to this Retailer Service Agreement to any third party, without the express prior written consent of the other party. As used herein, the term "Confidential Information" shall include all business, financial, and commercial information pertaining to the parties, customers or members of either party, suppliers for either party, personnel of either party, any trade secrets and other information of a similar nature, whether written or otherwise that is marked "proprietary" or "confidential" with the appropriate owner's name.

Notwithstanding the preceding, a receiving party may disclose Confidential Information to any governmental, judicial or regulatory authority requiring such Confidential Information pursuant to any applicable law, regulation, ruling or order, providing that:

- i) Such Confidential Information is submitted under any applicable provision, if any, for confidential treatment by such governmental, judicial or regulatory authority; and
- ii) Prior to such disclosure, the other party is given prompt notice of the disclosure requirement so that it may take whatever action it deems appropriate, including intervention in any proceeding and the seeking of any injunction to prohibit such disclosure.



**16. Payment**

The Retailer shall pay all bills, invoices, charges or fees to the WSP by electronic funds transfer.

**17. Contacts**

Contacts or Notices required with respect to this Agreement shall be directed as follows:

(a) With respect to the WSP:

REA Name and Address: Battle River Cooperative REA Ltd., P.O. Box 1420, Camrose Alberta, T4V 1X3

Contact Name and Telephone Number: Industry Liaison 1-877-428-3972

Retailer Name and Address: \_\_\_\_\_

Contact Name and Telephone Number: \_\_\_\_\_

(b) With respect to the Retailer:

Retailer Name and Address: \_\_\_\_\_

Contact Name and Telephone Number: \_\_\_\_\_

IN WITNESS WHEREOF, the Retailer has executed this application this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Battle River Cooperative REA Ltd.  
(BRPC as WSP)

\_\_\_\_\_  
(Retailer)

\_\_\_\_\_  
(General Manager)

\_\_\_\_\_  
(Signature)

P.O. Box 1420, Camrose Alberta, T4V 1X3  
(Address)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(MM/DD/YY)

\_\_\_\_\_  
(MM/DD/YY)

**RECIPT ACKNOWLEDGMENT**

The Association hereby acknowledges receipt of a copy of this Agreement which has been provided for informational purposes.

Tomahawk Rural Electrification Association Ltd.

Per: \_\_\_\_\_

Name: \_\_\_\_\_

Date: \_\_\_\_\_

## Appendix F – CONSENT FOR INFORMATION RELEASE

Upon receipt of this signed release Battle River Power Coop will forward the following information to the party specified below.

**Cumulative Consumption Information** – Battle River Power Coop will release up to 12 months of historical data including energy consumption and peak demand.

Please fax the completed form below to Battle River Power Coop

**Fax 1-780-672-7969**

**ATTENTION: Billing**

<b>PLEASE PRINT</b>	
Site ID number(s):	_____
Legal Land Description(s):	_____
Customer Name:	_____
Customer Contact Number:	_____
I, _____ request the release of the above information to the individual below.	
Signature	_____
Date	_____
All information should be forwarded to the following:	
Name	_____
Company	_____
Phone	_____
Fax	_____
E-mail	_____

Customers requesting consumption information for more than a twelve month period, or, if the information is requested more than once per year, Battle River Power Coop reserves the right to assess a \$25.00 minimum charge to recover BRPCs actual cost.