

COMPLAINT SETTLEMENT AGREEMENT

This Complaint Settlement Agreement (the "**Agreement**") made the 24 day of
April, 2023.

BETWEEN:

ATCO ELECTRIC YUKON, a body corporate having an office at
the City of Whitehorse in the Yukon Territory ("**ATCO**")

-and-

WHITEHORSE CONDOMINIUM CORPORATION NO. 275, a
body corporate having an office at the City of Whitehorse in the
Yukon Territory on its behalf and on behalf of each of its members
("**CC275**")

-and-

BENOIT CHARLAND, an individual residing in Whitehorse,
Yukon Territory ("**Charland**")

-and-

MEGHAN McKENNA, an individual residing in Whitehorse,
Yukon Territory ("**McKenna**")

(CC275, Charland, and McKenna collectively the
"**Complainants**")

(ATCO and the Complainants collectively the "**parties**" and either one a "**party**")

WHEREAS:

A. ATCO is a public utility that provides electricity to CC275 and is regulated by the Yukon Utilities Board ("**YUB**");

B. CC275 is a condominium corporation duly registered pursuant to the *Condominium Act* (Yukon), with a legal address at Lot 15, Block 12, Whitehorse, Yukon Plan 2018-0047 and a civil address of 210 Hawkins Street, Whitehorse Yukon;

C. CC275 is made up of a single building (the "**Building**") located at 210 Hawkins Street, Whitehorse, Yukon that consists of 20 residential units and the owner of each unit is a member of CC275;

D. Pursuant to section 44 of the *Public Utilities Act* (the "*Act*"), on February 11, 2022 two members of CC275, Charland and McKenna, filed a complaint on behalf of CC275 with the YUB regarding the electricity rates being charged to the members of CC275 (the "**Complaint**");

E. In the Complaint, the Complainants disputed the fairness and reasonableness of the rate at, and the terms and conditions of service upon, which electricity service is provided by ATCO to the members of CC275, despite the fact that such rate and terms and conditions of service are consistent with both ATCO's YUB-approved terms and conditions of service as well as the initial connection request of the developer of the Building.

F. The parties have agreed to develop a unique solution to resolve the concerns of CC275 in a manner that: (i) appropriately accounts for the costs to be incurred by ATCO which will arise from the change to service requested by the CC275, and (ii) does not result in preferential treatment of CC275 as compared to other customers of ATCO; and

NOW THEREFORE in consideration of the premises and mutual covenants and agreements hereinafter set forth, the parties hereto mutually covenant and agree to settle the Complaint as follows:

1. The parties agree that, subject to the terms of this Agreement, including, but not limited to, the Conditions Precedent being satisfied, for as long as the Building is served by one meter and is used solely for residential purposes (the "**Current Purpose**"), all electricity and any ancillary services provided to the Building by ATCO will be billed according to the modified pricing scheme attached as Schedule 1 (the "**Modified Pricing Scheme**"), which is intended to reasonably approximate billing for each unit in the Building as if each unit was a Multiple Dwelling unit currently served through one meter on the Residential Service, Hydro, Non-Government Rate (also known as the Non-Government Residential Rate), as defined in ATCO's approved rate schedule(s), as applicable, plus an ongoing administration fee to address the customized rate reflected in the Modified Pricing Scheme.
2. This Agreement is subject to the following Conditions Precedents:
 - (a) Promptly following execution of this Agreement, CC275 will, at its sole cost, seek the approval of this Agreement in its original form from the YUB in accordance with subsection 47(2) of the *Act* (the "**YUB Approval**"). Receipt of the YUB Approval is a condition precedent to this Agreement; and
 - (b) Within 90 days of the day that the YUB Approval is issued, CC275 will make payment to ATCO to true-up the investment received from ATCO between the General Service rate and Residential Service rate in accordance with the attached Schedule 2 (the "**Investment True-Up Payment**"). The payment of the Investment True-Up Payment is a condition precedent to this Agreement.
3. Notwithstanding anything to the contrary herein, until such time that the Conditions Precedent have been satisfied, to ATCO's reasonable satisfaction, ATCO will not be

obligated to implement the Modified Pricing Scheme or otherwise deviate from the existing rate and terms and conditions of service.

4. Upon receipt of the Investment True-Up Payment, ATCO will implement the Modified Pricing Scheme, effective as at February 11, 2022, which the parties acknowledge and agree will result in a rebate to CC275 based on the difference between the amount that ATCO actually billed to CC275 from February 11, 2022 onwards and the amount that would have been billed pursuant to the Modified Pricing Scheme (the "**Rebate**"). The exact amount of the Rebate will be calculated based on the date the Modified Pricing Scheme is implemented.
 5. If mutually agreed to by the parties in writing, CC275 may set off the amount of the Rebate, or a portion thereof, payable to CC275 from the Investment True-Up Payment payable to ATCO.
 6. The Modified Pricing Scheme will remain in effect unless or until this Agreement is terminated in accordance with Section 13 of this Agreement.
 7. The Complainants agree that upon ATCO implementing the Modified Pricing Scheme and paying to it the Rebate, all claims against ATCO in respect of the Complaint have been resolved and the Complaint shall be fully and finally settled and be discontinued, subject to the terms herein.
 8. The Complainants acknowledge and agree that ATCO does not accept any liability for any activity downstream of its meter, including any allocation of utility costs to the Complainants, any resident(s), owner(s), or person(s).
 9. This Agreement shall only bind the parties hereto. In particular, the Complainants acknowledge that this Agreement is not intended to serve as a precedent for any other similar customer situation unrelated to that of the Building or to be used by any party, or any third party, to seek, support or advance any claim against ATCO whatsoever.
 10. CC275 represents and warrants to ATCO that:
 - (a) all necessary corporate action and proceedings have been taken by CC275 to enable it to enter into this Agreement and perform its obligations hereunder. This Agreement has been duly authorized, executed and delivered by CC275 and is a legal, valid and binding obligation of CC275, enforceable against CC275 and all its members, and any other interest holders in the Building, as the case may be, from time to time by ATCO in accordance with its terms; and
 - (b) ATCO is entitled to rely on instructions, directions or approvals given to it by CC275 on its behalf and on behalf of its members, from time to time, which shall constitute good and sufficient authority for CC275 to act in accordance with the terms of this Agreement, and ATCO will not be required to inquire as to the
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authority of such person to bind CC275 or its members or any other interest holders in the Building, as the case may, or to give such instructions, directions or approvals, and acknowledges that ATCO is relying on such representations and warranties.

11. Notwithstanding anything to the contrary herein, CC275 shall be liable to ATCO and its representatives for; and as a separate and independent covenant, indemnify and hold harmless ATCO and its representatives from and against, all claims, suits or actions that may be made against any of them, or all losses, liabilities, costs, fees, expense or charges that any of them may suffer, sustain, pay or incur arising out of or attributable to any (i) breach of the representations provided in Section 10, (ii) claim from another utility or governmental agency appealing, contesting, challenging, disputing or seeking compensation or reimbursement from ATCO in connection with this Agreement, or (iii) claim from any member or other third party, claiming on behalf of any member(s), or any other interest holder in the Building, in connection with this Agreement, including, but not limited to the Modified Pricing Scheme, the Rebate or ATCO exercising its rights, or satisfying its obligations, hereunder, but, in each case, only to the extent that same is not the direct result of the gross negligence or wilful misconduct of ATCO.
 12. ATCO represents and warrants to CC275 that all necessary corporate and regulatory action and proceedings have been taken by ATCO to enable it to enter into this Agreement and perform its obligations hereunder and that this Agreement has been duly authorized, executed and delivered by ATCO and is a legal, valid and binding obligation of ATCO.
 13. This Agreement will terminate if:
 - (a) the YUB does not approve this Agreement;
 - (b) the Investment True-Up Payment is not received by ATCO in accordance with Section 2 within 90 days of the YUB Approval;
 - (c) ATCO and the Complainants or their respective successors agree in writing to terminate;
 - (d) ATCO applies for, and the YUB approves, a new rate applicable to the Building;
or
 - (e) the Building is no longer used or operated in accordance with the Current Purpose.
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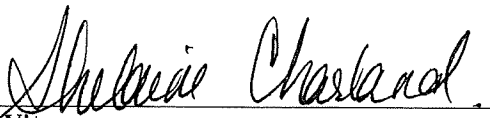
IN WITNESS WHEREOF the parties hereto have caused this Agreement to be duly executed and delivered effective as of the date first written above.

ATCO ELECTRIC YUKON

Per: 
JAY MASSIE, VICE PRESIDENT

**WHITEHORSE CONDOMINIUM
CORPORATION NO. 275**

Per: 
ARLIN MCFARLANE, PRESIDENT


Witness


BENOIT CHARLAND


Witness


MEGHAN MCKENNA

Schedule 1 – Modified Pricing Scheme

The intent of the Modified Pricing Scheme is to:

- a) reasonably approximate total billing for all units at the Building as if each residential unit had been individually metered under the non-government Residential Service rate schedule; and
- b) recover estimated incremental administrative costs for implementing the customized pricing scheme reflected in this Schedule 1 on an ongoing basis; and
- c) not result in preferential treatment of the Complainants as compared to other customers of ATCO.

Accordingly, the Modified Pricing Scheme is based on the following:

- Any fixed charges will be adjusted by the number of units in the Building (20),
- Any energy blocking scheme will be adjusted by a factor of 10,
- Any riders or other billing elements (including rebates) will be adjusted at ATCO's sole discretion,
- Administrative costs are \$100 per month in 2022
 - Administrative costs will be escalated at 2% annually as long as this contract is in effect, on January 1 of each calendar year
- Ongoing adjustments to the Modified Pricing Scheme to keep pace with the change in rates to non-government Residential Service rates approved by the YUB, and any regulatory practices, will be determined at ATCO's sole discretion, acting reasonably

An example bill adjustment, for illustrative purposes, using current rates in 2022, is shown in the following table. Rates will be adjusted from time-to-time.

Consumption (kWh)	Rate	Adjustment Factor	Billing Determinant	Charge
				30,000
Yukon Base Rate Calculations				
Customer Charge (per month)	\$14.65	20	20	\$293.00
Block 1 Energy Charge 0 - 1,000 (\$/kWh)	\$0.12140	10	10,000	\$1,214.00
Block 2 Energy Charge 1,001 - 2,500 (\$/kWh)	\$0.12820	10	15,000	\$1,923.00
Block 3 Energy Charge 2,500 and over (\$/kWh)	\$0.13990	10	5,000	\$699.50
Base Rate				\$4,129.50
Yukon Rider Calculations				
Yukon Energy Revenue Shortfall Rider	35.93%		\$4,129.50	\$1,483.73
AEY Rate Adjustment Rider	8.30%		\$4,129.50	\$342.75
Yukon Rebate of Fed/Ter Income Tax			\$4,129.50	\$0.00
YEC DCF Rider	0%		\$4,129.50	\$0.00
Rider S Purchase Power Adjustment Rider	\$0.00		30,000	\$0.00
Yukon Interim Electrical Rebate	(\$0.02262)	10	10,000	(\$226.20)
Fuel Adjustment Rider (\$/kWh)	\$0.00865		30,000	\$259.50
Subtotal				\$5,989.28
Administration fee	\$100		1	\$100
Subtotal				\$6,089.28
GST	5%		\$6,089.28	\$304.46
Total				\$6,393.74

Schedule 2 – Investment True-Up

1. ATCO invested \$99,149.40 towards construction costs based on expected 143.76kW of demand and \$690/kW approved investment for services provided under the 2160 General Service rate schedule.
2. In order to receive service under the Modified Pricing Scheme, which seeks to emulate residential pricing at separate meters at each residential unit within the Building, investment in construction will be trued-up to the approved investment of \$725 per unit for each of the 20 units in the Building. See Table 1 below.

	Investment under General Service (\$690 per kW)	Investment under Residential Service (20 units, \$725 per unit)	Difference
Investment (August 29, 2018)	\$99,149.40	\$14,500.00	\$84,694.40
Remaining value (February 11, 2022)	\$91,969.56	\$13,607.32	\$79,480.25

3. The Complainants agree to provide the Investment True-Up Payment in the amount of \$79,480.25 to ATCO, subject to YUB approval of the Complaint Settlement Agreement.